

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

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Third Quarter Report for 2010. The report covers the months of July, August, and September 2010. This report consists of an introductory statement by the Monitor, along with the compliance ratings tables and special reports by the Monitor's consultants.

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

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

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

Certificate of Service

I HEREBY CERTIFY that this 15th day of November, 2010, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor

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

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Monitor's Quarterly Report Third Quarter, 2010

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

The following is the Monitor's Third Quarter Report for 2010. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision. The narrative supplements the tables, describing recent events and accomplishments, reviews the results of some of the on-site monitoring tours, and examining particular compliance problems and pending issues. The narrative section does not comment on every category of provisions in every quarterly report.

A.	PLRA Motion	3
B.	Overview of Compliance	4
C.	Teacher Vacancies	4
D.	Status of the Reorganization	6
E.	Youth Service Officer Staffing	7
F.	The Closing of Salinas Detention Center	8
G.	Informal Implementation of Security Measures	8
H.	Education for Students in Protective Custody	10
I.	Status of the proposed modification of the use of force provision	10
J.	Employment of Monitor's Consultants in a Commonwealth Project	11

Document Attachment A:	Consultant Robert Dugan Report on Staffing Compliance
Document Attachment B:	Report on Incidents and Understaffing
Document Attachment C:	Abuse Referrals Tracking Report
Document Attachment D:	Abuse Referral Case Assessment Report
Document Attachment E:	Chronology of Site Visits

Separate Attachment One:	Table of Compliance Ratings
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A. PLRA Motion and the Monitor's Special Report

On May 5, 2010 the Commonwealth filed a motion, pursuant to the Prison Litigation Reform Act, to terminate five provisions of the Settlement agreement:

S.A. 49	Initial Training for Direct Care Staff
S.A. 70	AIMS Testing for Youth Taking Psychotropic Medications
S.A. 88	Initial Educational Disability Evaluations
S.A. 89	Forwarding Disability Evaluations Upon Discharge
S.A. 92	Participation in Development of Individual Education Plans

The Monitor filed the PLRA Report on July 6, 2010. (Dkt. 917)

B. Overview of Compliance

The following table summarizes the ratings in the compliance ratings table in the Appendix of this report. The provisions covered in the current PLRA motion are not included in this table.

<i>Settlement Category</i>	<i>Number of Provisions</i>	<i>Compliant Provisions</i>	<i>Procedure Problem</i>	<i>Staffing Problem</i>	<i>Resource Problem</i>
Facilities	10	1	1	1	6
Policies and procedures	1	0	1	0	0
Staffing	6	1	5	4	4
Training	1	1	0	1	1
Classification	1	0	1	0	0
Mental Health	12	0	7	10	5
Discipline	4	0	1	1	0
Abuse Management	11	0	5	5	3
Protection and Isolation	2	0	#	#	#
Education	8	0	0	7	7

The table suggests that, in the opinion of the Monitor's consultants, key problems in making progress toward compliance involve procedures, staffing and resources. Of the 54 provisions and provision components rated in the compliance rating table associated with this narrative, 29 are deficient, in part, because staffing is insufficient in the opinion of the Monitor's consultant. In many other provisions, the determination of the sufficiency of staffing awaits the completion of a policy and/or procedure which would be the basis for an assessment of whether staffing is sufficient to achieve compliance.

Provisions 33, 75 and 76 have been rated to be in apparent compliance. The Monitor recommends that if the level apparent compliance persists for several quarters that a Compliance Memorandum be developed by the Monitor's Office as a basis for consideration of termination by the parties. The Monitor encourages the development of a Compliance Memorandum in advance of filing of a termination motion by the Commonwealth.

C. Teacher Vacancies

On October 26th, Monitor's consultant Peter Leone sent a memorandum to the Monitor, with copies to the parties, presenting his view that education programs in AIJ facilities in the Commonwealth have reached a crisis stage. He made the following observations in support of his statement:

- All AIJ facilities began the school year in August without a sufficient number of teachers. This has been an on-going problem which has been exacerbated by the failure of AIJ and the Department of Education to work cooperatively to provide teachers in juvenile facilities with the same continuing contracts as teachers in the public schools in the Commonwealth. This is an issue which we have brought to the attention of AIJ administrators and attorneys on several occasions during the past few years.

- At the end of September of this year – two months into the school year - documentation provided by the Commonwealth showed that teacher shortages remained at Bayamon CTS, Bayamon CD, Ponce Ninas CTS, Villalba CTS, Guyama CTS, Humacao, CTS, and at Creando. At Guyama the problems have been particularly severe. At that facility, one of the largest, there were four teaching vacancies during a visit by the monitor's consultants in early October 2010.
- At Bayamon, another site with staffing problems, the abbreviated school day according to students and staff is about three hours long. This fall, AIJ administrators – not the director of education – have produced three updates on the staffing vacancies at the AIJ facilities. The most recent, dated 25 of October shows 10 teaching positions as “pendiente” or pending, a status of many of many these positions one month ago.
- On October 6 in San Juan, we met with administrators and staff from the Department of Education and AIJ to discuss some of the problems with education services in AIJ facilities. Present at the meeting were Maria del Carmen Torres, Adalberto Santa, Sonia Rios Russi, Magda Carrion Ruiz, Carmen M. Pereles Centeno, Maria Feliciano, and Odalys M. Velazquez Pina. Among other things, the group discussed special education referrals and whether Department of Education staff could refer students suspected of having special education needs. Some believed that students' lack of a special education registration number was a barrier to these referrals. We also discussed continuing contracts for teachers in AIJ and whether students in Puerto Rico could, upon turning 16, assume parental rights under IDEA and make their own decisions about their education program. Some at the meeting believed that unlike other jurisdictions, youth in the Commonwealth were not entitled to these rights when reaching the age of majority. We left the meeting wondering if anything was going to change.
- Discussions with AIJ staff revealed that staffing decisions within AIJ are not being made by the acting director of education for AIJ but rather directly through the office of the director of AIJ. The lack of sufficient number of teachers at the start of the school year occurs not because AIJ has been unable to recruit and hire teachers, but rather due to deliberate indifference to the educational needs of incarcerated youth. Unlike nearly all other teachers in the Commonwealth, those working in AIJ facilities do not have permanent appointments; they have year-to-year contracts. Consequently, AIJ has a very high rate of turnover. Many good teachers leave the system for permanent teaching jobs in the public schools and to ensure that they have health care coverage and other benefits during the summer.

When children fail to receive education services to which they are entitled under the federal and Commonwealth laws and regulations and the terms of the Settlement Agreement, they do not bleed. There are no incident reports filed and there are no investigations. Rather, youth learn that their schooling does not matter to the adults who are directed by the Courts to care for them while they are incarcerated. Further, these children many of whom have substantial academic skill deficits and educational disabilities, begin to disassociate from the idea that they are competent and capable. Upon release, students whose educational needs are neglected are no better prepared to return to school, enter post-secondary education, or enter the workforce than when they were incarcerated.

During the past 25 years, I (Peter Leone) have worked as a monitor, expert, investigator, researcher and program developer in juvenile and adult corrections in more than 20 states. I have never been more frustrated at the inability of the parties to a settlement agreement to ensure that youth receive appropriate services. Each of us needs to ask ourselves how we would respond to this crisis in education if our son or daughter were incarcerated. Would we tolerate an education program that perennially began the school year without sufficient number of teachers? How would we respond if our child had special education needs and we had questions about appropriate services? Who would we talk to when we learned that there had been no special education director in AIJ for several years and some of the most veteran teachers and special educators had two or three years experience?

The Monitor shares Peter Leone's concerns and invites the parties to consider the steps that should be taken to rectify this situation.

D. Status of the Reorganization

A Task Force of the Governor has proposed a reorganization of criminal justice agencies which has been filed as a bill in the legislature. As would be true for any legislation, the prospects for passage are uncertain. The bill eliminates the Juvenile Services Administration as a distinct agency, so that youth committed for institutional services are committed to the Department of Corrections and Rehabilitation.

Separate accountability for youth services within the department, and therefore for compliance with the provisions of the Settlement Agreement, would be possible at the discretion of the Secretary, but would not exist as a matter of law.

E. Youth Service Officer Staffing

The following table presents the numbers of Youth Service Officers (YSOs) at various points in time since November 2007, six months after the 2007 PLRA motion was resolved.

Facility YSO Count	Nov-07	Apr-09	Jun-09	Nov-09	Mar-10	Jun-10	10-Oct
CD Salinas	100	96	93	93	100	97	
CD Bayamon		122	122	116	129	113	104
CTS Bayamon		41	45	62	67	85	106
CTS Guayama	100	94	94	91	86	93	159
Guaynabo Complex	114	0	0				
CTS Villalba	132	133	132	155	163	166	169
CTS Ponce Boys	116	100	101				
CTS Ponce Girls	146	116	131	180	149	154	173
CTS Humacao	117	123	122	120	145	160	160
Mayaguez	40	34	4	9	1	6	7
Camp Santiago (Creando)					9	10	23
Programa Vedado							8
Central Administration and Medical	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>4</u>	<u>6</u>
Total	868	862	847	829	852	888	915
Total Excl. Ponce Girls and Central	719	743	713	646	700	730	736
Inactive Positions (excl Ponce Girls & Ctrl)		-109	-93	-84		-118	-107
Active Positions (excl Ponce Girls & Ctrl)		634	620	562		612	629

As of the end of October 2010, of the 915 positions depicted as the total number of YSOs employed by AIJ,¹ 107 are presently on inactive status – not reporting for work at any AIJ facility. With respect to the facilities subject to the staffing provision, since November 2009 the number of YSOs employed has increased from 646 to 736.

The following is a summary of the hiring of new YSOs, and associated training academy classes, and placements of staff at facilities:

- First Academy: 44 YSOs, 12 Humacao, 17 CD Bayamon, 15 CTS Bayamon
- Second Academy: 53 YSOs, 24 CTS Humacao, 22 CTS Bayamon, 1 CD Bayamon, 1 Salinas
- Third Academy: 38 YSO, 17 CTS Humacao, 21 CTS Bayamon
- The fourth Academy is tentatively scheduled to begin in August and is now scheduled to begin on November 29, 2010.

The Monitor makes the following findings with respect to the obligation to “ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.”

¹ The legal position of the Commonwealth is that the program at Camp Santiago is not subject to the Settlement Agreement. They asked that the reporting of the number of positions at Camp Santiago be accompanied by a statement of their legal position.

- Over the course of the three quarters of 2010, there has been a remarkable reduction in the volume of youth designated for 1:1 supervision (3171 1st Quarter 2010; 2577 2nd Quarter 2010; 1662 3rd Quarter 2010).
- During the Third Quarter 2010 reporting period, AIJ documented a total of 1662 events that required 1:1 staff to youth supervision. Of the 1662 1:1 events, 26 of the events (0.02%) were not supervised with the required 1:1 staff youth ratio. This is a significant improvement from the Second Quarter of 2010 when 11.2% of 1:1 supervision events were not supervised with the required 1:1 staff youth ratio:
- Since early January 2008 there has been no system in place for review of reports of suicide or self-mutilation gestures or attempts. The Commonwealth had selected and hired a new lead psychologist, but recently she resigned and a new lead psychologist has been appointed.

F. Closing of Salinas Detention Center

During September 2010, the Salinas Detention Center was closed. The Monitor views this as a positive development because it enables the reassignment of personnel to other facilities, and it centralizes most services for detained youth.

G. Informal Implementation of Security Measures

For at least two years Monitor's Consultant David Bogard has been raising the issue of juveniles being confined to their rooms for all or part of each day as "security measures." This informal process and status (not addressed anywhere in AIJ policies or procedures) has spread from facility to facility. Youths in this status generally fall into three groups, and they frequently overlap:

- youth who voluntarily request to remain in their room months or weeks before scheduled releases in order to not "get in trouble" and have their release status jeopardized.
- youth who just seem to get in trouble wherever they are placed in a facility.
- youth who have attempted to control living units but have been rebuffed by the existing power structure and have now lost face and face the possibility of retaliation due to their unsuccessful attempts to gain power and control.

Bogard has interviewed many of these youth over the past two years at all facilities and heard these three scenarios repeatedly. For example, at Villalba the following interviews of youth identified as security measures occurred in July:

- Visited Living Unit B-2 to interview youth MQ. This youth reported that he did not wish to be engaged in the living unit with other youth. We noted that while a logbook for youth on Protective Custody is being maintained, there is no logbook or specific individual log for youth on security measures.
- Visited Living Unit A to interview FG. This youth reported (via translation) that he receives recreation, a math workshop and said he expects to leave the facility in a week

or so. His security measures status was self imposed because he doesn't want to have his release date delayed for behavioral reasons.

During the July 2010 site visits, we found that only Humacao is using a form specifically for documenting 15 minutes checks on all youth assigned to a status of "Security Measures".

In addition to interviewing the youths, we've spoken with social workers, security administrators and officers and others about the issue. We have met with AIJ many times to express concerns about both the underlying issues as well as the fact that there are no policies and procedures guiding the treatment and protection of these youths as they are in an informal category. They have not fallen under the protections afforded youths in protective custody pursuant to AIJ policy and Paragraph 80, nor have they been covered by any other provisions or policies.

For over a year we've been informed that AIJ central office recognizes and acknowledges the underlying concerns that are being manifested by the existence of this informal category, including youths being afraid for a variety of reasons. AIJ officials have repeatedly stated that they do not want this category to exist and will stop it through the use of treatment committees and counseling of youths in this status. Such commitments, however well intentioned, have not materialized and nor have they reduced the incidence of youth being designated as security measures. While the numbers are not substantial (Ponce girls, Villalba and Humacao have the highest numbers), they are nonetheless significant and must be addressed.

In June of this year, Bogard took the position that the *informal* practice needed to terminate and AIJ needed to either (1) eliminate the use of this status (this was deemed to be not possible) or (2) formally recognize this category and document in policy the protections to be afforded these youths and the services they are to receive, or (3) they needed to find another category to fit these youths under that would have a similar effect. Bogard was informed in June that the decision was made to categorize these youth as protective custody; this would necessitate AIJ preparing some new procedures within the protective custody policy to address these youths, including safety checks when they are in their rooms, identifying what services they are to receive and how this will be documented, and what appropriate and necessary measures will be afforded through the treatment committees to try to *avoid* or reduce the duration of such placements. As such, these youths will fall under the protections afforded by paragraph 80 and the monitoring will reflect that.

As of mid-October 2010, Bogard has not been provided copies of these procedures or anything related to training for staff.²

There are still unresolved concerns about the factors that cause youths to receive such placements, although in the best of all worlds there will likely be a small segment of the population that will initiate conflicts and be difficult to properly place. This response, however, should clarify how we view these youths in terms of compliance monitoring and seems to be a pragmatic approach to getting them the services they need and providing for their protection.

² In the review of the draft QR, the Plaintiff commented: "Additionally, we note that simply formalizing this type of self-imposed isolation does not address either a youth's individual treatment needs, nor the broader issue of why youth in AIJ custody do not feel safe on the units."

