

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

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Fourth Quarter Report for 2010. The report covers the months of October, November and December 2010, and also serves as an annual report. 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 February, 2011, 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 Fourth Quarter, 2010

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

The following is the Monitor's Fourth 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.

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

Separate Attachment One: Table of Compliance Ratings

A. PLRA Motion and the Monitor's Special Report

On January 18, 2011 the Commonwealth filed a motion, pursuant to the Prison Litigation Reform Act, to terminate five provisions of the Settlement agreement:

S.A. 31	Building Codes and Standards
S.A. 32	Ventilation and Acoustics at Bayamon
S.A. 33	Ventilation and Acoustics
S.A. 44	Fire Retardant Mattresses
S.A. 75	Grievance Process
S.A. 76	Provisions Not Revoked or Limited as Discipline

In addition, Defendants asked for termination of the following provisions as they apply to youth assigned to the Guaili Program.

S.A. 48	Direct Care Staff
S.A. 81	Academic and Vocational Education
S.A. 87	Individual Special Education Plans

S.A. 90 Special Education Services

As was the case for the two previous PLRA motions, the Monitor will file a special compliance report on the provisions involved. On January 24, 2011, the Monitor proposed, in an informative motion to the Court, to file the report 60 days following the filing of the motion, because additional site visits will be required as well as a code compliance inspection. The anticipated date for filing the Monitor's PLRA Report is therefore March 19, 2011.

Immediately prior to filing this report, the Monitor determined that it will not be possible to secure the services of Michael DiMascio for a follow-up assessment of compliance with provision 32, 32, 33, and 44, which are provision relating to building codes and fire protection. The Monitor is seeking to identify an alternate expert. It is possible that the process of appointment of an alternate expert, and the availability of the expert, may necessitate a change in the filing date for those sections of the PLRA Report. The Monitor will advise the Court and the parties of the situation when additional information becomes available.

Status of May 2010 PLRA Motion

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) All of the briefing is complete and the motion is ready for a hearing or decision.

B. Teacher Vacancies

AJJ reports that there is a now a teacher-in-charge at each institution although they did not receive salary or other credit for serving in this capacity.

C. Status of the Early Retirement Initiative

The Commonwealth has authorized an early retirement initiative. Employees may retire at an earlier age with fewer years of service than is normally the case. The following employees, considered by the Monitor to be in key positions relating to compliance initiatives have elected to retire:

- Vilma Santini, whose responsibilities include abuse report tracking required by paragraph 78.h. She is to be temporarily replaced by Minerva Vasquez who has worked in UEMNI with Vilma Santini.
- Benjamin Hernandez, who has been instrumental in operational compliance at the central and institutional level; and
- Celia Enid Marin, who has been responsible for internal compliance monitoring. She is to be replaced by Maritza Rodriguez who has worked at Ponce Girls.

D. 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 began on November 29, 2010. The class will complete during February and be assigned to youth corrections facilities.

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 four quarters of 2010, there has been a remarkable reduction in the volume of youth designated for 1:1 supervision
 - 3171 events 1st Quarter 2010
 - 2577 events 2nd Quarter 2010;
 - 1662 events 3rd Quarter 2010
 - 1719 events 4th Quarter
- Correspondingly, there has been almost a 100% reduction in the volume of youth without required 1:1 supervision:
 - 583 events 1st Quarter
 - 288 events 2nd Quarter
 - 26 events 3rd Quarter 20
 - 22 events 4th Quarter
- During the Fourth Quarter 2010 reporting period, AIJ documented a total of 1719 events that required 1:1 staff to youth supervision. Of the 1719 1:1 events, 22 of the events (1.3%) 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.

With respect to the central review of suicide and self-mutilation gestures and attempts, the Monitor recommends that the central review system either be set up, not later than the end of the first quarter of 2011, or that the Commonwealth revert to at least reporting these incidents in the Paragraph 78 process and providing, for each such incident, a report by the facility psychologist to the Monitor's Office as to the facts and circumstances of the incident and the immediate and subsequent steps taken. In the absence of establishment of a satisfactory central review process by the Commonwealth, the Monitor will set up a standing information request at the start of the second quarter.

E. 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.

However, during a site visit to CD Bayamon on February 10, 2011, the Deputy Monitor observed the following: "The maximum capacity according to DEC is 124 spaces (not including the segregation rooms that are located outside the module, near the mini-control). Yesterday during our visit the maximum amount of juveniles in the facility was 136 (including those in the intake area). Yesterday at the end of the day the population was 129. During our visit we observed that most of the "segregation" rooms were occupied also."

At the same time, two housing units at CTS Bayamon were still closed for remodeling, and other units were not fully-occupied.

The closing of the Salinas Detention Center must not result in overcrowding of the Bayamon Detention Center. In the Monitor's view, there is no reason why housing units in CTS Bayamon cannot be designated for use by detention populations.

F. 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. His understanding is 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.

Consultant Bogard reported the following based on a February 7th with AIJ officials:

- It was agreed that the objective of Security Measures is to temporarily deal with the youth's issues, whether it is a voluntary placement or not, and to work with him/her to address the concerns and develop a plan to return them to general population. As such, it was agreed that a more appropriate term would be "Transitional Measures".
- Maria del Carmen is working on a new policy (separate from the Protective Custody policy) that will define and govern Transitional Measures, including identifying their rights (same as those

proscribed in P 80), documentation requirements (including 15 minute observations), and the need for treatment committees to actively work with the youth to transition them back to general housing with others. In addition, she will make the changes discussed for the Protective Custody policy to clarify its coverage, i.e., to include all youth who are vulnerable or fear for their safety, including those who are known to have committed high profile crimes in the community, and to explain that youth who are sexual aggressors in AIJ facilities will typically not be considered for protective custody.

G. 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 Monitor intends to convene a conference call to discuss this proposal with the parties.

H. 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.”*²

Respectfully Submitted,



F. Warren Benton, Ph.D.
Monitor

² In the Plaintiff’s review of the Fourth Quarter 2010 report, the United States stated that in their December 2010 site visits, they identified deficiencies in Use of Force reports including the use of generic language and lack of explanation of the nature of force used and the reasons why it was deemed necessary.

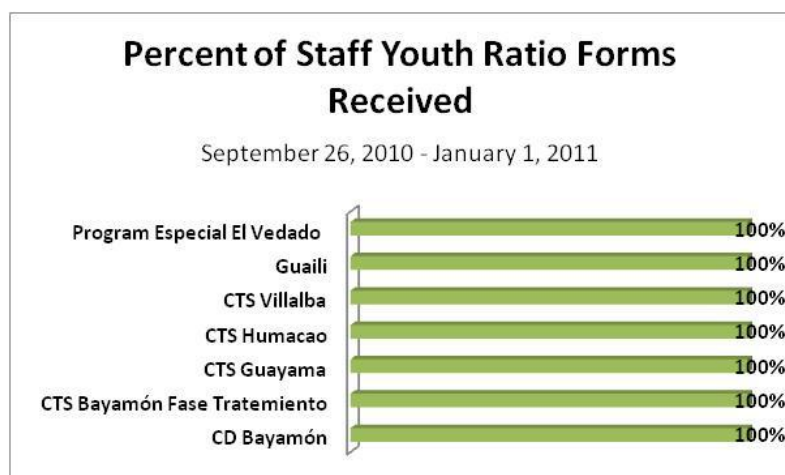
Document Attachment A: Consultant Robert Dugan Report on Staffing Compliance

Background:

The following report constructed on January 21, 2010 provides information on Staff Youth Ratio forms that were provided to the consultant for the period of September 26, 2010 thru January 1, 2011.

As of the Friday, January 14, 2011 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	14	14
CTS Bayamón Fase Tratamiento	14	14
CTS Guayama	14	14
CTS Humacao	14	14
CTS Villalba	14	14
Guaili	14	14
Program Especial El Vedado	2	2
Totals	86	86



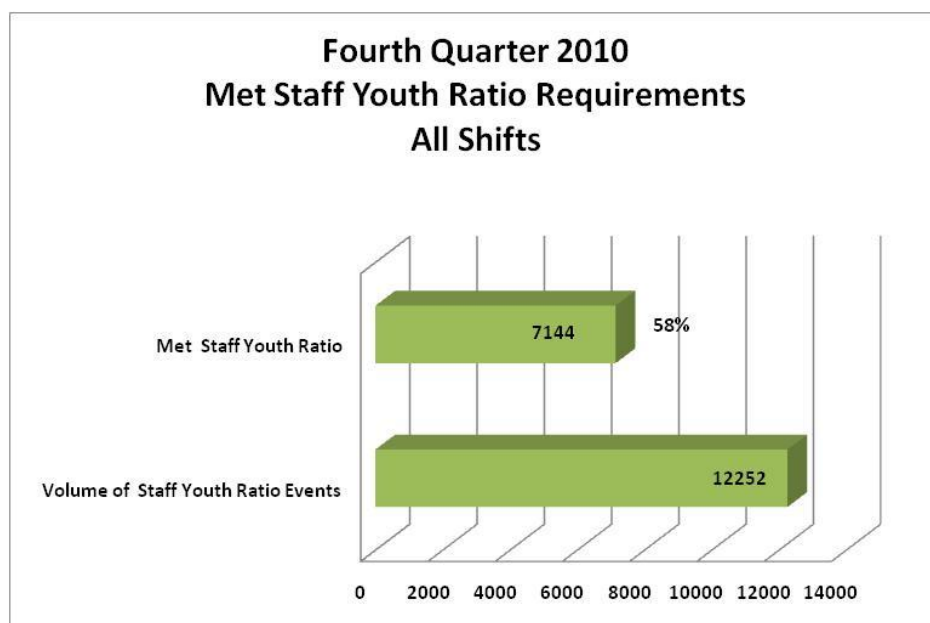
AIJ submitted a total of 86 facility staff youth ratio forms. For this quarterly reporting period 100% of the staff youth ratio forms were available for analysis. For all of the 2010 Quarterly Reports, AIJ has provided 100% of requested Staff Youth Ratio Forms.

In light of the closure of CD Salinas in September 2010, the facility is no longer included in the Staff Youth Ratio Quarterly Report.

