

# United States Department of Justice

v.

## Commonwealth of Puerto

Civil Action No: 3:94 –cv-02080 (ccc)

### Monitor's Fourth Quarterly Report

October 1 – December 31, 2018

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**Submitted this 4<sup>th</sup> day of March, 2019 by:**

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**Certificate of Service**

I HEREBY CERTIFY that this, I electronically filed the foregoing with the Clerk of the Court on March 4, 2019 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 Kim Tandy

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## EXECUTIVE SUMMARY

This Fourth Quarterly Report for 2018 encompasses the findings, analysis and compliance ratings for remaining provisions of the Settlement Agreement based upon the work completed by the Monitor and her team of Consultants for the period of October 1 – December 31, 2018.

The reporting format reorganizing the claims under five categories: Physical Plant, Policies and Procedures, Training and Resources, Protection from Harm, Mental Health and Substance Abuse Treatment, and Education and Vocational Services. Consultants will describe what efforts were made during the monitoring period to obtain information about the claims they are monitoring, including onsite visits to facilities, document review, functional or other team meetings, data and monitoring tools used, youth interviews or other means of information gathering. For each finding, a summary of results and analysis is provided, including any improvements or challenges during the quarter. Supplemental attachments are provided for some provisions where more detailed reports can be helpful. Each section also details what is needed for full compliance, and what steps should be taken or are recommended. Where possible, the report details next steps, and notes who should be involved. The report also documents steps taken toward quality assurance and quality improvement, and what steps should be considered to ensure sustainability of compliance once reached. Each section also describes the sources of information upon which the expert relied in making his or her report.

Attached to this Report are three documents which support the compliance ratings made and provide additional information on remaining issues:

Attachment A: Paragraph 45 Chart of Policy and Procedure Compliance

Attachment B: Paragraph 48 Staffing Analysis

Attachment C: Paragraph 79 and 80 Transitional Measures/Protective Custody Analysis

### **Compliance Ratings:**

The Settlement Agreement requires that the Court retain jurisdiction of remaining claims “until such time as the Commonwealth has fully and faithfully implemented all requirements of the agreement and such full compliance has been maintained for one year.” (S.A. 103).

Starting this final quarter of 2018, each provision of the Settlement Agreement (S.A.) or Consent Order (C.O.) will have only one compliance rating using the measures described below. For 2019, compliance ratings will be tracked by quarter in order to show which provisions come

into and remain in substantial compliance over a one year period, and achieve “full and faithful compliance.”

The Monitor and Consultants have used a new three-tiered system in this report, (substantial compliance, partial compliance and non-compliance), defined as follows:

***Substantial Compliance*** shall mean a level of compliance that does not significantly deviate from the components of the provision, provided that any deviation poses no significant risk to detainee health or safety. Substantial Compliance indicates that there are approved relevant policies and procedures which, when implemented, are sufficient to achieve compliance; trained staff responsible for implementation; sufficient staff and resources to implement the required reform; and consistent implementation of the procedures during the majority of the monitoring period. Substantial compliance also requires that the procedures accomplish the outcome envisioned by the provision.

The substantial compliance rating is given only when the required reforms address all of the issues discussed in the provision and when solid implementation of the reforms has been consistently demonstrated, through reliable data, observations and reports from staff and youth, for a majority of the monitoring period.

***Partial Compliance*** indicates that compliance has been achieved on some of the components of this provision, but significant work remains. It indicates that there are approved relevant policies and procedures which, when implemented, are sufficient to achieve compliance; trained staff responsible for implementation; and sufficient staff and resources to implement the requirements of the provision. Partial compliance indicates that while progress has been made toward implementing the procedures described by policy, performance has been inconsistent throughout the monitoring period and additional modifications are needed to ensure that procedures are sufficiently comprehensive to translate policy into practice, and to accomplish the outcome envisioned by the provision. Partial compliance is appropriate if policies may need minor revisions for compliance with the Settlement Agreement provided other requirements of this section are applicable.

***Non-compliance*** indicates that most or all of the components of the provision have not yet been met. Examples include provisions where policies still need to be overhauled, the majority of staff may need to be trained, procedures may not have been developed, documentation may not be in place or consistently provided, and there has been no determination that the procedures accomplish the outcome envisioned by the provision.

Most of the remaining paragraphs are categorized as “partial compliance,” with the exception of Paragraphs 73 and Paragraph 4 of the 2009 amendments regarding staffing. Both of these paragraphs were found to be in substantial compliance moving into the 2019 calendar year. In each category, the Monitor and her team identified what is needed for full compliance, and the specific next steps to be taken.

Parag. No.	Compliance Provision	4 <sup>th</sup> 2018	1 <sup>st</sup> 2019	2 <sup>nd</sup> 2019	3 <sup>rd</sup> 2019	4 <sup>th</sup> 2019
<b>Physical Plant</b>						
S.A. 31	Facilities conforming to Building Codes	PC				
<b>Policies and Procedures, Training, and Resources</b>						
C.O. 43	Sufficient funding for Implementation of C.O.	PC				
S.A. 45	Agency Policy and Procedure Manual for all operations	PC				
S.A. 50	Training for current and new direct care staff	PC				
<b>Protection from Harm</b>						
S.A. 48	Sufficient Direct Care Staff	PC				
Jan 2009 Para. 1	Reasonable Safety of Youth through Adequate Supervision	PC				
Parag 2	Sufficient Staff to Implement Decree and adequate supervision	PC				
Parag 3	Training for social workers if direct care staff	na				
Parag 4	Persons Hired to be Sufficiently Trained before deployed	SC				
Parag 5	Monthly submission of master roster	PC				
S.A. 52	Classification	PC				
S.A. 77	Use of Force	PC				
S. A. 78	Investigations into Alleged Abuse and Maltreatment of Youth	PC				
S.A. 79	Protection and Isolation	PC				
S.A. 80	Conditions for youth in Protective Custody	PC				
<b>Mental Health and Substance Abuse Treatment</b>						
S.A. 59	Treatment Plans for youth with Substance Abuse problems	PC				
C.O. 29	Residential Mental Health Treatment Program	PC				

S.A. 36	Continuous Psychiatric and Psychological services	PC				
S.A. 63	Reducing Risk of Suicide	PC				
S.A. 72	Emergency Psychotropic Medication	PC				
S.A. 73	Behavior Modification and Treatment Plans	SC				
<b>Education and Vocational Services</b>						
S.A. 81	Provision of Academic and Voc. Education to All Youth	PC				
S.A. 86a.	Compliance with IDEA Requirements and Timeframes	PC				
S.A. 86b.	Screening for youth with Disabilities	PC				
S.A. 87	Obtaining IEPs of Eligible Youth	PC				
S.A. 90	Delivery of Specially Designed Instruction and Related Services	PC				
S. A. 91	Qualified educational professionals and voc. Ed	PC				
S.A. 93	Year Round Services for Youth with IEPs	PC				
S.A. 94	Services to youth in isolation or other disciplinary settings	PC				
S.A. 95	Modification of IEPs	PC				

## Existing Organizational Challenges and Priorities for 2019

It is difficult to conceive of any greater challenge faced by the Department of Corrections and Rehabilitation in 2018 and in the next several years to come than the expectations imposed by the New Fiscal Plan and its oversight by the Financial Oversight and Management Board for Puerto Rico. This section begins with a discussion of the implications for DCR of this New Fiscal Plan, as well as the limitations of legislation designed to help Puerto Rico achieve financial stability as it pertains to this case. The most recent announcement of the closure of CD Humacao complicates and may further jeopardize compliance in a number of areas. But as discussed below, Puerto Rico has an excellent opportunity to “right-size” its juvenile corrections system following the example of several other states, do so in a way which uses evidence based policies and practices, and improve outcomes for youth, all while coming

into full compliance with the mandates of the federal Settlement Agreement and Consent Order.

This section of the report also details the priorities of the Office of the Monitor for 2019 in assisting DCR in reaching compliance on remaining claims, including programmatic, staffing, operational and physical plant issues.

### **Implications for Defendants as a Result of the New Fiscal Plan**

Puerto Rico's economic and demographic challenges have plagued the government for well over a decade, and were further exacerbated by Hurricanes Maria and Irma in 2017. As a result the New Fiscal Plan for the Commonwealth ("New Fiscal Plan") details several structural reforms and fiscal measures which can aid Puerto Rico with a "positive economic trajectory, a twenty-first century electricity grid, resilient infrastructure, and a more positive and efficient public sector."<sup>1</sup> The New Fiscal Plan is designed to meet the core objectives laid out in the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA), including achieving fiscal responsibility and balance within a five year period.<sup>2</sup>

The New Fiscal Plan requires the Government to take a series of fiscal actions designed to increase revenues and reduce Government expenditures. This includes "agency efficiencies such as consolidation of agencies and employing new management tools and practices to delivery better governmental services for substantially lower cost."<sup>3</sup> PROMESA created the Financial Oversight and Management Board for Puerto Rico (FOMB), tasked with restructuring Puerto Rico's debt burden and restoring economic growth.<sup>4</sup> Just months after the March 2017 Certified Fiscal Plan was certified, Hurricanes Irma and Maria struck, creating widespread and unprecedented devastation to Puerto Rican residents, as well as infrastructure and economic wellbeing; ultimately, this required a redo of the Fiscal Plan.<sup>5</sup> This plan, which was certified in June of 2018 as served as the basis for the FY 2019 budget, has subsequently been updated based upon more accurate revenue and expenditure numbers.<sup>6</sup>

The New Fiscal Plan indicates that governmental agencies utilize personnel and non-personnel resources which are "outsized compared to the actual service needs of the people of Puerto Rico," and are in many cases "subpar."<sup>7</sup> Government efficiency measures must therefore be focused on "right-sizing" the number and size of agencies, including where

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<sup>1</sup> New Fiscal Plan for Puerto Rico, Restoring Growth and Prosperity, as certified by the Financial Oversight and Management Board for Puerto Rico, Oct. 23, 2018. Pgs. 7-8.

<sup>2</sup> Id.

<sup>3</sup> Id. at 10.

<sup>4</sup> Id. at 13.

<sup>5</sup> Id.

<sup>6</sup> Id. at 14.

<sup>7</sup> Id. at 71.

possible, using mainland U.S. benchmarks.<sup>8</sup> It calls for consolidation of agencies, as well as closure of some agencies.

Both the Department of Education (PRDE) and the Department of Corrections and Rehabilitation (DCR) are parties herein. Both have stated goals as contained in the New Fiscal Plan. Both are expected to achieve significant cost savings between FY 2019-2023 in personnel and non-personnel categories.

The Puerto Rico Department of Education intends to increase its student-teacher ratio from 11:1 to 14:1, including special education students, while enacting continued school consolidations and closures, and decentralizing institutions and structure.<sup>9</sup> PRDE remains largely out of compliance in the provisions of this Settlement Agreement, and has to date not assumed full responsibility for education programming as required. Ensuring that an adequate number of educational staff is in place, including special education teachers, is critical for 2019. Currently the student-teacher ratio in most classrooms is 11:1 or significantly lower. The needs of the youth correctional population, including security concerns, should necessitate a continued lower student-teacher ratio.

The Department of Corrections and Rehabilitation has indicated that it has a higher number of employees by comparison than exists in peer prison systems within the mainland U.S. states, and notes that their prison facilities generally are underutilized.<sup>10</sup> Efficiency measures for DCR in the New Fiscal Plan indicate an annual personnel and non-personnel savings of \$44.5 million in FY 19, increasing up to \$145 million by FY23.<sup>11</sup> DCR is targeted to close approximately 9 prisons to reach an overall utilization rate of 93%, although the Fiscal Plan notes that the plan will “maintain appropriate separation of different inmate risk profiles and populations, including men, women and juvenile.”<sup>12</sup> It also notes, however, that DCR may contemplate other measures to actively reduce prison population as appropriate.<sup>13</sup>

The September version of the Fiscal Plan notes that DCR has an average per diem of \$691.40 to house youth in the three existing facilities, as compared to mainland facilities at \$280.<sup>14</sup> DCR spends \$42 million in services within the existing 3 facilities, and intends to “conduct a feasibility study for the construction or rehabilitation and operation of a consolidated facility through the modality of a private-public partnership.”<sup>15</sup> While DCR anticipates an annual savings of \$19.4 million by FY 2022, it is presently considering

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<sup>8</sup> Id.

<sup>9</sup> Id. at 78 – 81.

<sup>10</sup> Id. at 90.

<sup>11</sup> Id. at 91.

<sup>12</sup> Id.

<sup>13</sup> Id at 92.

<sup>14</sup> Fiscal Plan for Puerto Rico as submitted to the Financial Oversight and Management Board for Puerto Rico, September 7, 2018 Revision, pg. 77. It should be noted that the Monitor has asked more than once for documentation which indicates how this per diem has been calculated. This information has yet to be provided.

<sup>15</sup> Id. at 79



externalizing services through an operational agreement to accelerate savings by FY 2020. As with the adult population, DCR may consider other initiatives to actively reduce the population as appropriate.<sup>16</sup>

### **PROMESA's Limitations on the Settlement Agreement**

While PROMESA has tasked the Financial Oversight Board for Puerto Rico with restructuring Puerto Rico's debt burden and achieving fiscal balance, it does not negate the authority of federal courts to ensure remedial orders are carried out. Section 204 of PROMESA states that the Oversight Board "shall not exercise applicable authorities to impede territorial actions taken to (1) comply with a court ordered consent decree or injunction, or an administrative order or settlement with a Federal agency, with respect to Federal programs...."<sup>17</sup>

Cost reductions which can "right size" NIJ facilities and services are a laudable goal, and one which is likely achievable given the continued drop in population. But finding the most effective way to achieve such cost reductions, while ensuring that youth are not harmed in the process, and compliance is not negatively affected, requires significant efforts in long term strategic planning. Such plans have not yet been provided to the Monitor or her staff.

DCR can follow the lead of many mainland states to reduce expenditures, improve outcomes for youth, and replace costly incarceration with reinvestment in local community based programs. The National Research Council of the National Academies describes several essential components of well-designed community based programs, including 1) limiting and structuring contact with antisocial peers and encouraging contact with prosocial peers; 2) keeping youth proximate to their communities; involving parents and ensuring family engagement; 4) providing opportunity for health development which provides youth with tools to deal with negative influences; and ensuring opportunities for academic success and activities which contribute to development decision making and critical thinking skills.<sup>18</sup> The requirements of PROMESA's downsizing of government need not run afoul of the federal court orders to which DCR and PRDE are bound. But closure of facilities without sufficient regard for compliance with basic constitutional and federal statutory protections afforded by the Settlement Agreement and Consent Decree will likely create setbacks in the progress achieved during 2018, and be harmful to youth in the remaining facilities.

### **The Closure of CD Humacao and its Implications Regarding Compliance**

DCR's decision to close CD Humacao by mid-January, in part based upon the school schedule for the second semester, creates potential overcrowding based upon the current

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<sup>16</sup> Id.

<sup>17</sup> 48 U.S.C. § 2144, Sec. 204 (d) (1).

<sup>18</sup> Bonnie, R. J., Johnson, R.L., Chemers, R. M., Schuck, J. (Eds.) (2013) *Reforming Juvenile Justice: A Developmental Approach*. Washington D.C.: The National Academies Press, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education.

classification system, and strains essential services such as mental health and education. CD Humacao serves as the island's only pre-trial detention center, and is necessarily engaged closely with law enforcement, courts, probation and other stakeholders. Its possible closure was revealed to the Monitor in early November, but it was not until early December during site visits by Monitor team members that imminent closure was discovered. Youth began to move from CD Humacao to other facilities in mid-December.

A series of meetings and phone calls between the Monitor and DCR/NIJ officials provided minimal information, and requests for documentation have yielded insufficient information about how DCR will comply with classification, education, mental health services, staffing, physical plant changes, and other questions about how youth will be protected from harm. These concerns are discussed in greater detail in the Monitor's Interim Status Report and Request for Expedited Hearing, and attachment, filed on December 31, 2018. (Doc. 1360).

The Monitor's office will continue to diligently review the movement of youth from CD Humacao during the First Quarter of 2019 to ensure that appropriate repaired physical facilities are provided to all youth in the NIJ correctional system, that sufficient space, staffing and resources are available to comply with classification, staffing requirements, education, mental health and social work services, and that youth are adequately protected from harm.

### **Balancing Fiscal Policies with Good Juvenile Justice Policies and Practices to Achieve Compliance**

The Monitor's office remains ready and willing to assist the Commonwealth in its efforts to continue to downsize its youth population safely, thoughtfully, and without negatively impacting compliance or youth safety. The Monitor has been encouraged by the openness of Secretary Rolon in discussions about possible options for new construction with emergency relief funds, or major renovation to an existing facility. She is also encouraged by the offers of other juvenile justice administrators, consultants and others to assist with strategic planning and consultation regarding evidence based and research informed juvenile justice practices.

DCR has the opportunity to take meaningful next steps to reshape its juvenile detention and corrections system while achieving and exceeding compliance requirements with the Settlement Agreement and Consent Decree, and creating better outcomes for youth, families and communities in Puerto Rico. Examples from other states include:

- In Ohio, the Behavioral Health and Juvenile Justice Initiative supports evidence based community programs for youth with mental health and/or substance abuse issues, and has been very successful in diverting these youth from incarceration in state facilities. Similarly, Targeted RECLAIM has provided financial incentives in local communities to serve youth with evidenced based programming in lieu of incarceration, reducing by 68% the confinement population.

- The Juvenile Detention Alternative Initiative, funded through the Annie E. Casey Foundation, has for more than 20 years worked to safely reduce reliance on juvenile detention while addressing racial and ethnic disparities, in states throughout the mainland. JDAI has successfully worked in communities with stakeholders to re-examine the purpose of detention, safely find alternatives and provide cost savings. The Annie E. Casey Foundation also works with states in finding ways to successfully down-size youth at the “deep end” of the corrections system as well.
- New York state and New York City have taken steps to establish a continuum of options to match youth needs and determine the most appropriate level of supervision and custody, reducing its population of youth in correctional settings by 55% over an 8 year period. The “Close to Home” model, enacted legislatively in 2012, shifted the responsibility of placements from New York State to New York City and created placements in small settings (24 beds or less) primarily within the city’s boundaries, close to family and community. It also expanded the use of nonresidential alternatives and restructured decision making for the use of probation.
- Virginia changed its policies regarding the use of detention, decreasing the detention population by 20% over 2 years. It has also closed one of its largest facilities and substituted an array of alternative residential and non-residential options in communities close to home for youth. For youth in custody, it adopted the Community Treatment Model (CTM) based upon the system used in Missouri. The administration has announced plans to close its two remaining facilities and continue to reinvest those savings in expanded rehabilitation options.
- Missouri changed its policies on juvenile justice more than 30 years ago with closing youth prisons and replacing them with smaller more treatment oriented programs in communities closer to youth’s families. Missouri reports only a 31% recidivism rate, with only 6.6% of youth returning to the juvenile system, and 6.6% committed to the adult corrections system within 3 years.<sup>19</sup>

Should DCR determine that it will pursue privatization of its juvenile services, in part or in total, it is essential that such contractors fully understand the implications of being under federal monitoring, and the requirements to meet the same expectations for compliance on remaining claims under the Settlement Agreement and Consent Decree. For-profit privatization of juvenile facilities has been widely criticized as by organizations such as the National Juvenile

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<sup>19</sup> Discussion of these examples can be found in *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, New Thinking in Community Corrections, McCarthy, Patrick; Schiraldi, Vincent; and Shark, Miriam; Harvard Kennedy School, Program in Criminal Justice Policy and Management, and the National Institute of Justice, October 2016, No. 2, ppgs. 23-27.

Justice Network, which issued policy safeguards which can help protect youth in privatized facilities.<sup>20</sup> These include, in summary form:

- Strengthening the contractual obligations of private facility owners and operators so that they are outcome based, reflective of the current population, and adhere to state and national standards, accredited in compliance with the Prison Rape Elimination Act and other federal laws, and include strong provisions for monitoring the terms as well as holding the entity responsible for breach of contractual obligations with explicit penalties.
- Increase data collection and transparency of data and records by contractually requiring private companies to regularly collect and publicly release information and data regarding the conditions of youth in their custody, services provided, and other outcomes. Similarly, the company should be required to maintain detailed records on operations and compliance with departmental policies, law and contract provision, and to self-report important compliance measures as well as serious incidents; and require adherence to freedom of information or open records laws just as a publicly owned and operated facility would.
- Assess “hidden costs” to determine the true cost of privatization, including the cost of government monitoring of the contract, which typically adds about 20% of the price of the contract to the total cost, medical costs to the state if the private facility caps the cost of its obligation, contractor training if borne by the state, and personnel costs associated with privatization, such as accrued leave for former public employees who lost their jobs due to privatization.
- Strengthen oversight and required external monitoring on conditions by an authorized entity that is adequately funded, staffed and trained to ensure youth have secure mechanisms for making complaints regarding conditions and treatment to oversight bodies without fear of retaliation. The oversight body should have unfettered access to the facility, youth, and appropriate documentation, and supplement internal mechanisms for monitoring, inspection and evaluation.
- Maintain public oversight and control over youths’ length of stay and release, ensuring that the state juvenile justice agency, or court, maintains control. Youth should have post-dispositional representation with regular review hearings to provide oversight regarding the youth’s well-being, including conditions to which they are subjected and the youth’s treatment plan.

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<sup>20</sup> For a full discussion of such safeguards, go to *Protecting Youth Confined for Profit, Policy Safeguards*, National Juvenile Justice Network, Updated September, 2015, found at <http://www.njjn.org/our-work/protecting-youth-confined-for-profit---policy-safeguards>

- Refrain from privatizing all youth confinement options in a jurisdiction; if all beds are privatized, the state loses its capacity to pull youth out or close facilities which are unsafe because there is nowhere else to put them.
- Maintain state control of prison buildings and financing; allowing private prison developers to facilitate the construction of private prisons with private revenue bonds secured by local governmental entities or financing authorities can lead to financial devastation for the community or state, making it difficult to close a facility it is if failing.
- Increase transparency of the legislative and political activities of private facility owners and operators, including efforts by private for-profit companies to influence and draft legislation to increase incarceration.

Whatever decisions are made by the Department of Corrections and Rehabilitation regarding its future plans for juvenile corrections, they should be guided by a clear vision of what it wants to accomplish for youth, and a well-crafted strategic plan which can implement that vision. The Monitor and her staff remain committed to assist DCR during this critical juncture to ensure the requirements of the Settlement Agreement and Consent Decree, and their underlying purpose of protecting constitutional and federal statutory rights of incarcerated youth, are met.

## Priorities for Compliance in 2019

### **Programmatic:**

The use of only two facilities has and will continue to create challenges for NIJ if the current population remains stable, and the classification needs remain largely the same. Facility closure, the corresponding youth population consolidations and staff reconfigurations threaten the integrity of the NIJ classification processes, creating facility module youth populations that exceed what has been typically experienced by NIJ. Critical analysis will be required of classification practices, the corresponding milieus created at each facility within each module, and meeting the minimum required staff youth ratio as to whether they assure youth safety and protection from harm.

The use of transitional measures and protective custody continues to present challenges for keeping youth safe yet not isolating youth and limiting services. One challenge is to define isolation and to determine what circumstances and conditions of confinement trigger the requirements of paragraph 79. Defining isolation begins with identifying the number of hours that a youth can be confined to his room before triggering isolation, whether those hours are consecutive or not, or whether the location of the confinement is itself isolated or the youth is confined in a room in a general population module where he can have modified interaction with others. The conditions of confinement may serve to mitigate, or aggravate, the impact of

isolation, including whether the youth have access to out of room activities, to whether they have full opportunities for exercise, education and immediate access to bathroom facilities.

DCR's obligation to protect youth from harm encompasses both limiting their exposure to potentially harmful isolation but also providing the necessary protection of youth who have been victimized or are vulnerable to the types of violent attacks that have occurred all too frequently in the facilities. Where the youth is in verified and legitimate danger of attack, the challenge is to create options of intensive supervision that protect the youth from harm in the least restrictive manner.

The volume of use of force incidents has decreased substantially over the past four quarters, while the numbers of problematic uses of force has remained low based on 284 referrals and improved OISC force investigations. The availability of video recording at Ponce has enhanced staff accountability at that facility while likely also serving a deterrent effect. At the same time, the video recording capacity has also served to highlight a number of incidents in which force was applied precisely pursuant to training and policy. Video capacity must expand to Villalba in 2019 in order to better protect the integrity of investigations as well as afford protection to youth and staff.

Mental health services have shown improvement, but the high turnover rates among providers, and the limited number of hours provided must be addressed. Addressing suicidal and self-harming youth with sufficient mental health availability is critical. An agreement must be reached as to what constitutes sufficient space and resources to serve the agency's seriously mentally ill youth in PUERTAS.

Finally, education services are the responsibility of the Puerto Rico Department of Education. PRDE has never assumed full responsibility for this service, and has not been fully engaged as a defendant in the case in recent years. That must change in 2019, with sufficient funding, staffing and oversight provided not only in special education services, but for general and vocational education as well. Oversight of special education services must be enhanced to ensure that individualized determinations are made as to evaluation needs, eligibility, IEPs, related services and placement options. NIJ and PRDE must provide full educational services to youth who are in transitional measures and protective custody, and must garner the resources to do so.

#### **Staffing:**

As the Monitor's Team has witnessed with previous facility closures resulting in staff and youth population reassignment, there is a period of instability and storming as the facilities adjust to the new classification configurations, staff compositions and youth milieu. Housing modules with youth populations between 9 and 15 youth will consistently require a minimum of two staff for both the first and second shifts. Additionally, meeting the minimum staff youth ratio of two staff for a housing module of a large youth population may not be adequate to assure youth safety.

As of September 16, 2018, NIJ staffing policy requires meeting the minimally required staff youth ratio, with corresponding quality assurance measures and when necessary corrective action. With the reduction in staff as a result of the incentivized voluntary resignation program and agency fiscal restraints on use of double shifting, the projection for meeting minimum requirements for staff youth ratios appears to be exceptionally challenging.

Education staff are not sufficient to accommodate the needs of youth who are housed in transitional measures or protective custody. With the closure of Humacao, education staff are stretched thin in the current two facilities with the additional youth and classifications added. The full impact of this is not yet known but will be examined in the first two quarters of 2019.

#### **Physical Plant:**

In the current year, based on the latest schedule developed by DCR's code consultant, it is expected that the codes analysis, costs and strategies for implementation of compliance with Paragraph 31 will be completed. The challenge looking ahead will be that any action plans that are developed will likely require an investment of capital funds.

Additional physical plant deficiencies also have an impact on the resources available for compliance in other areas, including implementation of the classification system, suicide resistant hardware, counseling areas, and available space for educational programming and administration. Monthly reports are still needed for the progress in making door hinges suicide resistant as well as repairing roof leaks in counseling, education areas, and gymnasiums.

The Monitoring team received spread sheets and reports from DCR documenting on-going repairs to facility air conditioning systems, plumbing and other housing unit repair items. However, there is still a need to receive more complete report as requested last September detailing by facility and housing unit the following information for the air conditioning repairs which are persistent:

- Date a request was made to have the air conditioning repaired and/or replaced
- Date the request is improved internally by DCR administration
- Date that the Governor's Budget Office approves the funds, if applicable
- Date a purchase order is issued
- Date the equipment/parts are received
- Date that successful repairs or replacements are completed

With the closure of Humacao, it is hoped that there will be more maintenance resources available at Ponce and Villalba.

#### **Organizational Capacity:**



Reaching full and faithful compliance in all areas of the Settlement Agreement and Consent Order requires that DCR ensure sufficient organizational capacity in manpower, IT support and document submission. Current efforts are hampered in each of these areas.

Compliance review and ratings are dependent upon timely and accurate information, and regularly scheduled documentation submission and review. To assist in ensuring there are clear expectations about documentation, the Monitor and her team developed a Document Request Master Chart detailing the necessary documentation in each of the areas of the Consent Decree, as well as the frequency of document submission. This should provide clear expectations moving forward, particularly in areas which have not been actively monitored in the past. It is strongly recommended that additional administrative support be designated to assist with document collection and submissions, as well as other functions such as training.

Digitalizing incident reports, and creating a tracking system for managing investigations would be helpful not only to ensure that these areas can be better monitored, but for long term efficiency, oversight and quality controls. Securing additional technical support should be a priority for 2019 to assist with these functions.

Finally, NIJ has many competent, dedicated and caring staff devoted to its mission and to improving the lives of youth. Identifying the younger rising stars in this system and placing them on a leadership track is important for achieving long term continuity, developing new talent and innovations, and creating a solid deeper bench when vacancies invariably arise in critical management and leadership positions. This is particularly important at a time when many individuals are reaching retirement age or taking early retirement incentives as part of downsizing.

## Compliance Ratings, Analysis and Recommendations

### PHYSICAL PLANT - Curtiss Pulitzer

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.	
<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	On September 4 <sup>th</sup> and 5 <sup>th</sup> , I toured Ponce, Villalba and Humacao accompanied by Javier Valentin, DCR's consulting architect, as well as Luis Ortiz, who oversees the physical plant for the juvenile facilities, Pedro Santiago, the DCR Fire Safety Office for all the juvenile facilities and Javier Burgos from the Monitor's Office. Mr. Valentin is developing the building codes analysis work, which includes ADA, to determine compliance with S.A. 31. During our tours Mr. Valentin and I discussed where potential code and ADA



	<p>violations might exist and he made observations and took notes to add to his prior tours of the institutions.</p> <p>On December 11<sup>th</sup> and 12<sup>th</sup>, I once again toured the three facilities with Luis Ortiz, Pedro Santiago and Javier Burgos. While the primary focus of the tours is to observe any changing conditions in relation to code compliance as stipulated in paragraph 31, I have also been monitoring the progress being made to comply with suicide prevention measures (See Para 79) in juvenile rooms, and I continue to monitor fire safety conditions, plumbing and air conditioning to insure that all housing units are functional and safe for juveniles to occupy.</p> <p>Our functional team (same individuals with the addition of Aida Burgos) and Mr. Valentin met with me the afternoon of September 5<sup>th</sup> to discuss the process and schedule for his deliverables for the analysis work. Our second functional team occurred on December 12<sup>th</sup> with the same individuals with the addition of Kelvin Merced and Raul Cepeda Gonzales. At the second meeting, I reviewed my comments on the first draft report developed by Mr. Valentin. We also discussed my findings from the site visits and the possible closing of Humacao.</p>
Findings and Analysis	<p>During our September tours, Mr. Valentin stated his initial observations that there did not appear to be any major observable code violations. However, we will not know what violations do exist until he completes his analysis. Some code and ADA issues that did surface, for example, included too long a travel distance to designated fire exits in Humacao, new rooms that were created by the agency by dividing up an existing larger space that may not meet the code requirements, several wood enclosures in dayrooms that will need to be replaced with fireproof materials, and grade differentials from some fire exits in housing units that will either require ramps or re-grading. Mr. Valentin is studying all violation issues and will develop a comprehensive report on all violations in the near future.</p> <p>During my December tours, I saw that there were many air-conditioning units that were not functioning in housing units (at least 11 that I identified). There were additional units that were out of service such as in counseling spaces. I advised facility directors not to place juveniles in rooms within units with no air conditioning. Humacao was diligent in doing so. In fact, they had placed notices on the doors of rooms that did not have air conditioning to insure they were not to be used. Unfortunately these notices were ordered removed by the attorney for the Commonwealth. I asked DCR to please reinstate them and to also place them on rooms with no air conditioning at Ponce and Villalba. The Directors of these two facilities have stated that classification needs will often trump their ability to leave non-air-conditioned rooms unoccupied.</p> <p>In addition, repairs to the gymnasium roofs at Ponce and Humacao were not completed. At Villalba repairs were made with donations from the local community. At Humacao, the emergency generator that had provided electrical power to the institution for nearly</p>

	<p>six months had been completely overhauled with FEMA money for approximately \$900K.</p> <p>There was no movement on creating a solution to providing suicide resistant door hinges at the three facilities. This appears to be primarily a resource issue. On a positive note, the replacement of air vent grills with suicide resistant versions on the lower levels of the housing units at Ponce and Villalba had been completed. The air vent grill in the four cells in admissions at Ponce still required replacement. The air vent grills in Humacao were never an issue from a suicide perspective but are old were being replaced to improve air flow.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>At the present time, Mr. Valentin is working on the various documents that will be part of the full report. The monitor's office received a draft of the first report explaining why certain chapters of the 43 chapters in the Puerto Rico Building Code are not applicable for his analysis. The monitor's office reviewed the analysis and agreed that code chapters that deal with design requirements and/or means and methods of construction for new facilities were not applicable. The analysis is evaluating facilities that are already built, therefore those provisions are not pertinent.</p> <p>The primary document which is serving as the basis of the code analysis is the 2009 International Building Code cross referenced with Amendments per Division II of the 2011 Puerto Rico Building Code. The codes incorporate the relevant sections of the NFPA Life Safety Codes. In my meetings with Mr. Valentin and the Functional Team in December, we discussed my edits to the first document, which Mr. Valentin will incorporate into a Final Draft.</p> <p>The next steps in the analysis will be for Mr. Valentin to document the code and ADA violations at the three existing facilities. This will be followed by recommendations for necessary capital improvements to achieve full compliance, and the projected costs for each remedy.</p> <p>When the magnitude of compliance areas is fleshed out, a prioritization schedule will be developed along with potential timelines for compliance. Violations that affect Life Safety, and cannot be initially mitigated operationally, will have the highest priority for implementation. The financial resources available to DCR will become a key factor affecting a schedule for compliance at this juncture in the process.</p> <p>In terms of compliance with modifying the hinges at all three facilities, the first step will be for DCR to hire an architect and/or detention specialist to develop a long term solution. There does not appear to be a simple solution and the hinges as well as the doors may need to be replaced to eventually achieve compliance.</p>
Priority Next Steps	The schedule for deliverables are as follows:

	<ul style="list-style-type: none"> <li>• Analysis of Life Safety Code Violations - Draft Received 11/28/18 and in review by the monitor's office</li> <li>• Analysis of Pertinent Building Codes Violations-2/28/2019</li> <li>• Analysis of ADA Violations - 3/21/2019</li> <li>• Recommendations and Cost Estimates (Final Report) - 4/25/2019</li> </ul> <p>DCR must develop a solution for resolving the suicide issues relating to door hinges.</p>
Quality Assurance Measures	Quality assurance measures will continued to be review, including those documents developed by Mr. Valentin, and tours of remaining facilities with Mr. Valentin to view first hand where the code and ADA violations exist. This will occur once the violations are defined and explained. In addition, the Monitor's office is reviewing the spread sheets being developed by DCR to track facility repair issues including suicide mitigation efforts followed up by tours to determine compliance..
Sources of Information upon which Consultant report and compliance ratings are based.	<p>The documentation being developed by Mr. Valentin will be the primary source to determine the levels of compliance with the codes and regulations. The financial resources to rectify violations and achieve compliance will need to involve discussions with the Secretary of DCR as well as senior officials within DCR and the Commonwealth hierarchy responsible for funding the agency.</p> <p>The spread sheets being developed by DCR to track facility repair issues are also relied upon for compliance ratings.</p>

## POLICIES AND PROCEDURES, TRAINING AND RESOURCES – Kim Tandy

S.A. 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.	
<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	The Monitor has not been provided with a detailed budget specific to NIJ for fiscal year 2018-19. She obtained a copy of the Fiscal Plan for Puerto Rico as submitted to the Fiscal Oversight and Management Board for Puerto Rico released in September of 2018, and the October 23, 2018 updated plan. She also reviewed the FY 2019 budget submitted to the Governor of Puerto Rico. She has asked for various budget documents, including breakdown and analysis of the \$691 per diem figure noted in the report to the Puerto Rico Fiscal Oversight and Accountability Board.