H. Education Requirements for Students in Protective Custody

Paragraph 80 of the Settlement Agreement requires that: “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.”

The Monitor’s consultants developed a statement that proposes to define how they would assess compliance with this provision. The statement reads as follows: “All students classified as PC (protective custody) shall receive no less than two (2) hours of direct instruction per day from a certified teacher in material comparable to what other students receive in the regular classroom. It shall include instruction in the core academic subjects, mathematics, Spanish, social studies, science, and English, though the relative amount of time spent in each subject is at the discretion of the teacher. For the purposes of compliance, the following will provide adequate documentation: teacher contact log, interviews with students, and review of student class-work files. Special education students will also receive services identified in their PEIs. Teacher providing direct instruction will collaborate with special education teachers to deliver those services.”

The Monitor requests that the parties comment to the Monitor about this proposed approach. The parties are invited to share their views informally or formally with consultants Peter Leone and Victor Herbert.

I. Paragraph 77 Modification

The Monitor’s consultant, David Bogard, has recommended that Paragraph 77 be modified. This provision currently reads as follows:

No corporal punishment shall be imposed on any juvenile. The use of physical force by staff shall be limited to instances of justifiable self-defense, protection of others, and prevention of escapes. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing serious bodily harm to himself or to another, the facility director or his/her designee must approve the use of restraints before they are applied.

The following is a ~~strike~~/add presentation of the changes which the Monitor recommends for consideration by the parties.

~~No corporal punishment shall be imposed on any juvenile. 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 protection of significant property from significant 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 reported to a psychiatrist who shall provide an intervention and treatment plan. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing~~

~~bodily harm to himself or another, the facility director or his/her designee must approve the use of restraints before they are applied.~~

The result is that the provision would read as follows:

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 protection of significant property from significant 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 reported to a psychiatrist who shall provide an intervention and treatment plan.

These changes integrate the provisions relating to force and restraint. They add two justifications that the consultants considers to be customary and reasonable – to maintain or regain control of an area of the facility, including the protection of significant property from significant damage. The provision does not require prior administrative authorization of force or restraint because this is usually impractical at the moment an incident develops. It requires immediate notice to a psychiatrist when force or restraint is used to protect a youth from self, and provides that the psychiatrist develop an intervention and treatment plan.

The Commonwealth submitted the following comment to the Monitor concerning this modification: *“The Commonwealth insists upon the original position that it adopted which was the language which had been suggested by the United States and which language at that time was also accepted by the Monitor’s consultant David Bogard and which language is the adoption of the ACA model language for Paragraph 77.”*

The United States commented that *“the United States remains available and willing to continue discussions regarding a stipulated amendment to the provision.”*

J. Employment of Monitor’s Consultants in a Commonwealth Project

Monitor’s consultants David Bogard and Curtiss Pulitzer are responsible for compliance monitoring and advising concerning operations and facilities. These are two important areas of the case, and in both areas it has been necessary and appropriate that they serve both as compliance monitors, and as advisors to the Commonwealth. Provision 100.D of the Settlement Agreement provides that: “The duties of the Monitor will be to observe, find facts, report and/or testify as to his findings. He will also assist Defendants in any manner, even by conferring informally with Defendants and their subordinates on matters affecting compliance.”

Bogard and Pulitzer have consistently provided extensive advice to the Commonwealth in the formulation of policies, procedures and projects related to compliance. In one instance, when the Commonwealth sought architectural/engineering services proposals for a survey of code compliance, the estimates involved almost \$500,000 of expense. Pulitzer (with the assent of the parties) undertook the project as a Monitor’s Office project, and employed a consultant to complete the project – funded by reserves within the Monitor’s budget - for less than 20% of the estimated amount.

Bogard and Pulitzer had consistently offered clearly documented findings and recommendations concerning compliance. During the course of the case, they have taken positions that are sometimes consistent and sometimes inconsistent with the preferences of one or the other party, and the Monitor's perception is that they, like the other consultants to the Monitor, strive to express their independent professional opinions without favoritism or bias with respect to either party.

Through their firm, they have recently been requested to serve as subcontractors on a proposal for services to a Commonwealth entity – the Puerto Rico Public/Private Partnership. (PPP) The project involves the development of solicitation materials for an RFP for design, construction and operation of a minimum security prison. The team to which they are subcontractors has been selected for further negotiation which might lead to award of the contract. If the contract is finalized with their involvement, they would be subcontractors to a Puerto Rico construction firm that would hold the consulting contract with the PPP. Bogard and Pulitzer would advise the contractor and PPP about project goals and operational objectives, and then translate those goals into operational criteria for the RFP solicitation of firms to bid on the project. Because of their role in the drafting of the RFP, they would be precluded from bidding on the ultimate project.

The Monitor wrote to the parties to disclose and seek advice about this possible engagement by Bogard and Pulitzer. The Monitor's view, explained in the communication, was that this engagement would not place Bogard or Pulitzer in a position of conflict with their duties to the Monitor's Office and the parties. The Monitor also suggested that the overall effect of their participation the project, as advisors in the development of operational criteria, would be constructive for the Commonwealth, and could be constructive for their role as consultants to the Monitor. The parties provided the following responses to the Monitor, which were also provided to Bogard and Pulitzer:

Commonwealth: Based on our conversation and the information David provided to us during our telephone conference we have concluded that no conflict of interest seems apparent at this time.

United States: The United States continues to object to the proposed arrangement, both due to the appearance of and potential for conflict and the precedent that it sets. The proposal seems particularly problematic in light of the possible reorganization of the Department of Corrections and Rehabilitation to absorb AIJ. Although, as you explained it, Corrections is essentially the "end user" of the work you will be conducting, the agency will still be involved in the planning and direction of the project, and have ultimate approval.

Bogard and Pulitzer, faced with the necessity to provide their team with a decision about their participation, informed the Monitor and the parties that they had informed the firm that we are accepting their offer and that we will be part of their team on the project. They also stated that they remain very committed to the monitoring effort in this case, and the work that we have been doing to improve conditions for the youth within the AIJ facilities. They reaffirmed their desire to continue as consultants to the Monitor's Office.

They also stated that they are prepared to live with any consequences that may arise as a result of their decision. They expressed the hope that the Monitor and the parties would come to an accommodation that would permit us to continue to serve as your consultants and explained that they would be most willing and prepared to work to identify any reasonable measures that would serve to mitigate any appearances of conflict.

The Monitor reviewed the decision of the two consultants and the positions of both parties, and researched the issues raised. The Monitor is faced with two basic choices: to continue to employ Bogard and Pulitzer as consultants, or to terminate their employment and seek to appoint other consultants. For the reasons explained below, the Monitor has determined that the better course of action is to continue to employ Bogard and Pulitzer, and to seek ways, in consultation with the parties, to mitigate any concerns about the appearance of conflict. The following is the Monitor's analysis:

Neither the 1994 nor the 1997 Settlement Agreements in this case explicitly preclude employment by the Monitor or his consultants in related or unrelated projects in Puerto Rico or in other settings. Nevertheless, the Monitor believes that independence and neutrality, and the appearance of independence and neutrality are implicit expectations of any Monitor, and that any appearance that undermines the appearance of independence and neutrality should be avoided. However, since the Settlement Agreements do not provide an explicit basis for making determinations in this area, the Monitor has the discretion to make these determinations, subject to the review by and potentially countermanding instructions of the Court.

There is a provision in the annual "Budget and Compensation Agreement" which is a contract between the Monitor and the Commonwealth providing certain terms of employment and compensation of the Monitor and his staff and consultants. The contract includes, on the 1st page, the following statement: "Whereas, the Monitor does not believe that this contract is necessary, but enters into the agreement because it facilitates the method of administration preferred by the Commonwealth to implement their obligations to pay for monitoring services." On the 5th page, the same agreement states: "The CM (Court Monitor) agrees that during the life of this agreement, neither he nor any of his employees or associates will enter into any other contractual relationship with any other governmental agency of the Commonwealth of Puerto Rico." This provision might appear to preclude Bogard and Pulitzer from subcontracting with their team. However, the team involved is a private construction company not an agency of the Commonwealth, and, more importantly, the counterparty to the Monitor's agreement – the Commonwealth itself – does not see a problem with the undertaking. In fact, if the Commonwealth did see a problem, it could directly resolve any concern by simply not accepting Bogard and Pulitzer as subcontractors to the team. They would not need to invoke the provision in the Compensation agreement.

The Monitor has also considered the nature of the apparent conflict which is asserted to be possible. Bogard and Pulitzer would be providing advice to the construction company, and the company would be providing advice to the Commonwealth, ultimately delivered as a draft RFP for development of an adult prison, to which the construction company and Bogard and Pulitzer would then be precluded from responding. Neither the construction company, nor the Commonwealth, is under any obligation to take the advice of Pulitzer and Bogard, and clearly the ultimate form and content of the RFP would be independently determined by the Commonwealth. Under paragraph 100.D of the 1997 Settlement Agreement, the Monitor and his consultants are explicitly authorized, in addition to compliance monitoring, to offer advice to the Commonwealth related to compliance. If advising is already permissible related to compliance, why would advising unrelated to compliance create a serious problem?

The Monitor has also considered the stage of this case with respect to operations and facilities monitoring. Practically every issue of consequence about the interpretation and application of the provisions of this case has already been considered and the opinions of Bogard and Pulitzer are

extensively documented. To the extent that any apparent conflict might influence the opinions expressed by Bogard and Pulitzer, the fact that their opinions are already extensively documented mitigates the risk involved. Furthermore, the selection and orientation of two new consultants would set back the monitoring process considerably and would be detrimental to the case.

Finally, the Monitor has considered the legal status of the Monitor's findings in compliance reports. Unlike some forms of mastership, any findings of the Monitor in this case are subject to objection by either party pursuant to Provision 100.L of the 1997 Settlement Agreement. The Monitor's findings are not treated as findings of the Court unless the Court adopts them. Thus, if any finding or recommendation of Bogard or Pulitzer is questioned by a party, any possibility of conflict can be considered based on the specific facts and circumstances involved.

Therefore, if the undertaking between the Commonwealth and the construction company, with Bogard and Pulitzer as subcontractors, is ultimately agreed to, the Monitor does not, based on what is current known, intend to terminate the services of Bogard and Pulitzer to the Monitor's Office. The Monitor views this as a very limited and narrow precedent, if a precedent at all, because of the specific factors presented above.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "F. Warren Benton", written in a cursive style.

F. Warren Benton, Ph.D.
Monitor

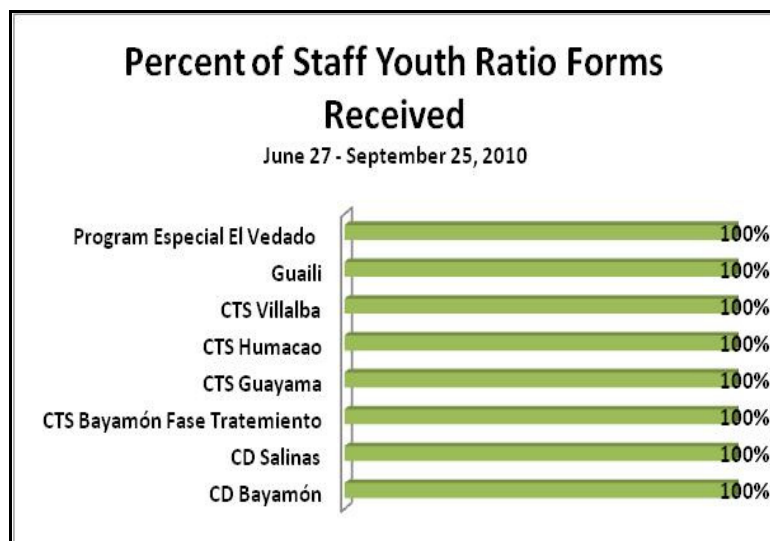
Document Attachment A: Consultant Robert Dugan Report on Staffing Compliance

Background:

The following report constructed on October 16, 2010 provides information on Staff Youth Ratio forms that were provided to the consultant for the period of June 27, 2010 thru September 25, 2010.

As of the Friday, October 15, 2010 the following forms have been submitted.

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	13	13
CD Salinas	13	13
CTS Bayamón Fase Tratamiento	13	13
CTS Guayama	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Guaili	13	13
Program Especial El Vedado	13	13
Totals	104	104

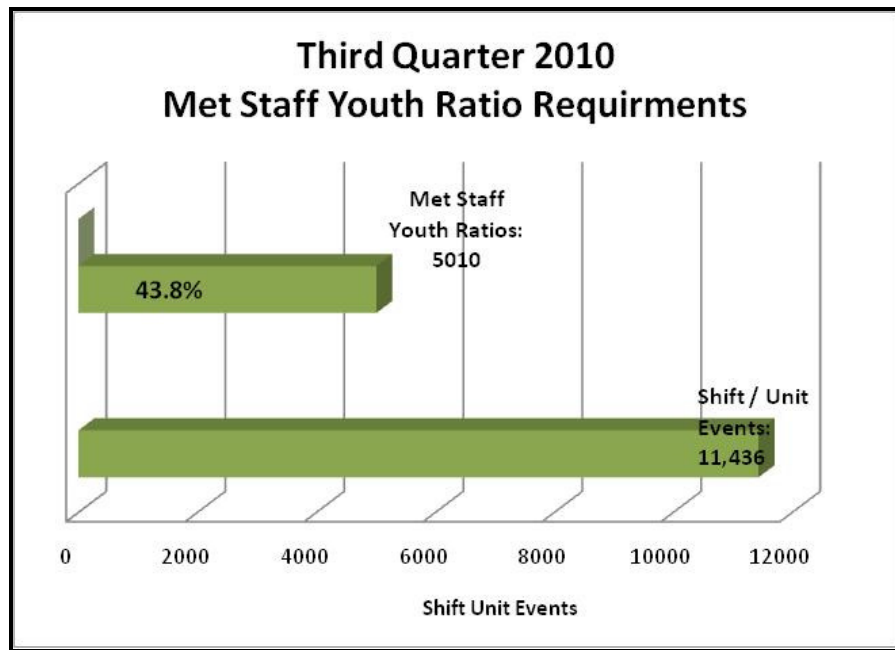


AIJ submitted a total of 104 facility staff youth ratio forms. For this quarterly reporting period 100% of the staff youth ratio forms were available for analysis. For four of four Quarterly Reports, AIJ has provided 100% of requested Staff Youth Ratio Forms.