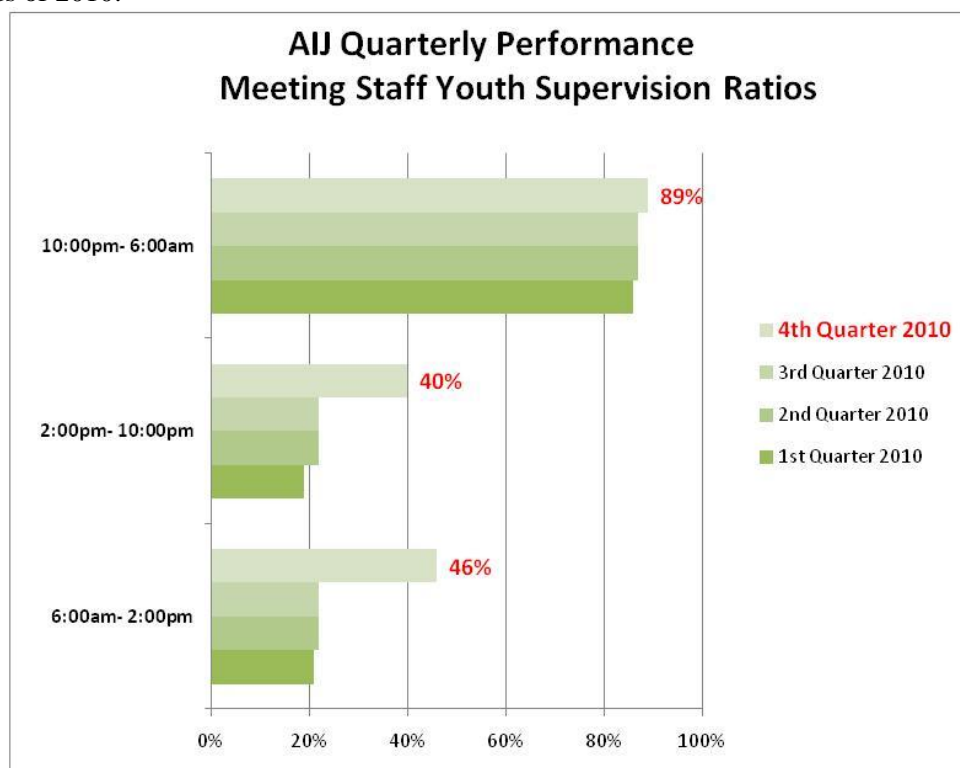
The table displaying the date that Staff Youth Ratio forms were received is on page 14 of this report.

AIJ Staff Youth Ratio Averages:

During the Fourth Quarter reporting period (September 26, 2010 thru January 1, 2011), AIJ documented a total of 12,252 shift / unit events that required staff to youth supervision. Of the 12,252 shift / unit events, 7144 of the events (58.3%) were supervised with the required staff youth ratios.



The following chart represents the AIJ agency Staff Youth Ratio averages by shift for the all four quarterly reporting periods of 2010:



The Fourth Quarter of 2010 has resulted in the following improvements in meeting Staff Youth Ratios:

- 6:00 am- 2:00 pm shift: 24% improvement
- 2:00 pm- 10:00 pm shift: 18% improvement
- 10:00 pm- 2:00 am shift: 2% improvement

Significant reduction of 1:1 supervision events, the closure of CD Salinas and redeployment of officers, new officers assigned to facilities, resulting in stabilization of facility workforce all appear to be factors that have resulted in Fourth Quarter Staff Youth Ratio supervision improvement.

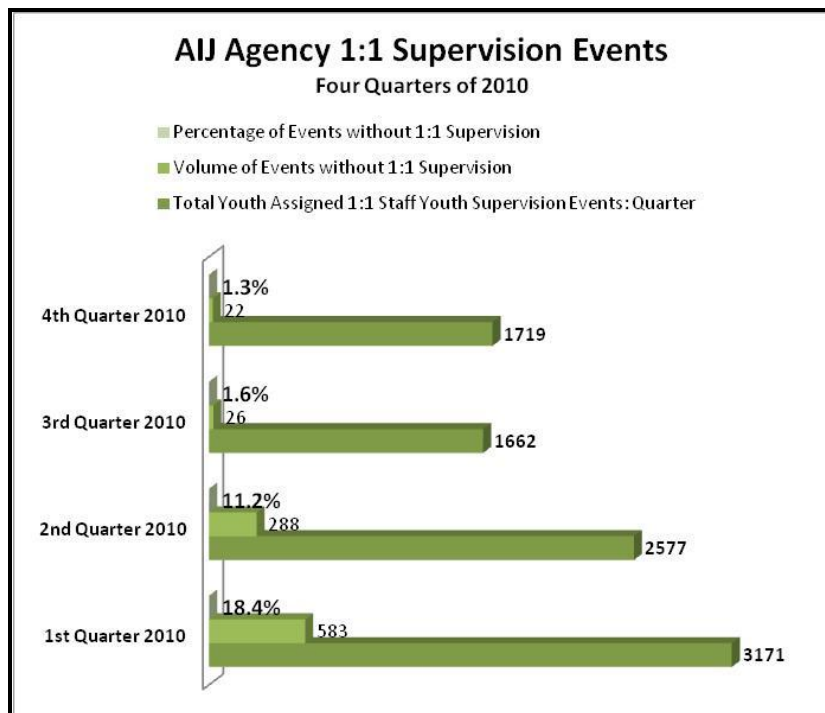
AIJ Agency 1:1 Supervision Events:

Over the course of the four quarters of 2010, there has been a remarkable reduction in the volume of youth designated for 1:1 supervision

- (3171 events 1st Quarter 2010
- 2577 events 2nd Quarter 2010;
- 1662 events 3rd Quarter 2010
- 1719 events 4th Quarter

Correspondingly, there has been a 100% reduction in the volume of youth without required 1:1 supervision:

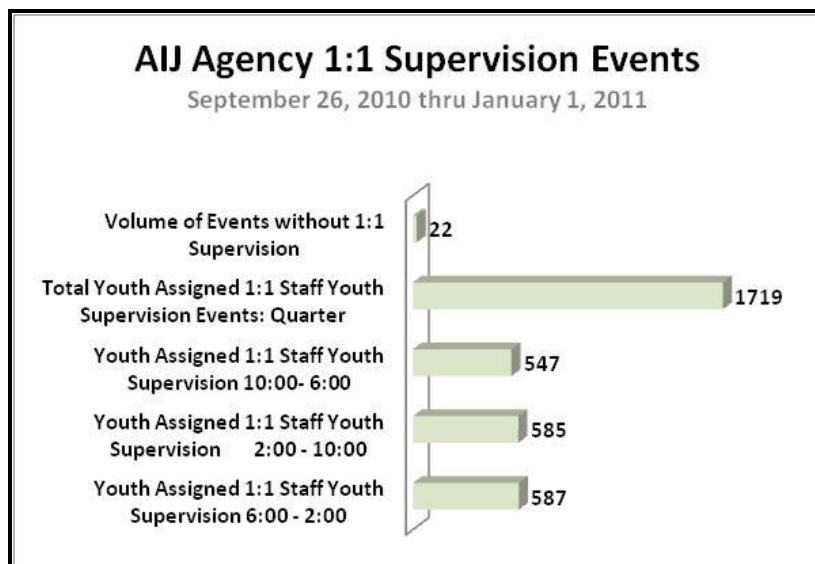
- 583 events 1st Quarter
- 288 events 2nd Quarter
- 26 events 3rd Quarter 20
- 22 events 4th Quarter



During the Fourth Quarter 2010 reporting period, AIJ documented a total of 1719 events that required 1:1 staff to youth supervision.

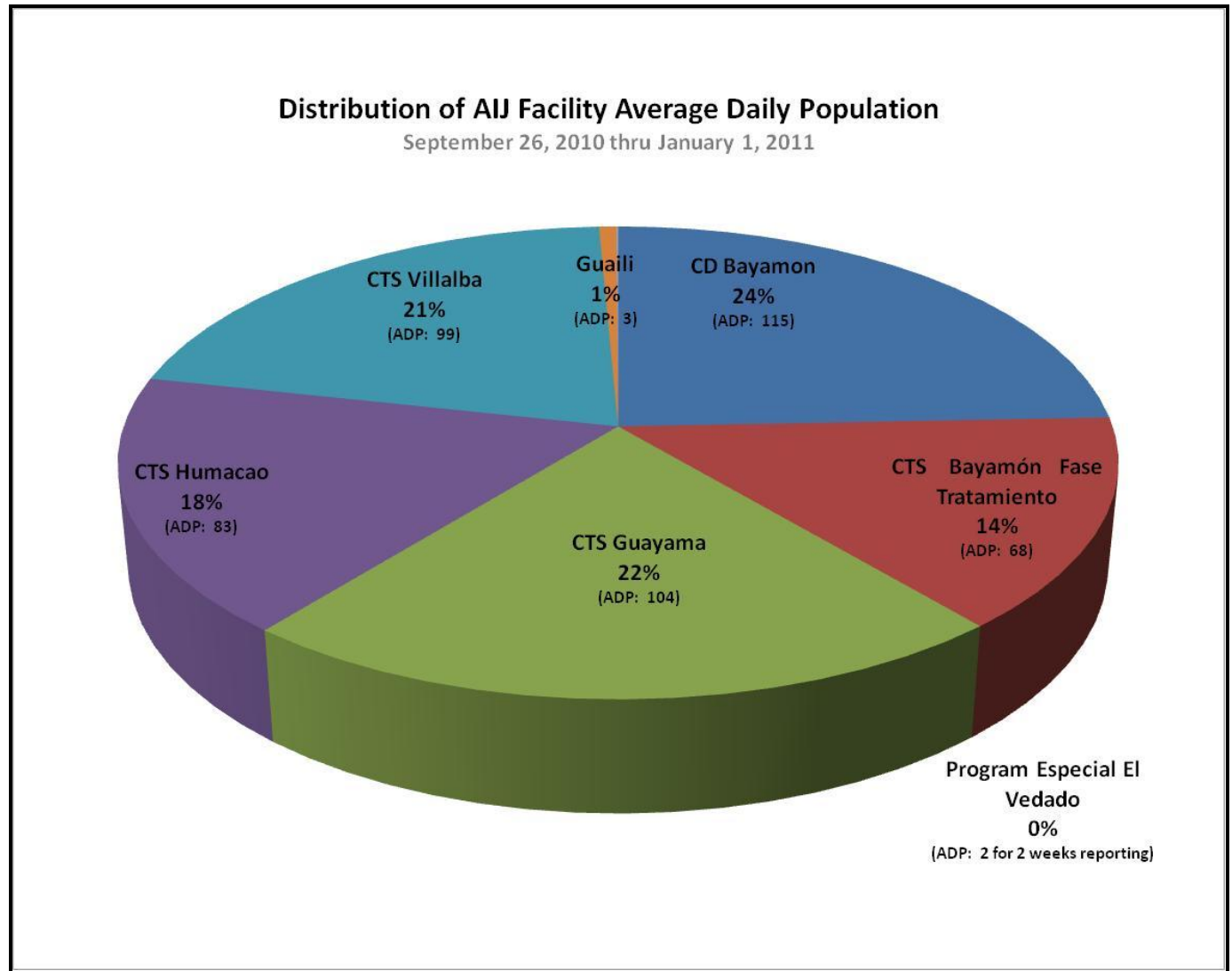
Of the 1719 1:1 events, 22 of the events (1.3%) were not supervised with the required 1:1 staff youth ratio.