	<p>The Monitor conducted two phone calls with Secretary Erik Rolon during this quarter regarding the closure of CD Humacao, as well as discussion about facility needs, relief funds, and long term measures which may be employed by DCR regarding its juvenile facilities.</p> <p>Document requests regarding the current and proposed budgets, as well as plans for privatization in whole or in part were made to Secretary Rolon on December 13, and to counsel on December 19<sup>th</sup> and January 18<sup>th</sup>.</p> <p>The Monitor has also spoken with other outsider stakeholder groups, including the Puerto Rico public defender agency which handles juvenile defense, the director of the Access to Justice Fund, and representatives from the Annie E. Casey Foundation about possible technical assistance and services which may assist DCR in its longer term efforts to redesign a system of care. Puerto Rico has an excellent opportunity to create a more cost effective system for Puerto Rican youth referred to NIJ, and which can achieve better outcomes for youth and keep them closer to their own communities.</p>
Findings and Analysis	<p>The Commonwealth must submit a budget to the legislature each year which contains the “required sums of money” for implementation of the Consent Order, and subsequent Settlement Agreement. The Monitor noted concerns in her Third Quarterly Report about needed repairs to roofs and air conditioners, as well as equipment and staffing needs. Specifically, this included video cameras in Villalba and Humacao, as well as a color printer to aid investigations. It also included support staff in the areas of training and IT, and to support NIJ’s ability to track and report other operational aspects now completed manually. Minimal documentation has been provided to indicate that such repairs have been made. The Monitor has asked the Director Cepeda to provide additional information on resources needed for implementation.</p> <p>The Fiscal Oversight and Management Board of Puerto Rico September, 2018 report indicates a plan to “rightsize Puerto Rico’s correctional facilities and footprint” and achieve cost reductions of \$353 million over the next five years. The Department of Corrections and Rehabilitation spends \$42 million in services offered to youth in the three existing NIJ facilities in Humacao, Villalba and Ponce. The Fiscal Plan indicates a plan to study the construction or rehabilitation and operation of a consolidated facility “through the modality of a private-public partnership,” noting an annual cost savings of \$19.4 million to be achieved beginning in FY 2022. Meanwhile, the report states that DCR is presently considering “externalizing “ services sooner, and is preparing a request for proposal intended for distribution in mid FY 2019, thereby realizing a cost savings by FY 2020. The plan notes that further cost savings from consolidations could occur to reduce the number of youth as appropriate, including early releases.</p> <p>A revised plan by the Fiscal Oversight and Management Board in October of 2018 increases the total cost savings expected of DCR to \$558 million over a five year period.</p>

	<p>This is no specific mention of what portion of that is expected to be achieved through reductions in expenditures by NIJ.</p> <p>The requirements of the Consent Order and Settlement Agreement will remain in place whether or not DCR privatizes its operation of juvenile facilities. It is encouraging that DCR is willing to consider further cost savings measures such as reducing the number of youth further as appropriate, and considering early release options. We look forward to further discussions about this.</p> <p>The October, 2018 Fiscal Plan also addresses how the Puerto Rico Department of Education can “right size” its education system relative to the declining number of students, and notes that PRDE must achieve a cost savings of \$35.6 million in personnel, and \$13.1 million in non-personnel in FY 2019. PRDE is slated to generate \$576 million in savings by FY 2023 as well as increasing the quality of services. It is unclear what impact, if any, this will have on PRDE’s compliance with the S.A. For example, the Fiscal Report notes a targeted student/teacher ratio of 14:1, rather than the current ratio of 11:1. Given the high need population of youth in NIJ facilities, as well as classification requirements, this higher ratio would be problematic to implement.</p>
What is needed for full compliance? What steps are required and/or recommended?	<p>DCR must ensure that its budget addresses adequate staffing, training, resources and physical plant requirements to fully comply with the provisions of the Consent Order and Settlement Agreement.</p> <p>DCR must provide the requested documentation regarding budget, per diem expense analysis and other plans for cost reduction or NIJ operations impacting compliance.</p> <p>To the extent that funding can be obtained from alternative sources to address physical plant, health and safety and/or emergency response situations, DCR is encouraged to seek out such sources.</p>
Priority Next Steps	<p>Review any plans for the privatization or facility closures within with the Monitor, as well as other long-term plans for cost reductions, as well as other DCR cost savings measures which can impact compliance.</p> <p>Provide the Monitor’s office with documentation of repairs to roof and air conditioning units within housing units, classrooms and educational offices and other areas where operations may be interrupted, and/or safety and security may be compromised.</p> <p>Identify any other areas where additional funding is needed in order to comply with the Consent Order and Settlement Agreement which has not been identified in this report.</p>
Sources of Information upon which Consultant	<p>Fiscal Plan for Puerto Rico as submitted to the Fiscal Oversight and Management Board of Puerto Rico, September 7, 2018, found at <a href="http://www.aafaf.pr.gov/assets/pr-fiscal-plan-090718.pdf">http://www.aafaf.pr.gov/assets/pr-fiscal-plan-090718.pdf</a></p>

report and compliance ratings	<p>The New Fiscal Plan for Puerto Rico: Restoring Growth and Prosperity, as certified by the Financial Oversight and Management Board for Puerto Rico on October 23, 2018. Interviews with staff and consultants, found at <a href="http://www.aafaf.pr.gov/assets/new-fiscal-plan-pr-certified-fomb-10-23-18.pdf">http://www.aafaf.pr.gov/assets/new-fiscal-plan-pr-certified-fomb-10-23-18.pdf</a></p> <p>Report of malfunctioning air conditioning units, review of housing documents at Humacao.</p> <p>Phone calls and emails with staff and consultants.</p>
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S.A. 45 Within one year of the approval of the 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, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>The Monitor has copies of existing policies and procedures in most of the remaining areas of the Settlement Agreement and Consent Order. Most have been formally or informally translated into English where possible.</p> <p>The Monitor recommended in the Third Annual report that NIJ create a 6 month plan to complete the remaining areas where policies have not been approved as consistent with the Settlement Agreement and Consent Order. She has not received any plan which details how these remaining policies will be completed for approval.</p>
Findings and Analysis	<p>Policies submitted and approved during this quarter include finalization of Paragraph 48 regarding staffing.</p> <p>Policies for both general and vocational education, and special education, are pending comments by NIJ and DE since September, 2018.</p> <p>The Monitor created a chart of all remaining areas where existing provisions of the Settlement Agreement do not have approved policies and procedures, and has noted where policies are currently under review or awaiting final approval. Further discussion about policies and procedures are noted in other sections of this report as relevant. This chart is found in Attachment A.</p>
What is needed for full compliance? What steps are required and/or recommended?	<p>Approved policies and procedures should remain a priority in any area where the Monitor's office has not yet approved of changes, and where policies do not adequately reflect the requirements of the Settlement Agreement and/or Consent Order.</p> <p>It is recommended that NIJ develop timeframes for the Monitor's review of outstanding unapproved policies so that all remaining provisions can be finalized by June of 2019.</p>

Quality Assurance Measures	Quality improvement policies should be explicit in ensuring that policies are reviewed annually and when otherwise necessary, and that staff are adequately trained on any new policies or policy amendments.			
	NIJ staff, under the leadership of Kelvin Merced, have been working on a set of policies regarding Quality Assurance which are under review by Bob Dugan. It will be important for other members of the monitoring team to review some of the specific subject matter areas relevant to areas of their monitoring.			
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.				
Compliance Rating	Partial Compliance			
Methodology for Monitoring this Quarter	A site visit was conducted during the week of November 5, and a meeting with Aida Burgos, Human Resource Director and Kelvin Merced was held to discuss training compliance and documentation.			
	The Monitor has also received a copy of the Annual Report prepared by NIJ staff for the period of January 1 2017- June 30, 2018, as well as training schedules for October, November and December.			
Findings and Analysis regarding compliance.	NIJ has policies regarding training which have been approved previously by the Monitor.			
	Training scheduled during this quarter includes:			
	Compilation of NIJ Training Provided October – December, 2018			
	Type of Training	Dates	Hours	Facilit(ies)
	Physical health	Oct 2	4	Humacao
		Oct. 3		Poce
		Oct 9		Ponce
		Oct. 11		Ponce
		Oct. 16		Villalba
		Oct. 23		Humacao
		Oct. 30		Humacao/Villalba
		Nov. 29		Ponce

	Management of Referrals of alleged abuse and institutional neglect	Oct. 2 Oct. 4 Oct. 16 Oct. 18 Oct. 23 Nov. 1 Nov. 6 Nov. 13 Nov. 29	4	Ponce Humacao Humacao Ponce Villalba Ponce Villalba Humacao Humacao
	Suicide Prevention	Oct. 2 Oct. 8 Oct. 16 Oct. 18 Oct. 26 Oct. 30 Nov. 8 Nov. 15 Nov. 20 Nov. 27 Dec. 6 Dec. 18 Dec. 19	3	Villalba Humacao Ponce Villalba Humacao Ponce Villalba Ponce Humacao/Villalba Ponce Ponce/Villalba Humacao Ponce
	Safety of Life in Youth Facilities	Oct. 3 Oct. 5 Oct. 10 Oct. 12 Oct. 23 Oct. 25 Oct. 26	6	Villalba Ponce Ponce Villalba Ponce Ponce/Villalba Villalba
	Security of Life in Youth Institutions	Oct. 4 Nov. 1 Nov. 2 Nov. 6 Nov. 8 Nov. 9 Nov. 13 Nov. 15 Nov. 27 Dec. 7 Dec. 13	6	Ponce Humacao Ponce Ponce Ponce Humacao Ponce Humacao Humacao Humacao Humacao
	Control Keys for Emergencies	Oct. 4 Oct. 9 Oct. 18	3	Ponce Humacao Humacao
	Use and Handling of Large Weapons	Oct. 15 Oct. 16 Oct. 22 Oct. 23	6	Ponce Poligono Ponce Poligono



	Oct. 29 Oct 30 Nov. 26 Nov 27 Dec. 3 Dec. 4 Dec. 10 Dec. 11		Ponce Poligono Ponce Humacao Ponce Poligono Ponce Poligono
Use and handling of chemical restrictions	Oct. 17 Oct. 24 Oct. 31 Nov. 28 Dec. 5	3	Ponce Ponce Ponce Ponce Ponce
Rules and Procedures in the Use of Force	Nov. 7 Nov. 14 Nov. 26 Dec. 3 Dec. 4 Dec. 7 Dec. 11 Dec. 13	3	Humacao Ponce/Villalba/Humacao Villalba Villalba/Humacao Villalba Ponce Humacao Ponce
Behavior Modification	Nov. 12 Nov. 16	4	Ponce/Villalba Ponce
Validating Rights and Application of Duties	Nov. 2 Nov. 5 Nov. 9 Nov. 30	4	Villalba Ponce Ponce Ponce
Training on PREA 101	Nov. 15	6	Nivel Central

Information in the Annual Report provided to the Monitor for the period ending June 30<sup>th</sup>, 2018 included a summary of the number of hours and frequency of trainings, as well as the percentage of employees trained by topic area, and by facility. Measuring the effectiveness of training as to its relevancy to practice, knowledge gained, quality of materials, and quality of trainers is an important component which should be considered in the reports completed each 6 months. Pre-tests, post-tests, and evaluations should be compiled for inclusion.

CPR training was not provided this quarter.

NIJ was asked to create a series of metrics during the fourth quarter regarding its training program which will establish benchmarks for participation, indicators for quality of training, and alignment of annual training to the identified needs of the staff.

It was also recommended that an administrative position to support the training function be requested during the fourth quarter to provide the appropriate level of resources and staffing.

	<p>It is hoped that once these items are completed, this paragraph may achieve full compliance and move into self-monitoring for a designated period of time.</p> <p>The next report is from July of 2017 through December 2018 and will be submitted to the Office of the Monitor in March of 2019 in completed form.</p>
What is needed to reach full and faithful compliance?	<p>Training sessions in all SA 50 categories must be planned and provided throughout the coming year with benchmarks established for completion rates, and corrective action plans for facilities not achieving those benchmarks.</p> <p>Appropriate clerical support should be provided for the IDECAHR director to facilitate report preparation and compliance evidence.</p> <p>Institution directors must take steps to ensure their direct care staff attend the minimum requirement of 40 hours of the items contained in the stipulation. Directors should continue to work to identify those employees who are on their rosters but not actively employed in the facility to clarify their status of employment.</p> <p>The training policies note that 24 hours of training are provided to professional staff including teachers. Verification of this is needed for new teaching staff.</p> <p>NIJ should establish benchmarks to improve training compliance for each of the facilities, and create a system of quality assurance and quality improvement for training of staff.</p> <p>Continued six month reporting cycles are helpful tools to determine compliance, and should be completed at the end of December 2018, and at the end of June, 2019.</p>
Priority Next Steps	<p>NIJ must establish a series of metrics regarding its training program which will provide benchmarks for participation, indicators for quality of training, and alignment of annual training to the identified needs of the staff.</p> <p>An administrative position to support the training function remains as high priority to provide the appropriate level of resources and staffing.</p> <p>Once these measures are taken, this paragraph may be ready to move into full compliance and self-monitoring for a period of a year.</p>
Basis for findings and recommendations	<p>The findings and recommendations are based upon the annual report submitted, and discussion with the Human Resource Specialist., as well as documentation provided of monthly training</p>

## PROTECTION FROM HARM – STAFFING (Bob Dugan)

Parag. No.	Compliance Provision	4 <sup>th</sup> 2018	1 <sup>st</sup> 2019	2 <sup>nd</sup> 2019	3 <sup>rd</sup> 2019	4 <sup>th</sup> 2019
<b>Protection from Harm</b>						
S.A. 48	Sufficient Direct Care Staff	<b>Partial Compliance</b>				
Jan 2009 Para. 1	Reasonable Safety of Youth through Adequate Supervision	<b>Partial Compliance</b>				
Parag 2	Sufficient Staff to Implement Decree and adequate supervision	<b>Partial Compliance</b>				
Parag 3	Training for social workers if direct care staff	<b>NA</b>				
Parag 4	Persons Hired to be Sufficiently Trained before deployed	<b>Substantial Compliance</b>				
Parag 5	Monthly submission of master roster	<b>Partial Compliance</b>				
S.A. 52	Classification	<b>Partial Compliance</b>				

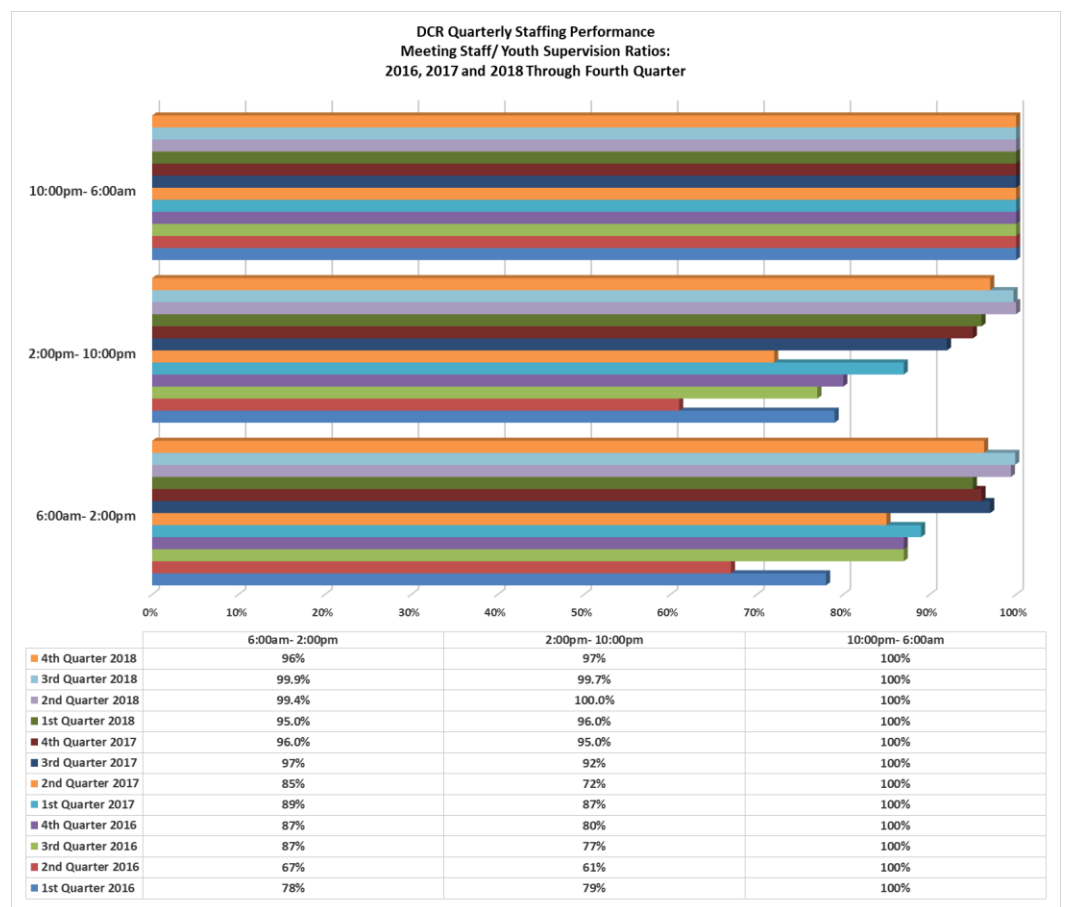
**S.A. 48.** Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.

48.a Method one: Defendants may 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 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.*

Compliance Ratings	Partial Compliance																				
Description of Monitoring process during this period of time	<p>S.A. 48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using DCR facility generated weekly staff youth ratio forms. These forms are submitted to the Monitor’s Consultant throughout the reporting quarter. DCR facilities daily shift by shift staffing and youth population for each operational housing module is reported, as well as any 1:1 supervision events, and the volume of staff that are required to work a double shift. The compliance report provides information from Staff Youth Ratio forms that were provided to the Monitor’s Consultant for the period September 30 through December 29, 2018.</p> <p>The Monitor's Consultant conducted site visits on December 4, 2018 to CTS Ponce and CTS Villalba and on December 5, 2018 to CD Humacao. On the afternoon of December 5, 2018 an Operational Functional Team meeting was held at NIJ Central Office.</p>																				
Findings and Analysis	<p>DCR submitted a total of 39 facility staff youth ratio forms for the three facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. DCR has consistently provided all requested Staff Youth Ratio forms used for monitoring and reporting. Detention youth population was detained in the CD Humacao facility for the fourth quarter reporting period. The Sumaridos youth population was housed at CD Humacao until December 16, 2018, at which time nine Sumaridos youth were transferred to CTS Ponce as part of the CD Humacao closure plan.</p> <p>The chart and table below represent staff youth ratio performance by shift for the period (September 30, 2018 through December 29, 2018).</p> <div><p style="text-align: center;"><b>DCR Facility Staff Youth Ratio Performance By Shift: Fourth Quarter 2018</b></p><table><thead><tr><th></th><th>Met Staff Youth Ratio 10:00 - 6:00 Events</th><th>Met Staff Youth Ratio 6:00 - 2:00 Events</th><th>Met Staff Youth Ratio 2:00- 10:00 Events</th><th>Met Staff Youth Ratio Average: All Shifts</th></tr></thead><tbody><tr><td>■ CTS Villalba</td><td>100%</td><td>94%</td><td>96%</td><td>97%</td></tr><tr><td>■ CTS Ponce</td><td>100%</td><td>96%</td><td>96%</td><td>98%</td></tr><tr><td>■ CD Humacao</td><td>100%</td><td>98%</td><td>98%</td><td>99%</td></tr></tbody></table></div> <p>The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2016 through December 29, 2018:</p>		Met Staff Youth Ratio 10:00 - 6:00 Events	Met Staff Youth Ratio 6:00 - 2:00 Events	Met Staff Youth Ratio 2:00- 10:00 Events	Met Staff Youth Ratio Average: All Shifts	■ CTS Villalba	100%	94%	96%	97%	■ CTS Ponce	100%	96%	96%	98%	■ CD Humacao	100%	98%	98%	99%
	Met Staff Youth Ratio 10:00 - 6:00 Events	Met Staff Youth Ratio 6:00 - 2:00 Events	Met Staff Youth Ratio 2:00- 10:00 Events	Met Staff Youth Ratio Average: All Shifts																	
■ CTS Villalba	100%	94%	96%	97%																	
■ CTS Ponce	100%	96%	96%	98%																	
■ CD Humacao	100%	98%	98%	99%																	



### **Waking Hours Youth Ratio Events:**

The DCR 2018 fourth quarter performance in meeting Staff Youth Ratios during waking hours is as follows:

- 6:00 am – 2:00 pm shift: 96% of events, a 3.9% decrease from the third quarter of 2018 (99.9%)
- 2:00 pm – 10:00 pm shift: 97% of events, a 2.7% decrease from the third quarter of 2018 (99.7%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the third quarter of 2018 (100%)

Of the 3524 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3403 of the events (97%) met the minimum shift staff youth ratio requirements. The DCR 2018 fourth quarter Staff Youth Ratios compliance performance reflects a 2.8% decrease in staff youth ratio compliance compared to the third quarter reporting period. For the 2018 fourth quarter, NIJ has not demonstrated sustainable performance compliance in meeting the minimum required staff youth ratios.

### **Staff Double Shifts:**

For the 2018 fourth quarter, 926 (18%) of the 5288 staff youth ratio events were covered by staff working a double shift. This is 5% increase of shifts requiring staff to work a double shift compared to the third quarter 2018 reporting period, but a reduction in volume by 307 events.

All three facilities have increased the percentage of shifts covered by staff working double shifts, while having reduced percentages of meeting the minimum required staff youth ratio.

- CD Humacao increased percentage of shifts covered by staff working a double shift to 22% (346 events), +15% from the previous quarter.
- CTS Ponce increased percentage of shifts covered by staff working a double shift by 13% (261 events), +10% from the previous quarter.
- CTS Villalba increased percentage of shifts covered by staff working a double shift by 19% (319 events), +3% from the previous quarter.

DCR Staff Youth Ratio Events and Double Shifts: Fourth Quarter 2018	Waking Hour Supervision Events	Met Minimum Staff Youth Ratio During Waking Hour Supervision Events	Volume of Shifts Covered by Staff Working a Double Shift	Percentage of Shifts Covered by Staff Working Double Shift	V
<u>CD Humacao</u>	1047	1030	346	22%	
<u>CTS Ponce</u>	1353	1303	261	13%	
CTS Villalba	1124	1070	319	19%	
<b>DCR Fourth Quarter 2018 Staff Youth Ratio: All Shifts</b>	<b>3524</b>	<b>3403</b>	<b>926</b>	<b>18%</b>	

A closer review identifies staff working double shifts occurred disproportionately on weekends occurring on the first and second shifts. Additionally, there was a significantly higher volume of non-compliant staff youth ratio events (121), from the third quarter (7 events), and 53% of the events occurred on weekends.

DCR Facility Fourth Quarter 2018	Volume of Non-Compliant Staffing Ratios	Volume of Non-Compliant Staffing Ratios on Weekends	Percentage of Non-Compliant Staffing Ratios on Weekends	Volume of Double Shifts	D
CD Humacao	17	11	65%	346	
CTS Ponce	50	20	40%	261	
CTS Villalba	54	33	61%	319	
<b>DCR Totals</b>	<b>121</b>	<b>64</b>	<b>53%</b>	<b>926</b>	

The table below displays the last seven quarters of staffing events, double shift staffing events, percentage of double shift staffing events and total number of operational facilities for the quarter.

Staff Double Shifts and Staffing Events	First Quarter 2017	Second Quarter 2017	Fourth Quarter 2017	Fourth Quarter 2017	First Quarter 2018	C
Volume of Double Shifts	911	886	586	712	1202	
Volume of Staffing Events	6800	6299	5489	6611	5712	
Percentage of Double Shift Staffing Events	13%	14%	11%	11%	21%	
Number of Facilities	5	6	4	4	3	

Implications of a large volume of double shifting are deterioration in staff productivity, reducing the ability to be actively engaged in the supervision of youth as well as the negative impact to staff morale. The outcome of double shifting for direct care staff can lead to a level of inattentiveness on the part of staff, which can negatively impact youth safety and potentially contribute to staff negligence in providing effective, safe and secure supervision to youth. Double shifting often leads to staff calling in sick call to avoid being required to double shift after their regularly scheduled shift.

There is no prohibition nor restrictions in S. A. 48 on the use of double shifts to meet the requirements of minimum required direct care staff youth ratios. Although undesirable from an operational and budgetary perspective, it does not impact analysis of whether the minimum required staff youth ratios are being met. Conversely, double shifting may be a significant contributing factor in jeopardizing the agency's capacity to provide adequate staffing to assure youth safety, protection from harm and staff turnover.

**Policy and Quality Assurance Documentation Requirements for Compliance:**

DCR and NIJ successfully implemented agency staffing policy to procedurally require staffing assignment and documentation to prioritize operational compliance with the minimum required staff youth ratios. At the Functional Team Meeting held on August 22, 2018, members of the Operational Functional Team indicated that a policy had received agency approval and the Secretary's signature. The Monitor's Consultant, at the time of the meeting, and afterwards by email, asked for a copy of the final approved staffing policy.

On November 16, 2018, NIJ provided to the Monitor's Consultant a final, Secretary signed and approved Policy 9.20, *"Handling and Distribution of Youth Service Officers Roster"*. This policy will be referred to as the Staffing Policy in the balance of this report. Over the course of the last three years, the Monitor's Consultant has reviewed and provided commentary and recommendations on draft versions of the Staffing Policy a minimum of seven separate occasions, as well as reviews and commentary at each corresponding Operational Functional Team meeting. The Monitor's Consultant commentary and recommendations not only focused on assuring the policy and procedures met the minimum required staff youth ratio as required by S.A. 48, but the required agency, facility and shift source documentation to facilitate both NIJ and Monitor's Office capacity to assess policy and procedural compliance, corrective action and quality assurance. It is the belief of the Monitor's Consultant that the DCR Policy 9.20 provides for these critical components.

Prior to Staff Policy implementation on September 16, 2018, NIJ conducted Policy 9.20 training for a total of 49 staff from the three facilities. NIJ has provided the Monitor's Consultant with a copy of the PowerPoint presentation of the Policy 9.20 training sessions, as well as training session sign in sheets, that was conducted on August 29 and 30, 2018. A review of the PowerPoint presentation reflects that the training session provided a detailed review of the policy, procedures, documentation and supervisory

staff responsibilities for implementation and policy compliance. There was no pretest nor posttest for the three training sessions

For DCR, as well as the Monitor's Office, to effectively assess policy procedural compliance, minimum required staff youth ratio performance metrics, and quality assurance processes the DCR Staffing Policy identifies that retrievable staff youth ratio documentation be maintained at each facility. The documentation consists minimally of the following:

- Daily youth population list that identifies which youth are in which modules, designation of any youth on Protective Custody, Transitional Measures, Therapeutic Observation or Constant Watch, which are documented in staffing forms as 1:1 staff youth supervision events. Additionally, daily trips and youth assigned to those trips are documented on the daily population list.
- To review staff and youth population materials in an efficient manner, it has been requested that staffing binders be put in place at each facility that allows for a review of daily staffing practices, which will allow for both DCR and Monitor's Office analysis of policy and procedural compliance.

**Monitor's Consultant Review of Staff Policy and Procedural Compliance:**

During the August site visits, the Monitor's Consultant demonstrated proposed quality assurance sampling of staffing documentation to facility compliance officers, identifying strengths and weaknesses in existing facility practices. This process was shared with members of the Operational Functional Team at the Functional Team meeting on August 22, 2018.

During facility site visits on December 4 and 5, 2018, the Monitor's Consultant reviewed facility documentation for Staff Policy procedural compliance and minimum required staff youth ratio youth quality assurance compliance analysis.

The design of the Monitor's Consultant Staff Policy Compliance and Performance Reviews consists of a comparative analysis of weekly submitted Staff Youth Ratio workbook documentation with the Master Roster, the daily roster and mini-control logs.

The Master Roster is an agency generated staffing roster, identifying posts, fixed posts, fixed posts identified by need, movable posts and relief personnel. Supervisor IV's are required to develop a facility shift daily roster from the Master Roster, adjusting as required for housing module youth populations, approved leave status, call offs, training, trips and special needs. The Master Roster designates one fixed post for each housing modules and additional fix posts identified by need, predicated on the housing module youth population and youth on special status (protective custody, transitional measure, constant supervision, etc.). Mini-control logs are used to provide supplemental documentation of staff housing module assignments and staff and youth movement.