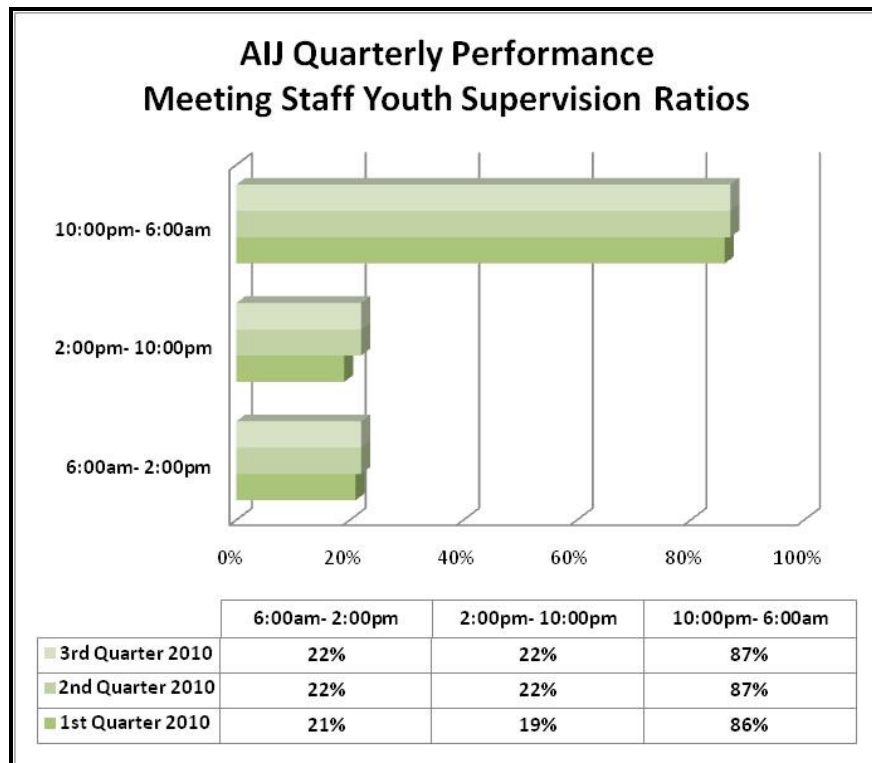
As of September 15, 2010, CD Salinas, based on Staff Youth Ratio form submittals, did not report any youth being held in custody.

AIJ Staff Youth Ratio Averages:

During the Third Quarter reporting period (June 27, 2010 – September 25, 2010), AIJ documented a total of 11,436 shift / unit events that required staff to youth supervision. Of the 11,436 shift / unit events, 5010 of the events (43.8%) were supervised with the required staff youth ratios.



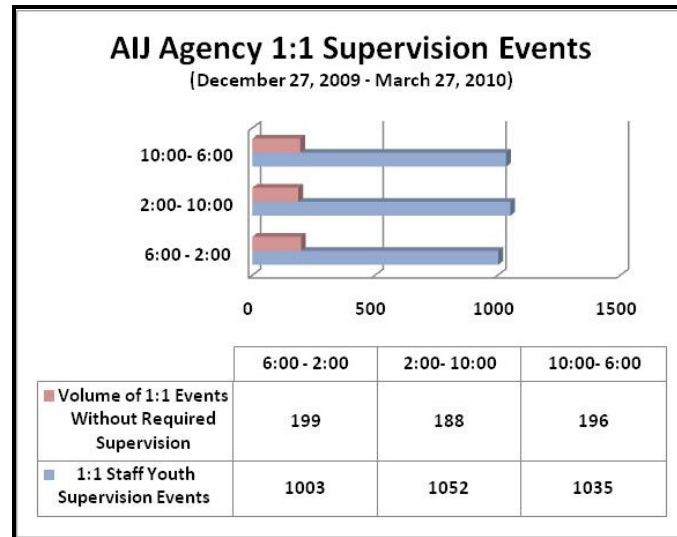
The following chart represents the AIJ agency Staff Youth Ratio averages by shift for the Third Quarter Report 2010 and First and Second Quarters of 2010:



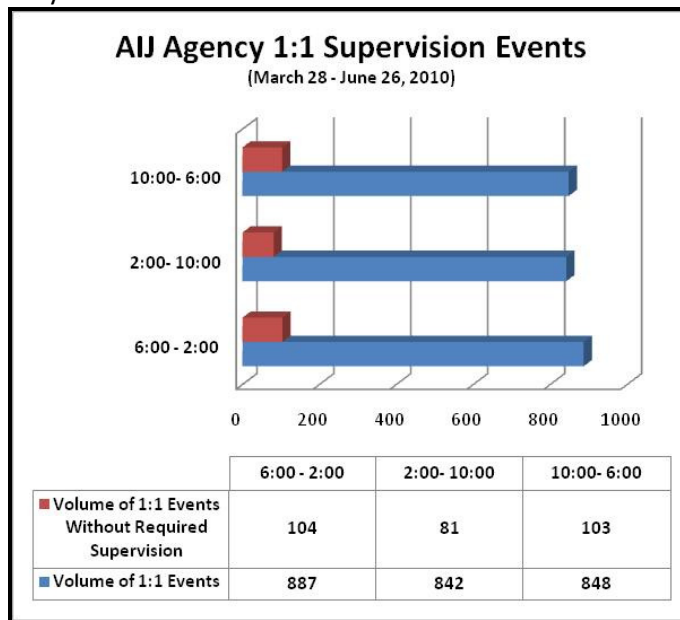
AIJ Agency 1:1 Supervision Events:

Over the course of the three quarters of 2010, there has been a remarkable reduction in the volume of youth designated for 1:1 supervision (3171 1st Quarter 2010; 2577 2nd Quarter 2010; 1662 3rd Quarter 2010). Correspondingly, there has been a 100% reduction in the volume of youth without required 1:1 supervision (583 1st Quarter; 288 2nd Quarter 2010; and 3rd Quarter 2010).

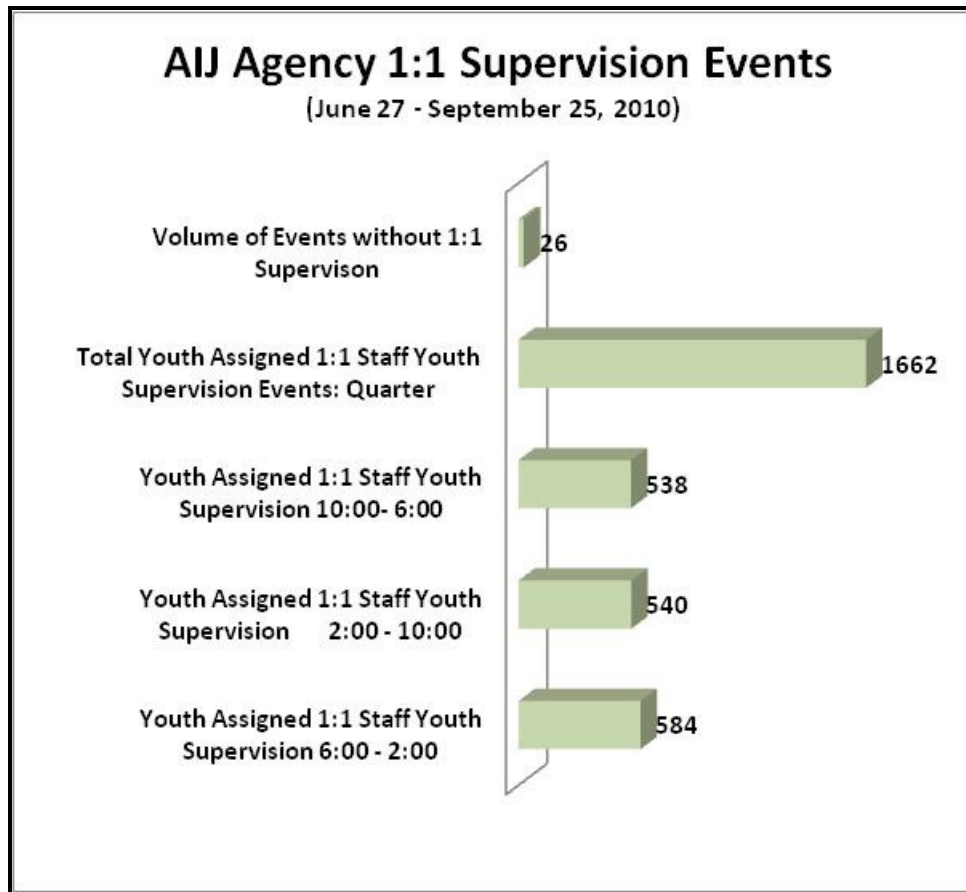
During the First Quarter 2010 reporting period, AIJ documented a total of 3171 events that required 1:1 staff to youth supervision. Of the 3171, 1:1 events, 583 of the events (19%) were not supervised with the required 1:1 staff youth ratio:



During the Second Quarter 2010 reporting period, AIJ documented a total of 2577 events that required 1:1 staff to youth supervision. Of the 2577, 1:1 events, 288 of the events (11.2%) were not supervised with the required 1:1 staff youth ratio:



During the Third Quarter 2010 reporting period, AIJ documented a total of 1662 events that required 1:1 staff to youth supervision. Of the 1662 1:1 events, 26 of the events (0.02%) were not supervised with the required 1:1 staff youth ratio. This is a significant improvement from the Second Quarter of 2010 when 11.2% of 1:1 supervision events were not supervised with the required 1:1 staff youth ratio:

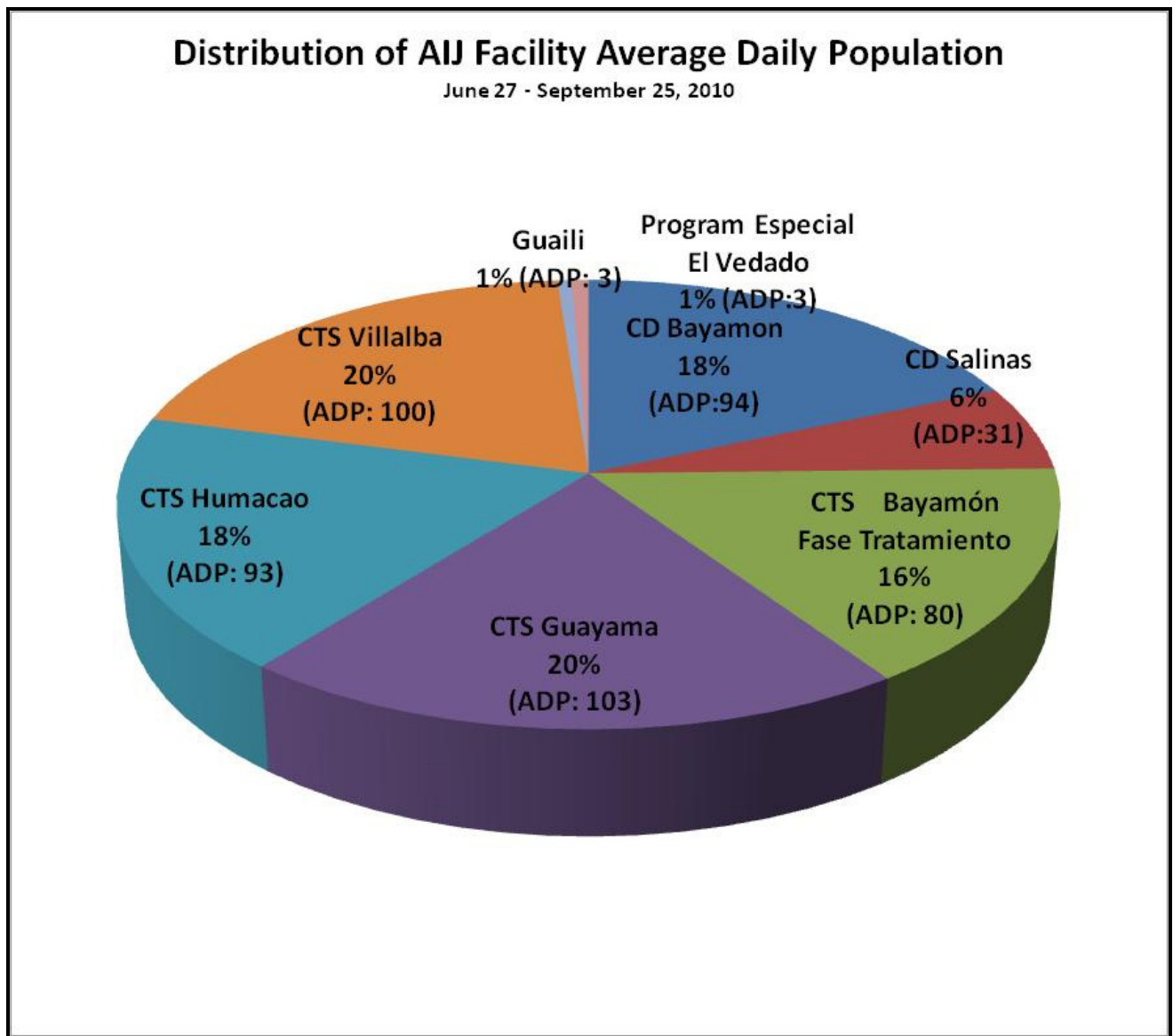


CTS Bayamon PUERTAS has significant improvement of meeting 1:1 staff youth ratio requirements during the last three weeks of the quarterly reporting period (June 6-June 26, 2010).

AIJ Average Daily Population:

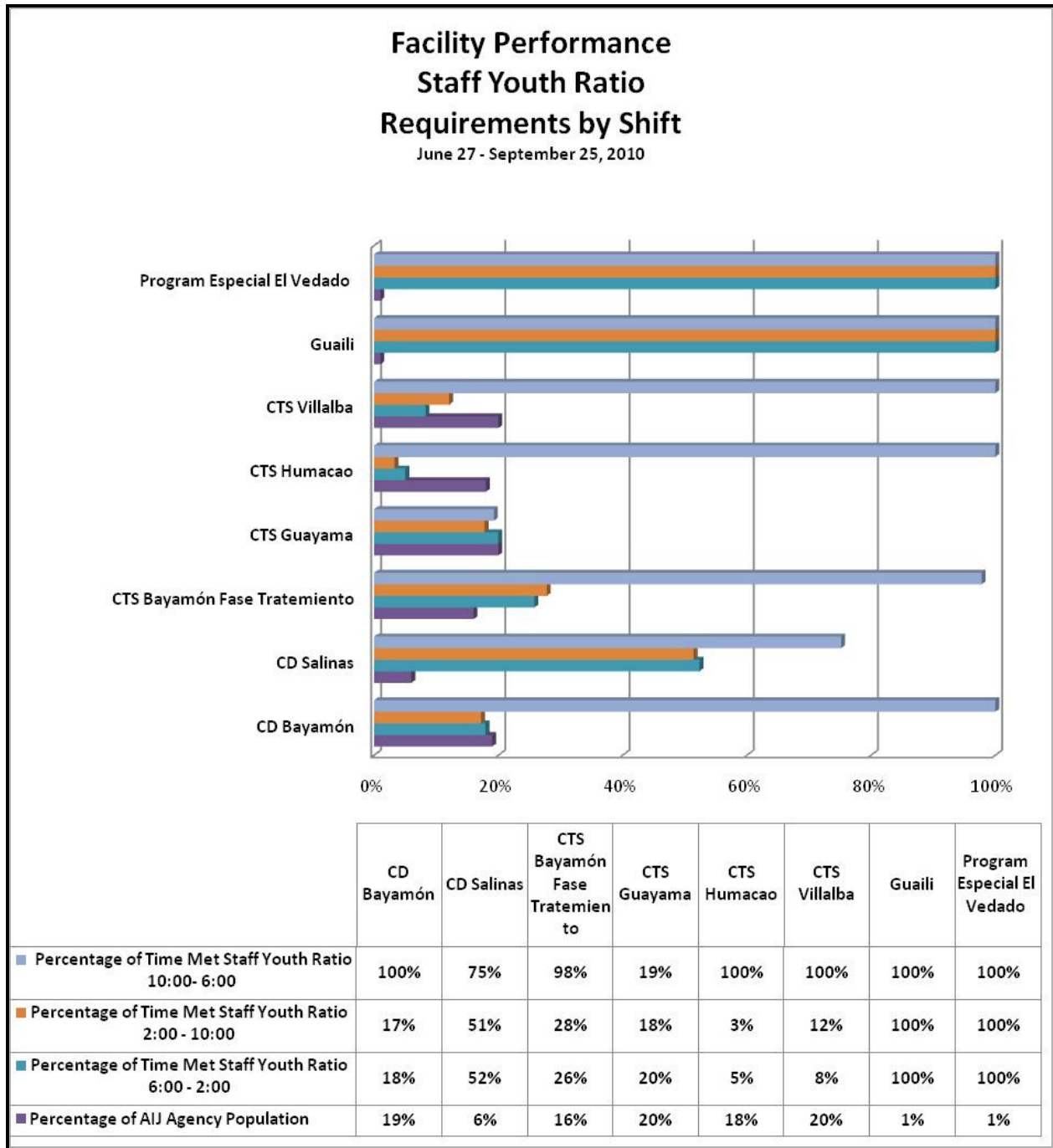
Analysis of Staff Youth Ratio forms has been expanded to provide some perspective to not only the number of shifts that are in compliance with expected staff youth ratios, but to display staffing information compared to facility average daily population (ADP). Facility average daily population was computed from the weekly Staff Youth Ratio forms by averaging the 6:00-2:00 shift facility population on the first Monday of each of the thirteen reporting weeks.