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.

**AIJ Average Daily Population:**

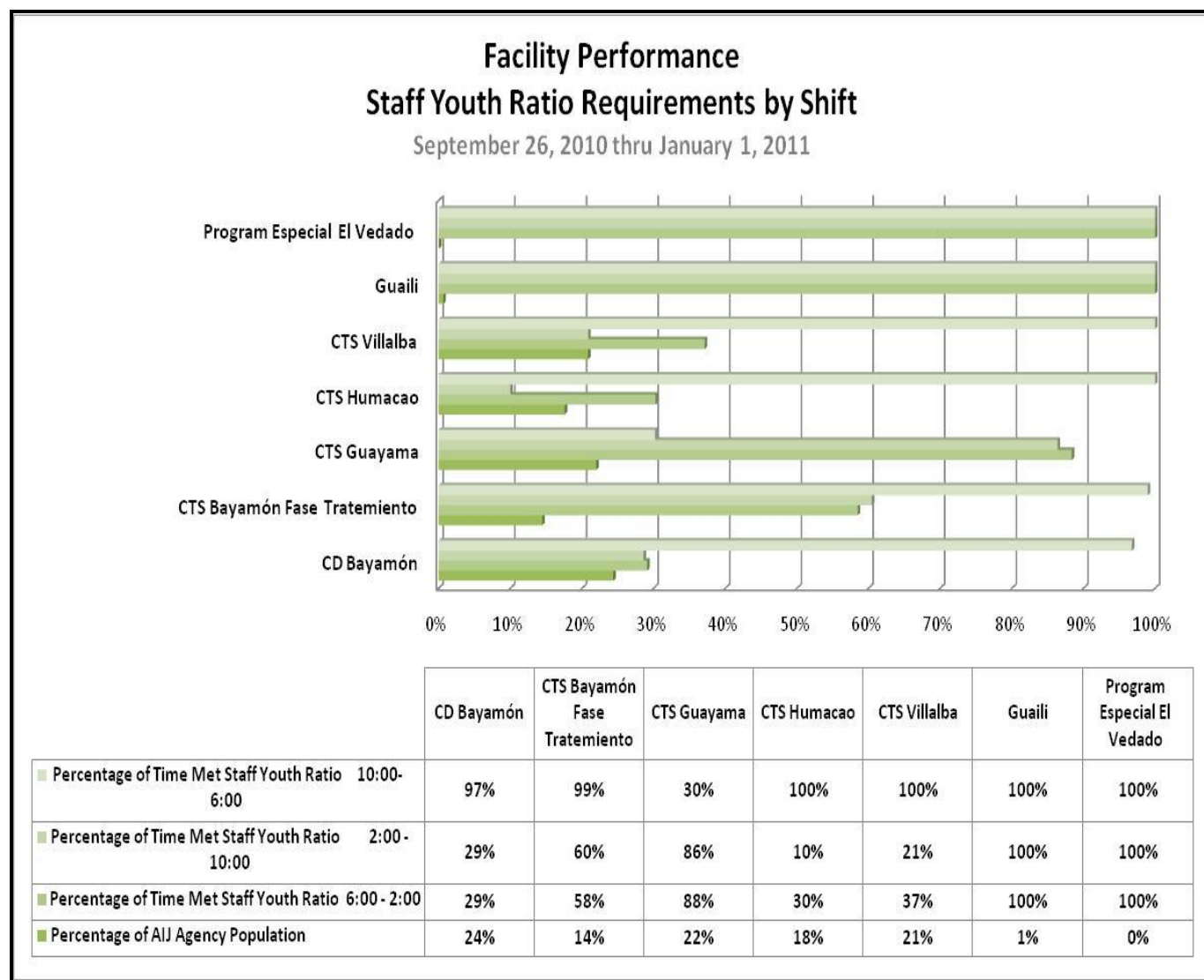
Analysis of Staff Youth Ratio forms has been expanded to provide some perspective to not only the number of shifts that are in compliance with expected staff youth ratios, but to display staffing information compared to facility average daily population (ADP). Facility average daily population was computed 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 (September 26, 2010 thru January 1, 2011) 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 September 26, 2010 thru January 1, 2011 (14 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 15 of this report.

During the third quarter reporting period (September 26, 2010 thru January 1, 2011), 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:

September 26, 2010 thru January 1, 2011

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

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: 14 of 14 requested

For the 4th Quarter there has been the following improvement is Staff Youth Ratio supervision:

- 6:00 am – 2:00 pm: a 11% improvement
- 2:00 pm – 10:00 pm: a 12% improvement

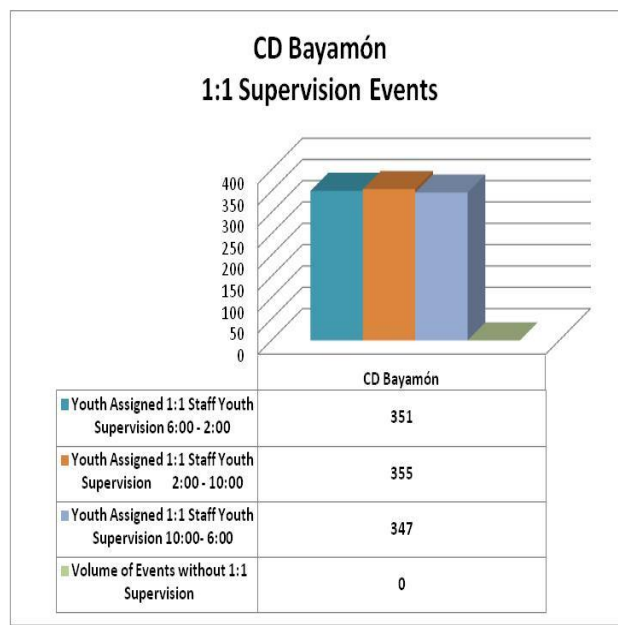
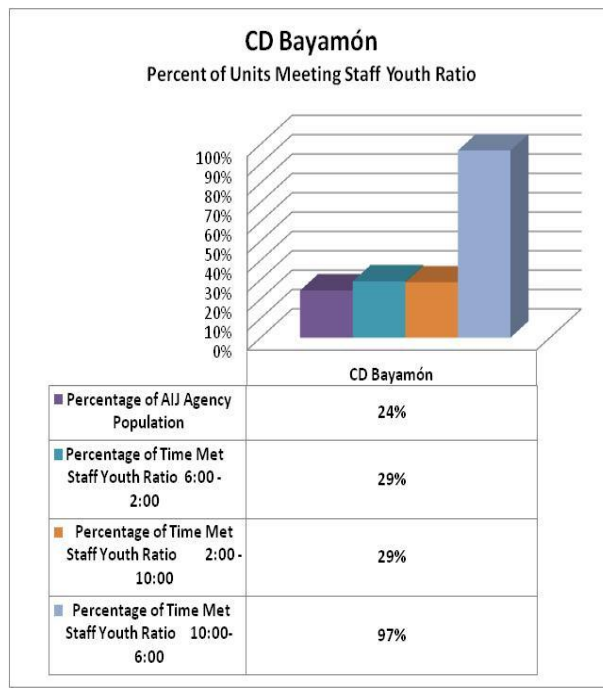
****CD Bayamón contributed 1053 of the 1719 (61%) AIJ 1:1 supervision events for the 4th Quarter reporting period.**

Average volume of youth assigned 1:1 staff youth supervision per reported day: **3.6**

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

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 98

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

September 26, 2010 thru January 1, 2011

Level 4 and 5 Facility:

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

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 14 of 14 requested

For the 4th Quarter there has been the following improvement is Staff Youth Ratio supervision:

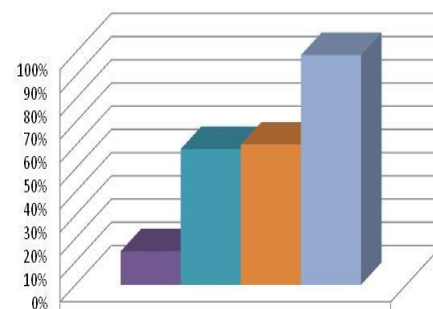
- **6:00 am – 2:00 pm: a 22% improvement**
- **2:00 pm – 10:00 pm: a 32% improvement**

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 98

CTS Bayamón Fase Tratamiento

Percent of Units Meeting Staff Youth Ratio



CTS Bayamón Fase Tratamiento	
■ Percentage of All Agency Population	14%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	58%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	60%
■ Percentage of Time Met Staff Youth Ratio 10:00-6:00	99%

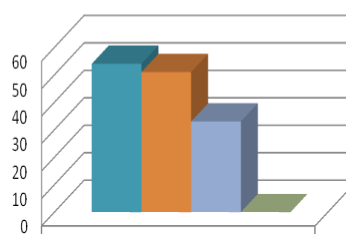
Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.5**

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; 46 4th Q) and reduction in the volume of events where youth were not under 1:1 supervision (410 1st Q; 288 2nd Q; 0 for 3rd Q; and 0 for 4th Q).