Although DCR consistently provides weekly staff youth ratio forms, as of the Staffing Consultant site visits of December 4 and 5, 2018, based on the Staff Compliance Reviews, the following findings have been made:



	<ul style="list-style-type: none"> <li>• NIJ had not been able to implement the quality assurance facility staffing documentation requests uniformly at all three facilities. The absence of agency wide uniform staffing source documentation significantly limits the volume of quality assurance validation sampling of facility daily youth population housing assignments, master roster, daily roster and mini-control logs that can be reviewed in the time available during a site visit.</li> <li>• Form DCR -NIJ -0144 has not been consistently implemented at each facility. Form DCR -NIJ -0144 documents posts that are compliant and non-compliant with the requirements of Policy 9.20. <ul style="list-style-type: none"> <li>○ DCR -NIJ -0144 is a NIJ form to assess the procedural compliance to Policy 9.20. It is to be completed for each facility, for each day, for each shift by the Supervisor IV or III. It specifically requires for the Supervisor IV or III to document compliance with the minimum required staff youth ratio for each housing module.</li> <li>○ The DCR -NIJ -0144 form was not previewed by the Monitor's Consultant prior to Staffing Policy implementation. The Monitor's Consultant believes this form should be revised to allow for documentation of the volume of housing modules that do not meet the minimum required staff youth ratio for each shift. At this time, the existing form only allows for a check mark to indicate whether the required staff youth ratio was met. The Monitor's Consultant will provide a revised DCR -NIJ -0144 for implementation.</li> </ul> </li> <li>• Each facility needs to use the daily roster template that has the row for documenting the EST 48- 1x8 directly under each module.</li> <li>• The Monitor's Consultant reviewed his Staff Policy Compliance and Performance Reviews with facility Compliance Officers and shared the findings with the members of the Operational Functional Team on December 5, 2018.</li> </ul> <p>The Monitor's Consultant Staff Policy Compliance and Performance Reviews assessment for accuracy, reliability and comprehensive reporting required by the DCR Staff Policy is the primary quality assurance process to determine compliance of S.A. 48a.</p> <p>In conjunction with analysis of NIJ performance in meeting the minimum required staff youth ratios, with the authorization of DCR Policy 9.20, NIJ's procedural compliance and quality assurance performance will be the associated critical performance criteria for meeting the requirements of S.A. 48a. For the 2018 fourth quarter, S.A. 48a is found to be in partial compliance.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>During the fourth quarter there has been a significant reduction in NIJ meeting the minimum required staff youth ratio. NIJ needs to meet procedural compliance not only with S.A. 48, but also their own Policy 9.20. Substantial compliance requires significant improvement in meeting minimum required staff youth ratios with a minimum dependence on double shifting, as was accomplished during the 2018 third quarter. Additionally, procedural compliance with DCR-NIJ Policy 9.20 requires meeting minimum required staff youth ratios as well as corrective action when ratios are not met for any given supervision event on any shift.</p>

Priority Next Steps	<p>Priority next steps required to find compliance for S.A. 48a are the following:</p> <ul style="list-style-type: none"> <li>• Recalculate and produce new Master Rosters for facilities based on the CD Humacao closure and staff and youth population redistribution.</li> <li>• Address the requirement for procedural compliance with staffing Policy 9.20, especially in light of facility housing module increased populations, as well as any required 1:1 staff youth supervision events.</li> <li>• Provide the Monitor's Consultant with electronic versions of each facilities the monthly/ cycle Master Roster as well as DCR-NIJ 0144 occurring during the first quarter of 2019.</li> <li>• DCR-NIJ needs to implement independent quality assurance assessment of procedural compliance as required by Policy 9.20, generating reports for both internal use and submission to the Monitor's Office.</li> </ul>
Quality Assurance Measures	<p>DCR Staffing Policy 9.20 identifies that retrievable staff youth ratio documentation be maintained at each facility. As described in the previous section, the documentation consists of the following:</p> <ul style="list-style-type: none"> <li>• Daily youth population list identify which youth are in which modules, designation of any youth on Protective Custody, Transitional Measures, Therapeutic Observation of Constant Watch. Additionally, daily trips and youth assigned to those trips should also be maintained in the daily population list.</li> <li>• The facility staff roster, displaying which staff has been assigned to which modules. It is critical that the form allows for clear documentation of officers assigned to each module as well as mini control.</li> <li>• At this time this form is not uniform between all three facilities. This issue was addressed at the Operational Functional Team meeting on December 5, 2018.</li> <li>• The review of staff and youth population documentation in an efficient manner, requires each facility maintain organized staffing documentation that allows for a review of daily staffing practices, which will allow for both DCR and Monitor's Office analysis of policy and procedural compliance.</li> </ul> <p>Staff youth ratio quality assurance compliance analysis consists of a review of the Master Roster, facility Daily Roster, facility mini control logs, and DCR-NIJ 0144 daily forms to assess procedural and performance compliance with DCR-NIJ Policy 9.20.</p> <p>The Master Roster is an agency generated staffing roster-identifying posts, fixed posts, fixed posts identified by need, movable posts and relief personnel. Supervisor IV's are required to develop a facility shift Daily Roster from the Master Roster, adjusting as required for housing module youth populations, approved leave status, call offs, training, trips and special needs. The Master Roster designates one fixed post for each housing modules and additional fix posts identified by need, predicated on the housing module youth population and youth on special status (protective custody, transitional measure, constant supervision, etc.). Mini-control logs are used to provide supplemental documentation of staff housing module assignments and staff and youth movement.</p>

	<p>Additionally, review and assessment of DCR-NIJ 0144 forms for each day are assessed for accuracy to the Daily Roster and compliance with DCR-NIJ Policy 9.20 by the Supervisor IV the day after the events.</p> <p>At this time DCR-NIJ has not initiated independent analysis of procedural compliance to Policy 9.20.</p>
Sources of Information upon which Consultant report and compliance ratings are based	<p>Weekly facility staff youth ratio workbooks are provided to the Monitor's Consultant throughout the quarter. Facility staff youth ratio workbook data is analyzed to assess facility and agency compliance in meeting the minimum required staff youth ratio as described in S.A. 48a.</p> <p>A component of facility site visits is review facility staffing source documentation, Master Rosters, Daily Rosters, mini control analyzed against the weekly facility staff youth ratio workbooks that are provided to the Monitor's Consultant.</p> <p>Staffing practices, documentation and quality assurance discussions were conducted with facility compliance officers during site visits conducted on December 4 and 5, 2018. Daily roster and housing module staff youth ratios were observed and analyzed with strengths and weaknesses shared with facility compliance officers.</p> <p>Review and assessment of DCR-NIJ 0144 forms for each facility for each day are assessed for accuracy to the Daily Roster and compliance with DCR-NIJ Policy 9.20, by the Supervisor IV the day after the events.</p>
<p><b>January 2009 Stipulation Paragraph 1:</b> All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.</p>	
<b>Compliance Ratings</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>The Monitor's Consultant conducted site visits on December 4, 2018 to CTS Ponce and CTS Villalba and on December 5, 2018 to CD Humacao. On the afternoon of December 5, 2018 an Operational Functional Team meeting was held at the NIJ Central Office. The Monitor's Consultant reviews and analyzes weekly Staff Youth Ratio forms. Additional documentation that is reviewed is as follows: Master Rosters, Daily Rosters, DCR-NIJ 0144 Daily Staffing forms, as well as use of force events, monthly contraband reports, and incident report events.</p>
Findings and Analysis	<p><b>Facility Closure of CD Humacao:</b> On December 5, 2018 the Monitor and members of her team participated in a conference call at which time the rumors of the pending closure of CD Humacao were confirmed. The initiation of the Humacao closure commenced with the transfer of the nine youth Sumaridos population to CTS Ponce on December 16, 2018.</p>

	<p>Prior to the confirmation of the CD Humacao closure, the Monitor's Consultant shared with NIJ his reservations and concerns about the planned closure of CD Humacao, especially in the absence of a comprehensive transition plan. As witnessed with previous facility closures and staff and youth population reassignment, there is a period of instability and storming as the facilities adjust to the housing assignments, new classification configurations and staff and youth composition. Housing modules with youth populations between twelve and fifteen youth will consistently require a minimum of two staff for both the first and second shifts. With the influx of recent and anticipated staff voluntary resignations, fiscal restraints on overtime for double shifting, the projection of meeting minimum requirements for staff youth ratios seems very challenging. Additionally, meeting the minimum staff youth ratio of two staff for a housing module of a large youth population may not be adequate to assure youth safety.</p> <p>In light of the geographic distance and residency of CD Humacao staff, the proposed closure of CD Humacao cannot be expected to provide an infusion of direct care staff to CTS Ponce and CTS Villalba. As in previous closures, the reassignment of staff from the closed facility to the open facilities is a process that is not assured as to whether staff will accept the assignments. At the same time the two facilities require an influx of direct care staff and professional staff to meet the staffing, programming and service requirements of the Settlement Agreement.</p> <p>The reconfiguration of youth populations will initiate new dynamics in the facilities and housing modules. Managing youth "leaders" and maintaining safe and secure environments will require strong and persistent staff leadership and a level of direct care staff active behavior management skills and practice that does not consistently exist at this time in NIJ facilities. Consequently, not only a facility closure, but the staff training, skill development and programming development to manage a reduced but significantly more challenging youth population would be a crucial component for successful implementation.</p> <p>Based on what the Monitor's Consultant is aware of in regard to classification, youth population, special populations, protection from harm and facility operations, there is a significant risk to youth safety with a facility closure at this time and with the apparent absence of preparation and planning.</p> <p>As of the 2018 fourth quarter, the Monitor and Monitor's Consultant are concerned that being in substantial compliance with the minimum staff youth ratios, in and of itself, is not sufficient to assure youth safety at this time.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>DCR has provided a January 2009 Stipulation Paragraph 5 report that describes the volume of staff by classification assigned to each of the three facilities. Analysis of the January 2009 Stipulation Paragraph 2 report can be found in the January 2009 Stipulation Paragraph 2 compliance report section.</p>

	Facility minimum staff youth ratios do not necessarily equate that staffing provides adequate supervision to keep youth safe. For full compliance, staff youth ratios need to consistently meet the minimum required staff youth ratio, as well as additional staffing that is required by special populations, youth assigned to Transitional Measures, Protective Custody and 1:1 staff youth supervision events. Direct care staff active behavior management, as well as robust programming to keep youth engaged, effective management and control of aggressive youth and youth “leaders”, are operational practices, and effective search processes are required to assure youth safety.
Priority Next Steps	Further analysis of facility incident reports, specifically reviewing youth injuries, youth fights, youth assaults, youth self-harm, youth cutting events, youth on youth sexual assault, and staff on youth sexual assault is required to adequately assess youth safety. The Monitor’s Consulting Team continue to request access to incident report information as one of the critical components to assess youth safety.
Quality Assurance Measures	Incident report analysis and quality assurance requires consensus on incident report characteristics and definitional compliance as well as comprehensive reporting. The installation of video systems at CTS Villalba, while assisting in the assessment of investigations, will also significantly help in assessing youth safety, as well as the dynamics associated with youth incident reports and adequate staff supervision to assure youth safety.
<b>January 2009 Stipulation Paragraph 2:</b> All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48.	
The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991). No new YSOs were hired during the Third Quarter of 2018.	
<b>Compliance Ratings</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	Monitoring of S.A. 48 January 2009 Stipulation Paragraph 2 occurs through review of the monthly staffing report required by the January 2009 Stipulation Paragraph 5 provided by the DCR Human Resources Development and Training Institute. The report indicated that no new officers were appointed. Additionally, contraband workbooks from each facility for each month of the fourth quarter were reviewed.
Findings and Analysis	<b>January 2009 Stipulation Paragraph 5:</b> DCR provided the October, November and December 2018 staffing reports required by the stipulation. On November 9, 2018 the Monitor’s Consultant received the October report. On December 26, 2018 NIJ provided the November report followed by the December report received on January 11, 2019. This is the first quarter that NIJ has produced all three months of the report required by the January 2009 Stipulation Paragraph 5. The stipulation language requires that the report shall submit a report by the fifth day of the following month. As seen in the receipt dates of the fourth quarter reports, they were not received by the fifth day of the month.

The Monitor's Consultant has identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. On numerous occasions at various Functional Team meetings and email requests, the Monitor's Consultant has asked for an electronic copy of each facility forty-two day Master Roster to assess the accuracy and reliability of the Master Roster relative to the data provided in the January 2009 Stipulation Paragraph 5 reports. As of the production of the fourth quarterly report, DCR has not provided the Monitor's Consultant with electronic versions of each facility's Master Roster for this quarter. Consequently, the Monitor's Consultant cannot attest to the accuracy and reliability of the numbers provided in the DCR January 2009 Stipulation Paragraph 5 report. For the 2018 fourth quarter, January 2009 Stipulation Paragraph 5 is found to be in partial compliance.

It should be noted that the government of Puerto Rico initiated an incentivized voluntary resignation program for government employees during November and December 2018. In light of the impact that the voluntary resignation program has to NIJ capacity to meet the minimum required staff youth ratio of S.A. 48a, the Monitor's Consultant asked that NIJ include the number of staff by classification that participated in the program and include that information in the monthly January 2009 Stipulation Paragraph 5 report. NIJ has provided that information for November and December.

The table below summarizes the October, November and December 2018 January 2009 Stipulation Paragraph 5 reports:

Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	Available Staff Removing Inactives	Voluntary Resignation Program	New Hires
Oct-18	410	34	23	6	473	41	432	NA	0
Nov-18	381	28	22	6	437	38	399	31	0
Dec-18	371	28	21	6	426	46	380	11	0

The volume of staff reported in the October, November and December 2018 S.A. 48 January 2009 Stipulation Paragraph 5 reports appear by volume to be an adequate number of direct care staff to supervise the present youth populations. The availability and manner that staff are deployed to youth populations, by housing module youth population volume or by need, has not consistently met the requirements of this provision.

At this time in light of the CD Humacao closure, the pending redistribution of staff and youth populations and ongoing assessment of the youth safety status in the reconfigured CTS Ponce and CTS Villalba is required. This Stipulation is found to be in Partial Compliance for the fourth quarter of 2018.

#### **Fourth Quarter Contraband Report Review:**

NIJ submitted contraband workbooks for all three active facilities during the fourth quarter of 2018. CD Humacao reported no contraband for October 2018 and CTS Villalba reported no contraband for November 2018.

- CD Humacao reported three contraband events for the quarter.

	<ul style="list-style-type: none"> <li>• CTS Ponce reported five contraband events for the quarter.</li> <li>• CTS Villalba reported seven contraband events for the quarter.</li> </ul> <p>Over the course of the quarter the quarterly contraband reports reported the following: two pills of unknown nature; \one cellular phone; six events of knives, shanks or sharp objects. The contraband report did not document the volume of searches that were conducted, the type of searches that resulted in the discovery of contraband, nor the volume of searches that did not result in the discovery of contraband. The volume of contraband reported for the quarter seems to be a low volume. The volume of sharp contrabands that were discovered is concerning in light of the history and volume of cutting events at NIJ facilities.</p> <p><b><u>Staffing and Incident Events:</u></b></p> <p>There were 121 staff youth ratio events during the fourth quarter that did not meet the minimum required staff youth ratio. Based on the documentation available to the Monitor's Office and Monitor's Consultant one event occurred where the minimum required staff youth ratio was not met and there was a corresponding incident event. On November 25, 2018 at CD Humacao two youth were observed by the mini control officer, kissing under the stairs in the housing module. The mini control officer notified the housing officer of his observation of this youth behavior. The incident report and 284 indicates only one officer was assigned to the housing module, 3B, with a youth population of 10. The weekly staff youth ratio form and the facility Daily Roster for that day and that shift documented that there were two youth officers assigned to the 3B housing module.</p> <p>There is inconsistency in staff youth ratio documentation and the staff youth ratio reported in the November 25 weekly staff youth ratio workbook based on what was reported in the incident report and 284. The Monitor's Consultant was not aware of this event at the time of the December 5, 2018 site visit and only became aware of this event upon production of the quarterly report.</p> <p>NIJ provided the Monitor's Consultant with a fourth quarter report that documented three incident events that occurred where youth were assaulted by other youths and required hospitalization for evaluation and treatment. Two events occurred at CTS Ponce (#18-076 and #18-093) and one event occurred at CTS Villalba (#18-094). Events # 18-076, #18-093 and #18-094, based upon a review of the staff youth ratios documented for those days and shifts, appear that the minimum required staff youth ratio had been met in all three instances. Officers engaged in active behavior management and awareness of behavioral indicators of potential disruptive behavior increases the probability of adequate staffing to keep youth safe.</p>
What is needed for full compliance?	For full compliance for this provision, NIJ needs to consistently provide and assure availability of direct care staff to be deployed to housing modules based on the minimum required staff youth ratio as well as the specific staff supervision needs of special



What steps are required and/or recommended?	populations, Transitional Measures, Protective Custody and 1:1 staff youth supervision events.
Priority Next Steps	<p>The Monitor's Team is analyzing how to better assess characteristics of incident reports to accurately assess the volume of events occurring impacting youth safety and adequate staff supervision of youth.</p> <p>A priority next step will be to assess DCR IT capacity to provide an electronic incident report module within the electronic record keeping process. In the interim, the Monitor's Consultant has developed an Excel contraband workbook for consideration of implementation by DCR to allow for more efficient analysis of contraband reporting.</p> <p>Additionally, the Monitor and Monitor's Consultant will initiate dialogue with DCR to better understand stipulation requirements to assess whether the existing volume of direct care staff is "sufficient" to "adequately supervise youth". Although there appears to be a sufficient number of direct care staff, there appears to be a significant need for staff skill development as well as programming to assure "adequate youth supervision".</p>
Quality Assurance Measures	The critical next steps for quality assurance measures is to develop consensus over critical terms of this stipulation. Agreement on the importance of the accuracy and reliability of data, consensus on definitional compliance of terminology, and comprehensive reporting of events and incident event characteristics are essential for effective quality assurance measures.
Sources of Information upon which Consultant report and compliance is based	Reports that were used for analysis of this compliance ratings were the January 2009 Stipulation Paragraph 5 report for October, November and December 2018 and the DCR-NIJ submitted contraband reports for October, November and December 2018.
<p><b>January 2009 Stipulation Paragraph 3:</b> Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre- service training, <del>pursuant to Paragraph 49 of the Consent Decree</del>. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.</p>	
<p><i>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 <del>struck</del> part of the provision references a provision that has been terminated.</i></p>	
<p><b>January 2009 Stipulation Paragraph 4:</b> All persons hired to comply with Paragraph 48 shall be sufficiently trained, <del>pursuant to Paragraph 49 of the Consent Decree</del>, before being deployed. Defendants shall deploy all duly trained direct care staff, <del>pursuant to Paragraph 49</del>, to juvenile facilities in a timely manner.</p>	



*The ~~struck~~ part of the provision references a provision that has been terminated.*

Compliance Ratings	Substantial Compliance
Monitoring process during this period of time	<p>There were no new appointments to the agency during the fourth quarter reporting period, nor has there been any new appointments in the last several years.</p> <p>Upon hiring of any new staff, DCR NIJ Policy Chapter 4.1 and 4.2 address the agency's policy and procedure for new employee pre-service training and annual training, as well as certification prior to facility assignment. In light of the approved and implemented policies, this stipulation is found to be in Substantial Compliance.</p>
<p><b>January 2009 Stipulation Paragraph 5:</b> On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.</p> <p><i>The <del>struck</del> part of the provision references a provision that has been terminated.</i></p>	
Compliance Ratings	Partial Compliance
Description of Monitoring process during this period of time	<p>Monitoring of S.A. 48 January 2009 Stipulation Paragraph 5 occurs through review of the monthly staffing report provided by the DCR Human Resources Development and Training Institute. At the Operational Functional Team meeting on December 5, 2018, the Monitor's Consultant again requested that the S.A. 48 January 2009 Stipulation Paragraph 5 reports be provided for all three months of the quarter. Additionally, the Monitor's Consultant identified that the S.A. 48 January 2009 Stipulation Paragraph 5 reports needed to correspond to each facilities Master Roster staff volume. Each facility's Master Roster for each cycle of the quarter was not provided electronically to the Monitor's Consultant.</p>
Findings and Analysis	<p><b>January 2009 Stipulation Paragraph 5:</b> DCR provided at the October, November and December staffing report required by the stipulation and meets the requirements of January 2009 Stipulation Paragraph 5. On November 9, 2018 the Monitor's Consultant received the October report. On December 26, 2018 NIJ provided the November report followed by the December report received on January 11, 2019. This is the first quarter that NIJ has produced all three months of the report required by the January 2009 Stipulation Paragraph 5. The stipulation language requires that the defendants shall submit a report by the fifth day of the following month. As seen in the receipt dates of the fourth quarter reports, the reports were not received by the fifth day of the month.</p>

The Monitor's Consultant has identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. On numerous occasions at various Functional Team meetings and by email requests, the Monitor's Consultant has asked for an electronic copy of each facility forty-two day Master Roster to assess the accuracy and reliability of the Master Roster relative to the data provided in the January 2009 Stipulation Paragraph 5 reports. As of the production of the fourth quarter report, DCR has not provided the Monitor's Consultant with electronic versions of each facility's Master Roster for this quarter. Consequently, the Monitor's Consultant cannot attest to the accuracy and reliability of the numbers provided in the DCR January 2009 Stipulation Paragraph 5 report. For the 2018 fourth quarter, January 2009 Stipulation Paragraph 5 is found to be in partial compliance.

It should be noted that the government of Puerto Rico initiated an incentivized voluntary resignation program for government employees during November and December 2018. In light of the impact that the voluntary resignation program has to NIJ capacity to meet the minimum required staff youth ratio of S.A. 48a, the Monitor's Consultant asked that NIJ include the number of staff by classification, that participated in the program and include that information in the monthly January 2009 Stipulation Paragraph 5 report. NIJ has provided that information for November and December.

The table below summarizes the October, November and December 2018 January 2009 Stipulation Paragraph 5 reports:

Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	Available Staff Removing Inactives	Voluntary Resignation Program	New Hires
Oct-18	410	34	23	6	473	41	432	NA	0
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Dec-18	371	28	21	6	426	46	380	11	0

The volume of staff reported in the October, November and December 2018 S.A. 48 January 2009 Stipulation Paragraph 5 reports appear to be an adequate number of direct care staff to supervise the youth population. The availability and manner that staff are deployed to youth populations, based on housing module youth population volume or by need, has not consistently met the requirements of this provision.

At this time in light of the CD Humacao closure, redistribution of staff and youth population an ongoing assessment of the youth safety status in the reconfigured CTS Ponce and CTS Villalba is required. This Stipulation is found to be in partial compliance for the fourth quarter of 2018.

What is needed for full compliance? What steps are required and/or

The Monitor's Consultant believes the following metrics, actions and data elements are necessary for DCR-NIJ to be in compliance with S.A. 48 January 2009 Stipulation Paragraph 5:

- Submit a January 2009 Stipulation Paragraph 5 staffing report to the Monitor's Consultant on or about the fifth day of the month;
- The inactive (inactivos) staff identified for each facility should be identified by classification type;
- The report should contain the number of qualified direct care staff hired during the previous period (month);

recommend ed?	<ul style="list-style-type: none"> <li>• For each month, the volume of staff by classification type and facility that has resigned as a result of the Puerto Rico government or DCR agency incentivized voluntary resignation program;</li> <li>• In light of the pending CD Humacao closure, CD Humacao staff that have been reassigned to either CTS Ponce or CTS Villalba should be identified in the monthly report by facility and classification.</li> <li>• The juvenile facilities where the direct care staff who were hired in the previous quarter have been deployed or assigned.</li> <li>• Provide the Monitor's Consultant with each facility's electronic version of the Master Rosters that is applicable to the monthly S.A. 48 January 2009 Stipulation Paragraph 5 reports.</li> </ul>
Priority Next Steps	DCR needs to continue to provide this report on a consistent and timely basis. Additionally, in order to assess the accuracy and reliability of the S.A. 48 January 2009 Stipulation Paragraph 5 report, DCR needs to provide to the Monitor's Consultant an electronic version of each facility's corresponding monthly/cycle Master Rosters for each facility. As the Monitor's Consultant has explained to the Operations Functional Team, the criteria to assess the accuracy of the S.A. 48 January 2009 Stipulation Paragraph 5 report would be that the monthly report documentation be the same volume of staff that is identified in each facilities Master Roster.
Quality Assurance Measures	<p>Upon receipt of the monthly facility Master Roster, a comparative analysis will occur with the S.A. 48 January 2009 Stipulation Paragraph 5 report to assess the accuracy and reliability of the report matching the data from the facility Master Rosters.</p> <p>Ultimately, the Monitor's Consultant expectation as an effective quality assurance measure that DCR-NIJ, upon production of the S.A. 48 January 2009 Stipulation Paragraph 5 report, assure and stipulate that the numbers presented in the report correspond to the volume of staff and corresponding classifications for each facility's Master Roster. If the cycle Master Report and the S.A. 48 January 2009 Stipulation Paragraph 5 report staff numbers do not match, an explanation as to why there is variance in the numbers should be provided.</p> <p>As of the production of the 2018 fourth quarter report, DCR has not produced electronic versions of the applicable Master Rosters nor stipulated that the volume of staff documented in each facility's Master Roster corresponds with the data in the monthly S.A. 48 January 2009 Stipulation Paragraph 5 report.</p>

## PROTECTION FROM HARM – CLASSIFICATION (Bob Dugan)

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.

Compliance Ratings	Partial Compliance
Description of Monitoring process during this period of time	<p>Site visits were conducted on December 4 and 5, 2018. CTS Ponce and CTS Villalba were visited on December 4 and CD Humacao was visited on December 5, 2018. An Operational Functional Team meeting was held on the afternoon of December 5.</p> <p>During site visits facility youth population classification and housing assignments were provided for all three facilities. Throughout the quarter, and in the previous twenty-six quarters, NIJ has provided detention and committed classification documentation, with corresponding youth facility assignments and assessed levels of treatment. NIJ facility and housing assignments have been found to consistently correspond to youth's assessed levels of classification and treatment.</p> <p>During the fourth quarter, there were persistent rumors of the possible closure of CD Humacao. The Monitor's Consultant provided his initial concerns about a possible CD Humacao closure to NIJ on October 17, 2018 by email. The Monitor's Consultant provided analysis of existing and potential classification housing module needs, concerns to NIJ representatives about the absence of a transition plan, implications of youth population consolidation, potential negative impact to existing classification milieus within housing modules, and behavior management challenges anticipated with larger housing module populations</p> <p>On December 5, 2018 NIJ confirmed that CD Humacao would close, and youth populations would be redistributed to CTS Ponce and CTS Villalba. Again, the Monitor's Consultant reiterated the issues addressed in the October email, as well as the absence of a formal facility closure and transition plan. On December 14, 2018 a conference call was held with representatives from the Monitor's Office and NIJ to discuss the pending closure of CD Humacao. The Monitor requested documentation from NIJ relative to the condition of the CTS Ponce and CTS Villalba physical plants readiness to accept the CD Humacao population, analysis of classification distribution, population studies and any type of transition plan. Implications of the CD Humacao closure are addressed throughout the balance of the S. A. 52 compliance report.</p>
Findings and Analysis	<p><b>Background:</b> NIJ has demonstrated significant commitment to progressing toward compliance on S.A. 52 over the last several years. NIJ contracted with the Center for Research, Evaluation and Human Development, Inc. (CINED: Dr. Jorge Benítez Nazario and Professor Cynthia Rodríguez-Parés) for the validation of the <i>Instruments for Youth in Custody (ICI)</i> and the <i>Instrument Risk Index (ICR)</i>. The validation study resulted in a revision of both the detention and custody classification instruments, addressing contemporary research and classification criteria. In addition to the validation study, the contract also required that CINED provide a period for pilot testing, development of an operational manual and initial</p>

training of staff. The validation study identified the instruments for youth in custody as the ICI, NIJ now refers to the youth in custody electronic classification instrument as the "ICC". Likewise, the validation study identified the instrument risk index for detention youth as the ICR, NIJ now refers to the youth in detention electronic classification instrument as the "ICD".

**Pending Facility Closure and Population Consolidation:**

On December 5, 2018 the Monitor and members of her team participated in a conference call at which time the rumors of the pending closure of CD Humacao were confirmed. The initiation of the Humacao closure commenced with the transfer of the nine youth Sumaridos population to CTS Ponce on December 16, 2018. The remaining CD Humacao population was scheduled to be transferred in January 2019.

Prior to the confirmation of the closure of CD Humacao, The Monitor's Consultant stated his specific concerns about the impact of consolidation of youth populations to two facilities, specifically addressing the absence of modules to manage module closures for physical plant maintenance, the absence of modules to manage Transitional Measures and Protective Custody, the implications to maintaining the integrity of the existing classification processes and practices, and adequate staff with the necessary active behavior management skills to assure youth safety.

As addressed in the S.A. 48 Compliance Report, the consolidation of youth populations to two facilities, resulting in increased housing module population, significant changes to housing module youth milieus and the anticipated increase in volume of the need for Transitional Measures and Protective Custody events will bring to question the capacity of the existing Classification practices assuring that youth are placed in environments where their safety and treatment needs may be effectively met.

NIJ has identified the following classification distribution by facility and capacity :

CTS Ponce		
Classification	Volume of Units	Capacity
Girls Detention	1	15
Girls Custody	1	15
Sumariados	1	15
Committed Level 2	1	15
Committed Level 3	2	30
Puertas	1	15
Detention (Intake Unit)	1	15
<b>Total Living Units</b>	<b>8</b>	<b>120</b>
CTS Villalba		
Classification	Volume of Units	Capacity
Committed Level 4	3	45
Committed Level 5	2	30
Committed Classification and Evaluation Module	1	15
Detention	2	30
<b>Total Living Units</b>	<b>8</b>	<b>120</b>

Needless to say, the proposed classification distribution leaves NIJ with no capacity to manage facility maintenance without further population and classification consolidation. Although there is recognition of the NIJ population reduction, the logistics to maintaining the integrity of the existing classification practices will be very challenging.

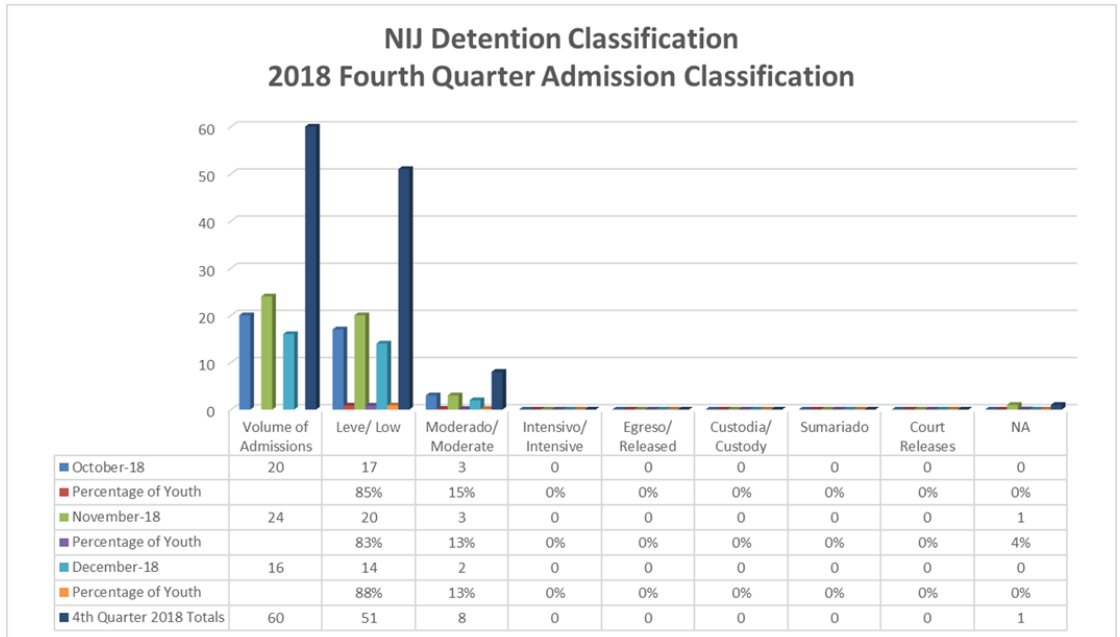
The present NIJ Classification practice was implemented in the Spring of 2015 with an Administrative Order. Staff were trained in April of 2015, at which time the agency operated five facilities and an agency youth population of 267. With the reduction in facilities, over a 50% reduction in youth population, and the absence of classification validation studies, the Monitor's Consultant has significant concerns about whether the NIJ classification practices are effective in meeting the safety and treatment needs to youth, especially in light of facility closure and consolidation of youth populations.

For the fourth quarter of 2018, the Monitor's Consultant has found DCR-NIJ to be in partial compliance with S.A. 52.

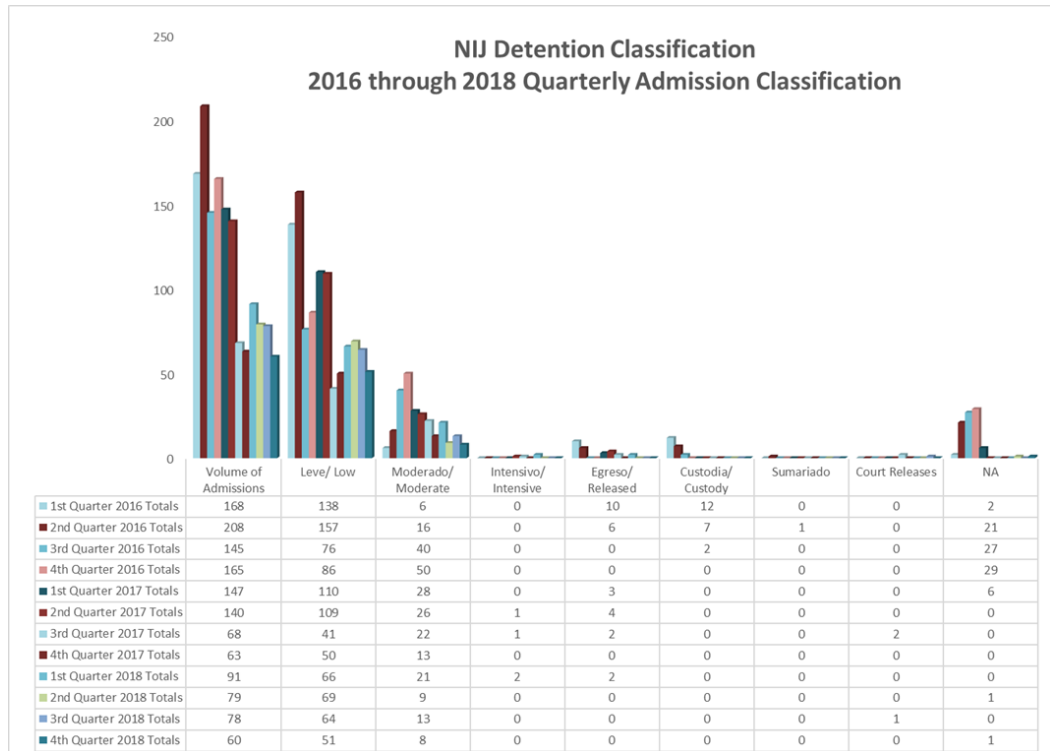
**Detention Classification:** During the fourth quarter 2018, Detention youth were placed at CD Humacao, and administered the detention classification instrument (ICD) within twenty-four hours of admission and placed in a housing module corresponding to their assessed classification level. For the fourth quarter, there were 60 admissions of which 51 (85%) were classified as low; 8 (13%) were classified as moderate; 0 (0%) were classified as intensive.