The table below displays each facilities average daily population for the reporting cycle (June 27, 2010 – September 25, 2010) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



The staff youth ratio analysis below represents the staffing information received for the period from June 27, 2010 – September 25, 2010 (13 weeks). The purple bar for each facility represents the proportionate average daily population that facility contributes to the AIJ average daily population. The table of average daily population can be found on page 17 of this report.

During the third quarter reporting period (June 27, 2010 – September 25, 2010), CD Bayamon, CTS Villalba, and CTS Humacao have the largest volume of staffing deficiencies, representing 57% of the AIJ youth population.



CD Bayamón Staff Youth Ratio Analysis:

June 27, 2010 thru September 25, 2010

Level 5 Facility: AIJ has not identified CD Bayamon units that will have youth classified as low risk.

Volume of Weeks Analyzed: 13

AIJ has not designated CD Bayamon high risk units or low risk units, consequently the analysis was done with the ratios of 1:8 during the 6:00 AM-2:00 PM and 2:00 PM -10:00 PM shifts.

- High Risk CD Units: Staff Youth Ratio 1:8 during 6:00-2:00 and 2:00-10:00
- Low Risk CD Units: Staff Youth Ratio 1:16 during 6:00-2:00 and 2:00-10:00
- All Units Staff Youth Ratio 1:16 during 10:00-6:00

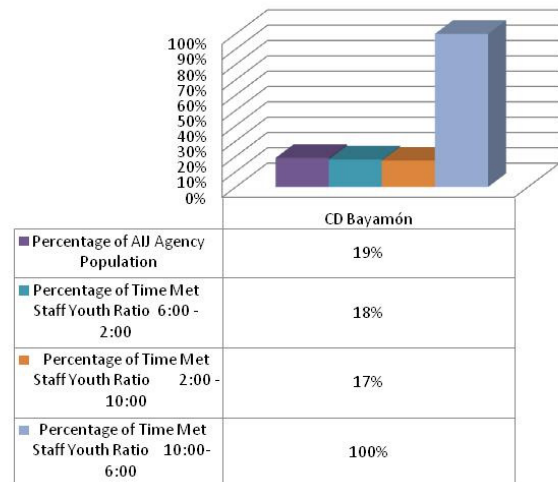
Percent of Forms Available: 100%**Volume of Weeks Analyzed:** 13 of 13 requested

Average volume of youth assigned 1:1 staff youth supervision per reported day: **5**

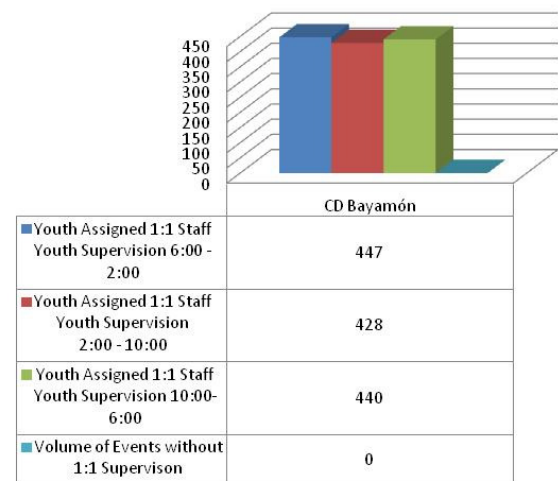
Volume of 1:1 Events Without Required staffing during reporting period: **0**

Volume of Days Analyzed: 91

CD Bayamón
Percent of Units Meeting Staff Youth Ratio



CD Bayamón
1:1 Supervision Events



CD Salinas Staff Youth Ratio Analysis:

June 27, 2010 thru September 25, 2010

Level 5 Facility:

As of September 15, 2010, CD Salinas, based on Staff Youth Ratio form submittals did not report any youth being held in custody.

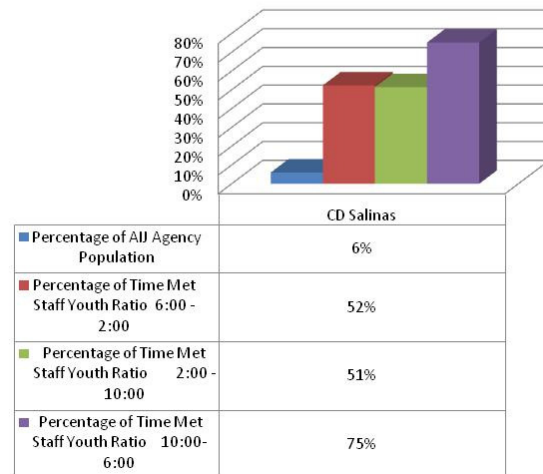
Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

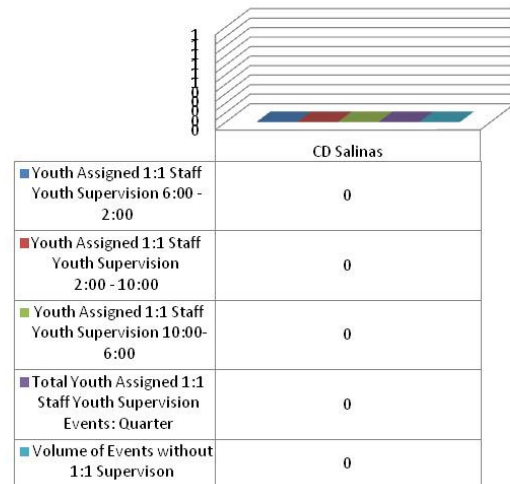
CD Salinas
Percent of Units Meeting Staff Youth Ratio



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

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

CD Salinas
1:1 Supervision Events



CTS Bayamón Fase Tratamiento Staff Youth Ratio Analysis:

June 27, 2010 thru September 25, 2010

Level 4 and 5 Facility:

Starting in the third quarter of 2010, AIJ combined the reporting of CTS Bayamón - Nivel IV and Puertas and started to report all CTS Bayamón programs and units as **CTS Bayamón Fase Tratamiento**.

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

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

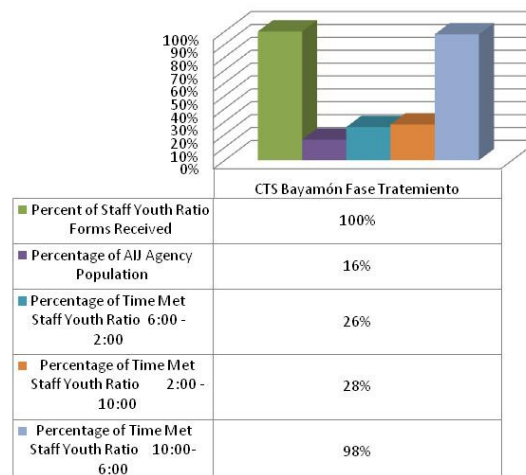
Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Bayamón Fase Tratamiento
Percent of Units Meeting Staff Youth Ratio

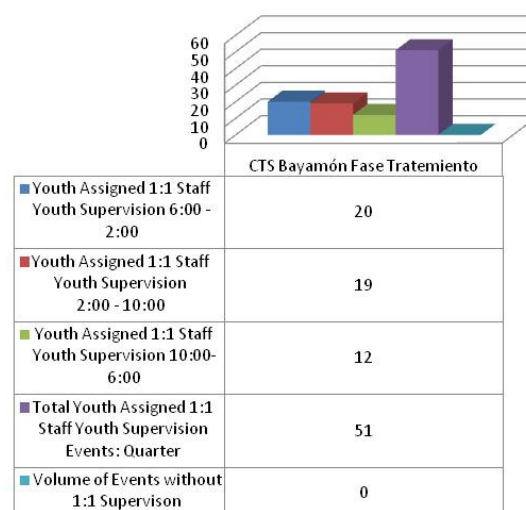


Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.2**

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

N.B. It should be noted that there appeared to be a significant reduction in the volume of youth on 1:1 supervision status since the prior quarter report (1020 1st Q.: 899 2ndQ; 51 3rd Q) and reduction in the volume of events where youth were not under 1:1 supervision (410 1st Q: 288 2nd Q; and 0 for 3rd Q).

CTS Bayamón Fase Tratamiento
1:1 Supervision Events



CTS Guayama Staff Youth Ratio Analysis:

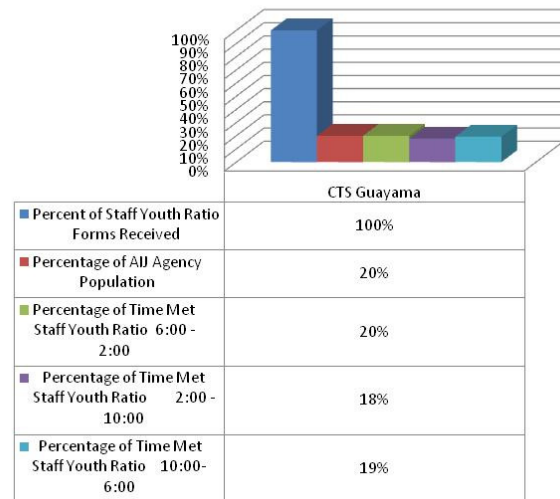
June 27, 2010 thru September 25, 2010

Level 3 Facility:

- A Staff Youth Ratio of 1:16 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

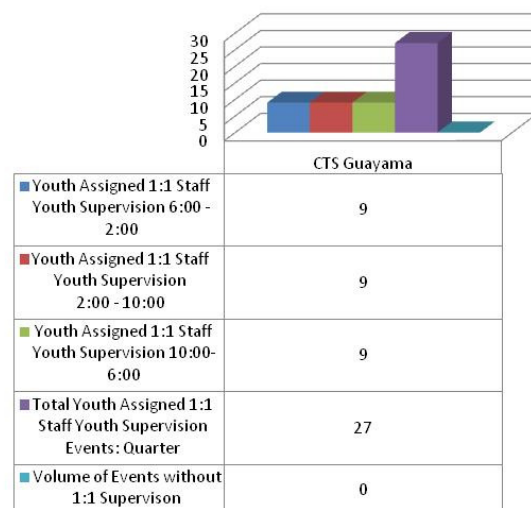
Percent of Forms Available: 100%**Volume of Weeks Analyzed:** 13 of 13 requested**Volume of Weeks Analyzed: 13****Volume of Days Analyzed: 91**

CTS Guayama
Percent of Units Meeting Staff Youth Ratio

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

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

CTS Guayama
1:1 Supervision Events



CTS Humacao Staff Youth Ratio Analysis:

June 27, 2010 thru September 25, 2010

Level 4 Facility:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

For the week of September 19 – 25, 2010, CTS Humacao first and second shift Staff Youth Ratio was reported ratio compliance in 57% of the first shift 49 events and 41% of the second shift 49 events.

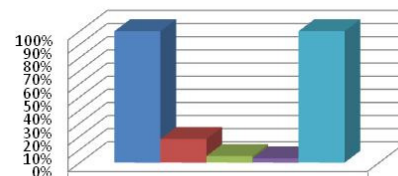
This significant improvement in Staff Youth ratio events appears to be a direct result of the closure of CD Salinas and deployment of officers to CTS Humacao.

It will be closely monitored to assess whether these Staff Youth ratios can be maintained.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Humacao
Percent of Units Meeting Staff Youth Ratio



CTS Humacao	
■ Percent of Staff Youth Ratio Forms Received	100%
■ Percentage of All Agency Population	18%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	5%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	3%
■ Percentage of Time Met Staff Youth Ratio 10:00- 6:00	100%

Average volume of youth assigned 1:1 staff youth supervision per reported day: **.8**

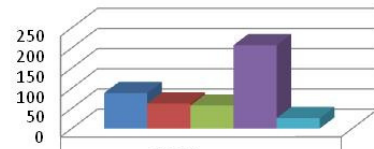
Volume of 1:1 Events Without Required staffing during reporting period: **26**

N.B. It should be noted that there had been reduction in 1:1 events as well as significant improvement in providing 1:1 supervision for youth the first and second quarter of 2010. For the third quarter, there were 26 1:1 supervision events without the required staffing.