CTS Bayamón Fase Tratamiento

1:1 Supervision Events



CTS Bayamón Fase Tratamiento	
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	54
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	51
■ Youth Assigned 1:1 Staff Youth Supervision 10:00-6:00	33
■ Volume of Events without 1:1 Supervision	0

CTS Guayama Staff Youth Ratio Analysis:

September 26, 2010 thru January 1, 2011

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%

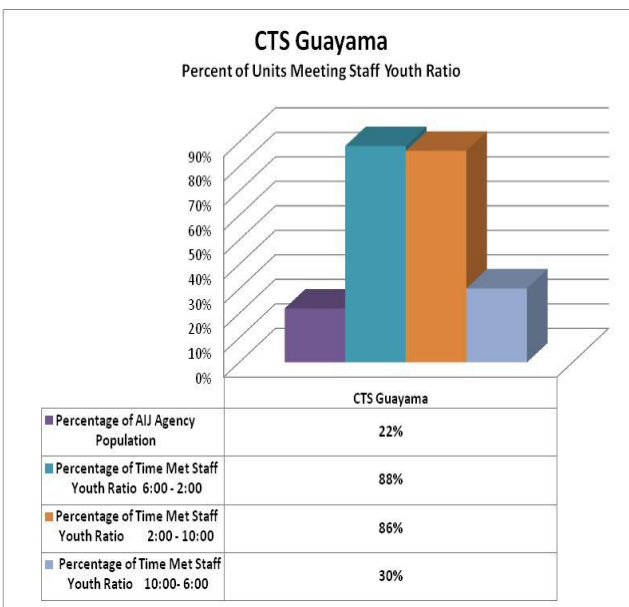
Volume of Weeks Analyzed: 14 of 14 requested

For the 4th Quarter there has been the following improvement is Staff Youth Ratio supervision:

- 6:00 am – 2:00 pm: a 68% improvement
- 2:00 pm – 10:00 pm: a 68% improvement

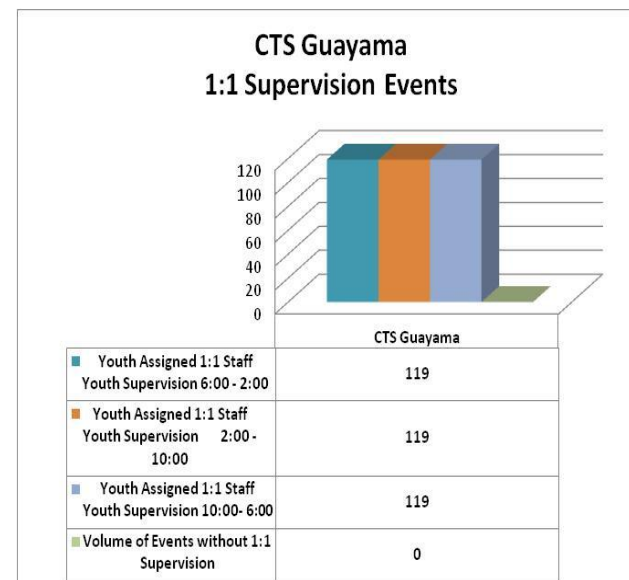
Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 98



Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.3**

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



CTS Humacao Staff Youth Ratio Analysis:

September 26, 2010 thru January 1, 2011

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: 14 of 14 requested

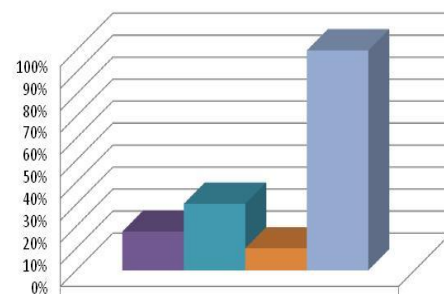
For the 4th Quarter there has been the following improvement is Staff Youth Ratio supervision:

- 6:00 am – 2:00 pm: a 25% improvement
- 2:00 pm – 10:00 pm: a 7% improvement

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 98

CTS Humacao
Percent of Units Meeting Staff Youth Ratio



CTS Humacao	
■ Percentage of All Agency Population	18%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	30%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	10%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%

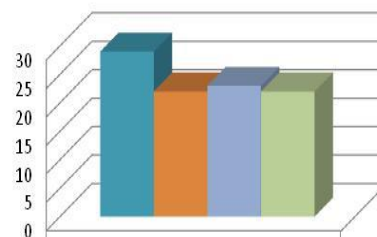
Average volume of youth assigned 1:1 staff youth supervision per reported day: **.25**

Volume of 1:1 Events Without Required staffing during reporting period: **22**

**** 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 fourth quarter, there were 22 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	29
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	22
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	23
■ Volume of Events without 1:1 Supervision	22

CTS Villalba Staff Youth Ratio Analysis:

September 26, 2010 thru January 1, 2011

Level 5 Facility:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 14 of 14 requested

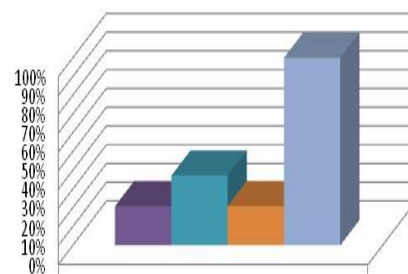
For the 4th Quarter there has been the following improvement is Staff Youth Ratio supervision:

- 6:00 am – 2:00 pm: a 29% improvement
- 2:00 pm – 10:00 pm: a 9% improvement

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 98

CTS Villalba
Percent of Units Meeting Staff Youth Ratio

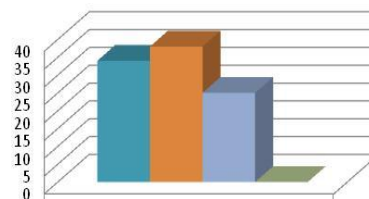


CTS Villalba	
Percentage of All Agency Population	21%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	37%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	21%
Percentage of Time Met Staff Youth Ratio 10:00- 6:00	100%

Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.3**

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

CTS Villalba
1:1 Supervision Events



CTS Villalba	
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	34
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	38
Youth Assigned 1:1 Staff Youth Supervision 10:00- 6:00	25
Volume of Events without 1:1 Supervision	0

Guaili Staff Youth Ratio Analysis:

September 26, 2010 thru January 1, 2011

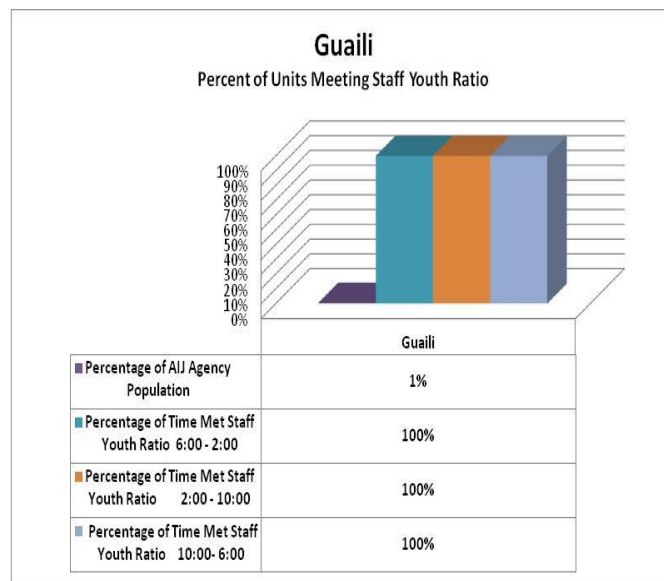
Level 2 Facility:

- 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:** 14 of 14 requested

Guaili has maintained Staff Youth Ratio expectations for all four quarters of 2010. AIJ has submitted the following statement relative to Guaili staffing:

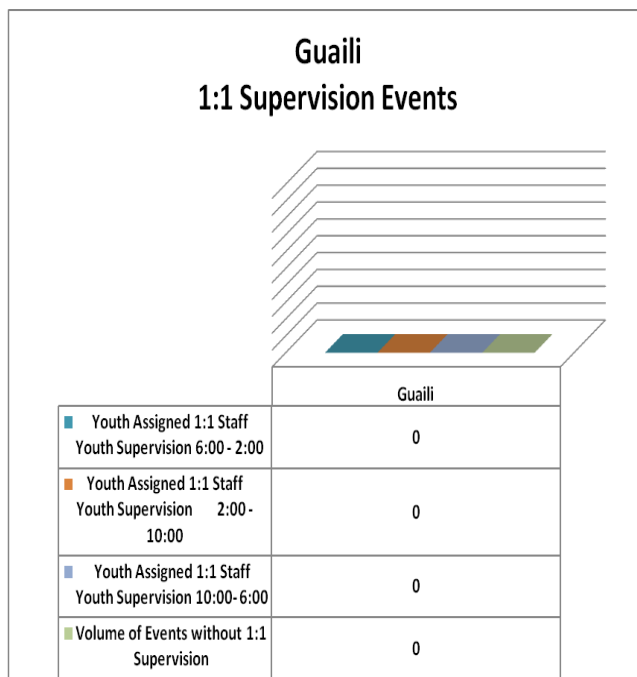
“We certified that the weekly forms of the stipulation 48 in the civil action 94-2080 ccc demonstrate that “Guaili” complies in each of the shifts worked during 2010, in proportion with the custody officers vs. the roll require for the stipulation”.