Monthly detention classification documentation provided to the Monitor's Consultant indicates youth have been consistently classified and assigned to a housing module that

corresponds to detention classification level. A review of facility and housing module assignments at CD Humacao at the time of fourth quarter site visit (December 5, 2018) reflected that youth were consistently assigned to the facility and housing module that matches their levels of treatment classification.



Over the period of the last twelve quarters, the first quarter of 2016 through the fourth quarter of 2018, of NIJ detention admission classification, seventy-one percent (72%) of youth have been classified as low risk.



NIJ appears to have an opportunity to explore with law enforcement, community providers and the court system, whether the development of alternatives or diversion from detention placement may exist for many of the youth in this classification level. Exploration of this best practice could result in a detention population reduction and potential for budgetary savings. With the closure of CD Humacao, and the location of CTS Villalba and CTS Ponce to the metropolitan San Juan area and corresponding transportation costs, it would appear investigation of diversion of low risk detention youth should be a priority.

**Committed Classification:** NIJ has provided committed classification documentation since January 2014. Committed classification has been reported on since the 2016 fourth quarter.

NIJ provides to the Monitor's Consultant a monthly classification workbook that provides data for analysis of the monthly committed classification process. Youth committed to the custody of NIJ are placed in the Residential Evaluation Module (MER) for evaluation, classification (ICC) and ultimately placement in the facility with the corresponding treatment level as determined by the Division of Evaluation and Classification Team.

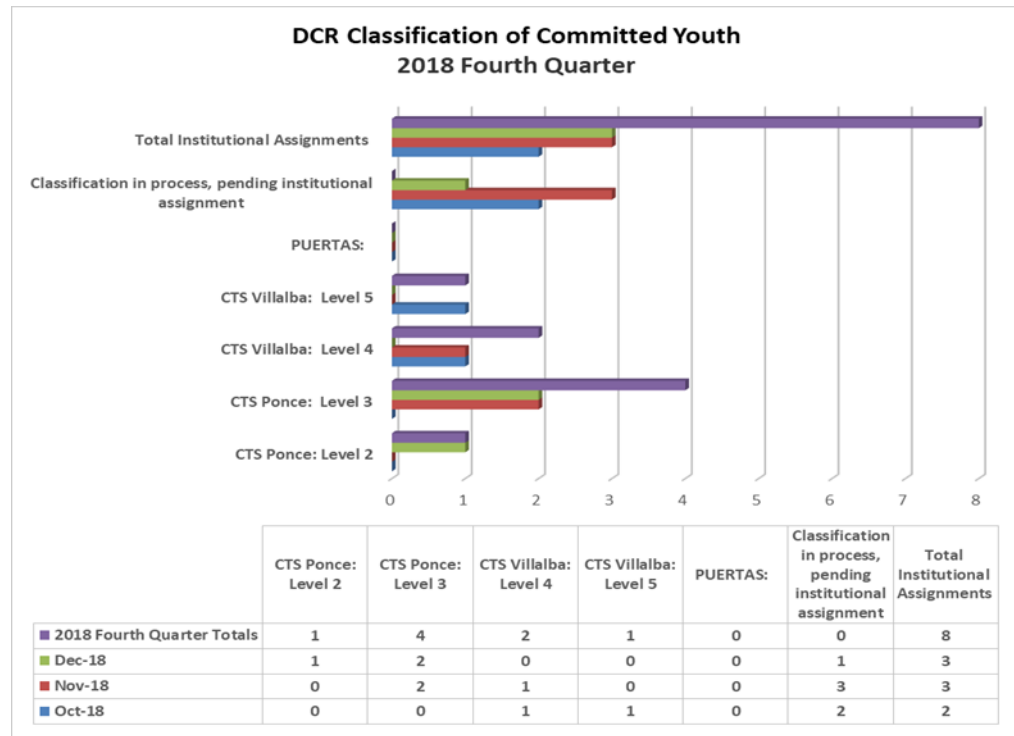
NIJ has produced a monthly facility population and levels of treatment verification report for each month of the fourth quarter of 2018. The report identifies each facility, youth name, assigned housing module and youth classification level of treatment. The submitted reports document consistency and compliance with youth facility assignment and classification based on assessed treatment level.

The youth's institutional assignment and housing module placement is reviewed to assess if it corresponds to the level of classification treatment. For the fourth quarter of 2018, all the reviewed committed institutional assignments are consistent with the level of classification



and level assignments as reported in the monthly classification reports. Youth classification levels and institutional housing assignments are reviewed for consistency during site visits. During the CTS Ponce and CTS Villalba site visits on December 4, 2018, youth housing module assignments were uniformly consistent with institutional assignment and assessed classification levels of treatment.

For the fourth quarter, NIJ assigned committed Level 2 and Level 3 youth to CTS Ponce. On December 16, 2018 nine Sumaridos youth were transferred from CD Humacao to CTS Ponce. CTS Ponce also houses the PUERTAS housing module. For the fourth quarter, NIJ assigned committed Level 4 and Level 5 youth to CTS Villalba.



At the time of the production of the fourth quarter report, although the Monitor's Consultant has reviewed numerous versions of draft classification policies, NIJ has yet to produce a final, Secretary approved, agency policy that identifies a process to 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.

On November 9, 2018, the Monitor's Consultant received a draft version of a Classification Validation report covering two years: June 2016 to June 2017 with 122 cases; and July 2017 to July 2018 with 566 cases. The draft report was reviewed, and the Monitor's Consultant provided feedback as to the strengths and weaknesses of the report. Absent approved and signed agency classification policy, the Monitor's Consultant was not able to assess whether the draft Classification Validation report was procedurally compliant with policy.

	<p>One ongoing problematic component of the Validation Report is that NIJ has not revised language into either the draft policies nor the draft Classification Validation report which presently continues to describe that the annual validation is done, "...if necessary...". The Monitor's Consultant has stated numerous times over the course of the last three years that the language of S.A. 52 clearly requires: "...validate objective methods within one year of their initial use <b><u>and once a year thereafter and revise</u></b>, if necessary, according to the findings of the validation process."</p> <p>As of the production of the fourth quarter Classification Report the Monitor's Consultant has not received a final agency approved, Secretary signed, staff trained, classification policy nor a final version of the Classification Validation report, reflective to the comments and revisions requested by the Monitor's Consultant. For the fourth quarter of 2018, the Monitor's Consultant has determined that DCR-NIJ is in partial compliance with S.A. 52.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Although numerous versions of classification policies have been reviewed by the Monitor's Consultant, NIJ is yet to submit a final draft version nor an agency approved version of the classification policies. Two critical components that need to be addressed in the classification policy and procedure is override process to the electronic classification score and corresponding levels and inclusion of a process to conduct an annual validation of the objective methods used in the classification processes and revise the classification process if the validation findings indicate revisions are required.</p> <p>On July 19, 2018, the Monitor's Consultant provided NIJ with the recommended components that need to be addressed in classification policies relative to an annual validation review:</p> <ul style="list-style-type: none"> <li>• An annual validation process be addressed in the classification policy for both custody and detention;</li> <li>• The annual validation process should address classification procedural compliance;</li> <li>• Assessment of the validity of the detention and custody objective methods used in the period covered by the annual review;</li> <li>• Variance from procedural compliance;</li> <li>• Analysis of compliance to timelines of classification processes as described in policy and procedure;</li> <li>• Assessment of the supervision and evaluation process used to assure that social workers who are administering the detention and custody classification instruments are effectively and accurately implementing the instruments;</li> <li>• Based on the assessment of supervision and evaluation process address any need for additional training or changes required to classification policy and procedure;</li> <li>• Documentation of the issues that are identified in the "Flexibilizaciones, Maximizaciones, and Traslados" (Flexibilizations, Maximizations, and Transfers) reclassification processes would also support a comprehensive annual validation process.</li> </ul> <p>Resources needed to address S.A. 52 compliance is final comprehensive classification policy for both detention and committed populations inclusive of a process to conduct annual validation review of the objective methods used in the classification process. Secondly, NIJ</p>

	<p>needs to implement the annual review of the classification methodology, with production of a report that describes the validation process, findings of the validation review, and any revisions required of the classification instruments or procedures because of the annual review findings. A revision of the draft Validation report reviewed by the Monitor's Consultant on November 27, 2018 has yet to be received.</p> <p>Although classification training has been provided by NIJ at the time of the implementation of the classification process, upon production of a final agency approved classification policy, training sessions will be needed to be scheduled for all staff impacted by the policy and or any revisions to practice.</p> <p>Upon completion of the annual reviews of the classification methodology, any validation findings that result in changes to policy, procedure or practice need to be documented and addressed through training sessions.</p> <p>The Monitor's Consultant will want to attend these trainings or any other scheduled training relative to the classification processes. Currently, the Monitor's Consultant is not aware of any scheduled classification training. The draft validation report had indicated that Classification training sessions were to be scheduled for CD Humacao staff. The Monitor's Consultant requested NIJ inform him of the training dates as soon as possible to allow for his attendance. With the announced closure of CD Humacao, the Monitor's Consultant is not aware of any planned Classification training sessions.</p> <p>The metrics established for compliance of this provision are the following:</p> <ul style="list-style-type: none"> <li>• A final agency approved classification policy and procedure, inclusive of a process requirement for annual classification methodology validation, findings, and revisions that are necessary.</li> <li>• Production of annual review of validation of classification objective methods, findings and revisions as required.</li> <li>• Continued production of monthly detention and committed classification data.</li> <li>• 100% of detention youth are classified and assigned to appropriate housing modules, unless prior release by the Court.</li> <li>• 100% of committed youth are classified and assigned to appropriate facilities and housing modules, consistent with their assigned classification treatment levels and safety requirements.</li> </ul>
Priority Next Steps	<p>In light of facility closure and consolidated youth populations, NIJ needs to reassess the appropriateness of the existing Classification practices in assuring that youth facility and housing module placements meet the safety and treatment needs of youth.</p> <p>The priority next steps toward compliance is for NIJ to produce a final agency approved detention and committed classification policy and procedure, inclusive of the requirement for an annual review of the validation of the objective methods of the classification instruments and processes. Subsequent training sessions of agency approved policies needs</p>

	<p>to be scheduled. Upon completion of an annual validation, if there are revisions that are necessary, the revisions should be addressed in training sessions.</p> <p>It is hoped that NIJ will be able to prioritize the classification policy production and initiate an annual review of the validation of the objective methods of the classification instruments and processes during the first quarter of 2019.</p>
Quality Assurance Measures	<p>NIJ effectively documents the results of both detention and committed classification processes and youth classification, levels of treatment and corresponding housing module assignments. Monthly documentation of detention and committed classification is consistently provided to the Monitor's Consultant.</p> <p>Incorporation of the annual review of the validation of the objective methods of the classification instruments, processes and findings will systematize quality assurance into the classification processes.</p> <p>With the pending facility closure, youth population consolidation, staff resignations and staff reassignments, NIJ needs to assess the effectiveness of existing Classification practices in light of a reduction in housing modules, and how these issues impact youth treatment and safety requirements. The absence of this assessment and transition planning at the time of the CD Humacao closure makes this a critical issue moving forward.</p>
Sources of Information upon which Consultant report and compliance ratings are based	<p>Monthly classification documentation for youth who have been classified for detention and committed youth is provided to the Monitor's Consultant. Monthly, NIJ provides the Monitor's Consultant facility youth population and classification reports. During site visits, the Monitor's Consultant obtains facility youth population documentation that identifies youth housing module populations and classification levels of treatment.</p> <p>Detention classification documentation provided to the Monitor's Consultant monthly, indicates youth have been consistently classified and assigned to a housing module that corresponds to detention classification level. A review of facility and housing module assignments at CD Humacao at the time of fourth quarter site visit (December 5, 2018) reflected that youth were consistently assigned to the facility and housing module that matches their levels of treatment classification.</p> <p>For the fourth quarter of 2018, all the reviewed committed institutional assignments are consistent with the level of treatment scores and level assignments as reported in the monthly committed classification reports. Youth committed classification levels and institutional housing assignments are reviewed for consistency during site visits. During the CTS Ponce and CTS Villalba site visits on December 4, 2018, youth housing assignments were uniformly consistent with assessed classification levels of treatment and corresponding facilities.</p>

	<p>NIJ assigns committed Level 2 and Level 3 youth to CTS Ponce. In the fourth quarter, CTS Ponce also housed one PUERTAS housing modules. NIJ assigns committed Level 4 and Level 5 youth to CTS Villalba.</p> <p>At the production of the third quarter classification report, NIJ has not produced a final agency approved classification policy, nor an annual review of the validation of the objective methods of the classification instruments, processes and findings. Upon production of the classification policies and procedures and the annual validation findings, corresponding training will be required.</p>
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## PROTECTION FROM HARM – USE OF FORCE (David Bogard)

<p><b>S.A. 77.</b> In no event is physical force justifiable as punishment on any juvenile. The use of physical force by staff, including the use of restraints, shall be limited to instances of justifiable self-defense, protection of self and others, to maintain or regain control of an area of the facility, including the justifiable protection of significant property from damage; and prevention of escapes; and then only when other less severe alternatives are insufficient. A written report is prepared following all uses of force and is submitted to administrative staff for review. When force, including restraint, is used to protect a youth from self, this must be immediately referred to the medical area for medical and mental health evaluation and any necessary treatment.</p>	
<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>One element of monitoring this provision included visits to the three facilities on December 4 and 5 to examine and discuss with institutional management and compliance staff, QTD use of force incidents. At Ponce I reviewed incident reports for the three use of force incidents occurring during the quarter, and videos for two of the three incidents (the third incident occurred at the hospital at which no video was available). At Humacao, I reviewed incident reports for four allegations of unnecessary physical actions by staff that were not recorded during the underlying incidents. While none of the four was counted as use of force incidents for quarterly statistics, based on the allegations by youth, each was referred via 284 for investigation. As of the date of the site visit to Villalba, there were no reported use of force incidents. I also reviewed OISC investigations for five use of force incidents or related allegations arising of use of force incidents that occurred during the fourth quarter and six others that addressed Q3 incidents to determine whether the investigations were thorough and comported with the requirements of ¶178. I also reviewed DCR's weekly spreadsheet reports of use of force incidents and multiple descriptive data elements for same including names of youth involved, locations, types of force employed, injuries sustained by youth, medical services provided, etc. I also reviewed a table and updates developed by UEMNI listing all OISC and UEMNI investigations of use of force and other allegations and the status of such reports and any corrective actions taken against staff for confirmed mistreatment.</p>

	<p>I discussed with training and security leaders the process used to implement the newly updated use of Force Policy 18.20 and learned that they had been to each facility to orient supervisors and compliance staff as to the new requirements.</p>
Findings and Analysis	<p>The overall number of use of force incidents as of the end of this quarter (8) is significantly lower than the last quarter's 19 and the average (mean) of 14.6 for Quarters 1-3. This quarter's incidents occurred as follows: Humacao (0 use of force incidents/4 allegations); Villalba (1); Ponce (7). Notably, this is the first quarter in years in which OC was not used in any of the facilities. And the volume of physical restraints (17) decreased this quarter from the average of 30.6 recorded for the first three quarters of 2018. While the average daily population (per DCR Quarterly statistical report average Monday 12st Shift count of youth) has decreased by 16% from the 1<sup>st</sup> quarter to the 4<sup>th</sup> of 2018, and 10% from the 3<sup>rd</sup> to 4<sup>th</sup> quarter, those reductions do not account for the precipitous drop in use of force incidents</p> <p>While it is not always the case that the video at Ponce presents a clear image of the incident, the video does often facilitate the review of incidents. Actions of staff at Ponce continue to appear to comport with ¶77 criteria as justifiable and non-punitive, and are routinely used to provide safety to other youth and to maintain control of an area in which youth are fighting with each other. As I have noted in past reports, the two incidents at Ponce this quarter revealed officers, at significant risk to themselves placing, themselves between youths who were engaged in violent confrontations, and without the use of force beyond simply holding youth aggressors and pulling them away from their victims.</p> <p>My review of 11 third and fourth quarter use of force related OISC investigations reveals that these investigations continue to improve and have generally become extremely useful and informative reviews of incidents. The reports are typically very thorough, assessing numerous aspects of the incidents being reviewed including the completeness and accuracy of written reports, good summaries of youth and staff interviews, review of medical records and interviews with nurses, most recent training received by each employee involved, as well as thorough findings of relevant facts. 4<sup>th</sup> Quarter DCR data showed that 100% (19 of 19) of OISC cases were completed in 30 days (see data provided by Minerva Vazquez 012219). A recent improvement, long requested by the Monitor, is the addition of findings as to whether the allegations were validated and other policy or training violations occurred. Although it is the Legal Division that ultimately determines the efficacy of charges and, if appropriate any corrective actions, OISC staff are now making recommendations as to whether there is sufficient evidence to corroborate the allegations or any other concerns that arise during the investigation. They are also now identifying specific policy violations, by policy number, that may have occurred.</p> <p>In virtually all incidents, all staff who used force or were witnesses prepared thorough reports using the check boxes and narrative components of the Incident Report form, with reviews by supervisors' part of that package and Cernimiento reviews by directors and</p>

	<p>compliance staff to determine whether 284 referrals would be made. There have been recent improvements in the quality of officers' Incident Reports, which reflects the efforts of supervisors who have been coaching and encouraging staff to improve the quality of such reports. The reports typically provide adequate explanations and justifications for the amount and type of force used, consistent with policy and this provision, including pre and post use weights of any OC canisters that are deployed (none this quarter).</p> <p>When youth bring an allegation of excessive or unnecessary force to staff, typically to social workers, psychology or behavior modification staff, a 284 is promptly generated. And use of force related investigations are now, and have been for some time, routinely completed within 30 days.</p> <p>As of December 2018, IDECARH issued revised training materials to reflect the August 2018 revised version of policies 9.18 (use of force) and 9.10 (reporting). We have reviewed the revised training materials and found them to mirror the new policy and appropriately convey to staff the expectations for use of force as required by ¶77 and the policy itself.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>DCR IDECARH needs to provide evidence to the Monitor's Office that all staff have received three hours training in the revised use of Force Policy 9.18 and reporting requirements included in 9.10.</p> <p>The quality of OISC use of force investigations must continue to improve in terms of their thoroughness and consistency of quality findings. While there may always be the possibility that individual staff will violate policy and training, the frequency of such violations must continue to be low. And when there are such violations, it is imperative that the agency take fair and firm corrective actions to hold employees accountable and deter others from such violations, such as the five officers who were terminated in August for their actions in the Ponce Gymnasium incident in January 2018. UEMNI reports that in the third and fourth quarters of 2018, there were eight incidents (not limited to use of force) in which some level of corrective action (e.g., verbal, written counseling, suspensions) was meted out to a total of 17 employees. That does not account for seven incidents in which determinations remain pending and 12 Q4 incidents still pending.</p> <p>Installation of cameras at Villalba (as one of two remaining facilities beginning in the first quarter of 2019) could greatly enhance youth and staff safety in many respects, including serving as a deterrent to unsafe behavior by staff and youth and allowing for far greater employee accountability via enhanced investigations.</p> <p>An additional measure would be very helpful—conversion of handwritten incident reports into electronic files in order to allow for capturing data from the reports.</p>

	Full compliance will require evidence that policies and training are sound, and accurate and comprehensive reporting occurs routinely and that use of force incidents are handled in a manner consistent with policy and training.
Priority Next Steps	See above
Quality Assurance Measures	DCR has yet to devise a tool or series of tools that can be used for QA purposes relative to the requirements of ¶77 as clarified by policy 18.2. While DCR does have review procedures in place to assess individual incidents, there is currently no formal mechanism to review incidents in a manner that will assess compliance with this provision.

## Protection from Harm: Investigations of Abuse and Institutional Neglect – Kim Tandy, Javier Burgos and David Bogard

S.A. 78. Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment. An incident report shall be prepared for each allegation of physical or mental abuse, including juvenile on juvenile assaults, staff on juvenile abuse, and excessive use of force by staff, within 24 hours of the incident. A copy of each incident report together with the preliminary investigation prepared by the Police Department and/or AIJ shall be forwarded to Defendant Department of Justice, where the allegations shall be investigated and a final report shall be made in 30 days. In addition, a copy of each incident report alleging physical or mental abuse by staff or excessive use of force by staff together with the preliminary investigation prepared by the Police Department and/or the AIJ, shall be forwarded to the Defendant Department of Social Services.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>On November 8, the Monitor met with staff from OISC at their request involving a serious incident and investigation concerning a youth in PUERTAS who was hospitalized. This follows extensive emails and discussion during the third quarter regarding this case. A second allegation was made and investigated during the fourth quarter regarding this youth.</p> <p>Discussions regarding the reporting and monitoring process have been further solidified, including monthly and quarterly reporting.</p> <p>Incidents involving abuse and/or institutional neglect fall into three general categories: those involving self-harm where misconduct is alleged by staff, unnecessary or excessive use of force incidents, and/or other incidents involving harm to a youth such as assaults between youths. Level 1 incidents which do not meet the criteria for a referral for an abuse or neglect investigation are investigated through UEMNI for resolution. A review of all Level 1 incident</p>



	<p>reports for 2019 was completed by Javier Burgos for compliance with policy. Only 12 such cases were noted for the year.</p> <p>Incidents involving suicidal or self-mutilation are being diverted to Miriam Martinez for review under paragraph 63, as well as an investigation by UEMNI and OISC when allegations of abuse or neglect are alleged. Level 2 284 reports completed by OISC involving the use of force were reviewed by David Bogard. Other investigations by OISC are reviewed by the Monitor and/or David Bogard.</p> <p>The policies and procedures for Chapter 13 govern this provision and have been reviewed by the Monitor for compliance to this section.</p> <p>The Monitor requested a special report in August of 2018 detailing the prior 12 months of data regarding youth on youth violence, staff on youth incidents resulting in injury, and results of investigations, including serious injuries, actions taken against youth and staff, and any remedial steps which have been taken. A request has been made that such report again be produced after the second quarter of 2019.</p>					
Findings and Analysis	<p>The policies are divided in three sections, and include the analysis of referrals of abuse and/or institutional neglect by UEMNI (Policy No 13.2.1); immediate prevention actions regarding serious allegations (Policy No. 13.2.2); and final determinations on referrals of abuse and/or institutional neglect (Policy 13.2.3). There are also child abuse and neglect reporting forms, a table of definitions and classification of incidents, and an analysis of incidents reported of alleged institutional abuse which determines if the incident should be reported as abuse and/or institutional neglect.</p> <p>NIJ routinely provides training to staff on Management of Investigations Regarding Abuse and Institutional Neglect. For the last reporting period, a reported 95% of direct care staff attended this four hour training block. During the Fourth Quarter, nine training sessions were scheduled for Management of Investigations Regarding Abuse and Institutional Neglect. The next training report will indicate the level of reported attendance.</p> <p>The following tables summarize statistics about case management for the past four quarters. The primary source of the information is the case tracking records maintained by NIJ along with other records such as the underlying individual case reports and records.</p> <p>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.</p> <p><a href="#">Incident Tracking by Quarter involving Harm to Youth</a></p> <table><tr><td><b>A. General Measures by quarter</b></td><td><b>1<sup>st</sup></b></td><td><b>2<sup>nd</sup></b></td><td><b>3<sup>rd</sup></b></td><td><b>4<sup>th</sup></b></td></tr></table>	<b>A. General Measures by quarter</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
<b>A. General Measures by quarter</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>		

A.1 Average Monday 1st Shift count of youth	170	168	158	142
A.2 Number of incident events	94	41	45	45
A.3 Number of youth-to-youth incident events	25	16	13	11
A.4 Incident events involving use of force by staff	13	7	14	10
A.5 Incident events with suicide act, ideation, or gesture	3	9	2	4
A.6 Incident events w/ self-mutilation act, ideation, or gesture	24	10	5	12

#### Mental Health Incidents – Including 284 Reports

The subset of incidents involving suicidal acts, ideation, or gestures, or self-mutilation acts, ideation or gestures is found in Table B. Most of these do not warrant abuse allegations. If a 284 report is filed, implicating possible abuse by a staff member or other, the case also moves through the investigative stage.

<b>B. Mental Health Record Information</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
B.1 Suicidal incidents, ideation or gestures	3	9	2	7
B.2 Number of individual youth referenced	3	9	2	7
B.3 Cases involving ideation only	1	9	1	5
B.4 Cases involving suicide gesture	0	0	1	0
B.5 Cases involving suicide intention	1	0	0	2
B.6 Cases w/ ambulatory treatment	1	9	2	4
B.7 Cases with hospitalization	2	0	0	3
B.8 Cases leading to death	0	0	0	0
B.9 Suicide Cases with 284 report filed	1	0	1	1
B.10 Self-mutilations incidents, ideation or gestures	25	10	5	17
B.11 Number of individual youth referenced	17	9	4	14
B.12 Cases requiring sutures	1	1	0	0
B.13 Cases requiring hospitalization	0	0	0	0
B.14 Cases leading to death	0	0	0	0

B.15 Self-Mutilation Cases with a 284 report filed	3	2	2	6
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The above cases come from mental health records. NIJ has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a mental health process. Of the 45 (A.2) incident events in most recent quarter, 24 (B.1 plus B.10) involved suicide and self-mutilation incidents.

During the fourth quarter, six of the incidents involving self-mutilation resulted in a 284 report being filed. One case involving suicidal gestures or ideation resulted in a 284 case being filed.

This information should be received and monitored by the Mental Health Consultant to ensure that appropriate protocols have been followed, and data provided here should match what is provided to that expert for purposes of Paragraph 63. For cases that result in a 284 investigation, it is important that the Mental Health Consultant examine the results of those investigations. This procedure is being solidified through the Document Request Master Chart. For a discussion of these incidents and how they were handled, see Dr. Martinez's analysis for Paragraph 63 in the Mental Health section.

#### Responses to Abuse Referrals

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

<b>C. 284 Incidents by quarter</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
C.1 284 Incident Events	21	25	27	24
C.2 Level One Incident Events	0	4	3	5
C.3 Level Two Incident Events	21	21	24	19
C.4 Referrals to OISC	21	21	24	19
C.5 Youth-to-Youth Incidents	5	16	13	11
C.6 Youth-to-Youth Injuries	4	12	10	5
C.7 Youth-to-Youth with External Care	3	7	4	5
C.8 Youth-to-Youth Sexual	0	2	0	1
C.9 Youth-to-Youth Sexual w/ Injury	0	0	0	0
C.10 Staff-to-Youth Incidents	16	9	14	13
C.11 Staff-to-Youth Injuries	8	6	8	7
C.12 Staff-to-Youth with External Care	1	1	3	0
C.13 Staff-to-Youth Sexual	3	2	0	0

C.14 Staff-to-Youth Sexual with Injury	0	0	0	0
C.15 284 Incident Events with administrative actions	21	25	27	24
C.16 284 Incident Events with report by end of shift	17	22	27	24
C.17 Level 1 Investigations complete within 20 days	0	4	3	5
C.18 SOU (Special Operations) interventions	4	1	2	0
C.19 SOU events with 284 reports	4	1	1	0
C.20 284 with Item 5 completed	20	25	27	24
C.21 284 with Staffing Compliance	17	22	25	22
C.22 Percent 284 cases with staffing compliance	81%	88%	93%	91%

A determination is made at the institutional level as to whether incidents are Level One or Level Two based upon criteria in the Cernimiento de Incidentes de Alegado Maltrato Institutional form. Level one incidents by definition include verbal abuse and some forms of physical aggression. Level Two incidents include material exploitation, incidents of a sexual nature, death, various instances of institutional neglect, including youth self-harm, undue restrictions with medication, misuse of mechanical restraint or pepper spray, and excessive use of force.

Level One incidents are investigated locally at the institution. Level Two incidents are investigated by OISC. Referrals to OISC as based on the screening protocol.

The small number of Level One incident reports are generally reviewed on site by David Bogard and Javier Burgos. A review during the 4<sup>th</sup> quarter of 2019 for the calendar year shows that there were only 12 such report made. These Level I cases followed the same format/guidelines than Level II cases but the facilities' investigators only have 20 working days to finish the investigation. One hundred percent of the above cases were completed within the required time frame. Level I cases are referred to UEMNI but not always to OISC unless a Cernimiento Form provokes the referral, in this evaluation (5) cases had Cernimiento Forms. All the cases evaluated were from CTS Villalba and CD Humacao and in most of them findings related to the original allegations were found. Several of these incidents appear to be conflicts among youth relative to "leader" issues.

Of the 24 housing unit events with item 5 checked in the report (C.20), 22 (91%) (C.22) took place when there was compliance with staffing provisions. In one instance (18-081), only one

staff member was present with 11 youth, and the second incident had a staffing ratio of 1:10. Both incidents were at Humacao.

#### Initial Case Management Measures Taken

<b>D. Initial Case Management Measures</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
D.1 284 percent with admin actions	100%	100%	100%	100%
D.2 284 per cent completed by end of shift	81%	88%	100%	100%
D.3 284 Level 1 Investigation Complete Within 20 days	100%	100%	100%	100%

#### Investigations Referred to OISC

<b>E. OISC</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
E.1 Cases Referred from this quarter	21	21	24	19
E.2 Received by OISC Within 24 hours	18	16	22	19
E.3 Completed by OISC Within 30 workdays	20	21	15	19
E.4 Complete during the next quarter, but within 30 days	0	0	0	0
E.5 Cases Not Completed by OISC Within 30 days.	1	0	3	0
E.6 Percent of OISC cases completed within 30 days	95%	100%	88%	100%
E.7 Completed Cases Returned for Further investigation	0	0	0	0
E.8 Percent of cases returned for further investigation	0%	0%	0%	0%
E.9 Further Investigation Completed	0	0	0	0
E.10 Cases this quarter incomplete, including further investigation	1	0	2	0
E.11 Percent of cases from this quarter not yet completed	5%	0%	12%	100%

NIJ's quarterly statistical report indicated that 19 cases were investigated and 19 were completed in the 30 days period for a 100% timely completion rate. The Monitor has received

only 3 of the 19 completed investigative reports for the quarter, two of which were use of force incidents reviewed by David Bogard. Given the lack of other information, the Monitor can provide only limited comments on the quality of the investigations or procedural compliance on cases other than those involving use of force.

As an exception, however, OISC investigated a serious incident raised by the Mental Health Consultant during her last visit to Ponce. The investigation raised a number of issues about the conduct of various mental health and medical professionals both internally and outside of the agency with knowledge of or in contact with this particular youth. The investigation of the incident, initially not reported as possible abuse or institutional neglect, did an excellent job of breaking down respective responsibilities among staff, identifying particular policies which were violated, and making recommendations concerning external governing boards. During the meeting of the Monitor with OISC and UEMNI investigators, they suggested there were both internal policies and practices which should be examined as a result of this case, as well as perhaps their own methods of investigation which could be improved upon. One example of this the ability to alter or erase digitalized records, as was done in this case, with insufficient controls. The Monitor encourages OISC to continue to pro-actively raise these issues internally so that such circumstances can be avoided in the future.

Completed use of force investigations are reviewed by David Bogard, who reviews them for compliance against a set of criteria previously developed to ensure the quality of the investigative process. Other incident reports which do not involve use of force, suicidal or self-mutilation ideation or behavior, have not been reviewed consistently sought and reviewed by the monitoring team against a set of standard criteria.

As previously mentioned in Paragraph 77, David Bogard reviewed 11 third and fourth quarter use of force related OISC investigations during this quarter. His review indicated that these investigations continue to improve and have generally become extremely useful and informative reviews of incidents. The reports were typically very thorough, assessing numerous aspects of the incidents being reviewed including the completeness and accuracy of written reports, good summaries of youth and staff interviews, review of medical records and interviews with nurses, most recent training received by each employee involved, as well as thorough findings of relevant facts.