- ***Fourth Quarter 2009: 68 1:1 events that did not have the required supervision.***
- ***First Quarter 2010: 170 1:1 events that did not have the required supervision.***

- ***Second Quarter 2010: 0 1:1 events that did not have the required supervision.***
- ***Third Quarter 2010: 26 1:1 events that did not have the required supervision.***

**CTS Humacao
1:1 Supervision Events**



CTS Humacao	
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	88
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	62
■ Youth Assigned 1:1 Staff Youth Supervision 10:00-6:00	57
■ Total Youth Assigned 1:1 Staff Youth Supervision Events: Quarter	207
■ Volume of Events without 1:1 Supervision	26

CTS Villalba Staff Youth Ratio Analysis:

June 27, 2010 thru September 25, 2010

<p>Level 5 Facility:</p> <ul style="list-style-type: none"> • 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 <p>Percent of Forms Available: 100% Volume of Weeks Analyzed: 13 of 13 requested</p>	<p>Volume of Weeks Analyzed: 13</p> <p>Volume of Days Analyzed: 91</p> <div data-bbox="821 327 1455 940"> <p>CTS Villalba Percent of Units Meeting Staff Youth Ratio</p> <table border="1"> <thead> <tr> <th colspan="2">CTS Villalba</th> </tr> </thead> <tbody> <tr> <td>Percent of Staff Youth Ratio Forms Received</td> <td>100%</td> </tr> <tr> <td>Percentage of All Agency Population</td> <td>20%</td> </tr> <tr> <td>Percentage of Time Met Staff Youth Ratio 6:00 - 2:00</td> <td>8%</td> </tr> <tr> <td>Percentage of Time Met Staff Youth Ratio 2:00 - 10:00</td> <td>12%</td> </tr> <tr> <td>Percentage of Time Met Staff Youth Ratio 10:00 - 6:00</td> <td>100%</td> </tr> </tbody> </table> </div>	CTS Villalba		Percent of Staff Youth Ratio Forms Received	100%	Percentage of All Agency Population	20%	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	8%	Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	12%	Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
CTS Villalba													
Percent of Staff Youth Ratio Forms Received	100%												
Percentage of All Agency Population	20%												
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	8%												
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	12%												
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%												
<p>Average volume of youth assigned 1:1 staff youth supervision per reported day: 0.3</p> <hr/> <p>Volume of 1:1 Events Without Required staffing during reporting period: 0</p>	<div data-bbox="831 1152 1442 1703"> <p>CTS Villalba 1:1 Supervision Events</p> <table border="1"> <thead> <tr> <th colspan="2">CTS Villalba</th> </tr> </thead> <tbody> <tr> <td>Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00</td> <td>20</td> </tr> <tr> <td>Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00</td> <td>22</td> </tr> <tr> <td>Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00</td> <td>20</td> </tr> <tr> <td>Total Youth Assigned 1:1 Staff Youth Supervision Events: Quarter</td> <td>62</td> </tr> <tr> <td>Volume of Events without 1:1 Supervision</td> <td>0</td> </tr> </tbody> </table> </div>	CTS Villalba		Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	20	Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	22	Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	20	Total Youth Assigned 1:1 Staff Youth Supervision Events: Quarter	62	Volume of Events without 1:1 Supervision	0
CTS Villalba													
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	20												
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	22												
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	20												
Total Youth Assigned 1:1 Staff Youth Supervision Events: Quarter	62												
Volume of Events without 1:1 Supervision	0												

Guaili Staff Youth Ratio Analysis:

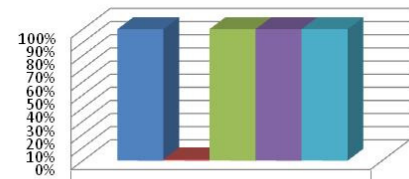
June 27, 2010 thru September 25, 2010

Level 2 Facility:

- A Staff Youth Ratio of 1:16 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 Weeks Analyzed: 13****Volume of Days Analyzed: 91**

Guaili
Percent of Units Meeting Staff Youth Ratio



	Guaili
■ Percent of Staff Youth Ratio Forms Received	100%
■ Percentage of All Agency Population	1%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	100%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	100%
■ Percentage of Time Met Staff Youth Ratio 10:00- 6:00	100%

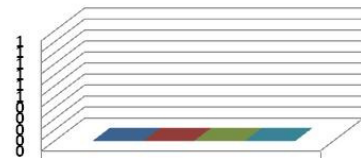
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0

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

0

Guaili
1:1 Supervision Events



	Guaili
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	0
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	0
■ Youth Assigned 1:1 Staff Youth Supervision 10:00- 6:00	0
■ Volume of 1:1 Events Without Required Supervision	0

Program Especial El Vedado Staff Youth Ratio Analysis:

June 27, 2010 thru September 25, 2010

The Vedado Program opened on June 28, 2010 for youth who have graduated from the CREANDO Program that do not meet the release criteria established by the committing Juvenile Court.

This program is assessed to be a Level 2 Facility requiring the following Staff Youth Ratio:

- A Staff Youth Ratio of 1:16 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

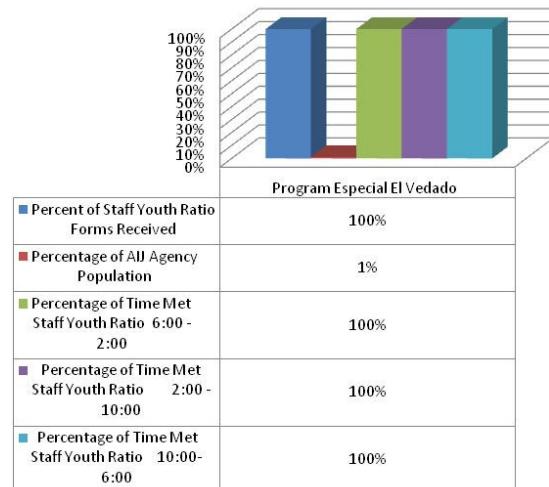
Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

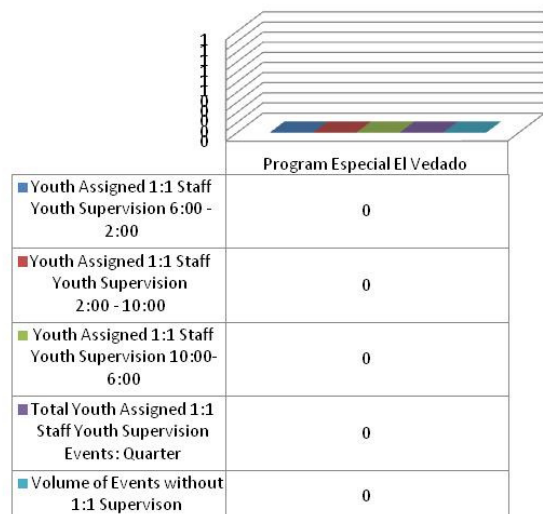
**Program Especial El Vedado
Percent of Units Meeting Staff Youth Ratio**



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

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

**Program Especial El Vedado
1:1 Supervision Events**



Facility Table of Shift Compliance with Staff Youth Ratio:

	Percent of Staff Youth Ratio Forms Received	Percentage of All Agency Population	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	Percentage of Time Met Staff Youth Ratio 10:00- 6:00
CD Bayamón	100%	19%	18%	17%	100%
CD Salinas	100%	6%	52%	51%	75%
CTS Bayamón Fase Tratamiento	100%	16%	26%	28%	98%
CTS Guayama	100%	20%	20%	18%	19%
CTS Humacao	100%	18%	5%	3%	100%
CTS Villalba	100%	20%	8%	12%	100%
Guaili	100%	1%	100%	100%	100%
<u>Program Especial El Vedado</u>	100%	1%	100%	100%	100%

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

	Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	Youth Assigned 1:1 Staff Youth Supervision 10:00- 6:00	Total Youth Assigned 1:1 Staff Youth Supervision Events: Quarter	Volume of Events without 1:1 Supervision	VOLUME OF DAYS ANALYZED
CD Bayamón	447	428	440	1315	0	91
CD Salinas	0	0	0	0	0	91
CTS Bayamón Fase Tratamiento	20	19	12	51	0	91
CTS Guayama	9	9	9	27	0	91
CTS Humacao	88	62	57	207	26	91
CTS Villalba	20	22	20	62	0	91
Guaili	0	0	0	0	0	91
<u>Program Especial El Vedado</u>	0	0	0	0	0	91
Totals	584	540	538	1662	26	728

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

Date	Camp	CD		CTS Bayamón Fase	CTS	CTS	CTS		Program
	Santia	Bayam	CD Salin	Tratamien	Guayan	Humac	Villalb	Guail	Especial El Vedado
June 27 -July 3, 2010		8/6/2010	8/6/2010	8/6/2010	8/6/2010	8/6/2010	8/6/2010	8/6/2010	8/6/2010
July 4 -July 10, 2010		8/6/2010	8/6/2010	8/26/2010	8/6/2010	8/26/2010	8/6/2010	8/6/2010	8/6/2010
July 11 -July 17, 2010		8/6/2010	8/6/2010	8/6/2010	8/6/2010	8/26/2010	8/6/2010	8/13/2010	8/6/2010
July 18 -July 24, 2010		8/6/2010	8/6/2010	8/6/2010	8/6/2010	8/26/2010	8/13/2010	8/13/2010	8/6/2010
July 25 -July 31, 2010		8/6/2010	8/13/2010	8/6/2010	8/13/2010	9/27/2010	8/6/2010	8/13/2010	8/6/2010
August 1 -August 7, 2010		8/13/2010	8/13/2010	9/24/2010	8/13/2010	8/26/2010	8/13/2010	8/13/2010	8/13/2010
August 8 -August 14, 2010		8/26/2010	8/20/2010	8/26/2010	9/14/2010	8/26/2010	8/20/2010	8/20/2010	8/20/2010
August 15 -August 21, 2010		8/26/2010	8/26/2010	8/26/2010	9/14/2010	9/14/2010	8/26/2010	8/26/2010	8/26/2010
August 22 -August 28, 2010		9/14/2010	9/14/2010	9/24/2010	9/14/2010	9/14/2010	9/14/2010	9/14/2010	9/14/2010
August 29- September 4, 2010		9/14/2010	9/24/2010	9/24/2010	9/14/2010	9/14/2010	9/14/2010	9/14/2010	9/14/2010
September 5- September 11, 2010		9/24/2010	9/24/2010	9/24/2010	9/27/2010	9/24/2010	9/24/2010	9/14/2010	9/24/2010
September 12- September 18, 2010		9/24/2010	10/4/2010	9/24/2010	9/27/2010	9/24/2010	9/24/2010	9/24/2010	9/24/2010
September 19 - September 25, 2010		10/2/2010	10/4/2010	10/4/2010	10/2/2010	10/2/2010	10/5/2010	10/4/2010	10/2/2010
Volume of Forms Submitted		100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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

Dates of Reporting Period	CD	CD	CTS	CTS	CTS	CTS		Program	Totals
	Bayamon	Salinas	Bayamón Fase Tratamiento					Especial El Vedado	
Number of Units	8	8		6	8	8	1		
June 27 -July 3, 2010	87	40	76	104	96	106	1	4	514
July 4 -July 10, 2010	89	45	84	98	96	105	1	4	522
July 11 -July 17, 2010	94	35	89	115	95	100	2	3	533
July 18 -July 24, 2010	91	37	89	95	96	99	1	4	512
July 25 -July 31, 2010	90	36	88	96	99	98	2	4	513
August 1 -August 7, 2010	96	38	88	95	98	97	2	3	517
August 8 -August 14, 2010	108	30	75	110	94	97	5	3	522
August 15 -August 21, 2010	109	29	73	97	94	97	3	3	505
August 22 -August 28, 2010	98	30	74	108	92	104	5	5	516
August 29- September 4, 2010	94	36	75	99	89	100	4	3	500
September 5- September 11, 2010	92	31	68	110	98	102	5	3	509
September 12- September 18, 2010	73	14	76	103	85	96	2	2	451
September 19 - September 25, 2010	97	4	83	106	77	96	4	2	469
Totals	1218	405	1038	1336	1209	1297	37	43	6583
Percentage of AII Agency Population	19%	6%	16%	20%	18%	20%	1%	1%	100%

Document Attachment B: Report on Incidents and Understaffing

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

The number of incidents in the tables has declined over the past two years. For example, for the first quarter of 2008, there were 46 listed incidents taking place when there was documented staffing non-compliance, while this table which covers the fourth quarter of 2009 includes 24 listed cases. There are two factors that can explain the decline in the number of listed cases.

- The number of male youth in AIJ facilities has declined.
- AIG implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a yet-to-be-developed mental health process. Of the 174 suicide or self-mutilation incidents reported by mental health, only 12 resulted in paragraph 78 (284a) referrals. The remainder were to be assessed based on a centralized mental health process, but this process has not been set up.
- Since this table is primarily based on Paragraph 78 referrals, most cases diverted to the mental health process do not appear in this list.

Therefore, there is no conclusive evidence that the number of incidents accompanied by staffing non-compliance has declined.

Incidents and Understaffing: April-June 2010

Apr. 3	CTS Guayama	10-142	Afternoon	A juvenile was hit in his face and threatened by other juveniles with a piece of a disposable razor blade.	1 officer (working double shift), 22 juveniles (1 juvenile in therapeutic sup.)
Apr. 10	CTS Villalba	10-137	Afternoon	A juvenile was hit in his room by a group of 5 juveniles that were in recreation.	1 officer, 14 juveniles
Apr. 14	CTS Villalba	10-145	Morning	A juvenile was cut in his face with a piece of a disposable razor blade by other juveniles. The incident occurred in the living unit.	1 officer, 14 juveniles
Apr. 16	CTS Guayama	10-149	Morning	A juvenile was hit in his arms and back while he was in the living unit. The juvenile said was an accident.	1 officer, 20 juveniles
Apr. 21	CTS Humacao	10-150	Afternoon	A juvenile allegedly was hit by two officers while he was in his room. The juvenile was also sprayed with "pepper spray" .	1 officer, 15 juveniles

Apr. 23	CTS Humacao	10-153	Afternoon	A juvenile allegedly was hit by other juveniles in different parts of his body in the bathrooms area.	1 officer, 15 juveniles
May 6	CTS Bayamón	10-168	Morning	A group of juveniles allegedly were verbally abused by two UOE officers. One of the juveniles allegedly was kicked in his back while he was on the floor. The incident occurred in the dining room area.	2 officers, 25 juveniles
May 10	CTS Villalba	10-166	Afternoon	A juvenile was hit in different parts of his body by other juveniles. The incident occurred in the victim's room.	1 officer, 11 juveniles
May 12	CTS Villalba	10-170	Afternoon	A juvenile was punched by two juveniles in his head. The incident occurred in the bathroom area.	1 officer, 12 juveniles
May 13	CD Salinas	10-167	Morning	A juvenile was hit with a chair in his head by other juvenile. The incident occurred in the math classroom.	1 teacher, 9 juveniles
May 14	CTS Bayamón	10-165	Morning	A juvenile was inviting other juveniles to fight. As a result 3 juveniles went to his room and hit and cut him. The incident occurred in Living Unit Orange.	1 officer, 15 juveniles
May 17	CTS Guayama	10-169	Afternoon	A juvenile was hit in different parts of his body by 2 juveniles from the same living unit.	1 officer, 20 juveniles
May 25	CTS Villalba	10-180	Afternoon	A juvenile allegedly was hit and sodomized by other juvenile in the living unit while others hold him. The victim was sent to an emergency room.	1 officers, 13 juveniles
May 27	PUERTAS	10-177	Afternoon	A juvenile was cut superficially with an unknown object by other juvenile. The incident occurred in the victim's room.	1 officer, 10 juveniles
Jun. 3	CTS Villalba	10-182	Afternoon	A juvenile was hit in his head by other juvenile. Allegedly, the aggressor used a sox with soap bars inside. The incident occurred in the bathroom area.	1 officer, 15 juveniles
Jun. 9	CTS Humacao	10-184	Afternoon	A juvenile was cut in his face and stabbed with a piece of a disposable razor blade. The incident occurred in the living unit.	1 officer, 10 juveniles

Jun. 30	CTS Guayama	10-200	Afternoon	A juvenile was hit in his mouth and face by other juveniles. The incident occurred in the living unit's hall.	1 officer, 18 juveniles
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Document Attachment C: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the last quarter of 2009 and the first, second and third quarter of 2010. The underlying source of the information is the tracking database maintained by AIJ along with other records.