Volume of Weeks Analyzed: 14**Volume of Days Analyzed: 98**

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 Staff Youth Ratio Analysis:

September 26, 2010 thru January 1, 2011

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%

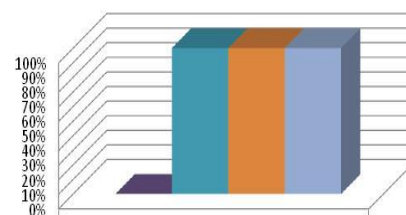
****Volume of Weeks Analyzed:** 2 of 2 requested and AIJ indicated that program had youth in residence

Volume of Weeks Analyzed: 2

Volume of Days Analyzed: 14

Program Especial El Vedado

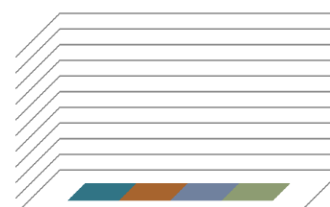
Percent of Units Meeting Staff Youth Ratio



Program Especial El Vedado	
■ Percentage of AIJ Agency Population	0%
■ 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**

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

Program Especial El Vedado	
■ 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 Events without 1:1 Supervision	0

Facility Table of Shift Compliance with Staff Youth Ratio:

	Percent of Staff Youth Ratio Forms Received	<u>Percentage of AIJ Agency Population</u>	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
<u>CD Bayamón</u>	100%	24%	29%	29%	97%
<u>CTS Bayamón Fase Tratamiento</u>	100%	14%	58%	60%	99%
<u>CTS Guayama</u>	100%	22%	88%	86%	30%
<u>CTS Humacao</u>	100%	18%	30%	10%	100%
<u>CTS Villalba</u>	100%	21%	37%	21%	100%
<u>Guaili</u>	100%	1%	100%	100%	100%
<u>Program Especial El Vedado</u>	100%	0%	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
<u>CD Bayamón</u>	351	355	347	1053	0	98
<u>CTS Bayamón Fase Tratamiento</u>	54	51	33	138	0	98
<u>CTS Guayama</u>	119	119	119	357	0	98
<u>CTS Humacao</u>	29	22	23	74	22	98
<u>CTS Villalba</u>	34	38	25	97	0	98
<u>Guaili</u>	0	0	0	0	0	98
<u>Program Especial El Vedado</u>	0	0	0	0	0	14
Totals	587	585	547	1719	22	602

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

Date	Camp Santia	CD Bayam	CTS Bayamón	CTS Guayan	CTS Humaca	CTS Villa	Guaili	Program Especial El
			Fase Tratamien					Vedado
September 26 -October 2, 2010		11/8/2010	11/8/2010	11/8/2010	11/8/2010	11/8/2010	12/1/2010	
October 3- October 9, 2010		11/8/2010	12/10/2010	11/8/2010	11/8/2010	11/8/2010	12/1/2010	12/1/2010
October 10 - October 16, 2010		11/8/2010	11/8/2010	11/8/2010	11/8/2010	12/14/2010	12/1/2010	12/1/2010
October 17- October 23, 2010		11/8/2010	11/8/2010	11/8/2010	12/1/2010	1/12/2011	12/1/2010	
October 24 - October 30, 2010		12/1/2010	12/10/2010	11/8/2010	11/8/2010	1/4/2011	12/14/2010	
October 31 - November 6, 2010		12/1/2010	12/1/2010	12/14/2010	12/1/2010	12/1/2010	12/14/2010	
November 7-November 13, 2010		12/1/2010	12/1/2010	12/14/2010	12/1/2010	12/1/2010	12/14/2010	
November 14 -November 20, 2010		12/1/2010	12/1/2010	12/14/2010	12/14/2010	12/1/2010	12/14/2010	
November 21 -November 27, 2010		12/1/2010	12/10/2010	12/14/2010	12/14/2010	1/10/2011	12/14/2010	
November 28- December 4, 2010		12/14/2010	12/24/2010	1/4/2011	12/14/2010	1/12/2011	12/14/2010	
December 5 -December 11, 2010		12/24/2010	1/12/2011	1/4/2011	1/4/2011	12/24/2010	12/14/2010	
December 12 -December 18, 2010		1/4/2011	12/24/2010	1/10/2011	1/11/2011	1/12/2011	12/24/2010	
December 19 - December 25, 2010		1/12/2011	1/4/2011	1/10/2011	1/4/2011	1/5/2011	1/10/2011	
December 26 -January 1, 2011		1/12/2011	1/12/2011	1/10/2011	1/5/2011	1/12/2011	1/10/2011	
		14	14	14	14	14	14	2

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

Dates of Reporting Period	<u>CD</u> <u>Bayamon</u>	<u>CTS</u> <u>Bayamón</u>	<u>CTS</u> <u>Guayama</u>	<u>CTS</u> <u>Humacao</u>	<u>CTS</u> <u>Villalba</u>	<u>Guaili</u>	<u>Program</u> <u>Especial El</u>	<u>Totals</u>
		<u>Fase</u> <u>Tratamiento</u>					<u>Vedado</u>	
September 26 -October 2, 2010	104	87	99	82	96	4		472
October 3- October 9, 2010	129	73	113	75	98	3	2	493
October 10 - October 16, 2010	117	82	97	85	91	4	2	478
October 17- October 23, 2010	119	87	102	83	92	2		485
October 24 - October 30, 2010	123	82	102	80	95	1		483
October 31 - November 6, 2010	120	74	113	73	100	2		482
November 7-November 13, 2010	106	74	108	84	102	2		476
November 14 -November 20, 2010	122	66	103	87	108	3		489
November 21 -November 27, 2010	119	55	112	87	101	3		477
November 28- December 4, 2010	109	56	111	85	103	3		467
December 5 -December 11, 2010	119	54	101	84	100	4		462
December 12 -December 18, 2010	110	63	101	84	99	4		461
December 19 - December 25, 2010	98	52	90	93	100	4		437
December 26 -January 1, 2011	117	51	103	82	95	4		452
Totals	1612	956	1455	1164	1380	43	4	6614
Percentage of All Agency Population	24%	14%	22%	18%	21%	1%	0%	472.4
Average Daily Population	115	68	104	83	99	3	2	472

Document Attachment B: Bogard Site Visit Reports

Notes of October 26 Meeting and Site Visits

Prepared by Monitor's Consultant David M. Bogard

The following is a summary of topics addressed during the October 26, 2010 meeting at the Monitor's Office. In addition, selected notes are presented concerning field observations.

Meeting Attendees: Taraneh Ferdman; Vilma Santini; Maria del Carmen Torres; Lt. Angel Burgos; Zulma Matias; Aida Burgos; David Bogard; Bob Dugan.

New Incident Report Format

- The new form has been in use since August 25.
- The new form was used in the most recent academy.
- Documentation of training for staff was provided to Monitor's Consultant.
- Note: The Monitor's Consultant reviewed the use of this form at Humacao, Villalba, CD Bayamon and found *very good results in general*. The majority of reports reviewed had all items marked and conveyed a clear sense of the incidents, what precipitated the use of force, and the actions of staff during and after the incidents. In a couple of cases, the incident reports clearly revealed questionable actions by staff in terms of the force that was used that may not have been apparent via the narrative, and referrals for investigation were made as a result. Supervisors must continue to emphasize the importance of staff checking boxes in all fields and they must do so themselves on their reports. Given the newness of this format, the initial results are very encouraging and incidences of missing information should decrease over time. This should prove to be an invaluable tool to regularly assess the use of force (and other) incidents.

New Cernimiento Form

- The new form has been in use since August 25.
- The new form was used in the most recent academy.
- Note: Monitor's Consultant observed use of this form at Humacao, Villalba, CD Bayamon and found very good results. Referrals are being made according to the protocols built into the form. The only issue of any concern is that photocopies of the form are being used and these are, in some cases, partially obscuring the shaded fields in which entries must be made that trigger referrals.

Security Measures

- A memorandum was sent to all facility directors by Lt. Burgos on June 24 outlining general parameters for the treatment, supervision and rights of youth identified as security measures. Essentially, these youth are to be treated just as those classified as protective custody (under paragraph 80 and per AIJ policies and procedures).
- Provisions for youth identified in this category will be expressly incorporated into AIJ policies in next year's revisions to the manual.

- Note: Much work needs to occur to ensure that practice matches the June 24 memorandum. At Villalba, the director informed us that there was only one youth on security measures and he was housed in admissions; in fact, there were four juveniles in other locations who were also identified as security measures. There was an individual log being maintained for the one youth in admissions but not for the other four. The director's explanation of the discrepancies—that the other four were voluntary placements-- was not adequate as the majority of security measures are actually voluntary. At Humacao, documentation for the eight security measures cases was in place, although some were not being maintained contemporaneously, which raises concerns about the accuracy of the log notations. At CD Bayamon, no logs were found for the three juveniles on security measures or for one youth who was on protective custody status for an extremely high profile charge. It is imperative that attention be paid to insuring that there are individual logs being maintained on all youth identified as either protective custody or security measures, and that the logs reflect the services being provided to these youth and the care they are being given.

Education for Youth in Protective Custody

- There was discussion about the ongoing findings of non-compliance with paragraph 80 due to education not being regularly provided for youth identified as either protective custody or security measures.
- Apparently, a side agreement was reached in September 2009 in which two hours of one-on-one instruction was deemed to be the equivalent of that provided to youth in a standard classroom day. This was authored by Monitor's consultants Peter Leone and Victor Herbert and agreed to by Maria Feliciano on behalf of the Commonwealth.
- Note: Evidence of two hours of one-on-one education for youth in Protective Custody (and security measures) was not present at the three institutions visited. Individual logs for these youth should be modified or adapted to directly include the hours of individual academic instruction.

Documentation of OC

- AIJ ordered new scales this week because ones purchased in March were not correct models
- Lt. Burgos has met with supervisors to discuss OC documentation of weights before and after use and to stress veracity of documentation
- Lt. Burgos stated that he will take disciplinary action against employees who submit false documentation

Humacao Use of Force Log

- We have previously pointed out that all use of force incidents need to be documented in log, not just those with OC.
- Lt. Burgos met with Humacao director and compliance officer on May 24 and October 25 to discuss this issue and uniformity of logs.
- Monitor's office should see changes to Humacao use of force log since this past summer to show all use of force incidents.
- Note: This issue was not reviewed during the visit to Humacao.

Revisions to the Due Process Form

- Giovanni has made the edits to this form to consistently document the due process steps taken for disciplinary hearings. Disciplinary officers are now reportedly using the new versions of this form.

- Note: This issue was not reviewed during the field visits.

Juvenile Handbook

- The Monitor's Consultant approved the revised language concerning grievances and discipline in August.
- The new handbook has been finalized and is ready to be printed, but has not been sent to the printer yet or approved for printing.(update: I was informed that it was approved for printing on 11/11/10)
- AIJ agreed to push to have the handbooks printed and distributed to juveniles by the end of November.

Grievance Appeals to Central Office

- Jennie in the sub-administrator's office is keeping a log of appeals to central office.
- A copy of the log was received and it showed only one appeal, from March 2010.
- I identified some areas for improvement in the central office log to better identify the subject of the appeal, the action taken, and the timeframes for receipt and response.
- Note: Although the log showed only one appeal in 2010, a review of grievances at Villalba uncovered one that was filed and submitted to the sub-administrator by a youth at that facility in May. Review of this appeal raised two questions:
 - Why was this appeal not documented on the log in the sub-administrator's office, and
 - Why was the response to the appeal addressed to the director of Villalba rather than the youth who filed the appeal?