A recent improvement noted in the review of investigations is the addition of findings as to whether the allegations were validated and other policy or training violations occurred. Although it is the Legal Division that ultimately determines the efficacy of charges and, if appropriate any corrective actions, OISC staff are now making recommendations as to whether there is sufficient evidence to corroborate the allegations or any other concerns that arise during the investigation. Reports are also now identifying specific policy violations, by policy number, that may have occurred.

While the reports do address the key facts that allow the investigator to reach conclusions as to whether there was mistreatment, the findings do not always bring together the evidence in a logical manner. For example, if the allegations cannot be corroborated, the factual basis

for reaching that conclusion should be clearly drawn based upon the type of evidence reviewed. The investigation format could add a section which lists the key evidence supporting or refuting the allegations.

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

<b>F. Administrative Determinations for 284 Cases</b>	<b>1st</b>	<b>2nd</b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
F.1 Cases with youth discipline referrals	9	15	44	43
F.2 Cases with youth discipline actions	7	9	36	36
F.3 Cases with youth no discipline actions	2	6	5	2
F.4 Cases Staff/youth with determinations	6	23	11	18
F.5 Cases recommending personnel actions	17	20	7	10

Because 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.

Of the 43 youth cases referred for disciplinary action (C.1) with referrals as 284-cases, 36 (F.2) disciplinary actions were imposed; no disciplinary action was taken in 2 cases (F.3.)

Of the 18 cases involving staff/youth incidents, 18 determinations were made (F.4) and of these 10 were recommendations for personnel actions. (F.5) No information was provided this quarter regarding the type of personnel actions that were taken in the 10 cases noted; however, determinations by the Legal Department may still be pending.

#### [Prosecutorial Determinations for 284 Cases](#)

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

The one year report prepared by staff at the request of the Monitor contained several areas for corrective action identified. This included additional training for direct care staff regarding the management of critical incidents, a request for technical assistance to the Department of Justice and Police of Puerto Rico for the purposes of maintaining a continuum of training to personnel working in each of the institutions as manager, and monthly meetings with institutional heads for discussion of needs and events requiring special attention. It recognized the need for investigations to more thoroughly identify violation of policies and

	<p>procedures. The report also recognized the need for implementation of policies and procedures regarding monitoring, quality control and evaluations, and more clearly establishing lines of supervision. The Monitor will follow up during the First Quarterly visit to determine how these corrective action steps have been addressed.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Moving forward, it is important that the Monitoring team obtain and review documentation at several important points:</p> <ul style="list-style-type: none"> <li>○ Incident reports should be digitalized and easily accessed by category. The Monitor team now gets abuse reports sporadically which arise from incidents categorized as either Level 1 or Level 2. They are hand written in part. Getting these in digitalized form will make them more consistent, reliable, and easy to access as part of the online system, and will also save paper.</li> <li>○ Incident reports that are “diverted” to the mental health team should be sent to the Mental Health Consultant so that she can determine whether the appropriate procedures were taken, and review back up documentation. The quarterly data provided relative to these incidents should match the number of incidents provided on a monthly basis involving youth self-harm.</li> <li>○ Incident reports that involve use of force or acts of aggression by staff should be reviewed by David Bogard, along with the appropriate backup documentation.</li> <li>○ Incident reports that involve other matters, such as youth on youth violence, should be reviewed by the Monitor and Javier Burgos, along with the appropriate backup documentation.</li> <li>○ UEMNI investigations, and those done by OISC, when completed, should be sent to the Monitor at the end of each month. For those involving mental health incidents, the Mental Health Consultant should review as well as the Monitor. For those involving use of force incidents, David Bogard should review to determine whether the investigation followed required policies and practices. For other incidents, the Monitor and Javier Burgos will review to determine whether the required policies and practices were followed.</li> </ul> <p>There was an improvement in document submission this quarter, in part because we have worked collaboratively with OISC and UEMNI staff more closely to secure needed information. The Monitor has clarified through the Document Request Master Chart which documents are needed, and the frequency with which they are needed. This remains a work in progress, but a more robust process should be possible during 2019.</p>
<p>Priority Next Steps</p>	<p>Establish with UEMNI and OISC procedures for timely document submission to the Monitor’s office of incident reports and completed investigation on a monthly basis. The quality of investigations will be an important aspect of monitoring in the future under this provision.</p> <p>Create an online case management system which can track incidents through all stages could enhance the ability of staff to create better reporting and analysis. Bob Dugan created a</p>



	<p>document for this purpose which is being reviewed by NIJ, or it is possible that the current system can be enhanced for this purpose.</p> <p>Provide the Monitor with details regarding the corrective action steps which were outlined in response to the special report provided in September. Specifically, this should include:</p> <ul style="list-style-type: none"> <li>• Training developed for direct are staff regarding the management of critical incidents including the curriculum for such training, and a time table for implementation</li> <li>• A request for technical assistance to the Department of Justice and Police of Puerto Rico for training of institutional managers; and</li> <li>• A plan for monthly meetings with institutional heads for discussion of needs and events requiring special attention; specifically, this should include circumstances which have led to or are likely to lead to ongoing incident involving abuse and institutional neglect; and</li> <li>• A description of what measures will be taken to implement policies and procedures regarding monitoring, quality control and evaluations, as well as establishing more clear lines of supervision.</li> </ul> <p>Continue the excellent work in improving the quality of investigations, including clearly established findings and conclusions clearly tied to the evidence collected in the case.</p>
Quality Assurance Measures	The Monitor has not reviewed QA which has been done in this area.

## PROTECTION FROM HARM – USE OF ISOLATION (David Bogard)

**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.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
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Description of Monitoring process during this period of time

Fourth quarter site visits occurred on December 4 and 5, 2018. During these fourth quarter site visits, the following volume and type of cases were assessed against all the criteria of S.A. 79 and S.A. 80.

Facility	Fourth Quarter Events Protective Custody	Fourth Quarter Events Transitional Measures	Record Reviews During Fourth Quarter Site Visit
CD Humacao	3	2	2 PC and 1 TM
CTS Ponce	2	1	1 PC and 2 TM
CTS Villalba	1	8	1 PC and 5 TM
<b>Fourth Quarter 2018 Totals</b>	<b>6</b>	<b>11</b>	<b>4 PC and 8 TM</b>

All third quarter Protective Custody and Transitional Measure events that were not reviewed at the time of the August 2018 site visits, and events occurring during the fourth quarter or active at the time of facility site visits were reviewed. The table below, organized by facility, displays the date of case study reviews, facility, identification of either Protective Custody or Transitional Measure, youth initials, starting and ending date of status and duration of status. Some fourth quarter Transitional Measure events occurred after the December 4 and 5 site visit and consequently did not have record reviews: one Protective Custody and one Transitional Measure at CD Humacao; two Protective Custody events at CTS Ponce; and four Transitional Measure events at Villalba.

During the Q4 site visit, Monitor's staff interviewed one youth on PC status at Ponce (C.D.V.) and one at Villalba (D.P.G.). There were no youths at the Humacao facility on either status as of the time of our site visit.

In early October, after a couple of months of discussions regarding the use of TM and PC measures, the Monitoring Team provided a process to better document the decision making process for authorization of these measures, and provided the forms and instructions to DCR for collecting this information. The information was to be used to provide a more in-depth analysis which could inform changes to policies which are currently non-compliant with ¶79. We indicated at that time that further changes in the policies would likely not be productive and would not be approved by the Monitor until such analysis could be done. We have received none of the reports to date, while the policies have undergone further revision by DCR to include a form we did not request, and which does not contain sufficient information based upon what we requested.

The Monitor's physical plant consultant has continued to cooperate with DCR staff regarding installation of new vents and door hinges that are necessary to meet the ¶79 suicide resistant requirements for PC and TM youth who would be restricted to their rooms. There was no movement on creating a solution to provide suicide resistant door

	<p>hinges at the three facilities. However, the replacement of air vent grilles with suicide resistant versions on the lower levels of the housing units at Ponce and Villalba have been completed. The air vent grilles in the four cells in admissions at Ponce still require replacement.</p>
Findings and Analysis	<p>The number of PC placements increased this quarter from a three quarter average of 1.6 to six. The increase was directly attributable to judicial orders of protection. The number of Transitional Measures placements remained stable at 11 versus the three quarter average of 13.3. For the full year of 2018, there were 10 PC placements, comprised of 8 youth, and 45 TM placements, comprising 34 youth.</p> <p>One CTS Ponce and one CTS Villalba Protective Custody events were active at the time of the site visit on 12/4/2018. The Protective Custody events were assessed to the criteria of S.A. 80. Since Protective Custody youth are restricted to their rooms these events were also assessed against the criteria of S.A. 79. And eight transitional measure events and four Protective Custody events were assessed for the S.A. 79 protection and isolation criteria.</p> <p>There continues to be extensive documentation available concerning the requirements of this provision when TM and PC youth are in room confinement/isolation. In the case of the 11 youth on TM status and six on PC status who were isolated/confined this quarter, a review of the 20 criteria set forth in the provision revealed consistent compliance as follows: the cases reviewed consistently met all log documentation criteria; youth were consistently seen by case managers as soon as possible; consistent random minimum fifteen-minute room safety checks were conducted; living conditions approximating those available to the general juvenile population; and the facility director or acting facility director reviewed and approved the placements expeditiously. (See Appendix C for backup documentation relative to the requirements of TM and PC)</p> <p>Documentation revealed protection and isolation compliance deficiencies for the following elements:</p> <ul style="list-style-type: none"> <li>• There is inadequate documentation concerning the actual reasons underlying the conclusions about the youth posing “a serious and immediate physical danger to himself or others.” The current explanation of “inability to cohabitate” is not adequate to justify isolation as required by this criterion, although there are instances in which a significant risk does, in fact, exist but is insufficiently documented and supported beyond the “inability to cohabitate” description.</li> <li>• There is inadequate documentation to determine if “...other less restrictive methods of restraint was tried and failed.”</li> <li>• While progress has been made on making ceiling vents and door hinges safer for when youth are confined to their sleeping rooms for TM or PC, all such rooms are not yet sufficiently suicide resistant at the three facilities.</li> <li>• Youth were not seen by a psychologist within eight (8) hours of being placed in isolation.</li> </ul>

	<ul style="list-style-type: none"> <li>Youth were not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation.</li> <li>With the exception of one event, youth were not seen by a master's level social worker within three hours of being placed in isolation.</li> <li>Youth were not seen by their case manager at least once every twenty-four (24) hours thereafter.</li> </ul> <p>Challenges that still remain include implementing measures to achieve the desired safety goals without having to resort to any form of isolation and also reducing its duration, or mitigating the impact of isolation through additional time out of cells, education and programs, although the requirements of ¶79 would still apply.</p>
What is needed for full compliance? What steps are required and/or recommended?	<p>Compliance with this provision would require documentation that all or the majority of placements of TM and PC youth in isolation satisfy the 20 criteria set forth in ¶79 as well as the eight criteria specifically required in ¶80 in the case of PC youth. For those youth on PC status that are not separated in a form of isolation, only the ¶80 requirements will apply.</p> <p>As a prerequisite to developing a compliant policy for TM and one for PC, DCR must initiate and advance the <u>Protective Custody or Transitional Measures Decision Making Process</u> questionnaire and the <u>SA 79 and 80 Checklist</u> for all Transitional Measures and Protective Custody events for the third and fourth quarters of 2018 and all of the Transitional Measures and Protective Custody in the future.</p> <p>Once DCR and the Monitor's Office have the opportunity to review and analyze the <u>Protective Custody or Transitional Measures Decision Making Process</u> questionnaire and the <u>SA 79 and 80 Checklists</u>, DCR must submit for Monitor's review and implement final versions of the TM (17.20) and PC (17.19) policies.</p> <p>DCR must complete vent and door hinge changes for any rooms that can be used for youth in isolation or room confinement.</p>
Priority Next Steps	<p>Completion of the QA study Decision Making questionnaire (see above), agreement on a definition of "isolation", development of new policies driving TM and PC and improved performance relative to isolation cases meeting ¶79 criteria are the most critical next steps to advance compliance. It is also imperative that there be a rethinking of TM versus PC criteria such that youth who are vulnerable to assault would typically be considered PC. In addition, there must be a general understanding that TM and PC status does not automatically invoke ¶79—that happens only when the youth is placed in "isolation" in order to carry out the status' safety requirements. There also is a need to create and define alternatives to isolation that can insure the safety of youth's on TM and PC statuses.</p>
Quality Assurance Measures	<p>The Monitor has provided DCR with various tools that will lend themselves to future QA efforts by DCR. These tools include the Decision Making questionnaire and the SA 79 and</p>

	80 Checklists, which the Monitor has been using to assess compliance but which DCR needs to take over responsibility for the QA aspects of same.
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## PROTECTION FROM HARM – PROTECTIVE CUSTODY (David Bogard)

**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.

Compliance Rating	Partial Compliance															
Description of Monitoring process during this period of time	Fourth quarter site visits occurred on December 4 and 5, 2018. During these fourth quarter site visits, the following volume and type of cases were assessed against all the criteria of S.A. 79 and S.A. 80.															
	<table><tr><th>Facility</th><th>Fourth Quarter Events Protective Custody</th><th>Record Reviews During Fourth Quarter Site Visit</th></tr><tr><td>CD Humacao</td><td>3</td><td>2 PC</td></tr><tr><td>CTS Ponce</td><td>2</td><td>1 PC</td></tr><tr><td>CTS Villalba</td><td>1</td><td>1 PC</td></tr><tr><td>Fourth Quarter 2018 Totals</td><td>6</td><td>4 PC</td></tr></table>	Facility	Fourth Quarter Events Protective Custody	Record Reviews During Fourth Quarter Site Visit	CD Humacao	3	2 PC	CTS Ponce	2	1 PC	CTS Villalba	1	1 PC	Fourth Quarter 2018 Totals	6	4 PC
	Facility	Fourth Quarter Events Protective Custody	Record Reviews During Fourth Quarter Site Visit													
	CD Humacao	3	2 PC													
	CTS Ponce	2	1 PC													
	CTS Villalba	1	1 PC													
	Fourth Quarter 2018 Totals	6	4 PC													
	Activities this quarter also included receipt and analysis of weekly PC data concerning numbers of placements and compiling this data into quarterly spreadsheets, quarterly tables showing overall and individual youth compliance with 20 elements of ¶79 criteria (when isolated) and eight PC requirements.															
	During the Q4 site visit, Monitor’s staff interviewed the one youth on PC status at Ponce (C.D.V.) and the one at Villalba (D.P.G.). There were no youths at the Humacao facility on PC status as of the time of our site visit.															
	In early October, after a couple of months of discussions regarding the use of TM and PC measures, the Monitoring Team provided a process to better document the decision making process for authorization of these measures, and provided the forms and instructions to DCR for collecting this information. The information was to be used to provide a more in-depth analysis which could inform changes to policies which are currently non-compliant with ¶79 and ¶80. We indicated at that time that further changes in the policies would likely not be productive and would not be approved by the Monitor until such analysis could be done. We have received none of the reports to date, while the policies have undergone further revision by DCR to include a form we did															

	<p>not request, and which does not contain sufficient information based upon what we requested. Even if it is determined that PC placements are typically ordered by judges, there may still be alternate means available to provide the protections without resorting to isolation.</p> <p>The Monitor's physical plant consultant has also been coordinating with DCR staff regarding development of a schedule to complete installation of new vents and door hinges that are necessary to meet the ¶79 suicide resistant requirements for PC and TM youth who are restricted to their rooms. DCR staff has committed to completing an assessment and developing a schedule to complete the work.</p>
Findings and Analysis	<p>The number of PC placements increased this quarter from a three quarter average of 1.6 to six. The increase was directly attributable to judicial orders of protection.</p> <p>The Monitor has reason to believe that some youths designated as TM should properly be considered as PC because they are separated solely for their protection from potential harm caused by others. This would require a policy change to effectuate.</p> <p>One CTS Ponce and one CTS Villalba Protective Custody events were active at the time of the site visit on 12/4/2018. The Protective Custody events were assessed to the criteria of S.A. 80. Since Protective Custody youth are restricted to their rooms these events were also assessed against the criteria of S.A. 79.</p> <p>There continues to be extensive documentation available concerning the requirements of this provision when TM and PC youth are in room confinement/isolation. In the case of the six youth on PC status who were isolated/confined this quarter, a review of the 20 criteria set forth in the provision revealed consistent compliance as follows: the cases reviewed consistently met all log documentation criteria; youth were consistently seen by case managers as soon as possible; consistent random minimum fifteen-minute room safety checks were conducted; living conditions approximating those available to the general juvenile population; and the facility director or acting facility director reviewed and approved the placements expeditiously.</p> <p>Documentation revealed protection and isolation compliance deficiencies for the following elements:</p> <ul style="list-style-type: none"> <li>• There is inadequate documentation concerning the actual reasons underlying the conclusions about the youth posing "a serious and immediate physical danger to himself or others." The current explanation of "inability to cohabitate" is not adequate to justify isolation as required by this criterion, although there are instances in which a significant risk does, in fact, exist but is insufficiently documented and supported beyond the "inability to cohabitate" description.</li> <li>• There is inadequate documentation to determine if "...other less restrictive methods of restraint was tried and failed."</li> </ul>

	<ul style="list-style-type: none"> <li>• While progress has been made on making ceiling vents and door hinges safer for when youth are confined to their sleeping rooms for TM or PC, all such rooms are not yet sufficiently suicide resistant at the three facilities.</li> <li>• Youth were not seen by a psychologist within eight (8) hours of being placed in isolation.</li> <li>• Youth were not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation.</li> <li>• With the exception of one event, youth were not seen by a master's level social worker within three hours of being placed in isolation.</li> <li>• Youth were not seen by their case manager at least once every twenty-four (24) hours thereafter.</li> </ul> <p>Challenges that still remain include implementing measures to achieve the desired safety goals without having to resort to any form of isolation and also reducing its duration, or mitigating the impact of isolation through additional time out of cells, education and programs.</p> <p>Concerning the eight criteria specifically included in ¶180, findings were as follows:</p> <p>There was no revocation or limitation as it related to: safety; crowding; health; hygiene; food; or access to courts. There were some limits to recreation, most often on weekends. Also, the long-standing practice has been for youth on PC to receive education services on a one-on-one basis for 20 minutes per subject in contrast with the full school day for other youths; the Monitor has taken the position that this practice represents a limitation on education which does not comport with ¶180 requirements.</p> <p>Challenges that still remain include implementing alternative measures to achieve the desired safety goals without having to resort to any form of "isolation" and also reducing its duration, or mitigating through additional time out of cells, education and in programs.</p>
What is needed for full compliance? What steps are required and/or recommended ?	As things currently stand, compliance with this provision would require documentation that all, or the majority of placements of PC youth who are housed in confinement/isolation satisfy the 20 criteria set forth in ¶179 in addition to the eight criteria specifically required in ¶180, unless alternatives to "isolation" can be implemented for youth assigned to PC status..
Priority Next Steps	Completion of the QA study Decision Making questionnaire, agreement on a definition of "isolation," development of new policies driving TM and PC and improved performance relative to isolation cases meeting ¶179 criteria are the most critical next steps to advance compliance. It is also imperative that there be a rethinking of TM versus PC criteria such that youth who are vulnerable to assault would typically be considered PC. In addition, there must be a recognition in policy and discussions of compliance that while PC status must be within the requirements of ¶180 criteria, it does not automatically invoke ¶179—that happens only when the youth is placed in "isolation"

	in order to carry out the status' safety requirements (which is typically the case at this time). There is also a need for additional teacher resources to provide eligible youth in PC confinement/isolation status with a full day of education.
Quality Assurance Measures	DCR has good documentation that could be used by the agency for QA purposes, but they don't independently assess whether they meet the requirements of ¶80. It is recommended that DCR compliance or UEMNI staff assume the responsibility for retrieving and analyzing the various data that is available to assess compliance.

## MENTAL HEALTH – Dr. Miriam Martinez

**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.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>The Mental Health Consultant performed approximately 60 – 70 electronic review of medical records of youth (a few were repeated reviews of the same record). The Mental Health Consultant also had phone conferences with DCR leadership, obtained and reviewed documentation with respect to (1) use of emergency psychotropic medications, (2) youth who self harmed or had suicidal ideation or intent, (3) youth that were in transitional measures or protective custody, and sent emails to DCR leadership with concerns regarding youth in PUERTAS. The Mental Health Consultant also reviewed mental health staffing – contracted hours vs. hours worked by each staff member per month.</p> <p>This quarter a significant amount of time was spent reviewing medical records for youth, JR reported on in the third quarter. The Mental Health Consultant consulted with the Director of Health and other DCR leadership and advocated for medical care, physical therapy, mental health and crisis intervention for youth JR. The Mental Health Consultant was sent and reviewed a lengthy report regarding the JR investigation and findings which were discussed with the Consultant.</p> <p>In addition, upon learning of the closure of Humacao, the Mental Health Consultant raised concerns regarding the mental health staffing and needs of youth who were being moved. A plan for the delivery of mental health staffing for services was requested and has yet to be received. Coinciding with the closure, the census for PUERTAS has declined to one. The Mental Health Consultant has requested information with documentation relative to the number of youth assessed for PUERTAS during this quarter.</p>



Findings and analysis	<p>Policies and procedures exist for this provision and have been approved by the Mental Health Consultant.</p> <p>However, the Mental Health Consultant has repeatedly expressed a need for an increased number of psychiatric hours to fully implement the plan from the perspective of mental health and psychiatric services. A review of mental health hours that PCPS contracted for in the year 2018 indicates that 13,188 hours were contracted and 12,986.25 hours were delivered. These hours were inclusive of psychologists, psychologists, counselors, and occupational therapists. Of note, for the psychiatry hours, for the year, contracted hours were 1,344 with 1475 hours being delivered. On average 30 hours more per quarter of psychiatry hours were delivered. In fact, the Mental Health Consultant has repeatedly advocated for 1.5 or 240 hours per month of psychiatry time. With a census of about 130, based on my prior experience interviewing youth, a minimum of 75% of those youth need face to face time at 2X per month which amount to about 195 hours. The additional 45 hours would be to assess the other 25% of the youth, and , as reported previously,</p> <ul style="list-style-type: none"> <li>• review medications the youth may be on</li> <li>• confer with medical and mental health providers</li> <li>• attend multidisciplinary planning meetings</li> <li>• order and read lab results</li> <li>• intervene in crisis (suicide attempts, self mutilation) timely documentation</li> <li>• attend court or reply to judges requests as needed</li> </ul>
What is needed for full compliance? What steps are required and/or recommended?	<p>The Mental Health Consultant strongly recommends the increase of psychiatry time to 1.5 FTE. This may require additional psychiatrists as each psychiatrist hired also has outside professional duties that require their attention and they cannot, even if they wanted to, exceed what they are already providing above and beyond what they are contracted for.</p> <p>The youth require that their psychotropic medications be continuously monitored and that any related lab work be ordered and reviewed ASAP for the proper medical follow-up to be delivered in a seamless, time sensitive and clinically sound manner. With the closure of Humacao, this presents the unique opportunity to have the psychiatrists not only cover what has been mentioned above, but to also have time to consult with one another regarding clinical case conferences, trends, diagnosis, medical concerns and coverage when one psychiatrist is out due to vacation or sick time.</p>
Priority Next Steps	The priority is to provide more psychiatric coverage as recommended above and to do so within the first quarter of 2019.

Quality Assurance Measures	The Mental Health Consultant recommended in March of 2016 the establishment of a Quality Assurance team for self-monitoring. This has yet to be realized in part due to the constant changes in leadership within NIJ.
Sources of Information upon which Consultant report and compliance ratings are based	This quarter, sources of information that the Mental Health Consultant relied on were as described above. Review of medical records, medical reports, reports submitted to the Mental Health Consultant, mental health staffing lists, phone conversations with NIJ/DCR leadership, review of report of investigation

**C.O. 29:** Defendants shall establish an adequate residential mental health treatment program which provides services in accordance with accepted professional standards for juveniles confined in the facilities in this case who are attempting to commit suicide and/or who are inflicting harm upon themselves and/or any other juvenile in need of such services as determined by the juvenile's interdisciplinary mental health team, which includes a qualified psychiatrist. This residential treatment program will house up to forty-eight (48) juveniles from Commonwealth facilities. The residential treatment program will be established in an area that meets professional standards regarding safe physical areas for suicidal and/or self-mutilating juveniles.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	Meetings took place last quarter with Mr. Alamar Sastre together with the Mental Health Consultant, Javier Burgos, Kelvin Merced and Dr. Rohena to discuss plans for the number of proposed beds. A methodology was discussed. Chart reviews as described above.
Findings and Analysis	<p>In order to have a viable treatment milieu, a core number of youth need to participate in the PUERTAS program. For this past quarter, about three youth have been officially in PUERTAS and as of this writing, only one youth is said to be admitted into PUERTAS. The Mental Health Consultant will visit the DEC this upcoming quarter to review documentation and to assess how many youth were reviewed for PUERTAS and the rationale for denial if that was a finding.</p> <p>With 130 youth, most with histories of trauma and severe substance use, many with past histories of self-mutilation and suicide attempts, it is more than likely and highly probable that at a minimum 10 percent qualify for this specialized mental health program. With the closure of Humacao, PUERTAS has been reduced to one unit and currently has a diminished census of one. The Mental Health Consultant has requested that information be provided for the documentation of youth assessed for PUERTAS and the plan for on-going implementation of recommendations made in previous reports. This has yet to be produced.</p>

What is needed for full compliance? What steps are required and/or recommended ?	In order to be in full compliance the programming needs to be more robust as stated in previous reports. In addition, youth who qualify must be admitted and served.
Priority Next Steps	<p>Next steps are for (1) the Mental Health Consultant to assess the rationale for the drop in census for PUERTAS and (2) for the Director of the PUERTAS program to implement more intensive (meaning more frequent) and clinically relevant programming. The clinically relevant programming has been discussed in previous reports with the request that this consultant has made for example, for evidence based groups related to trauma &amp; anger management, impulse control, and art therapy. Specific and more tailored programming with hours per week has been discussed since 2016 and specific examples were provided in December of 2017 which includes:</p> <p>It is recommended that the youth receive 3 groups per day rotating through the following:</p> <ul style="list-style-type: none"> <li>• Substance Abuse groups – minimum 2 times per week</li> <li>• Increase the groups and incentives for behavior modification</li> <li>• Anger management – minimum 1 time per week</li> <li>• Art activities –(expressive group art activities)</li> <li>• Medication group 1X/month</li> <li>• Community check in/group 1X per week and as needed</li> <li>• Health and Wellness topics – 1 time per week (video, didactics, activities)</li> <li>• Mindfulness meditation 2 times per week (1/2 hr per session)</li> <li>• Educational activities for those who have completed high school (i.e. financial literacy, job seeking skills, home finding and making skills, cooking classes if possible, etc.)</li> </ul> <p>A SAMSHA resource was also provided <i>SAMSHA Anger Management for Substance Abuse and Mental Health Clients (Spanish version)</i>.</p>
Quality Assurance Measures	The Mental Health Consultant will follow up on the next site visit regarding the progress on the quality improvement initiative that was said to be underway.
Sources of Information upon which Consultant report and compliance ratings are based	Please see above.

**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 shall include at a minimum, a thorough psychiatric evaluation, necessary diagnostic tests before the prescription of behavior-modifying medications, blood-level monitoring if behavior-modifying medications are prescribed, therapy, counselling, treatments plans and necessary follow-up care.

<b>Compliance Rating</b>	<b>Partial compliance</b>
Description of Monitoring process during this period of time	Information regarding compliance with this paragraph was obtained through the file review process identified above.
What is needed for full compliance? What steps are required and/or recommended ?	<p>Policies and procedures are in place for the provision of psychological and psychiatric services, including substance abuse services. These have been reviewed previously and approved by the Mental Health Consultant and include policies and procedures for assessment, suicide intervention, behavior modification, psychiatric services and assessment for PUERTAS program.</p> <p>As stated above, the Mental Health Consultant has recommended that the psychiatric coverage be brought up to 1.5 FTE to cover all 3 facilities.</p> <p>In addition, and as reported previously, stability in the mental health staff is crucial for the standard of care delivery of services. Turnover in staff, especially in psychiatric staff has led to gaps as has been previously reported (training, documentation, EMR location of assessments, etc.)</p>
Priority Next Steps	The priority is to provide more psychiatric coverage as recommended above.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based	See above. Review of mental health staffing by month for all of 2018, by discipline, by the hours contracted vs. hours actually worked.

**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.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	Information for this paragraph was obtained as part of the file review completed electronically as described above.
Findings and Analysis	<p>With respect to S.A. 63, the Mental Health Consultant has noted that a psychiatrist is typically consulted via telephone regarding a mental health crisis. The goal is to have the psychiatrist see the youth within 24 hours. Chart reviews indicate consistent screening for suicidal ideation at all points of entry and re-entry to AIJ facilities.</p> <p>Chart reviews of 2018 cases of suicide ideation or intent were reviewed by the Consultant. There were two suicide attempts and one minor with suicidal ideation in March of 2018. Two of these youth were psychiatrically hospitalized and one minor's notes are not available electronically. Two of the minor's mental health chart notes begin after the suicide attempt. In the second quarter of 2018 there was a total of seven minors reporting suicidal ideation or intent. Of the seven, four were found to see the psychiatrist or be referred for psychiatric evaluation within 24 hours. One minor's notes were not electronically available due to the internet being down at Humacao. Two were not assessed by the psychiatrist within 24 hours with one seeing the psychiatrist 10 days post suicidal ideation, one 3 days post. In all cases a licensed clinical psychologist did evaluate the minor and consult with the psychiatrist.</p> <p>In the third quarter of 2018 one minor was referred for psychiatric evaluation and hospitalization following audio/visual hallucinations and passive suicidal ideation and one minor reported taking pills for "chilling" but not for suicidal intent. The latter minor was not seen within a 24 hour period (7/17 incident – 7/19 seen by psychiatrist). In the fourth quarter, only two months of information were provided. The Mental Health Consultant has requested the December report several times. In the two months (October and November) there were two youth who reported suicidal ideation or intent and both were seen by the psychiatrist within a 24 hour period.</p> <p>With respect to self-mutilation, a total of 44 cases were reported and reviewed. Of these, nearly half were not assessed within a 24 hour period by a psychiatrist. The December 2018 report was missing for self-mutilation and despite the Mental Health</p>

	<p>Consultant requesting it multiple times, it still has not been sent. The Mental Health Consultant continues to be extremely concerned with respect to youth having access to psychiatric evaluations when needed.</p> <p>While the majority of cases in 2018 that were reported to have suicidal ideation or intent had a psychiatric evaluation within a 24 hour period, there was not 100% compliance and in one instance a psychiatrist did not see a youth for 10 days. Nearly half of the youth reporting self-mutilation were not assessed by a psychiatrist within a 24 hour period. It is unclear why documentation is missing from youth's charts as indicated above. There is a failure to provide data that is cohesive, timely and accurate. There is a failure to comply with this provision.</p>
What is needed for full compliance? What steps are required and/or recommended ?	Policies and procedures are in place, and have been reviewed and approved by the Mental Health Consultant. There is a need, however for more psychiatric hours and a need for timely psychiatric evaluations of youth in crisis. It is recommended that 1.5 FTE of psychiatric time be available for the youth. The Mental Health Consultant requires accuracy in reporting, timeliness and that youth receive psychiatric coverage within the timeframe specified in this provision.
Priority Next Steps	Work with NIJ and PCPS to increase psychiatric coverage. We will continue to discuss the wording of "immediate" and the availability of psychiatric and other mental health staff for youth in crisis. The recent closure of one facility with consolidation into two facilities should make it easier for a psychiatrist to be available.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based	Chart reviews of youth who had suicidal ideation, gestures or intent and/or self-mutilation.

**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.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
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Description of Monitoring process during this period of time	The Mental Health Consultant has requested and reviewed documentation attesting to no use of emergency psychotropic medications in 2018.
What is needed for full compliance?	There are policies and procedures in place for the use of psychotropic medications which have been reviewed and approved by the Mental Health Consultant. Compliance and documentation will be discussed the first quarter of 2019.
Priority Next Steps	New psychiatric staff was added this quarter and will be interviewed. A period of assessment of at least one year with new staff will be required for this provision.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based	Documentation, submitted by nursing, sent to Mental Health Consultant.