The first table summarizes overall incident statistics, and then describes the incidents suicide and self-mutilation incidents known to mental health staff. Many of these do not warrant abuse allegations.

Statistics for 2009-2010		2009-4th	2010-1st	2010-2nd	2010-3rd
Incidents		123	140	147	139
	Suicidal Incidents	20	28	26	15
	Self-Mutilation Incidents	57	112	37	38
Suicidal Incidents (From M/H Records)		20	28	26	15
	Youths Involved	19	28	24	15
	Cases involving ideation only	16	8	12	10
	Cases involving suicide intention	1	2	1	1
	Cases w/ ambulatory treatment	19	22	12	6
	Cases with hospitalization	4	2	2	0
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	2	8	0	0
Self-Mutilations Incidents (MH records)		57	112	37	38
	Youths Involved	41	80	30	34
	Cases requiring sutures	6	21	3	2
	Cases requiring hospitalization	2	1	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	3	4	5	1

The above cases come from mental health records. AIG has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a yet-to-be-developed mental health process. Of the 139 suicide and self-mutilation incidents for the third quarter, only 1 resulted in a Paragraph 78a abuse referral. The remaining cases were to be referred to the mental health process which has not been set up.

The second table concerns incidents that warranted abuse referrals.

Statistics for 2009-2010		2009-4th	2010-1st	2010-2nd	2010-3rd
284 A Incidents		98	127	71	62
Level Two Incidents		66	112	49	50
Referrals to SAISC		66	112	49	50
Suicide Ideation/Attempt		0	3	0	0
Self-Mutilation Idea/Attempt		12	21	7	3
Youth-to-Youth Incidents		58	55	42	40
Youth-to-Youth Injuries		74	41	25	29
Youth-to-Youth with External Care		18	19	15	11
Youth-to-Youth Sexual		1	2	2	8
Youth-to-Youth Sexual w/ Injury		1	0	1	0
Staff-to-Youth Incidents		27	48	21	19
Staff-to-Youth Injuries		15	33	12	34
Staff-to-Youth with External Care		3	25	2	3
Staff-to-Youth Sexual		1	2	0	3
Staff-to-Youth Sexual with Injury		0	0	0	0
SOU 284A Interventions		4	6	5	4
284A with Item 5 completed		85	108	66	49
284A with Staffing Compliance		49	57	32	36

Serious incidents reported under Paragraph 78 declined with the second and third quarters of 2010. This is due in part to a decline in the number of youth in AIJ facilities, but it is also significantly related to the decline in suicide and self-mutilation cases.

For the third quarter, there was a significant increase in youth-to-youth sexual incident reports.

For the third quarter, 36 of the 62 284A reports documented staffing compliance based on Paragraph 48.

The next table summarizes initial case management.

Statistics for 2009-2010		2009-4th	2010-1st	2010-2nd	2010-3rd
Initial Case Management					
284A percent with admin actions		90%	95%	92%	94%
284A Within 24 hours		89%	91%	86%	77%
284A Within 72 hours		89%	97%	96%	99%
284B or Local Report Within 5 days		N/A	N/A	N/A	N/A
284B or Local Report Within 15 days		N/A	N/A	N/A	N/A
284B or Local Report Within 20 days		50%	48%	26%	54%

The 20-day completion rate for local investigations had fallen to 26% for the second quarter and improved to 54% for the third quarter. This low level of compliance continues to take place even though the number of cases being deferred for local 284a investigation is declining due to the mental health referral process.

The following table concerns referrals and investigations of cases to and by SAISC.

Statistics for 2009-2010		2009-4th	2010-1st	2010-2nd	2010-3rd
SAISC					
	Cases Referred from this quarter	66	99	48	49
	Referred Within 1 day	66	92	48	49
	Referred Within 3 days	0		0	0
	Referred Within 10 Days	0		0	0
	Referred Within 20 Days	0		0	0

Based on the new investigation procedure, cases are immediately provided to the SAISC investigator responsible for the facility involved.

The following table summarizes the SAISC investigation durations for the cases involved.

Statistics for 2009-2010		2009-4th	2010-1st	2010-2nd	2010-3rd
SAISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	0
	Completed in 11-20 workdays	0	0	0	0
	Completed in 21-30 workdays	4	3	0	1
	Completed in 31-45 workdays	7	9	5	7
	Completed in more than 45 workdays	15	8	4	3
	Not completed yet.	40	79	39	38

Paragraph 78.e requires that SAISC complete investigations within 30 days. During the third quarter, all but one of the 49 SAISC investigations took longer than 30 days. Of 262 cases referred to SAISC during the past four quarters, 196 cases have not been completed, and only 8 were completed within the 30-day deadline specified in the Paragraph 78.e.

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

Statistics for 2009-2010		2009-4th	2010-1st	2010-2nd	2010-3rd
Administrative Determinations					
	Cases with youth discipline referrals	58	59	40	53
	Cases with youth discipline actions	39	43	27	45
	Cases with youth no discipline actions	19	16	13	8
	Cases staff/youth with determinations	1	0	0	0
	Cases recommending personnel actions	0	0	0	0

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

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

Statistics for 2009-2010	2009-4th	2010-1st	2010-2nd	2010-3rd
Prosecutorial Determinations	1	0	0	1
Cases with no determinations	22	5	1	0
Cases with decision not to prosecute	2	19	4	4
Cases with referral for prosecution	0	6	0	2
Total cases documented	25	30	5	7

Document Attachment D: Abuse Referral Case Assessment Report April – June 2010

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

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

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

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

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

The first table relates to initial incident reporting.

Case Assessment Instrument – Section A – Initial Reporting		
Assessment Criterion	Status Y/N/NA	Comment
A.1 Was the incident promptly reported?	Y-33, N-3	The percentage for this report is 92%. The percentage in the last Quarterly Report was 92%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-35, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-34, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 100%.
A.4 Was evidence preserved?	Y-15, N/A-20 N-1	The percentage for this report is 42%. The percentage in the last Quarterly Report was 50%. In this question 14 of 36 represent level I cases.
A.5 Was investigation initiated promptly?	Y-34, N-1, N/A-1	The percentage for this report is 94%. The percentage in the last Quarterly Report was 86%.
A.6 Was the 284-A filed within 24 hours?	Y-35, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 89%.
A.7 Did the reporting official file an incident report before the end of shift?	Y-35, N/A-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 89%.
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-35, N-1	The percentage for this report is 94%. The percentage in the last Quarterly Report was 89%.
A.9 Was the AIJ preliminary investigation reported within 24 hours to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration.	Y-36	The percentage for this report is 100%. The percentage in the last Quarterly Report was 92%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-21, N-6, N/A-9	The percentage for this report is 58%. The percentage in the last Quarterly Report was 68%. This requirement applies also to Level I cases.
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-36	The percentage for this report is 100%. The percentage in the last Quarterly Report was 94%.
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-30, N-2, N/A-4	The percentage for this report is 83%. The percentage for the last Quarterly Report was 86%.
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-34, N/A-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 75%. Improved Compliance
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-3, N-10, N/A-23	The percentage for this report is less than 1%. A low percentage is a positive fact.
A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-11, N-25	The percentage for this report is 30%. The percentage in the last Quarterly Report was 42%. Reduced Compliance

The second table relates to investigations by the police and the prosecutors. According to Commonwealth counsel, this information is sought from the Commonwealth Police, but the Agency does not cooperate in providing the information, returning information instead on the “status” of cases.

Case Assessment Instrument – Section B – Police and Prosecutorial Investigation		
Assessment Criterion	Status Y/N/NA	Comment
B.1 Was the incident report received from the facility within 24 hours of the time recorded as the point of knowledge of the incident?		For this reporting period the PRDOJ sent a table with information related to 16 cases. It contains the following: case number, and case disposition. From the total amount 14 cases were closed (terminated), 1 case is still pending and, 1 case was not filed (was a transit violation). Fourteen cases were not evaluated (level I), and 6 cases were not received on time from local judicial districts.
B.2 If the case was considered serious by the facility where the incident took place, were the police contacted within 24 hours?		
B.3. Were PRPD expectations met for promptly initiating an investigation?		
B.4 Did PRPD investigators determine that evidence was appropriately preserved?		
B.5 If prosecutors communicated an intent to proceed criminally, was AIJ informed to delay any compelled interview of the subject until the criminal investigation was completed?		
B.6 Were PRPD expectations met for timeliness in completing the investigation?		
B.7 Was completion of the investigation documented?		
B.8 If there was timeliness non-compliance, was is related to shortage of staffing?		

The next table concerns facility-level investigations.

Case Assessment Instrument – Section C – Facility Investigation		
Assessment Criterion	Status Y/N/NA	Comment
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y- 26, N-2, N/A – 4	The percentage for this report is 72%. The percentage in the last Quarterly Report was 80%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-4, N-30, Blank-4	The percentage for this report is less than 2%. The percentage in the last Quarterly Report was less than 1%. For this question 14 cases were classified as level I but, only 4 complied with the requirement.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-3, N-31, Blank-2	The percentage for this report is less than 1%. The percentage in the last Quarterly Report was less than 1%. For this question 14 cases were classified as level I but, only 4 complied with the requirement.
C.4 Was physical evidence preserved and documented?	Y-4, N-8, N/A-22, Blank-2	The percentage for this report is less than 2%. The percentage in the last Quarterly Report was 14%. Reduced Compliance
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-11, N-4, N/A-19, Blank-2	The percentage for this report is 30%. The percentage in the last Quarterly Report was 72%. In the sample only 14 cases were classified as Level I. Reduced Compliance
C.6 Was the completion of the investigation documented in the tracking database?	Y-36	The percentage for this report is 100%. During the last 3 years the data base was operated manually.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-33, Blank –3	The answers do not represent the facilities real situation.

The next table concerns investigations by SAISC.

Case Assessment Instrument – Section D – SAISC Investigation		
NOTE: Completed only for Level II cases.		
Assessment Criterion	Status Y/N/NA	Comment
D.1 If the case was a Level II case, was the referral received by SAISC within 24 hours?	Y-16, N-2	The percentage for this report is 89%. The information in the last Quarterly Report was 73%. Improved Compliance.
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	Y-1, N-17	The percentage for this report is less than 1%. The information in the last Quarterly Report was 15%. Reduced Compliance.
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-18	The percentage for this report is 100%. The information in the last Quarterly Report was 50%. Improved Compliance
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-18	The percentage for this report is 100%. The information in the last Quarterly Report was 54%. Improved Compliance
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-18	The percentage for this report is 100%. The information in the last Quarterly Report was 50%. Improved Compliance
D.6 Did the investigation provide proposed findings?	Y-17, N-1	The percentage for this report is 94%. The information in the last Quarterly Report was 50%. Improved Compliance
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	N-17, N/A-1	The percentage for this report is 94%. The information in the last Quarterly Report was 54%. Improved Compliance

There is improved compliance in every category except for the completion of the investigations within 30 days.

The next table concerns case tracking and outcomes. A basic problem here is that the computer-based tracking system has not been supported by AIJ's UEMNI unit for several quarters. Some case tracking statistics are gathered manually, but the computer-based system is not updated. Apparently there is a plan to update the software, but whether that is taking place is not clear.

The value of the computer-based tracking system is that the information can be used to assess and evaluate many other aspects of the abuse case management system, including the evaluation of patterns of abuse that might be addressed with preventive measures.

Case Assessment Instrument – Section E – Case Tracking and Outcomes		
Assessment Criterion	Status Y/N/NA	Comment
E.1 At the time of the assessment of this case with this instrument, was the tracking database complete for this case?	N	The tracking database was not updated for the reporting quarter. A manual version has been maintained that provides for very limited analysis.
E.2 Was the initial investigation (284-A) faxed within 24 hour?		
E.3 Was the facility investigation completed within 20 days?		
E.4 If the incident was serious (involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile) was SAISC notified and the case referred within 24 hours?		
E.5 If applicable, was a SAISC investigation completed and transmitted to PRDOJ within 30 days of receipt by SAISC?		
E.6 Did AIJ reach an administrative determination concerning the case which is documented in the tracking database?		
E.7 Is there a document demonstrating review, by PRDOJ prosecutors of the PRPD investigation, which documents a prosecutorial determination as to whether to prosecute or not?		
E.8 If there was timeliness non-compliance, was is related to shortage of staffing?		

The final table summarizes the Monitor's Office assessment of the findings.

Case Assessment Instrument – Section F – Monitor's Office Assessment		
Assessment Criterion	Status Y/N/NA	Comment
F.1 Does the Monitor's Office confirm the timeliness facts as asserted in Page A?	Y-27, N-9	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 75% of the cases. The percentage in the last Quarterly Report was 80%.
F.2 Does the Monitor's Office confirm the timeliness facts as asserted in Page B?		Some information was sent, but not in the form required.
F.3 Does the Monitor's Office confirm the timeliness facts as asserted in Page C?	N/A - 33, N-3	The percentage for this report is 92%. The percentage in the last Quarterly Report was 83%.
F.4 Does the Monitor's Office confirm the timeliness facts as asserted in Page D?	Y-36	The percentage for this report is 100%. The percentage for the last Quarterly Report was 97%.
F.5 Does the Monitor's Office confirm the timeliness facts as asserted in Page E?		The Information was not provided.
F.6 Does the Monitor's Office confirm the investigation quality as asserted in page B?		Some information was provided, but not in the form required.
F.7 Does the Monitor's Office confirm the investigation quality as asserted in page C?	Y-33, N-3	The percentage for this report is 92 %. This percentage only means that the Monitor's Office confirms the information provided by the facilities not a percentage of compliance.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	Y-36	The percentage for this report is 100 %. This percentage only means that the Monitor's Office confirms the information provided by OISC not a percentage of compliance.

Document Attachment E:

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

July 8, 2010:	Consultant Curtiss Pulitzer and Associate Monitor Ricardo Blanco Also site visit to CTS and CD Bayamon and CTS Villalba.
July 12, 2010:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
July 13, 2010:	Consultant Michael Gatling, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.
July 13, 2010:	Consultant Michael Gatling, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Salinas.
July 14, 2010:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CTS Ponce "Girls".
July 14, 2010:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CTS Ponce "Guaili".
July 14, 2010:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
July 15, 2010:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
July 15, 2010:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CTS Villalba.