Paragraph 75- Grievances: Field Observations

- Villalba- Review of the grievance log and discussion with grievance officer Isel Torres Santiago revealed that the grievance system is working well. The majority of grievances are responded to within 1-3 days, with a few taking as long as seven days because the grievance officer was reassigned to other facilities or to work shift assignments due to understaffing. The quality of responses was very good.
- Humacao- Review of the grievance log and discussion with grievance officer Margarito Pinto revealed that all grievances are responded to in 1-2 days and the responses are very good. She is resolving a large number of grievances informally and rapidly, but also documenting them in the log.
- CD Bayamon- Review of the grievance log and discussion with grievance officer Maggie Rodriguez revealed that responses are very good. Because of short staffing and reassignment of the grievance officer to other duties, some delays are being encountered relative to responding to grievances within three days as required by AIJ policy. There are also some delays in terms of physically entering the information from grievances and responses into the log after the fact, which is less of a concern. Blank grievance forms were found in living units as were postings describing the current grievance system.

Report of Site Visits: December 1-2, 2010
Monitor's Consultant David M. Bogard
Prepared December 3, 2010

On December 1-2, 2010 I visited three AIJ institutions (CTS Bayamon, Ponce, and Guayama) to assess their status relative to three issues:

- Grievance system
- Use of Force³
- Implementation of security measures status

Additionally, discipline was reviewed at two of three institutions, albeit to a lesser degree. Additional attention will be focused on this subject in early 2011.

The following observations apply to all three facilities visited this week:

- The recently revised Incident Report and Cernimiento forms are working well and generally being used properly and effectively by staff completing them and by Compliance Officers in their review capacity. The new Incident Report form is yielding far more specific facts than the simple narrative format ever did or could. All three facilities were using the May 2010 versions of the two forms; I do suggest that photocopies of the Cernimiento forms should be discouraged as this can obscure the shaded areas that trigger abuse referrals.
- There are far too many Use of Force logs at each of these three multi-classification facilities. Separate logs are *not* required for each population at a facility and this practice makes it more difficult for managers to effectively use them as oversight tools and seriously compound difficulties associated with monitoring.
- Documentation of Use of Force actions by Special Operations Unit staff should be incorporated into the Use of Force logs maintained by the facilities. If Special Operations Units need their own documentation of interventions, OC weighing, etc., that is fine, but primary documentation of use of force must be incorporated into the institutions' use of Force logs, i.e., where the incidents occurred, and be subject to review by the facility directors and via the Cernimiento forms
- The grievance process and associated documentation is working well. Responses are uniformly timely (1-4 days) and generally appropriate; many responses were thorough and precise, although in other cases responses to youth expressing fear or complaining about staff conduct were vague. I noted that there were several examples of mistreatment referrals being made by grievance officers.
- Multiple forms are being used within and among facilities to document 15 minute safety checks. A single, multi-purpose form should be adopted for the system to document 15 minute safety rounds for all classifications that are subject to that requirement. It should have codes to insert for a variety of observations and should not have pre-printed times on it—officers should be required to write in the actual times that observations were made.
- There remain many inconsistencies in terms of how facilities are implementing the Security Measures status in light of Lt. Burgos' June 24 Memorandum, particularly with respect to requirements for conducting safety rounds and the format to be used for

³ In the Plaintiff's review of the Fourth Quarter 2010 report, the United States stated that in their December 2010 site visits, they identified deficiencies in Use of Force reports including the use of generic language and lack of explanation of the nature of force used and the reasons why it was deemed necessary.

appropriate documentation. See my October 2010 Site Visit Report for further discussion of this.

Key Findings at Each Facility:

CTS Bayamon (December 1)

- There are five separate log books being used for use of force, including ones for: Orange unit, Blue unit, Special Operations Unit interventions, Special Operations Unit Use of Force, Special Operations Unit OC weighing log.
 - Recommendation- There should be one log book for all use of force incidents at CTS Bayamon and one for all such incidents at CD Bayamon. The one log book should include all use of force incidents, whether performed by institutional staff or by Special Operations Unit staff. All uses of force should be included, including hands on, OC, mechanical restraints, etc.
 - Recommendation-Special Operations Unit staff can continue to maintain their own logs as needed, as long as all uses of force are also documented in the respective institutional log books.
- Special Operations Unit officers previously assigned to Salinas (now Ponce) are being dispatched to CD/CTS Bayamon several days a week under the direction of their own supervisor. They are logging the OC weights at Ponce, even if OC is used at Bayamon.
 - Recommendation- Any use of force incidents and associated data regarding incidents occurring at the institutions at Bayamon should be maintained at Bayamon, even if duplicate logs are maintained elsewhere.
- My review of five recent use of force incident reports revealed that the new form is being completed properly.
- The Cernimiento form is consistently and effectively being used as a review tool by the compliance officer and several referrals for abuse investigations were made as a result.
- Four youth in the Orange unit are being segregated for Security Measures, with one of those also on Mental Health status. 15 minute rounds are being logged, although there were numerous examples of logs being discontinued in the middle of a calendar day with no explanation as to why. In addition, different forms are being used for 15 minute logs for different populations, with differing amounts of detail about activities and services.
 - Recommendation: Any time a log is discontinued, there must be a notation indicating the reasons, e.g., the youth is temporarily out of the facility; the youth was released, etc.)
 - Recommendation: See previous recommendation about standardization of 15 minute safety observations.
- There are separate log books for grievances for the Orange Unit and Blue Unit.
 - Recommendation- There should be one log book for all grievances at CTS Bayamon and one for all at CD Bayamon.
- The grievance process and associated documentation is working well. Responses are always timely (1-4 days) and generally appropriate, although some of the responses to youth expressing fear were lacking in specifics. There was one appeal to the facility director, who immediately intervened to remedy a very legitimate grievance concerning a sanction imposed by a disciplinary committee (see below).
- As a result of my review of grievances, I learned about a disciplinary hearing in which the board imposed a seven day segregation sanction against a youth—a sanction not permitted by AIJ policy and currently a violation of Paragraph 79. Although the youth

immediately appealed the sanction to the facility director who instantly intervened to stop the sanction, this clear violation of policy was unacceptable.

- Recommendation: Immediate training and orientation relative to the requirements of the AIJ disciplinary policies, process, and permissible sanctions should be provided to the facility's disciplinary officer and the members of the board that were involved in this incident.

Ponce Girls and Guali (December 2)

- There have been two- three use of force incidents per month since July for the girls. While this number seems somewhat high given the very low census (36 on the day I visited), the majority of the incidents involve a small number of very troubled girls. Since September, there have been nine uses of force involving three girls (three for each) and no others.
- According to the Special Operations Unit log, OC has not been used at Ponce in the past year or longer.
- My review of five recent use of force incident reports revealed that the new form is generally being completed properly. In addition, the Cernimiento form is consistently being used as a review tool by the compliance officer as per my discussions with AIJ central office staff earlier this year.
- Separate Use of Force logs are being maintained for the girls, Guali boys, and for use of OC by the Special Operations Unit.
 - Recommendation- There should be one log book for all use of force incidents at Ponce, including the Guali unit. The one log book should include all use of force incidents, whether performed by institutional staff or by Special Operations Unit staff. All uses of force should be included, including hands on, OC, mechanical restraints, etc.
 - Recommendation- Special operations Unit staff can continue to maintain their own logs as needed, in addition to ensuring that all uses of force are documented in the institutional log book.
- There are separate log books for grievances for the Girls and Guali.
 - Recommendation- There should be one log book for all grievances at Ponce, including the Guali unit.
- The grievance officer is doing an excellent job in terms of providing timely and thoughtful responses to youth. Where the facility is at fault, responsibility is acknowledged to the youth and where officer misconduct is alleged appropriate referrals are being made via the mistreatment process.
- There have been 125 disciplinary hearings this year to date for girls and 28 for Guali boys. In light of the small number of girls (36 on the date I visited) and boys (4), this number appears to be high. The majority of incidents resulting in hearings are fights between two youth, each of which typically results in two disciplinary hearings; also, many of the hearings involve the same particularly troubled youth.
 - Recommendation- Ponce staff should benchmark the rate of incidents against other AIJ facilities to help determine whether the numbers are high and whether alternatives to formal hearings might be employed, including more use of treatment committees and behavior management practices.
- Staff report that the Security Measures category is not used at Ponce. There was one girl on Protective Custody status (a very necessary case involving extreme risk to her safety) being housed in the admissions area. It appeared that services, including more than an

hour of education, are being provided. There was no evidence of 15 minute safety checks being performed per AIJ policy as the logging system was based on random narrative entries in a log book.

- Recommendation: 15 minute safety checks need to be implemented for youth on PC.

Guayama (December 2)

- My review of five recent use of force incident reports revealed that the new form is generally being completed properly and thoroughly. In addition, the Cernimiento form is consistently being used as a review tool by the compliance officer.
 - Recommendation: Photocopies of the Cernimiento forms can obscure the shaded areas that trigger abuse referrals. Original forms should be obtained and used.
- Two of the five most recent use of force incidents listed in the logs were revealed to have *not* involved any force—in both cases, and to their credit, officers used a variety of alternatives to avoid using force with youth who were acting out and fighting.
 - Recommendation- Care should be taken to insure that the Use of Force log include only incidents in which use of force was checked on the incident report form and was actually used.
 - Recommendation- Where appropriate, custody officers should receive positive encouragement for handling difficult situations without resorting to force by employing multiple alternatives, as occurred in these cases.
- Separate Use of Force logs are being maintained for the Level 2 and Level 3 boys.
 - Recommendation- There should be one log book for all use of force incidents at Guayama.
- The number of use of force incidents year to date is relatively low, with 18 cases in Level 3 and 5 in Level 2. OC has only been used once this year.
- There are separate log books for grievances for the Level 2 and Level 3 boys.
 - Recommendation- There should be one log book for all grievances at Guayama.
- The number of grievances year to date is low, with only 25 from Level 3 and 11 from Level 2. The grievance officer is doing a very good job of issuing timely responses. While the overall number of grievances is low, the vast majority of grievances concern complaints about staff attitudes, inappropriate language and similar behavior; the responses to these grievances are typically vague, even where a mistreatment referral was made by the grievance officer.
 - Recommendation- The facility director should review these numerous grievances about staff attitudes to determine whether they are founded and prevalent and, if so, whether they are somehow related to the poor staffing ratios (1:20) that are typical in the cottages.
 - Recommendation- Consideration should be given to whether a custody officer functioning as a grievance officer can fairly address complaints about fellow staff.
- Staff report that the Security Measures category is not used at Guayama. PC is rarely used and, when it is, it requires a one-on-one watch.