**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.

<b>Compliance Rating</b>	<b>Substantial Compliance</b>
Description of Monitoring process during this period of time	The Mental Health Consultant has reviewed written evidence of the curriculum, staff training, receipt of incentives by the youth including for this quarter of 2018. The Mental Health Consultant also had previously interviewed youth during the site visits and consistently received information that incentives are provided. While youth may protest that incentives are withheld, the treatment plans and review of documentation consistently supports that youth are receiving behavior modification services.
Findings and Analysis	Continued compliance is evident via chart reviews indicating that services are being provided per the plan of care and evidence of incentives being provided, documentation of training and use of suggestions from the mental health consultant (i.e. increase in phone calls as an incentive) were provided and reviewed fourth quarter of 2018.
What is needed for full compliance?	As previously reported, policies and procedures for behavior modification have been reviewed and approved by the Mental Health Consultant

What steps are required and/or recommended ?	<p>The Mental Health Consultant has made suggestions of low or no cost incentives for DCR to try including increasing phone call time, more time outside and increase use of video games. The staff have reported putting into place incentives such as outings, special foods, and will begin the increase of phone time.</p> <p>Documentation has been adequate and indicates compliance with the policies and procedures and with the individual plans of care.</p>
Priority Next Steps	The Mental Health Consultant will continue to review records and will perform another site visit next quarter to review continued compliance with this provision.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based	<p>The records have consistently indicated a plan for behavior modification for youth in treatment facilities. Policies and procedures were provided, reviewed, discussed and approved prior to this writing. A request for training materials was made, delivered, reviewed and approved including in this last quarter. In addition, the Mental Health Consultant has interviewed youth each quarter that she has been on site. The Mental Health Consultant requested proof of incentives being delivered and received written documentation of youth signing off on incentives they were given. The Mental Health Consultant will continue to work with behavior modification staff so that low or no cost incentives can be used more with youth (more time on phone with family, outdoor time, jobs outdoors, etc., a special trip or walk, etc.)</p>

## SPECIAL EDUCATION AND VOCATIONAL TRAINING –Kim Tandy

<p>Section XIII: Educational and Vocational Services – General Population</p> <p>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 juvenile 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. All shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.</p>	
<b>Compliance Rating</b>	<b>Partial Compliance</b>
Methodology for Monitoring this Quarter	<p>During the Fourth Quarter monitoring visit, conducted November 4 – 8, the Monitor met with Carlos Delgado and others to review the protocol for monitoring special education, as well as necessary items for document review on a monthly, quarterly and annual basis. A follow up meeting on November 8 with Carlos Delgado, Daiber Carrion, Aida Burgos and others was conducted at the end of the visit to provide overall impressions, and to review work needing to be completed. Unlike the Third Quarter meetings held in August, representation from the PRDE was noticeably missing with the exception of</p>



Daiber Carrion, who attended only part of the Thursday meeting. Counsel for PRDE is encouraged to stress the importance of active participation by key officials from PRDE charged with compliance and ensure timely notice regarding meetings and site visits.

Site visits were conducted to interview youth at Humacao on the evening of November 4, and to conduct file reviews for special education on November 6 at Ponce and Villalba, and November 7 at Humacao. More information on this process is contained in the methodology section of Paragraph 86.

Five interviews were conducted with youth at CD Humacao, each from different modules and different education statuses. Interviews were focused on the assessment of needs and availability of services upon arrival, school schedules, IEPs, quality of education being provided, and school facilities.

Important steps were taken during this quarter to develop reporting procedures ensuring the provision of education services, as well as to begin working on metrics for full compliance and ultimately, quality assurance and quality improvement measures. Specific to this section, NIJ and PRDE will provide the following documents:

- 1) An annual list of education staff by position and qualifications
- 2) An analysis of classroom space and resources for the provision of education, including for transitional measures and protective custody youth, annually and/or as needed
- 3) Annual school schedule
- 4) List of school employee vacancies by month by facility
- 5) Monthly personnel attendance by support staff, teachers, and special education teachers, with documentation of teacher absences and "security situations" which disrupt school services.
- 6) List of all student receiving vocational education, including special education students
- 7) Verification of the provision of educational services within 5 days of arrival for eligible youth.

The above items were received for the Fourth Quarter (or prior), with the exception of #2. With the closure of Humacao, the Monitor received a new schedule of classes for Villalba and Ponce, but no analysis of space and resource issues.

The Monitor also requested follow up on Policies 20.1 and 20.2 from NIJ and DE but has not received any response to her submission of policy revisions completed in September 2018. She has requested that the Memorandum of Understanding between NIJ and PRDE regarding the delivery of education services in NIJ facilities be revised.

Training records of education staff, as required in Policy 4.1, were requested in both the third and fourth quarters for education staff.

	<p>The closure of CD Humacao by mid-January has raised questions about the availability of sufficient classroom space, educational staff and scheduling of full school days for some populations. The Monitor requested an analysis of space and resource needs during the third quarter monitoring visits. Such information remains critical once transfer of youth from CD Humacao began in December. NIJ provided a class schedule for both Villalba and Ponce in late December which accounts for the additional population flow from CD Humacao.</p>
Findings and Analysis	<p>The current structure for education services in NIJ facilities splits responsibilities between the Puerto Rico Department of Education, which provides special education teachers, Title I, and vocational education staff, and the Department of Corrections and Rehabilitation, which provides academic and library staff. The language in S.A. 81 requires the Department of Education to provide these services. As such, compliance regarding educational and vocational education for youth confined 2 weeks or more, five days per week, 10 months per year, is the responsibility of the Department of Education. The requirement of providing qualified teachers logically also falls on the Department of Education based upon this responsibility. NIJ is required to provide adequate educational materials and space for instruction.</p> <p>The current Memorandum of Understanding must be modified to reflect these responsibilities between the two entities and to redefine the relationship as DOE assumes full responsibility for the delivery of educational services.</p> <p>Policy 20.1 Educational and Recreational Services provides for regular and vocational services to youth in detention and in social treatment centers. It was approved and signed for implementation on July 6, 2016. The policies identify the process for an initial interview, acquiring records, and within 5 days, diagnostic testing in Spanish and Mathematics. The policy does not indicate that a full school day is provided for youth confined for two weeks or more.</p> <p>Monitored Provisions:</p> <p><b>1) Provision of academic and/or vocational education for youth confined 2 weeks or more 5 days per week, 6 hours per day, 10 months per year.</b></p> <p>This provision ensures that all youth who are eligible for educational services receive such services within a two week period, and that full school days are provided over the 10 month school calendar.</p> <p>Documentation received at the beginning of the school year verifies that NIJ uses the PRDE school calendar. Monthly monitoring of attendance for education staff is documented on a daily basis, for administrative support, teachers, and special education teachers. Monthly reports have been received for the quarter, but questions remain as to how these reports are prepared. For example, calculations are made daily regarding the % of staff in attendance, but numbers are included on weekends as well, when no</p>

classes are held. Twelve days during the quarter were noted as having “security situations” which were counted against attendance. For example, security situations brought the daily attendance down to 82% for the month of October at Villalba as a result of 4 days when classes were disrupted. Villalba also had only 60% of scheduled classes for special education students as a result of 4 “security situations” in October, and 5 days of teacher absence. Attendance at Humacao for educational and administrative support staff were at 90% or above for each of the 3 months during the quarter, reaching 100% for November and December. Ponce dropped below the 90% benchmark for girls in October at 81% due to teacher absence and security situations, dropped slightly below the 90% benchmark in November for special education staff (89%) in November, and dropped below the 90% benchmark in December for girls (87%) in December.

Interviews with five youths at Humacao, each from a different unit, suggests that the school schedule does not consistently provide for six hours a day of class time. The first youth interviewed indicated he had been at Humacao for seven months, and received his GED while there. He spends the entire day in his module except for recreation. He was not receiving any other classes or work opportunities. The second youth was in 11<sup>th</sup> grade and had an IEP. He related he was in class from 8:00 – 11:30 every day, and then went back to his unit to lunch. He was receiving 50 minutes each of Math, Science, Spanish and barbershop. The third youth was also in 11<sup>th</sup> grade and had an IEP. He also relayed that his class schedule was from 8:00 – 11:30 each day, but that sometimes he would have a couple of days where he did not go at all. He indicated there were three other youth on his unit in his situation, and they all received the same school schedule with him. His classes included Spanish, science, math and social studies. A fourth youth indicated he was in 8<sup>th</sup> grade, on an IEP, and his schedule was from 8:00 – 12:00 daily. His classes were Spanish, English, Math, Social Studies and Physical education. He reported that he is in classes with 9<sup>th</sup> and 10<sup>th</sup> graders, although he gets different materials in some classes. The fifth youth was in 10<sup>th</sup> grade and on an IEP, and his schedule was noted as 8:00 – 11:30. He receives instruction in Spanish, Math, Science and English and also takes a woodworking class. He has lunch at 1:00 – 2:00 and then has recreation.

Each of these youths’ schedules indicated they were receiving a full school day, however, the scheduled did not corroborate with what these youth reported in the type of classes and the scheduled hours. Such discrepancies were discussed with Carlos Delgado.

The Monitor previously reviewed the schedules of eligible students during the third quarter which indicated that youth were scheduled for 6 hours of educational services per day. Whether or not these services are delivered can be effected by teacher absences, schedule changes or “security situations.”

Rates are affected by teacher absences and “security situations.” Security situations are discussed in more detail in paragraph 94. NIJ has been asked to report when youth are

removed from school for security or other reasons and do not received educational services.

A review of enrollment information for educational services for the months of October, November and December indicates youth participation in vocational services as follows:

1) Villalba – Youth who have not completed 8<sup>th</sup> grade do not receive vocational services; Vocational services were scheduled for all youth from 9 – 12<sup>th</sup> grade including classes in administrative assistance, barbering, bakery, horticulture and woodworking. For those youth who have completed their 12<sup>th</sup> year, all were receiving vocational services. All special education students 9<sup>th</sup> grade or above were receiving vocational services.

2) Ponce – All youth are listed as being scheduled for vocational services, including 6 youth who have not yet completed 8<sup>th</sup> grade, and all special education students. They are receiving classes in administrative assistance, barbering, bakery or woodworking. All 18 youth who have complete 12<sup>th</sup> grade were receiving vocational services. All special education students were scheduled for one vocational class.

3) Humacao – Youth who have not completed 8<sup>th</sup> grade are not scheduled for vocational services. All other youth are scheduled, including youth who have completed 12<sup>th</sup> grade, receiving classes in bakery, barbering, and woodworking, including special education students.

**2) All shall provide adequate instructional materials and space for educational services**

Each of the three facilities have multiple classrooms for students engaged in regular and special education as well as vocational services. Classrooms seem adequate for students to have small classes based upon subject, and in some cases, grade levels (i.e. elementary level students). Each of the facilities has at least 3 vocational education rooms which were inviting, seemingly well stocked, and were engaging students.

A concern was raised during the Third Quarter about classroom availability at Villalba when the weather is rainy. Leaking roofs may prevent some classrooms from being used, and could ultimately lead to space shortages, and/or potential security issues if youth cannot be adequately separated. Roof problems are also apparent in gym facilities, and use is restricted during rainy days. With the increase in students as a result of the closure of CD Humacao, it is vital that these repairs be made immediately.

An analysis of space and materials adequate for instructional services was requested but has not been provided.

**3) Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.**

	<p>The Monitor reviewed a list of instructional staff and their certifications and subject matter expertise for each of the three facilities the beginning of the school year. That information was contained in the Third Quarterly Report.</p> <p>Vacancies during the quarter included:  English Teacher –October 26<sup>th</sup> (Humacao)  Library Auxiliary – September 18<sup>th</sup> (Humaco)  History Teacher – October 15<sup>th</sup> (Ponce)  Science Teacher – September 28<sup>th</sup> (Villalba)</p> <p>All positions have been since filled, although the History teacher at Ponce will not be under contract until the end of January.</p> <p>NIJ Policy 4.1 requires the Training Division to coordinate and implement a master plan of training for staff development, including orientation and pre-service training of a minimum of 24 hours for treatment staff who are new. By definition, treatment staff includes teachers, social workers, counselors, and school principals.</p> <p>Training records, while partially received, must reflect that all new educational staff receive 24 hours of training by NIJ. In addition, Policy 4.1 requires that staff training needs be assessed in operational areas (including education and social work), and that such areas, in conjunction with the Division of Training, design training according to need. While not included in Policy 20.1, the Department of Education also requires annual training for its special education instructors, usually for one week prior to the beginning of the school year.</p>
<p>What is needed for full compliance?  What steps are required and/or recommended?</p>	<p>The Department of Education should assume responsibilities for the delivery of all educational services, as well as providing sufficient qualified teachers by no later than the 2019-2020 school year. A revised Memorandum of Understanding between the two agencies must be developed so that there are clear lines of authority and responsibility between the two reflective of the Settlement Agreement.</p> <p>The Monitor received policies and procedures from NIJ and the Department of Education relative to general and vocational education in August. These have been transcribed and reviewed by the Monitor, and were resubmitted to NIJ, to distribute to PRDE, on September 17 with comments and recommendations.</p> <p>To meet the requirements of this paragraph, the policies must require that youth being held in secure confinement for two weeks or more will be provided with a full school day equivalent to what they would receive in the public education system. Currently, the policies include evaluation through an initial interview to gather academic information within 24 hours, review of initial interview information and securing of records, and administration of diagnostic testing within 5 business days for Spanish and Mathematics.</p>

Further diagnostic testing is completed after 30 days, or when the youth's custody "is handed over to the state." Meanwhile, there is a class program designed for the student to receive a general education aimed at strengthening basic skills. The policy should be explicit as to when youth begin those classes, and that it is no longer than two weeks after admission.

This policies must also ensure that youth in protective custody or transitional measures who are eligible for education services will receive the required 6 hours per day, five days per week, 10 months of the year. The current policy of youth receiving 20 minutes of class per basic subject, while perhaps an improvement over prior practices, is insufficient to meet the inclusive language of this paragraph.

Well qualified staff should include verification not only of certifications, but also of training for new educational staff, and training required by the Department of Education and coordinated between the Division of Training and NIJ educational services. Additionally, a staff training needs assessment for education staff should be produced, as well as a training plan for the 2018-19 school year based upon that assessment. Training records of education staff (including ancillary staff) should be documented and provided as evidence of training requirements. Those documents were requested during the third quarter.

While the Monitor has received some records of training of individual educational staff, training records on all education staff should be provided which meet the requirements of Policy 4.1.

All classrooms should be functional and able to maintain educational programming. Roof repairs should be completed where needed to avoid disruption to educational services. While this was raised as an issue at Villalba, any roof leaks also identified at Ponce in classroom areas should be addressed as soon as possible.

**Compliance will continued to be measured by the following metrics:**

1) All students confined for more than two weeks in any facility must receive educational services five days per week, 6 hours per day, 10 months per year should be provided through the Department of Education. Programs must include academic and/or vocational services, and documentation must include student enrollment and attendance forms, documentation of student schedules, and indications of regular and/or special education programming.

2) Educational staff providing core classes, special education teachers, and vocational education instructors must be employed and in place to provide instruction at the start of each school year. Educational staff must have the appropriate certifications for the content they teach.

	<p>3) Monthly attendance by essential educational staff should remain at 90% or higher in each facility. Classes should not be disrupted or cancelled as a result of teacher absence. A system for substitute teachers should be in place and able to accommodate these situations.</p> <p>4) Instructional materials for academic and vocational classes must be sufficient to provide meaningful instruction and opportunities. An assessment of resources should be completed annually to ensure that requisite materials and available for use in delivering educational services.</p> <p>5) Classrooms must be sufficient to accommodate all specific content areas, vocational education, and elementary student classes. Any classrooms not able to be utilized as a result of physical plant problems such as leaking roofs must be identified and a plan for correction must be in place. Facilities for physical education must be available and usable. A facility assessment should be completed annually to ensure that requisite space is provided and properly maintained for educational services.</p> <p>6) New educational staff must attend the required 24 hours of NIJ training annually; training records must be maintained and produced.</p> <p>7) Additional training based upon assessed needs for educational staff must be identified, provided, and documented in staff training records.</p>
Priority Next Steps	<p>NIJ and PRDE should provide revisions back to the Monitor regarding Paragraph 20.1 which incorporate language regarding the initiation of full school days within 14 days after youth are incarcerated in one of the facilities, and require a full school day for youth in PC and TM status. Draft changes and comments were submitted to the parties in September of 2019.</p> <p>An assessment of space and resource needs should be completed in the first quarter given the changes to population with the closure of Humacao.</p> <p>NIJ should ensure that substitute teachers are available to accommodate those days when teachers are absent. Security situations should be fully examined so as not to adversely impact the availability of educational programming. Documentation of security situations must be communicated to education administrators.</p> <p>Steps must be taken to ensure that all youth are scheduled for 6 hours a day. Youth at Humacao reported consistently that their classes were completed by about 11:30 each day. Whether this is due to security reasons or otherwise, security needs must be communicated with education staff so that arrangements can be made to ensure a full school day is provided.</p>

	<p>NIJ must coordinate training records of education staff with DOE, and verify that new staff for 2018-19 have received the required 24 hours of NIJ training, that other required DOE training has been provided, and that an assessment of training needs has been created and will be implemented for the 2018-19 year.</p> <p>A plan should be submitted to the Monitor in the first quarter which will detail the budget and allocation of resources sought for the 2019-20 school year by the PRDE for assuming full responsibility for the provisions of educational services.</p>
Quality Assurance Measures	<p>The Monitor is encouraged by the documentation that is kept and provided relative to many of the provisions of this paragraph.</p> <p>Efforts at quality assurance must also come from the DOE relative to the delivery of service, and/or must be incorporated into the Memorandum of Understanding.</p>
Sources of Information upon which Consultant report and compliance ratings are based.	<p>Meetings at all 3 facilities with Carlos Delgado to view available classrooms, teacher rosters and attendance, list of students, attendance logs, and documentation regarding intake of new students.</p> <p>Examination of school calendar</p> <p>Review of applicable policies</p> <p>Examination of other documents as listed above</p> <p>Interviews with youth and file documentation</p>

S.A. 86 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 et seq. Defendants shall screen juveniles for physical and learning disabilities. 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.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>The Monitor conducted site visits to CD Humacao during the evening of November 4, 2018 to interview youth.</p> <p>The Monitor and Javier Burgos visited Ponce and Villalba on November 6<sup>th</sup>, and CD Humacao again on November 7<sup>th</sup>. During those visits, the Monitor met with Carlos Delgado and relevant special education staff to conduct file reviews of youth receiving special education and related services. The reviews included examination of intake and evaluation procedures at the time youth entered CD Humacao (regardless of current</p>



	<p>placement), Child Find procedures employed, evaluation and eligibility determinations, Individual Education Plans (IEPs), and procedural safeguards. A compliance checklist which was developed during the third quarter was used for file reviews, and education staff were asked in advance to prepare these files for review and discussion. Under the direction of Carlos Delgado, at each facility staff were prepared, engaged in the discussion, and accommodating to the monitoring process. Those assisting with file reviews and presentation of information were Johanna Rosado, Yamiris Rangel, Rossana Amy and Jessica Rodriguez at Humacao, Monica Perez and Olga Molina at Ponce and Glendaliz Pacheco, and Jessica Rodriguez at Villalba.</p> <p>Five interviews were conducted with youth at CD Humacao, each from different modules and different education statuses. Interviews were focused on the assessment of needs and availability of services upon arrival, school schedules, IEPs, quality of education being provided, and school facilities.</p> <p>File reviews were completed on five of the existing eight special education students at Villalba (62.5%), and four of sixteen existing special education students at Ponce (25%). Each file was also reviewed for current information about placement and services as well as intake, assessment and evaluation while at Humacao. Discussion at Humacao related to the youth assessment process, scheduling, evaluation process and</p>
Findings and Analysis	<p>This section provides a general requirement that compliance with the IDEA is necessary in order to meet compliance requirements of this section. The specific provisions for monitoring have not been detailed in prior recent reports, likely making this section more difficult to monitor effectively. For purposes of complying with the IDEA, as well as initial screening of youth for disabilities, this provisions has been broken down into 5 sections as noted below:</p> <p><b>1) Mandatory requirements of the Individuals with Disabilities Education Act</b>  <b>a) Child Find</b></p> <p>PRDE is responsible for ensuring that Child Find provisions to locate and identify youth who may be eligible for special education are met, but must work collaboratively with NIJ instructional staff to ensure that adequate mechanisms are in place to identify when youth are appropriate for referrals.</p> <p>Education staff are also completing initial evaluations in all five subject areas within 5 days for youth in detention (English, Science, Social Studies, Math and Spanish, as well as interest in vocational and recreational activities). Documentation was received which verifies that testing was done in all cases for the quarter where youth were admitted for at least 5 days, with the exception of two youth in December. This screening and evaluation process, completed on all youth, is one way in which Child Find requirements can be met.</p>

A new form was designed to track those students who enter NIJ and are identified through the screening process as being appropriate for a referral for special education. The third quarterly report noted that several such youth were identified during the 2016-17 and 2017-18 school years. The new form will begin during the First Quarter of 2019.

**b) Evaluation of youth with suspected disabilities**

PRDE has an obligation to ensure that youth with suspected disabilities, and those in need of re-evaluation, receive thorough multi-faceted evaluations which stretch across areas of concern as well as the identification of student strengths. The tracking form mentioned above will identify those students who are being newly evaluated as having suspected disabilities, as well as tracking those who require a 3 year re-evaluation.

A review of 9 student files receiving special education highlights concerns relative to the re-evaluation process. The request for evaluation is entered into MIPE by social workers. No COMPU meetings were noted to discuss the need for re-evaluation and what should be included. Of the 9 files reviewed, three of them had re-evaluations which were not timely provided. Glitches in the MIPE system may account for scheduling and completion problems, such as evaluations able to be scheduled if there was a missed appointment with the evaluator.

Timely initial evaluations and re-evaluations are critical. Evaluations should be individualized and done based upon broad input from the COMPU team, and not simply done as a referral on line by the social workers. A tracking system to ensure that these evaluations are completed in a timely manner is critical or compliance to this section, as well as compliance with the IDEIA.

Carlos Delgado has created an instrument which the Monitor is reviewing, and which will provide a system by which evaluations can be tracked, both initial and re-evaluations. This will begin in the first quarter of 2019, but should encompass pending evaluations as of the first of the year.

**c) Provision of specially designed instruction and related services**

A review of youth files was conducted during the 4<sup>th</sup> quarter to examine youth eligibility, present levels of academic achievement and functional performance, consideration of special factors such as communication needs, behavior and/or visual impairment, measurable annual goals and/or short term objectives/benchmarks, student supports for academic and nonacademic activities, and transitional services planning, behavior interventions plans, related services, and extended school year.

Of the 8 identified youth with special needs at Villalba from October – December, all were identified as Specific Learning Disability, and all received 50 minutes of special education five times per week in Spanish and Math. The 5 IEPs reviewed by the Monitor

all contained accommodations such as repeating instructions, giving simple examples, additional time and use of calculators. Special education services are noted to occur in the regular classroom. None of the “consideration of special factors,” including behavior issues which might impede learning, were noted. In the record review, these were marked as “inapplicable” by the special education teachers, who explained that if there are behavior issues, they are addressed in the youth’s treatment plan.

Of the 10 youth with special education needs at Ponce from October - December, seven were identified as Specific Learning Disability, two were Other Health Impaired, and one was labeled as MR. All youth receive the same 50 minutes of special education five times per week with assistance in Spanish and Math. Of the 4 files reviewed, all of the youth had measureable goals and objectives, and there were no special factors which were indicated, including behavior issues. None of the four files reviewed included behavior goals, and in each case, the youth received special education in the general classroom. Student supports including accommodations such as extended time, breaking down examples, and use of a calculator were noted.

At Humacao, where the population is much more transient, there were 19 special education students serviced in October, 17 in November, and 15 in December. The disabilities identified were more mixed, with about half listed as having Specific Learning Disabilities, followed by a number of Other Health Impaired, **EMN and MR**. All special education students were listed as receiving 50 minutes of special education five times per week. Humacao has two special education teachers given the higher number of youth with special education needs, and the more frequent movement in and out of the facility. Staff do a commendable job of ensuring that records through MIPE are sought and that youth are placed in programming quickly upon arrival at the facility.

None of the three facilities have identified resource rooms or self-contained classrooms in spite of serving many youth with significant mental illness and behavior and emotional problems. Education staff do not have sufficient resources available to them to ensure that an appropriate continuum of placements are available to youth with special education needs.

The fact that so many youth are identified as having Specific Learning Disabilities, and without identified behaviors which impede learning, does not seem consistent with the population in most youth correctional settings. IEPs lack individualized determinations about the level of service, and instead are written to provide youth with what is able to be accommodated through the schedule and available resources, all at the same time and at the same frequency. Of the IEPs examined, none identified behaviors or included goals related to behavior. This is also unusual given the population of youth in correctional settings. Providing such information in treatment plans, while a critical aspect of treatment, is not adequate to comply with IDEA’s requirements of school related services which address specific disabilities.

**d) Procedural safeguards**

A review of 9 student files was conducted during the 4<sup>th</sup> quarter to examine compliance with parental notification and consent provisions, requirements of IEP meetings, and parent rights.

Special education files appear to be maintained on all students. The monitor has reviewed various forms and procedures used for special education students. While reviewing files, it appears that parents are consistently notified of meetings, and provided with copies of their rights.

The MIPE system can provide compliance reports which document many of the compliance related issues noted above which will be done manually at this time. The Department of Education indicated its willingness create a data request which would provide compliance reports on all special education students within NIJ through MIPE. PRDE representatives attending the August, 2018 discussed this, but have never followed up with the Monitor.

Further review of procedural safeguards will be included in the Second Quarter file reviews. Of particular note, some files indicate that social workers through NIJ serve as the “parent” representative for youth. NIJ and PRDE need to ensure that appropriate steps are taken to identify and designate the “parent” for purposes of IDEA, and that when appropriate, surrogate parents are trained, available and utilized.

**2) Screening of juveniles for physical and learning disabilities**

This paragraph also requires that the Defendants screen juveniles for physical and learning disabilities, including “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.”

Youth are screened at detention using an education questionnaire to determine prior educational placements, previous involvement in special education, and academic achievement. Diagnostic testing is completed within five school days and school records are requested and obtained. Physical disabilities are noted, including visual problems, speech problems, use of medication, hearing problems, and orthopedic problems. Recommendations for testing are made including for hearing impairment, psychological, occupational therapy neurological examination, psychiatric, visual, health and/or a Woodcock Munoz.

	<p>The Monitor reviewed a sampling of these screenings performed on youth admitted at Humacao during the Fourth Quarter. The screenings appear to be done within five days in most cases. Education staff are revising the forms to ensure better tracking of these evaluations to comply with this section.</p>
<p>What is needed for compliance to be achieved?</p>	<p>A review of policies and procedures was completed by the Monitor and sent to Defendants on September 17<sup>th</sup>, 2018 with recommendations noted to bring these policies into compliance with this provision of the Settlement Agreement. The policies should accurately reflect the requirements within IDEA as to time frames and procedure to locate, identify, evaluate and provide specially designed instruction to eligible youth, as well as the procedural safeguards guaranteed to parents and youth.</p> <p>All students must be properly screened within five (5) days of arrival at Villalba and Ponce when being held in pre-trial detention, and appropriate testing provided to determine if they should be referred for an evaluation, and to determine an appropriate education program.</p> <p>Initial evaluations and re-evaluations must be completed in a timely manner, and in accordance with the provisions of IDEA. Under 34 CFR §300.305(a)(1), the IEP Team and other qualified professionals, as appropriate, as part of an initial evaluation and as part of any reevaluation under 34 CFR Part 300, must: “Review existing evaluation data on the child, including—(i) Evaluations and information provided by the parents of the child; (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and (iii) Observations by teachers and related services providers.” Referrals into the MIPE system by social workers without convening a COMPU meeting are inadequate to comply with the requirements of IDEA.</p> <p>IEPs must include an individualized determination of disability, special considerations, including behavioral plans when appropriate, and a range of placement options, including the availability of resource rooms and a self-contained classroom if necessary. A one size fits all plan for youth is not acceptable.</p> <p>The procedures for identifying the “parent” for purposes of IDEA, and the use of surrogates when necessary, must be examined. While it may be possible that an NIJ social worker may stand in for a parent, this must be a parental designation and not one made by NIJ or PRDE. This does not appear to be well understood, and warrants further discussion.</p>
<p>Priority Next Steps</p>	<p>The revisions to both sets of educational policies should be made as soon as possible.</p> <p>Given the closure of Humacao, and that the detention population is spread between two facilities, it will be important to ensure that proper procedures for assessment, screening and available services are in place at Villalba and Ponce.</p>

	<p>PRDE must ensure that COMPU meetings are conducted prior to the request for an evaluation or re-evaluation, and that such meetings comply with the requirements of the regulations under IDEA as to purpose, timing and outcomes. The tracking form established by NIJ will be a helpful tool to ensure that evaluations are completed in a timely fashion.</p> <p>PRDE must ensure that there are proper procedures for identification of “parents” and that such individuals meet the definition within IDEA, or are designated by such person, and that surrogate parents are also available as needed.</p> <p>PRDE should increase oversight of special education teachers to ensure that youth are properly identified, that IEPs and the services provided as a result, are individualized as to student need, including the type of placement available to the youth. Adequate resources must be in place to provide a greater level of service to youth depending upon their needs.</p>
Quality Assurance Measures	A MIPE compliance report, if developed by PRDE, could be a valuable tool incorporating the provisions within the Monitoring Due Process Checklist into a quarterly report.
Sources of Information upon which Consultant report and compliance ratings	<p>Interviews with NIJ and PRDE staff</p> <p>Documentation review of policies and procedures</p> <p>Review of student files who are receiving special education</p> <p>Interviews with youth, special education teachers and education administrator</p> <p>Review of documentation regarding student schedules, attendance of staff and youth, disability categories and time spent in special education by facility</p> <p>Tour of facilities and classrooms</p>
<p><b>S.A. 87.</b> If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.</p>	
<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>The monitor reviewed the procedures and forms at Humacao for requesting documentation on youth from prior school districts.</p> <p>This includes the youth's cumulative file through SIS and the special education file through MIPE.</p> <p>The FT meeting on education included a discussion regarding the timely review of IEPs and how “annual” review is to be interpreted.</p>
Findings and Analysis	Appropriate policies are in place to require that records of the youth's IEP are obtained immediately from the appropriate district. Records must be requested within 10

business days after the screening is done and the youth has indicated he or she has an IEP. The youth is enrolled in school within 72 hours. Documentation about starting dates was reviewed and consistently showed youth begin their classes within a couple of days.

Two systems have been put in place electronically for securing regular and special education records of students. The Department of Education has been operating MIPE (My Education Portal) since 2012. Students eligible for special education are registered in this system, and any district, including the schools within NIJ facilities, can pull these records on a student they receive within their school. Access is available immediately. Some students, however, may have files that are “inactive” due to disruption in the youth’s education. In these cases, education staff indicated that they send a request manually for a copy of the records. A copy of the form was noted which documents this request in the youth’s file.

The Student Information System (SIS) similarly provides student information on all youth registered for school in Puerto Rico, and interplays with MIPE. NIJ facilities are now on line and can obtain this information immediately when it is available in the system.

The policies require that IEPs be reviewed and updated at least once annually and more often when necessary. Some of the files reviewed did not have a timely annual review. The current practice and interpretation of this provision is to have one review during each school year, even if that does not occur within a calendar year. For example, a youth who entered the system in February of 2017 did not have an IEP annual review until of May of 2018. The Monitor’s interpretation of IDEA is that this is untimely. An annual review of the IEP must be made based upon a 12 month cycle, or more often, to be in compliance.

Of the youth interviewed, three of them described distinct disabilities which they believed were the basis of having an IEP. One youth had lifelong hearing problems and extreme anxiety. Another had severe behavior problems, depression and anxiety. A third was ADHD had problems with disorganization and hyperactivity which made it difficult for him to achieve work completion, and had been previously identified by a community school as OHI. Yet each of these youth were identified as having a Specific Learning Disability as their identified disability.

The requirements of this provision as to obtaining records appears to be in compliance. The Monitor will examine in the next two visits whether IEPs are determined to be adequate when received, and/or whether changes are made. The Monitor will want to ensure that IEP’s are not being revised to meet the resources available at NIJ rather than the individuals needs which have been previously identified for the student. Similarly, disability categories must be aligned with the youth’s identified needs and areas of deficit.