August 10, 2010:	Federal Monitor Fred W. Benton, Consultant Thomas Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.
August 24, 2010:	Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
August 26, 2010:	Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Salinas.
September 14, 2010:	Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.
September 27, 2010:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
September 27, 2010:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.
September 28 th	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Third Quarter 2010

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

Provision	P	S	R	T	D	G	Comment
Facility Provisions							
C.O. 41: Within ninety (90) days of the filing of this Consent Order, Defendants shall repair all defective plumbing in the facilities in this case. The defective plumbing shall be repaired first at Mayaguez, Ponce Industrial, Ponce Detention and Humacao.	N	N	N	#	#	N	Compliance with this provision will be impossible to achieve under the current AIJ operating procedures and policies as it pertains to maintenance. Key issues are a lack of sufficient numbers of maintenance personnel coupled with an arcane procurement process for parts. The defendants concur with this assessment through numerous conversations with the monitor's office but to date no viable plan has been created to address plumbing and maintenance repairs in a timely manner.
C.O. 29. Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	N	Y	N	#	The defendants have closed several older facilities that had serious fire and life safety code violations as well as non-compliance with ACA standards and ADA regulations. Accordingly, AIJ is close to compliance with this provision pending the availability of additional resources to both document compliance as well complete necessary repairs and/or renovations to allow full compliance with this provision. It is recommended that an audit be conducted to determine how ADA compliance can be achieved.
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. Sleeping areas in which juveniles are confined shall conform to 35 square feet per one occupant. Toilets shall be provided at a minimum ratio of one for every 12 juveniles in male facilities and one for every eight juveniles in female facilities. Juveniles will have access to operable wash basins with running water, to operable showers, and to potable drinking water.	#	I	#	#	#	#	The monitor's office needs to determine that the defendants are close to compliance with this provision as several older facilities have been closed. Fluctuating populations at Guayama at times have not allowed compliance with the sleeping area or fixture standards. The monitor's office would recommend that its code consultant Michael DiMascio return to Puerto Rico for a site visit to determine if prior code violations have now been corrected. The electrification of the cell doors and removal of padlocks and hasps at CD Bayamon and Ponce Ninas, as well as the planning to do the same at Humacao, will help achieve full compliance with this provision by allowing the remote unlocking of cell doors in an emergency and support the ability of providing faster access to sanitary facilities at night when juveniles are secured in their rooms.
S.A. 32. Defendants shall eliminate ventilation and acoustical echoing problems at Centro Juvenile Metropolitano in Bayamón.	Y	I	Y	#	Y	#	Final work has been bid out in the Green Housing Unit at CTS Bayamon that will address the acoustics in that housing unit. The installation of new air conditioning in the yellow, green and orange housing units as well as acoustical treatment in all the housing units at CTS Bayamon is moving AIJ towards full compliance with this provision.

Provision	P	S	R	T	D	G	Comment
S.A. 33. Defendants will ensure that ventilation and acoustical systems provide healthful living and working conditions for juveniles and staff in all facilities.	Y	I	N	#	#	Y	With the closure of the older facilities, all housing units are now air conditioned and provide some level of acoustical treatment. Now that the air conditioning of the education building at CTS Bayamon is completed, there appears be compliance with this provision. The ability to maintain the systems on a long term on-going basis may be the biggest stumbling block to achieving full compliance with this provision that requires AIJ to “ensure” compliance. Based on these findings the Monitor has determined that there is apparent compliance with this provision. The Monitor recommends that if this apparent compliance persists for several quarter that a Compliance Memorandum be developed by the Monitor’s Office as a basis for consideration of termination by the parties.
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	N	#	While all facilities have emergency keys that are readily available for use in an emergency, the monitor’s office has found that in many instances the keys are not properly color coded or notched. Also, there is no systematic approach to storing or issuing the correct keys in an emergency. The AIJ Fire Safety Officer has been working on a plan to rectify this. When that plan is completed, the monitor’s office will review it and oversee its proper implementation. The electrification of the cell doors at CD Bayamon and Ponce Ninas, and hopefully Humacao, will help achieve compliance with this provision by reducing the number of keys needed for emergency exiting. AIJ needs to ensure sufficient staff, with proper communication to staff in the living units, are working in the Housing Control stations on all shifts to operate the control panels to remotely unlock all doors.
S.A. 35. Defendants agree that designated exit doors in all facilities will be maintained in operable condition and shall be readily unlocked in case of an emergency.	Y	#	N	#	Y	#	Non-compliance with the resource designation in this provision relates to the lack of staff and funds in regards to maintenance and repair of all exit doors as well as current maintenance procedures and procurement policies. There are sufficient resources to conduct regular checks and monthly reports by each facility’s fire safety coordinators and that is being performed and well-documented.
S.A. 37. AIJ policy shall ensure safety for juveniles and staff by requiring compliance with fire safety code requirements. Specific emergency plans shall be developed and copies made available to staff members. There shall be ongoing training programs and emergency procedures shall be reviewed and updated annually.	Y	Y	Y	#	Y	#	Pedro Santiago the AIJ Fire Safety Officer has been providing regular training in all emergency procedures to the fire safety coordinators and appropriate A IJ staff. The adequacy of the training which will need to be reviewed by Victor Herbert.

Provision	P	S	R	T	D	G	Comment
S.A. 38. A person having knowledge of the NFPA Life Safety Code and of the requirements of the specific building and fire codes for Puerto Rico will be designated as the Fire and Safety Officer. This Fire Safety Officer will have the authority to conduct monthly inspections of each facility for compliance with safety and fire prevention requirements. The Fire and Safety Officer shall prepare a monthly report of his findings and submit the report to the Monitor. Defendants shall correct in a timely manner any fire safety deficiency noted in the reports of the Fire and Safety Officer. A staff member in each facility who has received training in and is familiar with weekly inspection procedures, including the use of checklists and methods of documentation, will be appointed to work with the Fire and Safety Officer.	Y	Y	N	Y	Y	#	There are numerous reports that are prepared weekly and monthly by the various institutional fire safety coordinators. These in turn are reviewed by the A IJ Fire Safety Officer, and then submitted to the monitor's office. The key obstacle to full compliance with this provision is "Defendants shall correct in a timely manner any fire safety deficiency noted in the reports of the Fire and Safety Officer." Resources to achieve this have not been allocated nor have adequate maintenance procedures and procurement policies been put in place to allow for deficiencies to be corrected in a timely manner.
S.A. 44. Defendants agree to provide mattresses constructed of fire retardant materials.	Y	I	N	Y	#	N	The Monitor's consultant has been informed that funds have not yet been made available to purchase totally fire retardant mattresses, although all mattresses now have fire retardant coverings. Compliance with this provision has not yet been fully verified by the Monitor's office, but has been reported completed by the AIJ Fire Safety officer. However, the Monitor's consultant has urged AIJ to purchase new totally fire-retardant mattresses system wide versus just the current mattresses which have fire retardant covers.

Provision	P	S	R	T	D	G	Comment
Policies and Procedures							
S.A. 45. Within one year of the approval of this agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement by the Court, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.	N					N	In the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case.
Staffing							
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.	N	N	N	N	Y	N	For the 2nd quarter of 2010, all of the facilities submitted the staffing compliance reports. Improvement has been noted in reduction of failures in meeting 1:1 supervision events. See the 2010 Second QR narrative for more information about staffing compliance. Agency meeting staffing ratio requirements: 6:00 – 2:00: 22% of events 2:00 – 10:00: 22% of events 10:00 – 6:00: 87% of events 1% improvement for each shift since prior quarterly report
January 2009 Stipulation Paragraph 1: A ll 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.	Y	N	N	N	N	N	Due to understaffing, the necessary steps are not being taken. This is reflected in compliance statistics about supervision of youth requiring 1:1 supervision, and in statistics about harmful incidents taking place when required levels of staffing are not in place.
January 2009 Stipulation Paragraph 2: A ll necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48, as amended by Court Order dated M ay 15, 2007 (Dkt. #719), by hiring qualified direct care staff, beginning with fifty (50) direct care staff within thirty (30) days of this Order, and fifty (50) additional direct care staff every thirty (30) days, until Defendants achieve the goal to provide adequate supervision of youth in all facilities.	N	N	N	N	N	N	The January 2010 academy yielded 43 YSOs. The May 2010 academy yielded 52 YSOs. A third academy scheduled for August 2010 is expected to yield 50 YSOs.

Provision	P	S	R	T	D	G	Comment
January 2009 Stipulation Paragraph 3: Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre-service training, pursuant to Paragraph 49 of the Consent Decree. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.	#	#	#	#	#	#	The Commonwealth has decided not to employ this provision to enhance coverage.
January 2009 Stipulation Paragraph 4: All persons hired to comply with Paragraph 48 shall be sufficiently trained, pursuant to Paragraph 49 of the Consent Decree, before being deployed. Defendants shall deploy all duly trained direct care staff, pursuant to Paragraph 49, to juvenile facilities in a timely manner.	Y	N	N	#	N	N	The new YSOs have been deployed to youth corrections facilities.
January 2009 Stipulation Paragraph 5: On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.	Y	Y	Y	Y	Y	Y	The reports are being provided. However, they are not reporting compliance with the other parts of the stipulation.

Provision	P	S	R	T	D	G	Comment
Training							
S.A. 49. Direct care staff shall have at least forty (40) hours of pre-service training before being given supervisory responsibility for juveniles.							See the Monitor's PLRA Report.
S.A. 50. Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.	Y	N	N	I	Y	N	The number of officers trained has not changed in a significant way for either the fiscal or annual year. Nevertheless, a meeting took place during an October, 2010 meeting with two attorneys from the Commonwealth and the director of training, Aida Burgos, to discuss alternate ways of increasing the number of officers completing annual training. Ideas included: location of training closer to the institutions, competency examinations when and where appropriate, distance learning, on-line instruction, CD courses and other options. No decision was taken to change the current method of providing training but all agreed to investigate these possibilities.
Classification							
S.A. 52. At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.	N	#	#	#	#	N	<ul style="list-style-type: none"> The detention classification system is not yet fully defined and implemented. A pilot program is being evaluated.

Provision	P	S	R	T	D	G	Comment
Mental Health and Substance Abuse Treatment							
S.A. 59. Defendants, specifically the Department of Health (ASSMCA), shall provide an individualized treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers, for each juvenile with a substance abuse problem.	N	N	Y	#	N	N	Review of the medical records and observation of a treatment team meeting revealed that the treatment planning process is markedly deficient. The team meeting was not attended by the psychiatrist, no treatment needs were identified, the youths were all reported to be “stable”. The types and frequency of substance abuse difficulties were noted but the treatable psychological deficits that lead to and support substance abuse were not identified or discussed.
C.O. 29: Defendants shall maintain an adequate 48 bed residential mental health treatment program which provides services in accordance with accepted professional standards, for juveniles confined in the facilities in this case in need of such services as determined by a qualified child and adolescent psychiatrist as part of a qualified interdisciplinary mental health team.	N	N	N	#	N	N	Currently there are no special residential placements for youth in detention. Detention youth released from suicide watch or returning from inpatient psychiatric hospitalization are placed back in general population as there is no specialized residential placement in detention. The mission of the PUERTAS program at CTS Bayamon (which has replaced an earlier program at Rio Grande) remains unclear. At the last site there were less than 20 youth at the CTS Bayamon residential facility. Interviews with youth at other facilities identified several youth who could benefit from residential treatment who were not being considered for CTS Bayamon Mental Health Unit
C.O. 30: Defendants provide adequate qualified staff members for the residential treatment program, which include a child psychiatrist, psychologist, occupational therapist, social workers and nurses.		N					Psychologist hours had been cut from 35 to 30 hours in general. Some psychologists work only 28 hours. While this is not per se a violation of the Consent Order, the Monitor’s consultant believes that the number of hours is insufficient.
C.O. 34. Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self-mutilating behaviors.							<ul style="list-style-type: none"> Not yet rated.

Provision	P	S	R	T	D	G	Comment
C.O. 36. Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	N	N	#	N	N	N	<ul style="list-style-type: none"> Psychologist hours had been cut from 35 to 30 hours. Youth are not adequately assessed. Treatment plans are not individualized and treatment progress not assessed and documented. Policy is deficient in terms of the procedures for documenting progress. Given the deficient assessment practices policies will need to be developed that include enhanced assessment. Assessment is seriously deficient with many youth being diagnosed as free of mental health concerns. Because the evaluation of youth is so deficient, appropriate treatment services are not being provided.
S.A .62. In addition to the mental health staff required by ¶ 36 of the Consent Order approved by the Court in this case in October 1994, Defendants shall provide ambulatory psychiatric services by a team. This team shall be composed of a child psychiatrist, a child psychologist and a social work counselor. All mental health care personnel shall have written job descriptions and meet applicable Commonwealth licensure and/or certification requirements. Defendants, specifically AIJ, will provide for residential treatment and, if needed, in-patient hospitalization for those cases where such service is needed.	N	N	#	#	N	N	<ul style="list-style-type: none"> Currently there are no special residential placements for youth in detention. Detention youth released from suicide watch or returning from inpatient psychiatric hospitalization are placed back in general population as there is no specialized residential placement in detention. Although the services are provided by a team, the absence of a single master treatment plan demonstrates one aspect of the fragmentation of service delivery. The serious deficiencies in assessment of youth make the current provision of ambulatory mental health services inadequate. Many mental health difficulties of youth go undetected, youth who repeatedly self mutilate, or aggressive are viewed not as in need of mental health services but as manipulative. Documentation does not reflect the efficacy of treatment or lack thereof so that adjustments can be made. Many youth have been taken off psychotropic medications including medications to treat ADHD without adequate assessments to determine the need for these medications. Most youth referred for psychiatric hospitalization are not admitted either due to inappropriate referral, inappropriate admission standards or refusal by the hospital.

Provision	P	S	R	T	D	G	Comment
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.	Y	#	N	N	N	N	<ul style="list-style-type: none"> The current staffing for mental health professionals does not make it possible for a psychiatrist to "immediately evaluate" the youth. This is an overly stringent requirement. Youth should be evaluated immediately by n medical staff and placed on Therapeutic observation and seen by the psychiatrist or psychologist within 8 hours. This generally occurs. However, recent site visits revealed numerous youth isolated reportedly for reasons other than MH concerns. Many of these youth had serious MH concerns with automutilation being common. Minimal MH treatment is being provided these youth. Because youth with MH difficulties are poorly assessed and not identified treatment is not provided in accordance with accepted professional standards.
S.A. 66. An AIJ child and/or adolescent psychiatrist shall develop a protocol for the use of psychotropic medication by other physicians. A training program will complement this protocol. A child and/or adolescent psychiatrist will be available on an on-call basis at all times.	Y	N	Y	#	N	N	<ul style="list-style-type: none"> The primary purpose of that paragraph was to deal with the problems associated with treatment by psychiatrists who are not specialists in child and adolescent psychiatry. The paragraph implied supervision by means of the protocol and the on-call consultation. The Monitor's consultant believes that there should be central oversight of psychiatric services by a psychiatrist.
S.A. 67. Defendants shall obtain specific informed consent from a juvenile's parent or legal guardian or from the state court for the use of psychotropic medication for each juvenile on such medication. All psychotropic medications will be prescribed by a licensed psychiatrist and/or physician. All psychotropic medication will be reviewed and approved by an AIJ child psychiatrist. In all cases, the family of any juvenile taking psychotropic medication will be informed in writing by the family's case manager.	#	N	Y	#	#	N	<ul style="list-style-type: none"> The current informed consent process is seriously deficient. During recent site visits consent forms that were reviewed often did not list any risks, treatment rationale was listed in the risk section. In many instances serious risks such as liver failure for drugs like Depakote were not listed at all. The current process does not provide for "informed" consent as it is typically understood in clinical practice. AIJ continues to have the proposed treatments and their risks explained to parents by social workers who are not qualified to answer questions regarding treatment options and medical risks. Thus the process does not represent informed consent as it is generally conceived in clinical practice.
S.A. 70. The AIMS instrument shall be completed at least once every six (6) months for each juvenile taking psychotropic medications.							<ul style="list-style-type: none"> See the Monitor's PLRA Report.