Document Attachment C: Site Visit Reports: Curtiss Pulitzer, AIA

SITE VISIT: September 27 and 28, 2010

This memorandum reflects my site visits for the above referenced facilities on September 27-28, 2010. I also met with Maria Del Carmen, Pedro Santiago, Luis Ortiz, Rosa Fernandez, Damaris Delgado-Vega and Taraneh Ferdman at AIJ headquarters on September 28th.

On the positive side, CTS Bayamon appears to be operating smoothly. I was however very concerned by an increasing lack of maintenance at the facility which, if not corrected, will negate the tremendous investment made to date in the facility. The neglect of the facility was very disappointing to me and appears to be representative of a larger worsening maintenance problem as witnessed in my visit to Humacao.

Timely maintenance is a key requirement included in several life safety and capital provisions of the Settlement and Agreement. Any attempts to begin the legal process for vacating those particular provisions are not even feasible at this time. While I have been diligently working with AIJ on this issue for many years and I have recently been working with my functional team in developing new procedures for maintenance, no serious progress has been made to date by AIJ in developing a strategic plan as well as identifying resources for addressing these legal provisions.

At CD Bayamon the security lock installation is completed and the housing units have been repaired and are in full operation. The facility was operating at near full occupancy due to the closing of CD Salinas. The intercom work is progressing well although progress has been slowed as the work must be done in occupied versus unoccupied housing units as originally had been planned. The lack of smoke detectors in the ceilings of the living units continues to be of major concern from a life safety perspective.

Humacao has likewise suffered in the past six months from a lack of adequate maintenance. I observed a tremendous change for the worse since my last visit there in the spring and have delineated my observations later in this report.

Below are a list of persistent and new problems and maintenance issues that still remain to be addressed at CTS Bayamon.

CTS Bayamon

1. Blue Building

- All the painting issues observed during my prior site visit had been taken care of but some of the new paint is starting to peel off again. This is a persistent problem at all AIJ facilities, particularly in shower areas. There are alternative products which should be considered and I have proposed in the past, that while more costly on initial installation will reduce the need to continuously paint floors and walls with poor results.
- There are leaks from the roof into the education pod
- The outer door into the pod was not working properly
- A toilet was broken on the upper level of B2 and several doors were missing door handles
- The showers are running continuously in B3 and a toilet was broken on the upper level

- On a positive note, work was proceeding well in painting the outdoor recreation yard and installing new basketball hoops

2. Orange Building

- The air conditioning was not working in Module 3
- A new barber shop has been installed in the Program Pod and the painting of the recreation yard in the same area was progressing

3. Green Unit

- The mesh replacement work is nearly completed; however, the contractor did not adhere to the same appropriate specifications utilized in the other three housing buildings. Specifically:
 - The contractor did not use ½ inch scratch resistant Lexan – new scratches were already apparent
 - The contractor did not use security screws to install window stops, and instead welded the stops in the corners making it very difficult to remove the windows for repair
 - There was no silicon between the Lexan and window frame which may contribute to window failure
- The contractor has not installed the soundproofing in the pods. This is a requirement of the Settlement and Agreement
- I was pleased to see the open pit in the concrete floor has been filled and that the pipe repairs appear to be completed

4. Yellow Building

- There was standing water on the floor in Module 3. Water is backing up from the floor drains. This is a severe health problem for the juveniles
- There was no hot water despite new water heaters being installed last year
- Juveniles were locked down during the showering process for no apparent reason
- There was mold growing on the outside of the building and on exterior door frames
- Fire doors between pods were welded shut. While this probably is not a life safety issue as we added a second exit to each module, AIJ needs to produce documentation certifying that the Fire Department has approved this action

5. Medical Area

- Mold is developing on the walls in the stairwells. This is partially due to the fact that the elevator is not working and the stair doors are left open (door closers would be appropriate here but they are not there). In addition the stairs empty out into a non-temperature controlled space which also causes tremendous condensation problems on the interior windows of the clinic and infirmary and is causing mold to develop on the walls of the upper level. I suggest that AIJ investigate the feasibility of extending the ducts from the clinic and infirmary sides to the large open center space to provide some cooling and humidification control of this volume and closing the open windows and vents with plastic sheathing as has been done elsewhere in the facility.
- I have yet to see a juvenile in the clinic on any of my site visits. In fact the dental technician was sleeping at his desk the day of my visit
- The same holds true for the infirmary. It is not staffed and there are never any juveniles housed there. A tremendous amount of money was spent there to create crisis and suicide

watch beds to serve not only Bayamon but also other facilities. I would like to see the medical and mental health operation plan on how AIJ plans to utilize this amazing yet unused resource

- The ceiling is leaking again in the infirmary. This has been a perpetual problem in the same location for a number of years. Obviously, patching has not worked and this must be fixed once and for all especially as this is a medical area

5. Kitchen

- Although the kitchen and dining room appear to be working well, new problems have surfaced. Water leaks have developed in the ceiling of the kitchen, a major health issue, and the tray washing machine equipment has never been repaired. (I was told months ago it had been fixed but apparently that is not the case). AIJ is therefore using Styrofoam compartmentalized plates which is not only expensive but presents a major environmental hazard as the Styrofoam is not bio-degradable.

6. Laundry

- While the laundry appears to be operational, one out of the three washing machines is broken and only one of the three dryers is working

7. Education

- Two of the newly installed air conditioning units were not working
- In addition, air conditioning units are still lacking in the Hair Care vocational Classroom and Chapel
- However, despite these issues, I was very pleased to see the education building being fully utilized

8. Gymnasium

- Gaps in the gym floor still have not been repaired and could cause injury to a juvenile. This issue actually goes back many years and I am puzzled why it cannot be addressed expeditiously, despite numerous commitments to do so, most recently from the Governor's Office to support the Referee Vocational Program
- Both recently installed circulation fans were not functioning

7. Overall Security and Site Issues

- While some of the vines growing on and through the perimeter fences have been removed, many more plants still remain. The remaining vegetation between and around all the perimeter fences still need to be cleared and treated to remain clear of vegetation
- Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
- Perimeter security lights are still not working
- There are several sliders on the main walkways that were not functioning. It was my understanding that a purchased order was issued to have the motors replaced
- Mold was developing on the walls of Central Control. I was told that a terrible odor was emanating from the electrical conduits inside Central Control and that the door to Central Control was left open to mitigate the smell. Not only is this a violation of security, but points to a failure of the mechanical systems that regulate Central Control
- The CCTV system for the facility has never been completed

- The service yard is still in a poor state of repair and must be repaved
- I was pleased that the new steel fences and gates that separate the service yard from the foot traffic near central control have now been painted.

Humacao

As stated above, the maintenance issues at Humacao have escalated. This facility, despite some major operational challenges, has always been well maintained in the past. I cannot say that is the case anymore. Below is a representative list of what I observed during my site visit.

- There are roof leaks everywhere, even in Central Control directly over the door control panels! I know that AIJ received roof repair estimates that were too costly to implement so it is using inmate labor to patch the leaks. While economical in the short run, this will not result in a successful solution for the long term.
- The air conditioning in the front lobby was not working
- The ceiling in the gymnasium needs repair and the insulation is hanging down from the joists and could drop on the juveniles playing ball. The insulation is need of replacement
- The facility needs to be painted
- Mold is developing on the walls in several locations
- A number of plumbing fixtures were in need of repair, particularly in Module 3
- The air conditioning is in need of balancing
- There were water puddles on the floor in several locations including an exam room in the clinic area and in the admissions area
- In Module 3, Pod B, one of two exit doors into the hallway from the pod could not be opened electronically
- The greatest concern I had was the inability for staff to electronically open exit doors. In one instance, it took 11 minutes and several staff including the Director to figure out how to electronically open an exit door inside the pod from the Module control room. When the door was finally opened, there was a thick layer of dirt around the door frame and door itself proving that the door had not been opened in a very long time despite fire safety procedures calling for constant testing of these doors. In the second instance, staff had the same difficulties trying to electronically open a similar pod fire exit door. After 10 minutes of failed attempts, I gave up and proceeded on to the next housing unit.

SITE VISIT November 29 and 30, 2010

This memorandum reflects my site visits for the above referenced facilities on November 29th and 30th, 2010. I also met with Esdras Velez and my functional team including Pedro Santiago, Luis Ortiz, Rosa Fernandez, Damaris Delgado-Vega and Taraneh Ferdman at AIJ headquarters on November 30th.

In my last site visit in September I reported on a major deterioration of maintenance at CTS Bayamon. The neglect of the facility was very disappointing and was representative of a larger worsening maintenance problem as witnessed also in my visit to Humacao. I am pleased to say that on this most recent site visit I saw a major improvement at CTS Bayamon, although there are still persistent issues there, including bad roof leaks. The biggest improvement was in the Gymnasium where the new floor, lighting and other repairs were truly remarkable. I also was pleased to see that many of the proposed maintenance issues that I delineated earlier in the year at Guyama have been addressed.

During our functional team meeting we had a very good discussion in reviewing the Settlement and Agreement provisions that I monitor and we collectively came up with several approaches to possibly achieving monitoring compliance with several provisions in 2011 with the goal of vacating either entire provisions or parts of provisions by consolidating those non-compliant sections into new provisions that the Court Monitor's office could track for final compliance. For example, one of the provisions deals with fire retardant mattresses at all institutions. I was presented with a proposal that AIJ will purchase new fire retardant mattresses for all of the currently operational institutions. I was shown a sample of a mattress that Pedro Santiago had researched that AIJ has considered purchasing. While I found that sample unacceptable, AIJ was to pursue other vendors and let me know when an acceptable product was found. I have not yet received any information on an acceptable mattress. Another example to focus on is emergency keys. Pedro Santiago was going to work on this effort prior to my next site visit in mid-January. In addition, Damaris and Taraneh suggested that perhaps components of provisions that are in compliance can be separated out so that they can go through the legal process of final year monitoring while those that are clearly not in compliance, such as those relating to timely maintenance can be consolidated into new provisions. The Commonwealth's attorneys were going to make a proposal in this regards to the Monitor's Office for consideration.