<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Appropriate screening of youth to determine if they have an IEP must be done on all youth coming into NIJ facilities.</p> <p>For youth with IEPs, files must be accesses “immediately” through MIPE so that educational services can begin for the youth no later than 72 hours</p> <p>Cumulative files must be requested manually on students from their local schools within 10 days, but hopefully sooner. For files available on SIS, such files should be accessed “immediately,” no longer than within 72 hours.</p> <p>All special education files should contain a records of annual IEP reviews, and other reviews of the IEP done during the year as needed. A system of reviewing IEPs must align with a 12 month calendar year, or more often.</p> <p>PRDE must establish greater oversight to ensure that youth are appropriately identified, that IEPs reflect the individualized needs of the youth, and that decisions regarding placement are based on the youth’s needs and not the resources available. As assessment of resources should be made during this school year to determine what additional classroom space may be needed.</p>
<p>Priority Next Steps</p>	<p>A compliance report created through MIPE by DOE IT staff will enable Quality Assurance measures to be made regarding the annual and other periodic review of IEPs. IEPs must be reviewed annually based upon the calendar year, within a 12 month period or more often.</p> <p>An initial IEP review must be done to determine if the IEP is appropriate. No changes should be made to the youth’s identified area of disability without sufficient supporting documentation, evaluation results, and a COMPU meeting which determines that this is warranted. Other changes to IEPs must also be based upon the youth’s needs and not availability of resources and physical space.</p> <p>PRDE must establish greater oversight over the supervision of special education staff and the quality of IEPs and placement decisions.</p>
<p>Quality Assurance Measures</p>	<p>Education QA tools have not been reviewed by the Monitor</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based</p>	<p>Review of screening and evaluation materials completed at Humacao</p> <p>Review of documentation used to request and follow up on records</p> <p>Review of MIPE and SIS systems</p> <p>Discussions with PRDE and NIJ education staff</p> <p>Review of youth files and youth interviews</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.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	See above generally. The Monitor also examined the sampling of IEP documents to ensure that they meet the unique needs of the juvenile, and that they are supported by such services as necessary to permit the youth to benefit from instruction  Related services were also examined, and a discussion was held with NIJ education staff about how these are determined within the IEP process.
Next Steps	PRDE and NIJ education staff must ensure that services are individualized based upon the identified disabilities, and that related services are also provided if necessary to properly implement the IEP.

**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.

<b>Compliance Rating</b>	<b>Partial compliance</b>
Description of Monitoring process during this period of time	The Monitor reviewed the qualifications, including records of certifications, for special education staff. A review of all youth schedules for regular and special education students was completed, including vocational education classes.
Findings and Analysis	The policies and procedures require that qualified special education staff must be hired to provide services to youth with IEPs. Policy 20.1 specifies that the Educational Service Program “will promote the utmost academic, vocational and recreational potential of youth through the four main areas of Service (Academic, Vocational, Special Education and Title I, Part D Program) ...”  No additional changes to policy are necessary for this provision.  Staff responsible for the development of IEPs are the special education instructors, who are training in working with students with disabilities and the creation of IEPs. An adequate number of special education staff are employed in each of the three facilities. Resources appear adequate to provide IEP services to youth. DOE should provide information regarding training provided to special education teachers employed at NIJ facilities regarding IEP development and implementation.

	<p>IEPs are contained in the MIPE file as well as hard copies of files in each institution. See above concerns raised regarding lack of individual education plans.</p> <p>A review of the special education student schedules in each facility indicates that with the exception of elementary school students at Humacao, all special education students were enrolled in vocational classes.</p> <p>A review of student files, interviews with staff, and youth interviews suggest that IEPs are not individualized, and that most youth are identified as Specific Learning Disability and receive the same 50 minutes of specially designed instruction 5 days per week in Math and Spanish. Placement options do not include resource rooms or a self-contained classroom in spite of the facility serving some youth with serious mental illness whose behaviors suggest that such settings might be considered.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>The monitor believes that the policies and procedures, training, staff and resources are available to ensure that this provision is in compliance. A system of documentation has been created which is thorough and which appears to follow the requirements under IDEA for the creation and implementation of IEPs.</p> <p>The provision of vocational education is incorporated into policy and, while not mandatory in all cases, has been an integral part of providing more robust educational services for youth in NIJ and is offered consistently.</p> <p>IEPs must be designed based upon the individual needs of the youth. Further review during the first and second quarters will provide greater information about whether and to what extent this is being done.</p>
Priority Next Steps	Ongoing monitoring over the next year will ensure that all provisions in place are being implemented fully and faithfully.
Quality Assurance Measures	The Monitor has not reviewed any QA measures.
Sources of Information upon which Consultant report and compliance ratings are based	<p>All youth schedules including the provision of vocational instruction provided</p> <p>Review of Policies and procedures</p> <p>Review of system of documentation maintained in student files</p> <p>Student interviews</p>
<p><b>S.A. 93</b> Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.</p>	

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The Monitor requested that DOE provide evidence of any year round services provided through Extended School Services (ESS) and reviewed the policy in place for such.</p> <p>Discussions with the functional team and during site visits focused on how this provision is carried out in the course of IEP reviews each year, and what criteria is applied. The Monitor also discussed the provision of full instructional days five days per week.</p> <p>Student interviews at Humacao also inquired about school schedules, as four of the five youth interviewed there were identified as needing special education.</p>
Findings and Analysis	<p>Year round school services to special education students must be provided to students who “prior to the corresponding evaluations, require this service in order to avoid falling back in their academic skills and performance.” (See policy 20.2 Section V) The Monitor’s interpretation of this provision is that it applies to extended school year services as required by IDEA. Section 300.106 of Subpart B of the IDEA regulations requires that extended school year services be made available when necessary for the child to receive a free and appropriate public education. Such services must be provided only if the student’s IEP team determines, on an individual basis, that it is necessary. Public agencies may not limit such services to individual categories of disabilities, or “unilaterally limited the type, amount or duration of these services.”</p> <p>Extended school year services have not been provided to any students in the last school year, according to information received from the PRDE. Special education teachers interviewed did not appear to understand the requirements for extended school year or have a mechanism for considering this in the context of an IEP review.</p> <p>The fact that no youth received such services does not indicate non-compliance. But it is necessary for the Monitor to see that such services are discussed and that determinations are being made as to whether youth qualify for extended school year.</p>
What is needed for full compliance? What steps are required and/or recommended?	<p>Policies are already in place which address the need for Extended School Services. The Monitor will continue to work with education providers to determine:</p> <ol style="list-style-type: none"> <li>1) if special education instructors are properly trained to identify youth who may need Extended School Services;</li> <li>2) whether sufficient education staff are available to provide this service year round or as indicated by the need for extended school services; and</li> <li>3) that proper documentation within IEPs is noted indicating that consideration has been given as to whether the youth should receive Extended School Services.</li> </ol>

Priority Next Steps	PRDE must provide oversight to its special education teachers to ensure that they understand extended school services and when it is appropriate for students, and that there is a mechanism in the annual review or other reviews done during the school year to consider eligibility of students
Quality Assurance Measures	No QA measures have been reviewed by the Monitor for this provision.
Sources of Information upon which Consultant report and compliance ratings are based	Review of response from DOE regarding the provision of ESS services Review of Policy 20.2  Interviews with youth, administrators and education staff

**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.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	<p>The Monitor has reviewed the policies and procedures for both regular education and special education. She has discussed this provision with other members of the Monitoring Team in conjunction with paragraphs 79 and 80, which have similar provisions.</p> <p>A review of data during 2018 regarding youth in transitional measures and protective custody, as well as expert reports regarding the provision of education services was completed.</p> <p>The Monitor also spent time during her November visit at Humacao interviewing youth about school exclusion, as well as scheduling of classes. A discussion with Carlos Delgado and other administrators regarding security issues and the impact on school attendance was helpful in identifying problem areas. Monthly attendance sheets were reviewed for indications of “situations regarding security”</p>
Findings and Analysis	<p>There are three sections to Paragraph 94 which must be monitored:</p> <ol style="list-style-type: none"> <li>1) Whether youth who have an IEP are excluded from services based upon a propensity for violence or self-inflicted harm or based on vulnerability.</li> <li>2) Whether youth in “isolation or other disciplinary settings” are provided the right to special education services; and</li> </ol>

3) Whether educational services provided pursuant to an IEP occurring in settings outside of the classroom are required for institutional security.

The policies and procedures do include language regarding exclusion from services in 1) above, but do not address the other two provisions sufficiently. Recommendations were submitted to NIJ and DOE regarding this section on September 17, 2018.

Exclusion of youth from services on the basis of a propensity for violence, self-inflicted harm or vulnerability does not appear to be tied specifically to youth who are isolated or in protective custody or transitional measures, although certainly it would include these youth. Youth may also be excluded from services through removal from classes or “suspension” of services because of behavior or other circumstances. Removal from a youth’s IDEA required placement for ten (10) days or more may constitute a change in placement which would necessitate the convening of an IEP team. Returning youth back to their unit for behavior related issues, regardless of how it is labelled, may constitute such removal.

While there is no policy regarding “suspension” of youth, it became clear that there is a disconnect between security staff and educators about ensuring that youth are in classes. Security issues were documented during 15 days of the quarter, although it is not specified whether this disrupted school services for all youth, some youth, or any youth, and the amount of time involved. Carlos Delgado has worked to create better documentation starting in the first quarter which will allow him to be notified and track such instances when youth are removed from school because of security or other issues. The Monitor will expect a report on this after the first quarter of 2019.

Youth placed in transitional measures or protective custody and who have IEPs must be provided special education services under this provision, as well as the more comprehensive requirements of paragraphs 79 and 80. Documentation of a full school which comports with the youth’s IEP must be provided for those youth who are identified as special education students. Such documentation has not been provided, not are these youth receiving a full school day as required.

Finally, youth with IEPs may receive services outside of the regular classroom if such is required for institutional security. This is a viable option for those youth in TM or PC status who cannot attend school regular classrooms, but who must receive a full school day and the services contained within their IEP. The Monitor has not received any information that alternatives to regular classrooms are being used for youth in PC or TM status. Inclusion in a regular classroom should be considered in all cases, but where a youth cannot be safely maintained in that setting, documentation must explain the institutional security concern which justified the alternative setting.

<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Policies and procedures must address the need for youth with IEPs to receive a full school day regardless of whether they are in PC, TM or other disciplinary status. Similarly, documentation must be required by policy to justify alternative settings outside of the classroom when necessary for institutional security. Education staff must be sufficient to ensure that these youth are receiving a full school day.</p> <p>While no policy exists which permits the exclusion of youth from school due to a propensity for violence, self harm or vulnerability, NIJ must document when such instances occur as a result of security issues, staffing shortages, or other incidents. It is critical that education staff work collaboratively with security staff to ensure that youth are not excluded from services. Youth with IEPs are entitled to certain procedural safeguards when excluded from school 10 or more days during the school year, as this would constitute a disciplinary change of placement.</p> <p>Compliance requires the staff training, resources, and documentation regarding the provision of education to special education students regardless of behavior, with verification and justification of any alternative settings used for education for these students as a result of institutional security issues.</p> <p>PRDE and NIJ must create a plan for providing youth in TM and PC measures with a full school day.</p>
<p>Priority Next Steps</p>	<p>Identify whether students are being excluded from classes for full day or partial days as a result of conduct, whether violence related, self-harming behavior, or as a result of vulnerability. The form developed by Carlos Delgado should help identify these circumstances.</p> <p>Develop a tracking mechanism to ensure that if youth are removed from school as a result of behavior, self-harm or vulnerability, documentation is provided to indicate why such removal was necessary.</p> <p>Documentation should be developed to indicate when alternative school settings are used and to justify the need for these alternative settings based upon institutional security issues</p>
<p>Quality Assurance Measures</p>	<p>No QA has been reviewed for this provision.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based</p>	<p>Review of policies and procedures relative to education Discussion with education staff</p>

**S.A. 95.** When an IEP is ineffective, Defendants shall timely modify the IEP.

<b>Compliance Rating</b>	<b>Partial Compliance</b>
Description of Monitoring process during this period of time	See above for discussion of this section.
Findings and Analysis	See discussion above.
What is needed for full compliance? What steps are required and/or recommended?	<p>There are a number of indicators that a youth's IEP is inappropriate or ineffective. Student goals and objective may be vague and unmeasurable. The IEP may be inadequate to address identified deficits in the student's multi-faceted evaluation. Needed accommodations may be missing, or related services may not be included when necessary. The needs of the youth may simply change based upon any variety of circumstances.</p> <p>Good data must be kept on student goal achievement, and should reflect student progress for meeting IEP goals, and receiving academic benefit from instruction provided. Student files reviewed indicated that reviews are completed every 10 weeks on students, and information on progress is sent to parents. This practice, when done consistently, provides the youth and parents with good benchmarks the for year, but should also provide indicators for when IEPs may need to be modified.</p> <p>Supervision of IEPs and data collection should provide indicators of whether such progress is being achieved with each student. PRDE must have a system of providing oversight of special education teachers to monitor their development of IEPs, as well as progress and benchmarks achieved.</p>
Priority Next Steps	<p>The Monitor will identify with education staff examples of modified IEPs outside of the annual review based upon changes in circumstances, or an IEP which was otherwise not meeting student needs.</p> <p>The Monitor will also review with the Department of Education the review and oversight mechanisms of special educators to identify ineffective IEPs.</p>
Quality Assurance Measures	The Monitor has not reviewed any QA provisions.
Sources of Information relied upon	Review of policies and procedures.

## Attachment A:

## Paragraph 45 Review of Remaining Areas of Policy and Procedure Noncompliance

Kim Tandy, Monitor

Paragraph	Description	Rating	Notes regarding status of compliance
C.O. 43	Sufficient funding for Implementation of C.O.	NA	There is no policy in place which determines the amount necessary for sufficient funding to implement the Consent Order (and subsequent Settlement Agreement).
S.A. 45	Agency Policy and Procedure Manual for all operations	PC	Compliance for this paragraph will be achieved when all other provisions have completed policies and procedures. The policies and procedures must, by definition, be sufficient to achieve full compliance when implemented.
S.A. 50	Training for current and new direct care staff	SC	Completed
<b>Protection from Harm</b>			
S.A. 48	Sufficient Direct Care Staff	SC	Policy has been signed by the Secretary in the Third Quarter of 2018.
Jan 2009 Para. 1	Reasonable Safety of Youth through Adequate Supervision	NA	Measurement is by outcomes and not policy so not necessary.
Parag 2	Sufficient Staff to Implement Decree and adequate supervision	SC	Policy has been signed by the Secretary in the Third Quarter of 2018.
Parag 3	Training for social workers if direct care staff	NA	Option not being utilized by NIJ and not required to be.
Parag 4	Persons Hired to be Sufficiently Trained before deployed	SC	Policy has been completed and is part of the Training Policies.
Parag 5	Monthly submission of staffing analysis to Monitor	NA	Does not require policy
S.A. 52	Classification	PC	Bob Dugan provided recommendations on July 18, 2018 to bring the existing policies into compliance. Necessary changes must include annual review of



			the validation of objective methods of classification instruments and processes
S.A. 77	Use of Force	SC	Completed and signed Third Quarter of 2018.
S. A. 78.	Investigations of Abuse and Institutional Neglect	SC	Completed
S.A. 79	Protection and Isolation	PC	On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and ¶79. A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments provided by the Monitor's Consultant on February 28. While DCR has expressed a desire to continue to prepare new versions of the TM (17.20) and PC (17.19) policies, the Monitor has requested that DCR wait until the results of the QA process are available and can inform the content of revised documents and practices.
S.A. 80	Conditions for youth in Protective Custody	PC	On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and ¶79. A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments provided by the Monitor's Consultant on February 28. While DCR has expressed a desire to continue to prepare new versions of the TM (17.20) and PC (17.19) policies, the Monitor has requested that DCR wait until the results of the QA process are available and can inform the content of revised documents and practices.
<b>Mental Health and Substance Abuse Treatment</b>			
S.A. 59	Treatment Plans for youth with Substance Abuse problems	SC	Completed
C.O. 29	Residential Mental Health Treatment Program	SC	Completed
S.A. 36	Continuous Psychiatric and Psychological services	SC	Completed
S.A. 63	Reducing Risk of Suicide	SC	Completed
S.A. 72	Emergency Psychotropic Medication	SC	Completed

S.A. 73	Behavior Modification and Treatment Plans	SC	Completed
<b>Education and Vocational Services</b>			
S.A. 81	Provision of Academic and Voc. Education to All Youth	PC	The Commonwealth provided its most recent copy of policies and procedures, dated and signed on July 6, 2016. 20.1 General Description of Educational and Recreational Services to the Monitor in August of 2018. The Monitor's office has provided a review and comment on these policies, which were resubmitted to the Commonwealth (to be distributed to the Department of Education) on September 17 <sup>th</sup> . The policies are good overall, but lack requirements regarding training of education staff, and appropriate services to youth in TM and PC. The Monitor has not received a date by which to expect the Commonwealth's response and revisions.
S.A. 86a.	Compliance with IDEA Requirements and Timeframes	PC	The Commonwealth provided its most recent copy of policies and procedures, dated and signed on July 5, 2016. 20.2 Special Education Program to the Monitor in mid-August of 2018. The Monitor's office has provided a review and comment on these policies, which were resubmitted to the Commonwealth (to be distributed to the Department of Education) on September 17 <sup>th</sup> . The policies do not provide sufficient detail about the Commonwealth's responsibility regarding some IDEA key components and timeframes. The Monitor has not received a date by which to expect the Commonwealth's response and revisions.
S.A. 86b.	Screening for youth with Disabilities	SC	Completed
S.A. 87	Obtaining IEPs of Eligible Youth	SC	Completed
S.A. 90	Delivery of Specially Designed Instruction and Related Services	SC	Completed

S. A. 91	Qualified educational professionals and voc. Ed	PC	Recommendations were provided by the Monitor in September of 2018.
S.A. 93	Year Round Services for Youth with IEPs	SC	Completed
S.A. 94	Services to youth in isolation or other disciplinary settings	PC	Policy 20.2 indicated only that “no youth will be excluded from the services because they show behavior or tendency to violence, self-mutilation or lack of positive adjustment.” The current policies do not contain appropriate services to youth in TM or PC status. The Monitor has not received a date by which to expect the Commonwealth’s response and revisions. Policies for TM and PC must also reflect the required services.
S.A. 95	Modification of IEPs	SC	Completed

## APPENDIX B: Paragraph 48 Staffing Analysis

**S.A. 48: DCR Staff Youth Ratio 2018 Fourth Quarter Report**

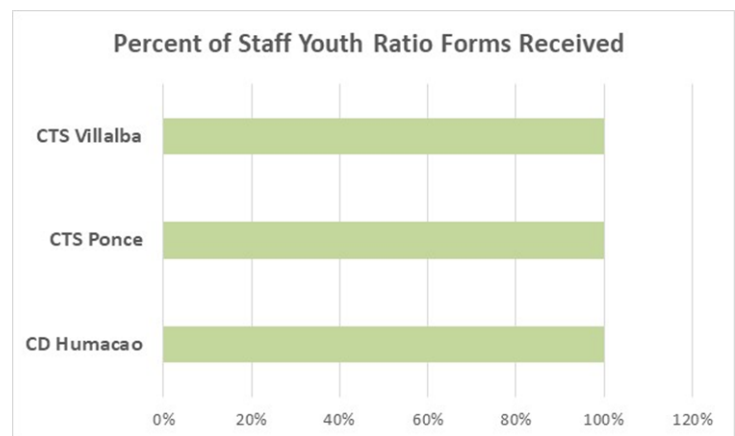
Prepared by Robert Dugan: Office of the Monitor

**Background:**

S.A. 48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using DCR facility generated weekly staff youth ratio forms. These forms are submitted to the Monitor's Consultant throughout the reporting quarter. DCR facilities daily shift by shift staffing and youth population for each operational housing module is reported, as well as any 1:1 supervision events, and the volume of staff that are required to work a double shift. The report provides information from Staff Youth Ratio forms that were provided to the Monitor's Consultant for the period of September 30, 2018 through December 29, 2018.

As of the Friday, January 11, 2019, the following forms were submitted:

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Humacao	13	13
CD Ponce	13	13
CTS Villalba	13	13
<b>Totals</b>	<b>39</b>	<b>39</b>



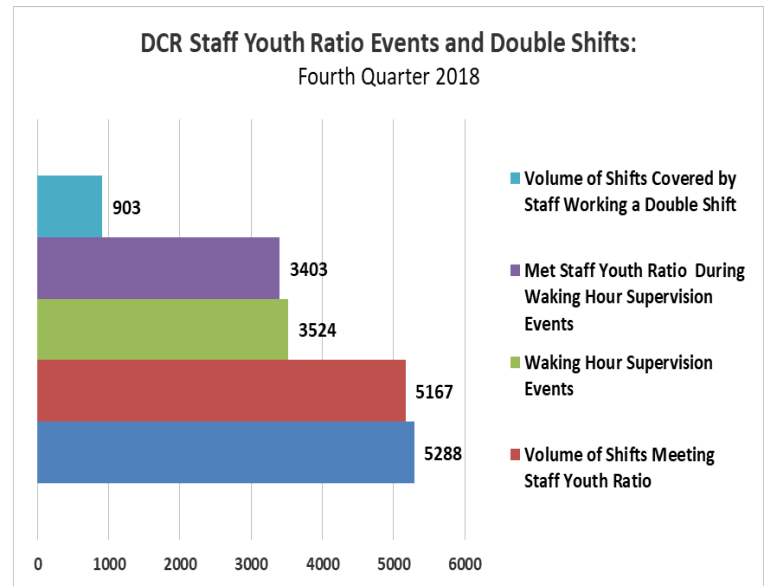
DCR submitted a total of 39 facility staff youth ratio forms for the three facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. DCR has consistently provided all requested Staff Youth Ratio forms used for monitoring and reporting. The table displaying the dates that staff youth ratio forms were received is on the last page of this report. Detention youth population was detained in the CD Humacao facility for the fourth quarter reporting period. The Sumaridos youth population was housed at CD Humacao until December 16, 2018, at which time nine Sumaridos youth were transferred to CTS Ponce as part of the CD Humacao closure plan.

**DCR Staff Youth Ratio Performance:**

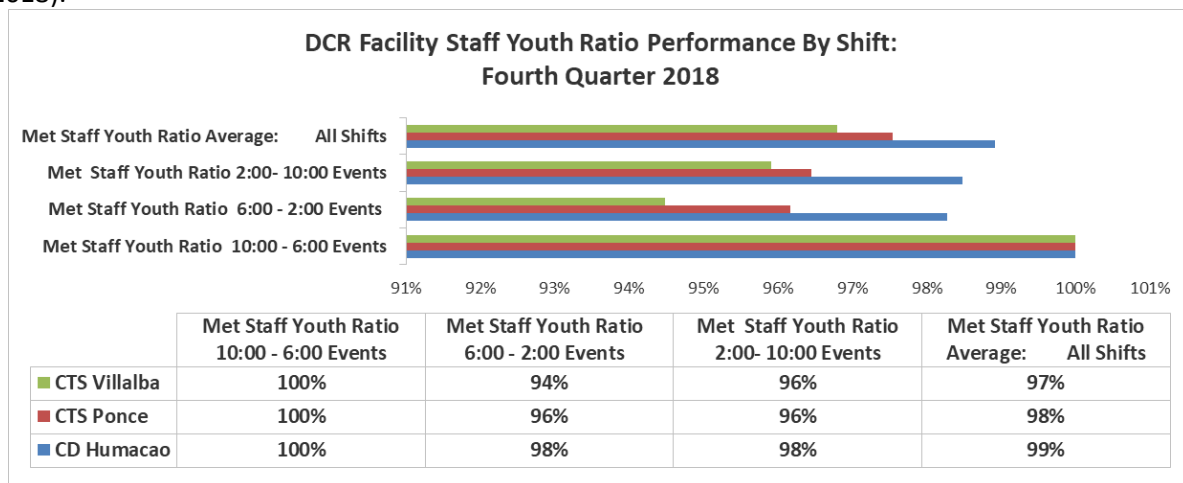
During the 2018 fourth quarter reporting period (September 30, 2018 through December 29, 2018), DCR documented a total of 5288 shift / unit events that required staff to youth supervision. This is a decrease of 647 staff youth supervision events from the third quarter of 2018 (5935 events).

Of the 5288 shift / unit events, 5167 of the events (98%) were supervised with the minimum required staff youth ratios, a 1.9% decrease from the 99.9% of events supervised with the minimum required staff youth ratios from the third quarter of 2018.

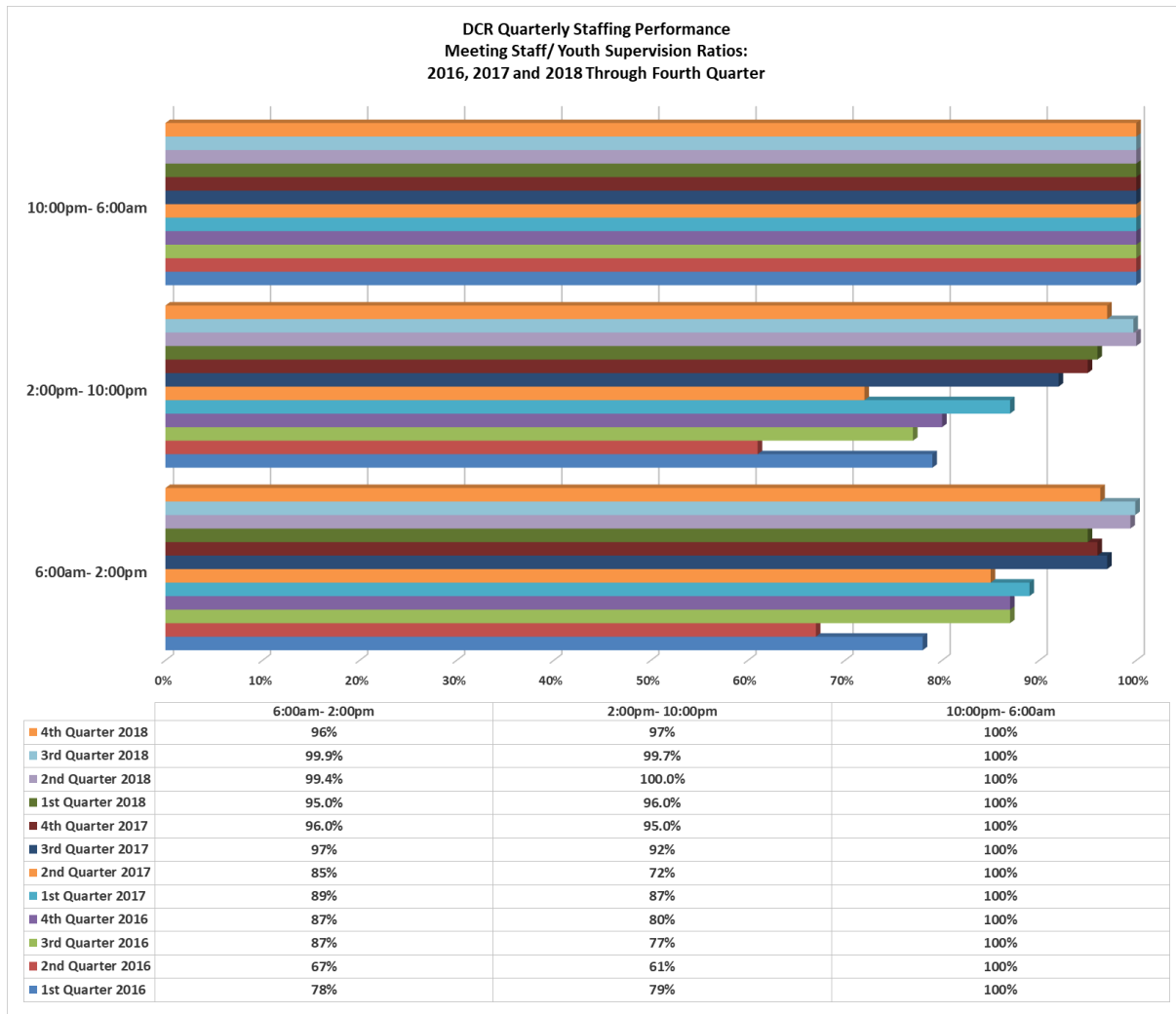
Of the 5288 staffing events meeting the minimum required staff youth ratio, 1764 (34%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift meeting the staff youth ratio for 100% of the events of that shift. For the 6:00 AM – 2:00 PM and 2:00 PM – 10:00 PM shift there were 3524 events occurred during waking hours.



The chart and table below represent staff youth ratio performance by shift for the period (September 30, 2018 through December 29, 2018).



The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2016 through December 29, 2018:



### **Waking Hours Youth Ratio Events:**

CD Humacao reported meeting the minimum required staff youth ratio in 98.4% of the waking hour staffing events, meeting the staff youth ratio in 1030 of 1047 waking hour supervision events. This rate is the highest amongst the three facilities operational during the fourth quarter.

CTS Ponce reported meeting the minimum required staff youth ratio in 96.3% of the waking hour staffing events, meeting the staff youth ratio in 1303 of 1353. PUERTAS, housed in one of the housing modules within CTS Ponce, met the minimum required staff youth ratios for all shifts throughout of the 2018 fourth quarter reporting period.

CTS Villalba Ponce reported meeting the minimum required staff youth ratio in 95.2% of the waking hour staffing events, meeting the staff youth ratio in 1070 of 1124.

The DCR 2018 fourth quarter performance in meeting Staff Youth Ratios during waking hours is as follows:

- 6:00 am – 2:00 pm shift: 96% of events, a 3.9% decrease from the third quarter of 2018 (99.9%)
- 2:00 pm – 10:00 pm shift: 97% of events, a 2.7% decrease from the third quarter of 2018 (99.7%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the third quarter of 2018 (100%)

Of the 3524 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3403 of the events (97%) met the minimum shift staff youth ratio requirements. The DCR 2018 fourth quarter Staff Youth Ratios compliance performance reflects a 2.8% decrease in staff youth ratio compliance compared to the third quarter reporting period. For the 2018 fourth quarter, NIJ has not demonstrated sustainable performance compliance in meeting the minimum required staff youth ratios.

**Staff Double Shifts:**

For the 2018 fourth quarter, 926 (18%) of the 5288 staff youth ratio events were covered by staff working a double shift. This is 5% increase of shifts requiring staff to work a double shift compared to the third quarter 2018 reporting period, but a reduction in volume by 307 events.

All three facilities have increased the percentage of shifts covered by staff working double shifts, while having reduced percentages of meeting the minimum required staff youth ratio.

- CD Humacao increased percentage of shifts covered by staff working a double shift to 22% (346 events), +15% from the previous quarter.
- CTS Ponce increased percentage of shifts covered by staff working a double shift by 13% (261 events), +10% from the previous quarter.
- CTS Villalba increased percentage of shifts covered by staff working a double shift by 19% (319 events), +3% from the previous quarter.

DCR Staff Youth Ratio Events and Double Shifts: Fourth Quarter 2018	Waking Hour Supervision Events	Met Minimum Staff Youth Ratio During Waking Hour Supervision Events	Volume of Shifts Covered by Staff Working a Double Shift	Percentage of Shifts Covered by Staff Working Double Shift	Waking Hour Double Shifts	Percentage of Waking Hour Double Shifts
<u>CD Humacao</u>	1047	1030	346	22%	251	24%
<u>CTS Ponce</u>	1353	1303	261	13%	243	18%
CTS Villalba	1124	1070	319	19%	278	25%
DCR Fourth Quarter 2018 Staff Youth Ratio: All Shifts	3524	3403	926	18%	772	22%

A closer review identifies staff working double shifts occurred disproportionately on weekends occurring on the first and second shifts. Additionally, there was a significantly higher volume of non-compliant staff youth ratio events (121), from the third quarter, while 53% of the events occurred on weekends.

DCR Facility Fourth Quarter 2018	Volume of Non-Compliant Staffing Ratios	Volume of Non-Compliant Staffing Ratios on Weekends	Percentage of Non-Compliant Staffing Ratios on Weekends	Volume of Double Shifts	Volume of Double Shifts on Weekends	Percentage of Double Shifts on Weekends
CD Humacao	17	11	65%	346	159	46%
CTS Ponce	50	20	40%	261	101	39%
CTS Villalba	54	33	61%	319	130	41%
DCR Totals	121	64	53%	926	390	42%

The table below displays the last eight quarters of staffing events, double shift staffing events, percentage of double shift staffing events and total number of operational facilities for the quarter.

Staff Double Shifts and Staffing Events	First Quarter 2017	Second Quarter 2017	Fourth Quarter 2017	Fourth Quarter 2017	First Quarter 2018	Second Quarter 2018	Third Quarter 2018	Fourth Quarter 2019
Volume of Double Shifts	911	886	586	712	1202	1233	796	926
Volume of Staffing Events	6800	6299	5489	6611	5712	5816	5935	5288
Percentage of Double Shift Staffing Events	13%	14%	11%	11%	21%	21%	13%	18%
Number of Facilities	5	6	4	4	3	3	3	3

Implications of a large volume of double shifting are deterioration in staff productivity, reducing the ability to be actively engaged in the supervision of youth as well as the negative impact to staff morale. The outcome of double shifting for direct care staff can lead to a level of inattentiveness on the part of staff, which can negatively impact youth safety and potentially contribute to staff negligence in providing effective, safe and secure supervision to youth. Double shifting often leads to staff calling in sick call to avoid being required to double shift after their regularly scheduled shift.