Provision	P	S	R	T	D	G	Comment
S.A. 71. Stimulants, tranquilizers, and psychopharmacological drugs shall only be used as deemed medically necessary and shall not be administered for punishment.	#	N	Y	#	#	N	The Monitor's consultant and Plaintiff's consultant identified during recent reviews instances where medication would appear to be unnecessary. Most noteworthy were cases where emergency medications were administered after the emergency was over and the need to medicate had passed. Emergency medication in all case involved Haldol a powerful antipsychotic in cases where psychosis is not the issue. Use of less powerful and safer yet equally effective medications such as Ativan is nonexistent.
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.	Y	Y	Y	Y	N	N	In instances where emergency medication was used adequate follow-up of the youth and documentation of the youth's response to the medication is lacking.
S.A. 73. Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.	N	N	N	N	N	N	The AIJ Behavior Management program is seriously deficient. Currently youth receive points on a daily basis for prosocial behavior. However, the reward schedule is so poor that youth need to save up points for an entire month in order to get the Nintendo for the weekend. Youth report that frequently when they try to exchange points for items like pizza or a movie that these are not available due to budget limitations. This undermines the entire rationale for a BM program where rewards in reasonable frequency and quantity are needed to promote positive behavior.

Provision	P	S	R	T	D	G	Comment
Discipline							
S.A. 74. Defendants shall specify the rules of the facilities with a complete list of possible punishments for violations of such rules in the handbook described in ¶ 47 above. Written notice of any rule violation, a hearing before a facility staff person not involved in the investigation of the violation, and an appeal to the facility director shall be provided to a juvenile prior to any punishment being imposed, except that Defendants may administratively segregate a juvenile in emergency or life-threatening situations. In the event of an emergency, when circumstances make it inappropriate to hold a hearing prior to segregation, a hearing shall take place within forty-eight (48) hours from the time of segregation.	Y	N	I	I	N	N	<ul style="list-style-type: none"> All rules are specified in handbook. A new handbook has been prepared, reviewed and approved by the Monitor's Consultant, and should be issued to youth in October/November 2010. Additional monitoring is necessary to determine whether group punishment is still being meted out in violation of AIJ policy. Additional monitoring is required to determine whether there remains inconsistent implementation of policies regarding the limited dayroom access sanction.
S.A. 75. The handbook described in ¶ 47 above shall include a description of the grievance process. Grievance decisions that are appealed by the juvenile beyond the facility shall be reviewed by Defendant Director of the AIJ or his or her designee.	Y	Y	Y	Y	Y	Y	<ul style="list-style-type: none"> AIJ policy 14.7 and practice allow appeals beyond the facility. Inserts reflecting changes to grievance policy have been widely available with handbooks distributed to youth and posted on walls of modules since early 2010. A new handbook has been prepared, reviewed and approved by the Monitor's Consultant, and should be issued to youth in October/November 2010. Social workers are orienting youth to the grievance appeals right and forms have been modified to show this step. Based on these findings the Monitor has determined that there is apparent compliance with this provision. The Monitor recommends that if this apparent compliance persists for several quarters that a Compliance Memorandum be developed by the Monitor's Office as a basis for consideration of termination by the parties.
S.A. 76. 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 for disciplinary reasons.	Y	Y	I	#	Y	Y	<ul style="list-style-type: none"> A minor flaw in AIJ policy was corrected via memorandum to all institutions to clarify that disciplinary policies/procedures are established solely by AIJ central office policy and not by individual institutions. Based on these findings the Monitor has determined that there is apparent compliance with this provision. The Monitor recommends that if this apparent compliance persists for several quarters that a Compliance Memorandum be developed by the Monitor's Office as a basis for consideration of termination by the parties.

Provision	P	S	R	T	D	G	Comment
<p>S.A. 77. No corporal punishment shall be imposed on any juvenile. The use of physical force by staff shall be limited to instances of justifiable self-defense, protection of others, and prevention of escapes. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing serious bodily harm to himself or to another, the facility director or his/her designee must approve the use of restraints before they are applied.</p>	N	#	I	N	N	N	<p>AIJ policy and training and associated practice does not currently comport with the language of this provision. The Monitor has urged the parties to resolve this issue for two years.</p> <p>Documentation of use of force incidents is insufficient to determine the extent of compliance. However, a new incident report has been piloted at Humacao, which will hopefully provide more and better information about use of force incidents. Systemwide adoption should occur in October/November.</p>

Provision	P	S	R	T	D	G	Comment
Abuse and Maltreatment Investigation and Management							
S.A. 78.a Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.	Y	N	N	#	N	N	<p>Policies have been updated to comply with this provision. The Quarterly Case Assessments in the main part of the report consistently reveal the following problem areas:</p> <ul style="list-style-type: none"> Evidence is rarely preserved. Suspected youth are separated from their victim(s) less than half of the time.
S.A. 78.b All Defendants' staff or contractors who are involved in, witness, or discover an incident (or evidence of abuse or mistreatment, in the case of a health care worker) shall document the incident or evidence in writing in a standardized incident report. The report shall be submitted to the reporter's supervisor or other designated staff person before the reporter leaves the facility following shift change. The report shall include all relevant details regarding the incident, including a description of the events leading to and immediately following the incident; date, time, and place; all persons involved, including alleged victim(s) and all witnesses; how the incident was detected; reporter's name and signature; and date and time the report form was completed.	Y	Y	Y	#	N	N	<p>The timeliness of initial reporting appears to have improved, but statistics are not yet available to assess whether compliance has been achieved. In the future, a compliance review will be necessary to determine whether they are completed with consistent timeliness and quality.</p>
S.A. 78.c Within 24 hours of knowledge of a potential abuse incident, the report shall be transmitted to the Commonwealth Police for investigation, the Department of Family Services for statistical reporting, the Department of Corrections, and the AIJ administration. For serious incidents involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile, the AIJ administration shall also notify SAISC within 24 hours of knowledge of the potential incident, and 1 hour for any juvenile death, and SAISC shall conduct an administrative investigation.	Y	Y	Y	#	N	N	<p>The timeliness of initial reporting by AIJ, based on AIJ records, has been high.</p> <p>The Commonwealth Police do not respond to the Monitor's information requests for case analysis information.</p> <p>Cases are promptly referred to SAISC.</p>

Provision	P	S	R	T	D	G	Comment
S.A.78.d Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.	Y	#	#	#	N	N	<ul style="list-style-type: none"> Documentation is insufficient concerning the implementation of investigations by the Commonwealth Police.
S.A. 78.e Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC's receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.	Y	#	#	#	N	N	<ul style="list-style-type: none"> During the first quarter, <u>all</u> of the 48 SAISC investigations took longer than 30 days. Of 279 cases referred to SAISC during the past four quarters, 168 cases have not been completed. Based on the modifications to Paragraph 78 adopted in 2007, the cases referred to SAISC are only the most serious cases. Thus, it appears that the majority of serious cases referred to SAISC are no longer being investigated.
S.A. 78.f Defendants shall implement investigation standards in conformance with applicable law, including, at a minimum: photographing visible injuries; preserving and analyzing evidence; conducting separate, face-to-face, private interviews of the alleged victim, perpetrator, and all possible witnesses, with a record of the questions and answers. Whenever there is reason to believe that a juvenile may have been subjected to physical sexual abuse, the juvenile shall be examined promptly by outside health care personnel with special training and experience in conducting such assessments.	N	N	Y	#	N	N	<ul style="list-style-type: none"> No process is in place to assess whether compliance is achieved with respect to investigation quality. No standards have been formally adopted.

Provision	P	S	R	T	D	G	Comment
S.A. 78.g Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.	N	N	Y	#	N	N	<ul style="list-style-type: none"> No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.
S.A. 78.h AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ's quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.	N	N	Y	#	N	N	<ul style="list-style-type: none"> Case tracking is inconsistent and incomplete. The case tracking information system has not been updated at all during 2008. AIJ lacks staffing and resources to do meaningful analysis of cases
S.A. 78.i Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.	Y	Y	Y	Y	N	N	<ul style="list-style-type: none"> AIJ policies comply with this provision. Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision. It appears that criminal charges had been filed against three AIJ employees in relation to an alleged assault on a youth on September 10, 2009. The fact of the charges was not reported and compliance with the separation requirements of the December 2006 order has also not been established.
Separation Order, of December 4, 2006: Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.	N	Y	Y	N	N	N	It appears that criminal charges had been filed against three AIJ employees in relation to an alleged assault on a youth on September 10, 2009. The fact of the charges was not reported and compliance with the separation requirements of the December 2006 order has also not been established. Apparently the charges were dismissed following a preliminary hearing on December 18, 2009 due to insufficient evidence, but the authorities are seeking review of the dismissal.

Provision	P	S	R	T	D	G	Comment
Protection and Isolation							
<p>S.A. 79. Juveniles shall be placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others and only after less restrictive methods of restraint have failed. Isolation cells shall be suicide resistant. Isolation may be imposed only with the approval of the facility director or acting facility director. Any juvenile placed in isolation shall be afforded living conditions approximating those available to the general juvenile population. Except as provided in ¶ 91 of this agreement, juveniles in isolation shall be visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time. Juveniles in isolation shall be seen by a masters level social worker within three (3) hours of being placed in isolation. Juveniles in isolation shall be seen by a psychologist within eight (8) hours of being placed in isolation and every twenty-four (24) hours thereafter to assess the further need of isolation. Juveniles in isolation shall be seen by his/her case manager as soon as possible and at least once every twenty-four (24) hours thereafter. A log shall be kept which contains daily entries on each juvenile in isolation, including the date and time of placement in isolation, who authorized the isolation, the name of the person(s) visiting the juvenile, the frequency of the checks by all staff, the juvenile's behavior at the time of the check, the person authorizing the release from isolation, and the time and date of the release. Juveniles shall be released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others.</p>	#	#	#	#	#	#	<ul style="list-style-type: none"> This provision is related to both Discipline and Mental Health. The meaning and application of the provision continues to be unresolved. There is no evidence to suggest that isolation is being used for disciplinary purposes and AIJ policy prohibits this.
<p>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.</p>	#	#	#	#	#	#	<ul style="list-style-type: none"> This provision has recently been the subject of compliance concerns based on field assessments made by the Monitor's Consultants relative to services being received by these youth, especially education. There is an agreement in place to provide for a modified one-on-one education program for these youth with a different hourly education requirement established than for other youth.

Provision	P	S	R	T	D	G	Comment
Education and Vocational Services							
S.A. 81. Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juveniles would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. AIJ shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.	Y	N	N	I	Y	N	All AIJ facilities began the school year in August without a sufficient number of teachers. This has been an on-going problem which has been exacerbated by the failure of AIJ and the Department of Education to provide teachers in juvenile facilities with the same continuing contracts as teachers in the public schools in the Commonwealth. At the end of September, documentation provided by the Commonwealth showed that teacher shortages remained at Bayamon CTS, Bayamon CD, Ponce Ninas CTS, Villalba CTS, Guyama CTS, Humacao, CTS, and at Creando. At Guyama the problems have been particularly severe. At that facility, one of the largest, there were four teaching vacancies during a visit by the monitor's consultants in October 2010. At Bayamon, another site with staffing problems, the abbreviated school day according to students and staff is about three hours long. Staffing decisions within AIJ are not being made by the acting director of education for AIJ but rather directly through the office of the director (assistant secretary) of AIJ.
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 <u>et seq.</u> 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.	Y	N	Y	I	Y	N	The education program has had a system to screen youth with a history of special education services as well as those who were not previously served but who exhibit characteristics indicating that they might be eligible for services. Teacher vacancies have compromised the ability of the Commonwealth to be in compliance with this provision.
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	N	I	Y	N	AIJ education staff report that records including students' IEPs are passed on to the schools in which students are supposed to enroll upon their release. None of the education programs at AIJ facilities have school directors and the AIJ has eliminated the two regional directors. Facilities have "teachers in charge (maestros encarga)" but these individuals have teaching responsibilities. This provision will be examined closely during the next reporting period.

Provision	P	S	R	T	D	G	Comment
S.A. 88. If the juvenile has not been previously identified as having an educational disability, but indications of such a disability exist, an adequate evaluation must be performed within the time limits prescribed by federal law. The Commonwealth shall use only professionally accepted tests to complete the evaluation. The evaluation shall include a complete psychological battery and intellectual achievement tests. A copy of this educational evaluation shall be kept in the juvenile's record at the facility.							See the Monitor's PLRA Report.
S.A. 89. If a juvenile referred for an evaluation pursuant to the above paragraph is discharged from the system before the evaluation is complete, Defendants shall forward all information regarding screenings and evaluations completed to date, noting what evaluations are yet to be performed, to the juvenile's receiving school district.							See the Monitor's PLRA Report.
S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	N	N	I	Y	N	During this quarter, site visits to each facility showed appropriate services and compliance and some facilities and inadequate services at others where there were teaching vacancies.
S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	N	N	I	Y	N	Certified special education teachers, many of them new to the profession, provide education services to youth.
S.A. 92. All juveniles 18 years old or older shall be permitted to participate in the development of the IEP. Juveniles under age 18 have a right to have a parent present during the development of the IEP. If a parent is unwilling or unable to attend, Defendants shall appoint a surrogate parent trained in the relevant provisions of federal and state law to participate in the development of the IEP. Appointed surrogate parents may not be employees of any public agency involved in the education or care of the juvenile. All juveniles, parents, and surrogate parents shall be informed that they have the right to challenge the IEP.							See the Monitor's PLRA Report.

Provision	P	S	R	T	D	G	Comment
S.A. 93. Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.	#	N	N	I	#	#	In spite the fact that there are unresolved differences between plaintiffs and defendants about the meaning of year round services in the context of special education, the current system of hiring and appointing teachers to facilities has left the agency chronically understaffed for the first two months of the school year.
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.	Y	N	N	I	Y	N	The most recent review of services for youth in isolation showed that not all youth receive services to which they are entitled. (See comments for Provision 80.) Not reviewed this quarter.
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	N	N	I	Y	N	Not reviewed this quarter. Absence of qualified teaching staff suggests that this is a problem.