There is no prohibition nor restrictions in S. A. 48 on the use of double shifts to meet the requirements of minimum required direct care staff youth ratios. Although undesirable from an operational and budgetary perspective, it does not impact analysis of whether the minimum required staff youth ratios are being met. Conversely, double shifting may be a significant contributing factor in jeopardizing the agency's capacity to provide adequate staffing to assure youth safety, protection from harm and staff turnover.



**DCR Agency 1:1 Supervision Events:**

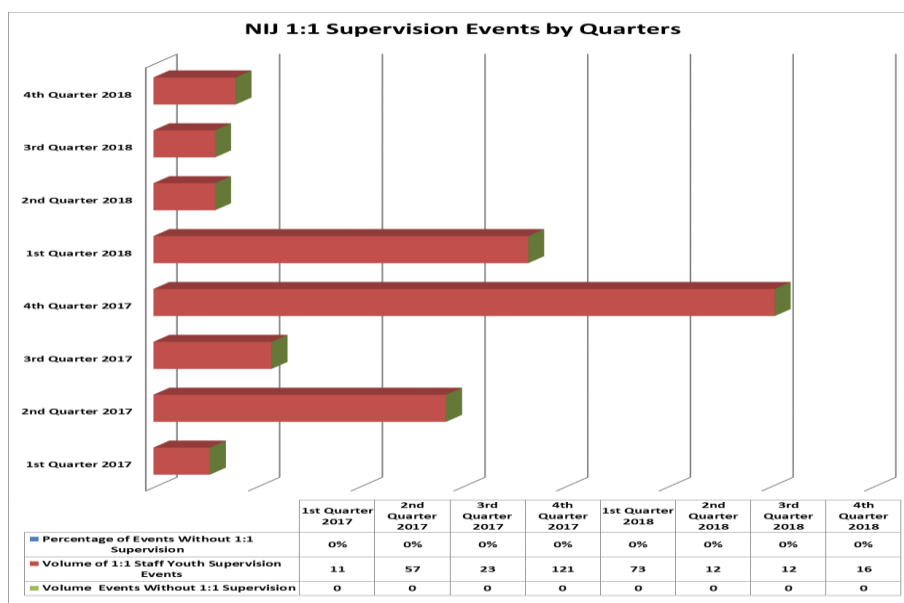
DCR reported successfully provided staffing of all 1:1 supervision events for the 2018 fourth quarter.

The 2018 fourth quarter reporting period reflects the volume of 1:1 supervision events reported as 16 events:

- 11 events 1<sup>st</sup> Quarter 2017
- 57 events 2<sup>nd</sup> Quarter 2017
- 23 events 3<sup>rd</sup> Quarter 2017
- 121 events 4<sup>th</sup> Quarter 2017
- 73 events 1<sup>st</sup> Quarter 2018
- 12 events 2<sup>nd</sup> Quarter 2018
- 12 events 3<sup>rd</sup> Quarter 2018
- 16 events 4<sup>th</sup> Quarter 2018

Correspondingly, the 2018 fourth quarter volume of these events without required 1:1 supervision was reported as 0 events:

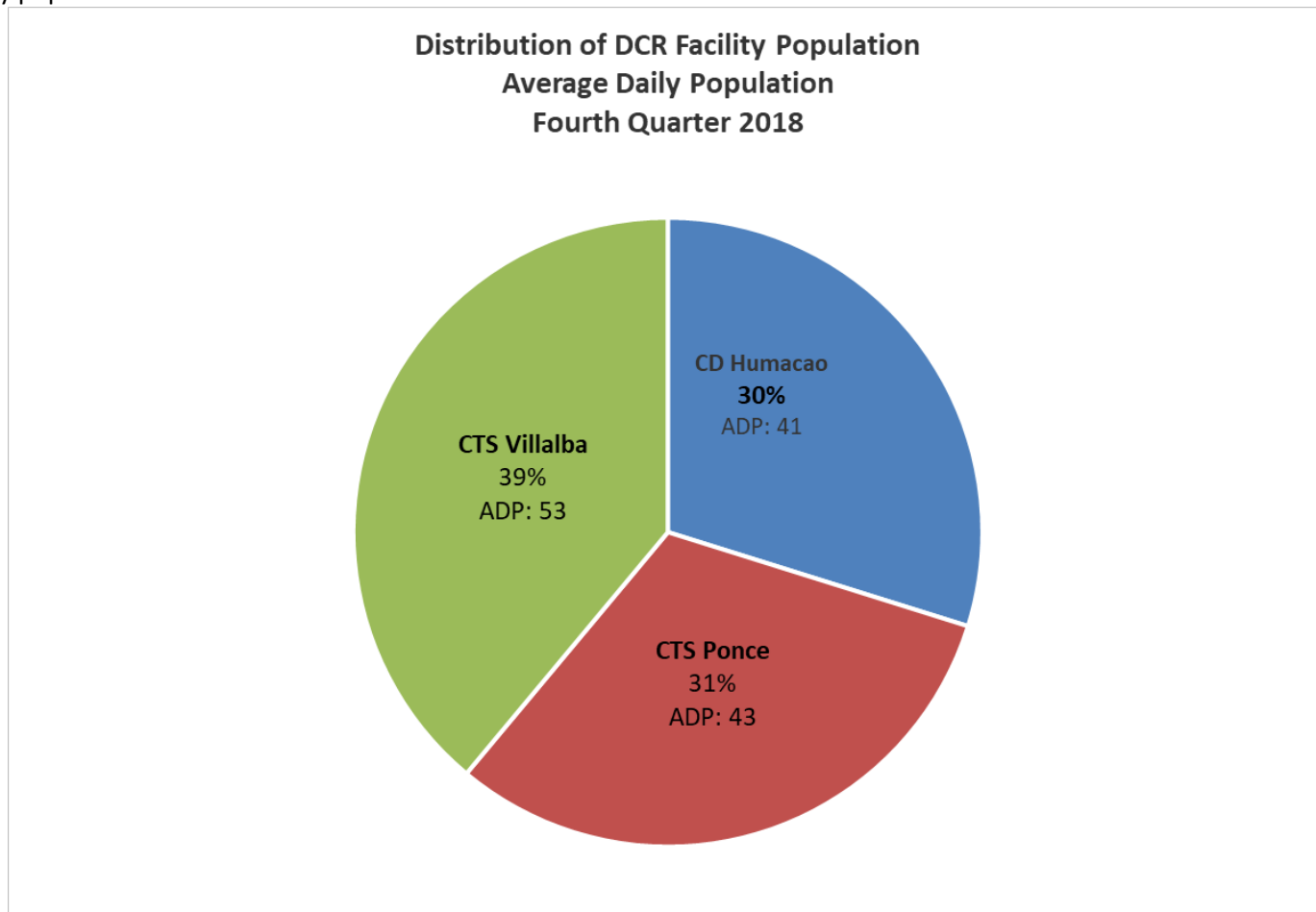
- 0 events 1<sup>st</sup> Quarter 2017
- 0 events 2<sup>nd</sup> Quarter 2017
- 0 events 3<sup>rd</sup> Quarter 2017
- 0 events 4<sup>th</sup> Quarter 2017
- 0 events 1<sup>st</sup> Quarter 2018
- 0 events 2<sup>nd</sup> Quarter 2018
- 0 events 3<sup>rd</sup> Quarter 2018
- 0 events 4<sup>th</sup> Quarter 2018



**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 weeks in the reporting period.

The table below displays each facility's average daily population for the reporting period (September 30, 2018 through December 29, 2018), 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 the last page of this report.

**Staffing and Injuries to Youth:**

During the fourth quarter, one event occurred, one on January 1 at CD Humacao when youth was injured when the module or programming area was not staffed in compliance with the staff youth ratios. The first incident on January 1, involved one youth assaulting another youth in the module living area. Although two officers were assigned to the module with a youth population of ten, one officer was out of the module at the time of the assault.

As stated in previous quarterly reports, this incident event is very concerning, but it cannot be stated unequivocally that the presence of the second officer minimally required by the volume of youth could or would have prevented the assaults nor did the absence of the second officer cause the assault. Assaults of both a serious and less serious nature occur with compliant ratios of staff to youth. Officers engaged in active behavior management and awareness of behavioral indicators of potential assault increases the probability of keeping youth safe.

**Policy and Quality Assurance Documentation Requirements for Compliance:**

DCR and NIJ successfully implemented agency staffing policy to procedurally require staffing assignment and documentation to prioritize operational compliance with the minimum required staff youth ratios. At the Functional Team Meeting held on August 22, 2018, members of the Operational Functional Team indicated that a policy had received agency approval and the Secretary's signature. The Monitor's Consultant, at the time of the meeting, and afterwards by email, asked for a copy of the final approved staffing policy.

On November 16, 2018, NIJ provided to the Monitor's Consultant a final, Secretary signed and approved Policy 9.20, *"Handling and Distribution of Youth Service Officers Roster"*. This policy will be referred to as the Staffing Policy in the balance of this report. Over the course of the last three years the Monitor's Consultant has reviewed and provided commentary and recommendations on draft versions of the Staffing Policy a minimum of seven separate occasions. The Monitor's Consultant commentary and recommendations not only focused on assuring the policy and procedures met the minimum required staff youth ratio as required by S.A. 48, but the required source agency, facility and shift documentation to facilitate both NIJ and Monitor's Office capacity to assess policy and procedural compliance, corrective action and quality assurance. It is the belief of the Monitor's Consultant that the DCR Policy 9.20 provides for these critical components.

Prior to Staff Policy implementation on September 16, 2018, NIJ conducted Policy 9.20 training for a total of 49 staff from the three facilities. NIJ has provided the Monitor's Consultant with a copy of the PowerPoint presentation of the Policy 9.20 training sessions, as well as training session sign in sheets, that was conducted on August 29 and 30, 2018. A review of the PowerPoint presentation reflects that the training session provided a detailed review of the policy, procedures, documentation and supervisory staff responsibilities for implementation and policy compliance. There was no pretest nor posttest for the three training sessions.

**Monitor's Consultant Review of Staff Policy and Procedural Compliance:**

For DCR, as well as the Monitor's Office, to effectively assess policy procedural compliance, minimum required staff youth ratio performance metrics, and quality assurance processes the DCR Staffing Policy identifies that retrievable staff youth ratio documentation be maintained at each facility. The documentation consists minimally of the following:

- Daily youth population list that identifies which youth are in which modules, designation of any youth on Protective Custody, Transitional Measures, Therapeutic Observation or Constant Watch. Additionally, daily trips and youth assigned to those trips are documented on the daily population list.
- The facility staff roster, displaying which staff has been assigned to which modules. It is critical that the form allows for clear documentation of officers assigned to each module as well as mini control. This form should be uniform between all three facilities. Unfortunately, the Monitor's Consultant did not have the opportunity to review this form prior to policy implementation.
- To review staff and youth population materials in an efficient manner, it has been requested that staffing binders be put in place at each facility that allows for a review of daily staffing practices, which will allow for both DCR and Monitor's Office analysis of policy and procedural compliance.

During the August site visits, the Monitor's Consultant demonstrated proposed quality assurance sampling of staffing documentation to facility compliance officers, identifying strengths and weaknesses in existing facility practices. This process was shared with members of the Operational Functional Team at the Functional Team meeting on August 22, 2018.

During facility site visits on December 4 and 5, 2018, the Monitor's Consultant reviewed facility documentation for Staff Policy procedural compliance and minimum required staff youth ratio youth quality assurance compliance analysis. The design of the Monitor's Consultant Staff Policy Compliance and Performance Reviews consists of a comparative analysis of weekly submitted Staff Youth Ratio workbook documentation with the Master Roster, the daily roster and mini-control logs.

The Master Roster is an agency generated staffing roster, identifying posts, fixed posts, fixed posts identified by need, movable posts and relief personnel. Supervisor IV's are required to develop a facility shift daily roster from the Master Roster, adjusting as required for housing module youth populations, approved leave status, call offs, training, trips and special needs. The Master Roster designates one fixed post for each housing modules and additional fix posts identified by

need, predicated on the housing module youth population and youth on special status (protective custody, transitional measure, constant supervision, etc.). Mini-control logs are used to provide supplemental documentation of staff housing module assignments and staff and youth movement.

Although DCR consistently provides weekly staff youth ratio forms, as of the Staffing Consultant site visits of December 4 and 5, 2018, based on the Staff Compliance Reviews, the following findings have been made:

- NIJ had not been able to implement the quality assurance facility staffing documentation requests uniformly at all three facilities. The absence of agency wide uniform staffing source documentation significantly limits the volume of quality assurance validation sampling of facility daily youth population housing assignments, master roster, daily roster and mini-control logs that can be reviewed in the time available during a site visit.
- Form DCR -NIJ -0144 has not been consistently implemented at each facility. Form DCR -NIJ -0144 documents posts that are compliant and non-compliant with the requirements of Policy 9.20.
  - DCR -NIJ -0144 is a NIJ form to assess the procedural compliance to Policy 9.20. It is to be completed for each facility, for each day, for each shift by the Supervisor IV or III. It specifically requires for the Supervisor IV or III to document compliance with the minimum required staff youth ratio for each housing module.
  - The DCR -NIJ -0144 form was not previewed by the Monitor's Consultant prior to Staffing Policy implementation. The Monitor's Consultant believes this form should be revised to allow for documentation of the volume of housing modules that do not meet the minimum required staff youth ratio for each shift. At this time, the existing form only allows for a check mark to indicate whether the required staff youth ratio was met. The Monitor's Consultant will provide a revised DCR -NIJ -0144 for implementation.
- Each facility needs to use the daily roster template that has the row for documenting the EST 48- 1x8 directly under each module.
- The Monitor's Consultant reviewed his Staff Policy Compliance and Performance Reviews with facility Compliance Officers and shared the findings with the members of the Operational Functional Team on December 5, 2018.

The Monitor's Consultant Staff Policy Compliance and Performance Reviews assessment for accuracy, reliability and comprehensive reporting required by the DCR Staff Policy is the primary quality assurance process to determine compliance of S.A. 48a.

In conjunction with analysis of NIJ performance in meeting the minimum required staff youth ratios, with the authorization of DCR Policy 9.20, NIJ's procedural compliance and quality assurance performance will be the associated critical performance criteria for meeting the requirements of S.A. 48a. For the 2018 fourth quarter, S.A. 48a is found to be in partial compliance.

**January 2009 Stipulation Paragraph 5:** DCR provided at the October, November and December staffing report required by the stipulation. On December 26, 2018 NIJ provided the November report followed by the December report received on January 11, 2019.

The Monitor's Consultant has identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. On numerous occasions at various Functional Team meetings and email requests, the Monitor's Consultant has asked for an electronic copy of each facility forty-two day Master Roster to assess the accuracy and reliability of the Master Roster relative to the data provided in the January 2009 Stipulation Paragraph 5 reports. As of the production of the fourth quarterly report, DCR has not provided the Monitor's Consultant with electronic versions of each facility's Master Roster for this quarter. Consequently, the Monitor's Consultant cannot attest to the accuracy and reliability of the numbers provided in the DCR January 2009 Stipulation Paragraph 5 report. For the 2018 fourth quarter, January 2009 Stipulation Paragraph 5 is found to be in partial compliance.

It should be noted that the government of Puerto Rico initiated an incentivized voluntary resignation program for government employees during November and December 2018. In light of the impact that the voluntary resignation program has to NIJ capacity to meet the minimum required staff youth ratio of S.A. 48a, the Monitor's Consultant asked

that NIJ include the number of staff by classification that participated in the program and include that information in the monthly January 2009 Stipulation Paragraph 5 report. NIJ has provided that information for November and December.

The table below summarizes the October, November and December 2018 January 2009 Stipulation Paragraph 5 reports:

Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	Available Staff Removing Inactives	Voluntary Resignation Program	New Hires
Oct-18	410	34	23	6	473	41	432	NA	0
Nov-18	381	28	22	6	437	38	399	31	0
Dec-18	371	28	21	6	426	46	380	11	0

**Facility Closure of CD Humacao:** On December 5, 2018 the Monitor and members of her team participated in a conference call at which time the rumors of the pending closure of CD Humacao were confirmed. The initiation of the Humacao closure commenced with the transfer of the Sumaridos population to CTS Ponce on December 16, 2018.

Prior to the confirmation of the CD Humacao closure, the Monitor's Consultant shared with NIJ his reservations and concerns about the planned closure of CD Humacao, especially in the absence of a comprehensive transition plan. As witnessed with previous facility closures and staff and youth population reassignment, there is a period of instability and storming as the facilities adjust to the housing assignments, new classification configurations and staff and youth composition. Housing modules with youth populations between twelve and fifteen youth will consistently require a minimum of two staff for both the first and second shifts. With the influx of recent and anticipated staff voluntary resignations, fiscal restraints on overtime for double shifting, the projection of meeting minimum requirements for staff youth ratios seems very challenging. Additionally, meeting the minimum staff youth ratio of two staff for a housing module of a large youth population may not be adequate to assure youth safety.

In light of the geographic distance and residency of CD Humacao staff, the proposed closure of CD Humacao cannot be expected to provide an infusion of direct care staff to CTS Ponce and CTS Villalba. As in previous closures, the reassignment of staff from the closed facility to the open facilities is a process that is not assured as to whether staff will accept the assignments. At the same time the two facilities require an influx of direct care staff and professional staff to meet the staffing, programming and service requirements of the Settlement Agreement.

The reconfiguration of youth populations will initiate new dynamics in the facilities and housing modules. Managing youth "leaders" and maintaining safe and secure environments will require strong and persistent staff leadership and a level of direct care staff active behavior management skills and practice that does not consistently exist at this time in NIJ facilities. Consequently, not only a facility closure, but the staff training, skill development and programming development to manage a reduced but significantly more challenging youth population would be a crucial component for successful implementation.

Based on what the Monitor is aware of in regard to classification, youth population, special populations, protection from harm and facility operations, there is a significant risk to youth safety with a facility closure at this time and with the apparent absence of preparation and planning.

As of the 2018 fourth quarter, the Monitor and Monitor's Consultant are concerned that being in substantial compliance with the minimum staff youth ratios, in and of itself, is not sufficient to assure youth safety at this time.

**Humacao Staff Youth Ratio Analysis:**

September 30 through December 29, 2018

Detention Facility: During the 2018 fourth quarter CD Humacao is designated as a detention facility and also maintained a Sumariados population. On December 16, 2018, nine Sumariados were transferred from CD Humacao to CTS Ponce.

- 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: 1568
- Volume of Staffing Events with Staff Working a Double Shift: 346 (22%)

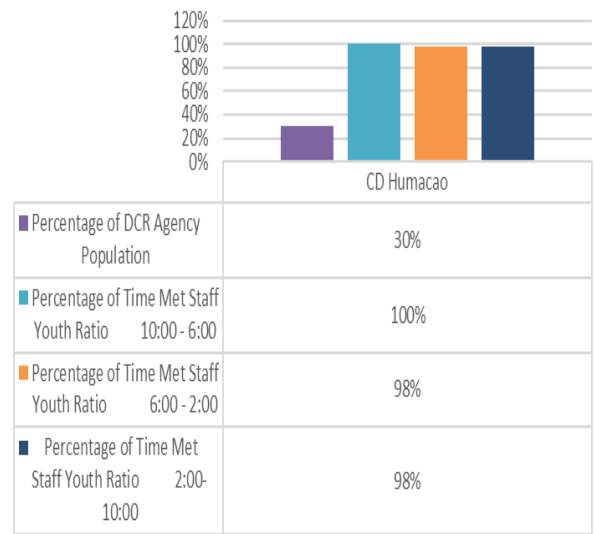
The fourth quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00 am: maintained 100% minimum required staff youth ratio
- 6:00 am – 2:00 pm: 98%, a 2% decrease since the third quarter reporting period
- 2:00 pm – 10:00 pm: 8%, a 1.9% decrease since the third quarter reporting period
- CTS Humacao represents 30% of the DCR institutional population.
- A facility site visit was conducted on 12/5/2018. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 91**

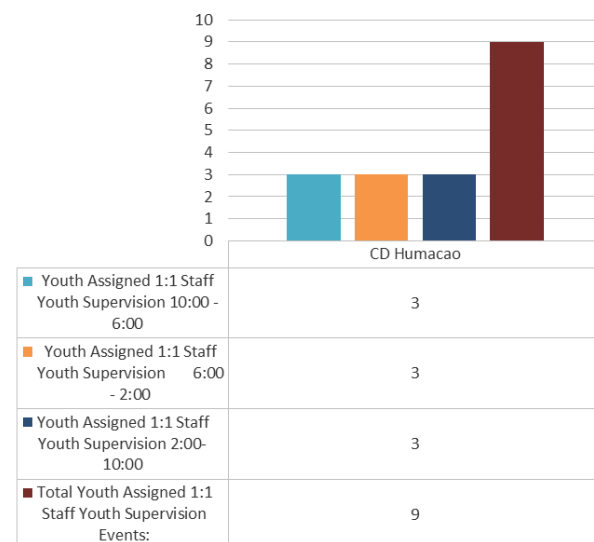
Staff Youth Ratio Performance by Shift:



3 youth supervision events for the fourth quarter of 2018

Volume of 1:1 events without required staffing during reporting period: 0

**Supervision Events: 1:1**



**CTS Ponce Staff Youth Ratio Analysis:**

September 30 through December 29, 2018

Treatment Level 2 and 3 and two PUERTAS housing modules. On December 16, 2018, nine Sumariados were transferred from CD Humacao to CTS Ponce.

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: 2034
- Volume of Staffing Events with Staff Working a Double Shift: 261 (13%)

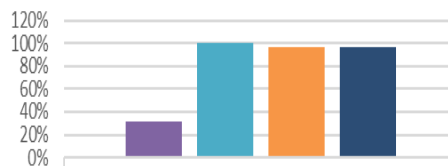
The fourth quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00 pm- 6:00 am: 100%, maintained 100% minimum required staff youth ratio
- 6:00 am – 2:00 pm: 96%, a 4% decrease since third quarter reporting
- 2:00 pm – 10:00 pm: 96 %, a 4% decrease since third quarter reporting
- CTS Ponce represents 31% of the DCR institutional population.
- The PUERTAS module met the staff youth ratio 100% of the fourth quarter shifts.
- A facility site visit was conducted on 12/4/2018. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 91**

Staff Youth Ratio Performance by Shift:



CTS Ponce	
Percentage of DCR Agency Population	31%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	96%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	96%

0 youth 1:1 supervision events for the fourth quarter of 2018

Volume of 1:1 events without required staffing during reporting period: 0

**Supervision Events: 1:1**



CTS Ponce	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	0
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	0
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	0
Total Youth Assigned 1:1 Staff Youth Supervision Events	0



**CTS Villalba Staff Youth Ratio Analysis:**

September 30 through December 29, 2018

Treatment Level 4 and 5 Facility:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

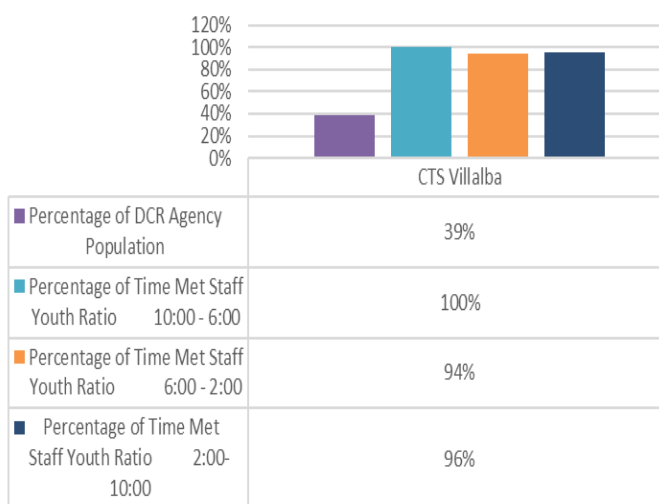
- Volume of Staff Youth Ratio Events: 1686
- Volume of Staffing Events with Staff Working a Double Shift: 319 (19%)

The fourth quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% minimum required staff youth ratio
- 6:00 am – 2:00 pm: 94%, a 5.6% decrease since third quarter reporting
- 2:00 pm – 10:00 pm: 96%, a 3.8% decrease from the third quarter reporting
- CTS Villalba represents 39% of the DCR institutional population.
- A facility site visit was conducted on 12/4/2018. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.

**Volume of Weeks Analyzed: 13****Volume of Days Analyzed: 91**

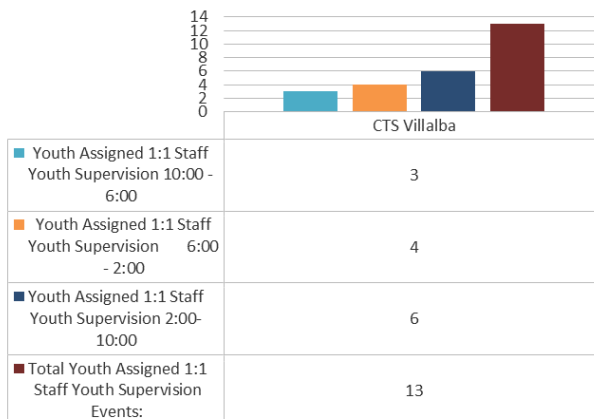
Staff Youth Ratio Performance by Shift:



13 youth 1:1 supervision events for the fourth quarter of 2018

Volume of 1:1 events without required staffing during reporting period: 0

Supervision Events: 1:1





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

<u>Date</u>	<u>CD Humacao</u>	<u>CTS Ponce</u>	<u>CTS Villalba</u>
September 30 -October 6, 2018	10/19/2018	10/19/2018	10/19/2018
October 7 - 13, 2018	10/19/2018	10/19/2018	10/19/2018
October 14 - 20, 2018	11/5/2018	11/5/2018	11/5/2018
October 21 - 27, 2018	11/16/2018	11/5/2018	11/5/2018
October 28 - November 3, 2018	11/16/2018	11/16/2018	11/16/2018
November 4 - 10, 2018	11/16/2018	11/30/2018	11/16/2018
November 11 - 17, 2018	11/30/2018	11/30/2018	11/30/2018
November 18 - 24, 2018	11/30/2018	11/30/2018	11/30/2018
November 25 - December 1, 2018	12/17/2018	12/17/2018	12/17/2018
December 2 - 8, 2018	12/17/2018	12/21/2018	12/28/2018
December 9 - 15, 2018	12/21/2018	12/28/2018	12/21/2018
December 16 - 22, 2018	1/8/2019	12/28/2018	12/28/2018
December 23 - 29, 2018	1/4/2019	1/10/2019	1/4/2019
	13	13	13
<b>Volume of Forms Submitted</b>	100.00%	100.00%	100.00%

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

<u>Dates of Reporting Period</u>	<u>CD Humacao</u>	<u>CTS Ponce</u>	<u>CTS Villalba</u>	<u>Totals</u>
September 30 -October 6, 2018	45	49	56	150
October 7 - 13, 2018	43	46	55	144
October 14 - 20, 2018	39	43	55	137
October 21 - 27, 2018	42	45	53	140
October 28 - November 3, 2018	41	44	53	138
November 4 - 10, 2018	42	39	53	134
November 11 - 17, 2018	46	40	53	139
November 18 - 24, 2018	45	38	54	137
November 25 - December 1, 2018	45	38	54	137
December 2 - 8, 2018	42	40	53	135
December 9 - 15, 2018	43	40	51	134
December 16 - 22, 2018	32	47	49	128
December 23 - 29, 2018	26	47	54	127
<b>Totals</b>	<b>531</b>	<b>556</b>	<b>693</b>	<b>1780</b>
<b>Percentage of All Agency Population</b>	<b>30%</b>	<b>31%</b>	<b>39%</b>	<b>100%</b>
<b>Average Daily Population</b>	<b>41</b>	<b>43</b>	<b>53</b>	<b>137</b>

## Appendix C:

## Fourth Quarter 2018 Protective Custody and Transitional Measure Record Review:

Facility	Fourth Quarter Events Protective Custody	Fourth Quarter Events Transitional Measures	Record Reviews During Fourth Quarter Site Visit
CD Humacao	3	2	2 PC and 1 TM
CTS Ponce	2	1	1 PC and 2 TM
CTS Villalba	1	8	1 PC and 5 TM
<b>Fourth Quarter 2018 Totals</b>	<b>6</b>	<b>11</b>	<b>4 PC and 8 TM</b>

## CTS Ponce:

Date of Review	12/04/18	12/04/18	12/04/18
Facility:	CTS Ponce	CTS Ponce	CTS Ponce
Initials of Youth:	CDV	CDV	AMT
Isolation Status:	Transitional Measures	Protective Custody	Transitional Measures
Starting Date of Status:	10/29/18	11/15/18	08/27/18
Ending Date of Status:	11/15/18	Not Ended as of Date of Review	09/05/18
Total Days of Status:	18	NA	10

## CTS Villalba:

Date of Review	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18
Facility:	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba
Initials of Youth:	DPG	DPG	DPG	AML	AML	JGM
Isolation Status:	Transitional Measures	Transitional Measures	Protective Custody	Transitional Measures	Transitional Measures	Transitional Measures
Starting Date of Status:	09/18/18	09/27/18	10/03/18	10/02/18	11/18/18	11/07/18
Ending Date of Status:	09/26/18	10/03/18	Not Ended as of Date of Review	10/10/18	11/28/18	Not Ended as of Date of Review
Total Days of Status:	9	7	NA	9	11	NA

## CD Humacao:

Date of Review	12/05/18	12/05/18	12/05/18
Facility:	CD Humacao	CD Humacao	CD Humacao
Initials of Youth:	DXGR	ADRC	KAO
Isolation Status:	Protective Custody	Transitional Measures	Protective Custody
Starting Date of Status:	06/18/18	10/10/18	12/03/18
Ending Date of Status:	10/22/18	10/25/18	12/04/18
Total Days of Status:	127	16	2

**S.A. 79 Protection and Isolation Record Assessment:** Eight transitional measure events and four Protective Custody events were assessed for the S.A. 79 protection and isolation criteria.

Date of Review	12/05/18	12/05/18	12/05/18	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18	12/04/18				
Facility:	CD Humacao	CD Humacao	CD Humacao	CTS Ponce	CTS Ponce	CTS Ponce	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba				
Initials of Youth:	DXGR	ADRC	KAQ	CDV	CDV	AMT	DPG	DPG	DPG	AML	AML	JGM				
Isolation Status:	Protective Custody	Transitional Measures	Protective Custody	Transitional Measures	Protective Custody	Transitional Measures	Transitional Measures	Transitional Measures	Protective Custody	Transitional Measures	Transitional Measures	Transitional Measures				
Starting Date of Status:	06/18/18	10/10/18	12/03/18	10/29/18	11/15/18	08/27/18	09/18/18	09/27/18	10/03/18	10/02/18	11/18/18	11/07/18				
Ending Date of Status:	10/22/18	10/25/18	12/04/18	11/15/18	Not Ended as of Date of Review	09/05/18	09/26/18	10/03/18	Not Ended as of Date of Review	10/10/18	11/28/18	Not Ended as of Date of Review				
Total Days of Status:	127	16	2	18	NA	10	9	7	NA	9	11	NA	Table Scoring Summary			
SA 79 Components													No	Yes	Yes/Limited	NA
Was youth placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others?	Yes	No	No	No	No	No	No	No	No	No	No	No	11	1	0	0
Were other less restrictive methods of restraint tried and failed?	NA	No	No	No	Yes	No	No	No	Yes	No	No	No	9	2	0	0
Was the isolation cells suicide resistant ?	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
Did the facility director or acting facility director approve the placement ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
Was youth afforded living conditions approximating those available to the general juvenile population ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
Was youth visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
Was juvenile seen by a masters level social worker within three (3) hours of being placed in isolation?	No	No	Yes	No	No	No	No	No	No	No	No	No	11	1	0	0
Was juvenile seen by a psychologist within eight (8) hours of being placed in isolation?	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
Was juvenile seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of	No	No	Yes	No	No	No	No	No	No	No	No	No	11	1	0	0
Was youth seen by his/her case manager as soon as possible ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
Was youth seen by his/her case manager at least once every twenty-four (24) hours thereafter?	No	No	Yes	No	No	No	No	No	No	No	No	No	11	1	0	0
Was the juvenile released from isolation as soon as the juvenile no longer poses a serious and immediate	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
Is there a log (or other documentation) kept which contains:																
daily entries on each juvenile in isolation,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
the date and time of placement in isolation,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
who authorized the isolation,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
the name of the person(s) visiting the juvenile,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
the frequency of the checks by all staff,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
the juvenile's behavior at the time of the check,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
the person authorizing the release from isolation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
the time and date of the release	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	12	0	0
Are the following revoked or limited?																
safety	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
crowding	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
health	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
hygiene	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
food	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0
education	NA	Yes/ Limited	NA	NA	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	0	0	9	2
recreation	Yes/ Limited	Yes/ Limited	NA	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	0	0	11	1
access to courts	No	No	No	No	No	No	No	No	No	No	No	No	12	0	0	0