At CD the facility was operating at near full occupancy due to the closing of CD Salinas. The intercom work is on hold as WCS discovered that 43 intercom locations have been vandalized and a cost proposal to include these repairs must be accepted before work can proceed. This is a major concern as the facility is fully operational yet the call buttons to insure that juveniles can be allowed to exit their rooms to access the sanitary facilities are not working. The lack of smoke detectors in the ceilings of the living units continues to be of major concern from a life safety perspective.

At Guyama, I was very pleased to see the physical plant improvements that have been made there since my last visit. The new lighting is much improved and nearly all the housing units have been painted and floors fixed. The major maintenance issues were broken air conditioning systems in three housing units and the lack of a service contract to make necessary repairs. As in all the other AIJ institutions there were still urinals, sinks, commodes and showers that were not functioning. While the showers were recently painted (some just two weeks before my visit) the paint is already severely peeling from the walls. I have repeatedly offered AIJ a long term fix for

this persistent problem in all the institutions but so far AIJ has not taken me up on my suggestion. There are several reputable firms that have special coating processes and materials to create a long term smooth finish on the shower walls that will not peel off. The same holds true for housing unit floors that constantly need repainting such as in CTS Bayamon. One of the companies is PrimeCoat out of Illinois. Their website is www.primecoat.com and I have given Ortiz their contact information in the past. They offered to come to Puerto Rico to look at the institutions but so far no invitation has been extended.

Below are a list of persistent and new problems and maintenance issues that still remain to be addressed at CTS Bayamon as well as repairs made since my last visit that I have highlighted in boldface type.

CTS Bayamon

1. Blue Building

- All the painting issues observed during my prior site visit had been taken care of but some of the new paint is starting to peel off again. This is a persistent problem at all AIJ facilities, particularly in shower areas. As stated above, there are alternative products which should be considered and I have proposed in the past, that while more costly on initial installation will reduce the need to continuously paint floors and walls with poor results.
- There are leaks from the roof into the education pod and mold is developing. My understanding is that there is a proposal pending to remove the current ceilings in the Blue Building and replicate the ceiling, ductwork and acoustical repairs made in the other three housing buildings.
- The outer door into the pod was not working properly. I was told a new lock is on order
- A toilet was still broken on the upper level of B2 as well as one shower and two toilets were missing cover plates. Several doors that were missing door handles on my last visit **have been repaired.**
- The showers which had been running continuously in B3 **have been fixed** and a toilet was broken on the upper level. There is no apparent ventilation exhaust in the showers which is causing severe paint damage and mold to grow.
- Work was not yet finished in painting the outdoor recreation yard and installing new basketball hoops.
- I observed that the new Lexan inside the pods looking in to the dormitory rooms is severely scratched in B1 and B2 limiting visibility into those sleeping rooms
- I was told that the magnetic locks on emergency doors were being replaced.

2. Orange Building

- The air conditioning was not working in Module 3
- Work was not yet finished in painting the outdoor recreation yard and installing new basketball hoops.

3. Green Unit

- The mesh replacement work was completed; however, the contractor did not adhere to the same appropriate specifications utilized in the other three housing buildings. Specifically:

- The contractor did not use ½ inch scratch resistant Lexan – new scratches were already apparent
- The contractor did not use security screws to install window stops, and instead welded the stops in the corners making it very difficult to remove the windows for repair
- There was no silicon between the Lexan and window frame which may contribute to window failure
- On a positive note, the **contractor has installed the soundproofing** in the pods in conformance with the Settlement and Agreement. The soundproofing appeared to be of the same quality as installed in the yellow and green units. Pedro Santiago was to verify this and confirm that the flame retardation characteristics were the same.
- I was distressed to see that a new major leak problem has developed on the mezzanine level in Module 3. There appears to be major roof leak.

Yellow Building

- The drains in Module 3 **have been fixed** and the standing water problem was no longer there.
- There was still no hot water despite new water heaters being installed last year
- The mold growing on the outside of the building and on exterior door frames have been **cleaned and power washed and is now gone**.
- Fire doors between pods were welded shut. While this probably is not a life safety issue as we added a second exit to each module, AIJ needs to produce documentation certifying that the Fire Department has approved this action

5. Medical Area

- **The mold and condensation situation is much improved due to cleaning and power washing** and also improved weather in Puerto Rico this time of year. The elevator is still not working and the stair door at the top of the stair is left open as the door closer is broken. In addition the stairs empty out into a non-temperature controlled space which also causes tremendous condensation problems on the interior windows of the clinic and infirmary on hot and humid days which was contributing to mold developing on the walls of the upper level. I continue to suggest that AIJ investigate the feasibility of extending the ducts from the clinic and infirmary sides to the large open center space to provide some cooling and humidification control of this volume and closing the open windows and vents with plastic sheathing as has been done elsewhere in the facility. This should be done during the winter months so that the mold problem does not return in the spring.
- I have yet to see a juvenile in the clinic on any of my site visits.
- The same holds true for the infirmary. It is not staffed and there are never any juveniles housed there. A tremendous amount of money was spent there to create crisis and suicide watch beds to serve not only Bayamon but also other facilities. I continue to request to see the medical and mental health operation plan on how AIJ plans to utilize this amazing yet unused resource
- The ceiling is leaking ever more profusely in the infirmary. This has been a perpetual problem in the same location for a number of years. Obviously, patching has not worked and this must be fixed once and for all especially as this is a medical area. Perhaps the air conditioning contractor who did the last repairs should be held accountable for the faulty repairs and fix the problem correctly.

5. Kitchen and Warehouse

- Although the kitchen and dining room appear to be working well, new problems have surfaced. Water leaks have developed in the ceiling of the kitchen, a major health issue, and the tray washing machine equipment has never been repaired. (I was told months ago it had been fixed but apparently that is not the case). AIJ is therefore using Styrofoam compartmentalized plates which is not only expensive but presents a major environmental hazard as the Styrofoam is not bio-degradable.
- The wood shelving for palletized storage **has been built and installed** in the warehouse across from the kitchen.

6. Laundry

- The laundry equipment is in worse condition than on my last visit and all the laundry for CTS is being done in the tiny laundry at CD. The equipment issues have never been properly addressed. New or older equipment in good working condition should be transferred here (e.g. from CD or spare units from adult facilities) and installed at CTS. Presently all three dryers are broken and only one washing machine is working.

7. Education

- The two air conditioning units that were not working on my last visit **have been repaired.**
- In addition, air conditioning units are still lacking in the Hair Care vocational Classroom and Chapel
- However, despite these issues, I was very pleased to see the education building being fully utilized

8. Gymnasium

- As stated above the gymnasium work **has finally been completed!** to support the Referee Vocational Program. New lights have been installed as well and the bleachers cleaned and repaired.
- Both recently installed circulation fans that were not functioning **have now been repaired.**

7. Overall Security and Site Issues

- While some of the vines growing on and through the perimeter fences have been removed, many more plants still remain. The remaining vegetation between and around all the perimeter fences still need to be cleared and treated to remain clear of vegetation
- Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
- Perimeter security lights are still not working
- The sliders on the main walkways that were not functioning **have been repaired.**
- The mold that was developing on the walls of Central Control **have been cleaned and removed.** I pointed out to security that the door into Central Control must remain locked at all times. Not only is this a security breach but the open door was contributing to the mold problem as the adjacent outdoor corridor is not air conditioned as is Central Control.
- The CCTV system for the facility has never been completed
- The service yard **has been partially repaired** but must be repaved

- I was pleased to see that additional new steel fences and gates that separate the service yard from the foot traffic near the dining room have been installed and painted.

Document Attachment D: Report on Incidents and Understaffing October – December 2010

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.

Oct. 6	CTS Humacao	10-272	Afternoon	A juvenile was sprayed with OC by a UOE officer. In this case the officer thought the juvenile wanted to attack him. The incident occurred in the living unit during a contraband search.	1 officer, 12 juveniles
Oct. 10	CTS Guayama	10-268	Night	A juvenile was stabbed with a “shank” in different parts of his body by other juvenile. The incident occurred in the living unit.	1 officer, 19 juveniles
Oct. 11	CTS Villalba	10-269	Afternoon	A juvenile was hit in his left eye by other juvenile. The victim originally said was an accident. Isn’t clear where the incident occurred.	1 officer, 13 juveniles
Oct. 14	CD Bayamon	10-276	Morning	In this case a referral was made because a juvenile informed that the facility director, during a search touched his private areas. The incident allegedly occurred a year ago.	unknown
Second week of Oct.	CTS Villalba	10-290	Afternoon	A juvenile was hit in different parts of his body by other juveniles in the living unit. Allegedly, the aggression was part of the living unit “internal disciplinary sanction”.	unknown
Oct. 20	CD Bayamón	10-283	Afternoon	In this case a custody officer completed a referral because allegedly he saw the facility director having oral sex with a juvenile. The incident allegedly occurred in the living unit while other juveniles were watching.	unknown

Oct. 24	CTS Bayamon	10-289	Afternoon	In this case a custody officer saw a group of juveniles in the basketball court with other officer while the court area was dark. Allegedly, when he tried to investigate a juvenile impeded his access to the court and said, "we are working with him". According to the officer, in the facility culture this phrase is related to sexual conduct.	unknown
Oct. 31	CD Bayamon	10-288	Morning	A fight between juveniles in the living unit during the breakfast period.	1 officer, 13 juveniles
Nov. 7	CTS Villalba	10-291	Afternoon	A juvenile was hit in his ribs by other juveniles. The incident occurred in a living's unit room.	1 officer, 10 juveniles
Nov. 9	CD Bayamón	10-301	Afternoon	A juvenile was hit in his head as a living unit "internal disciplinary sanction". The incident occurred in the bathroom area.	1 officer, 9 juveniles
Nov. 10	CTS Villalba	10-294	Morning	A juvenile allegedly was sodomized in the living unit by another youth. The juvenile was sent to the hospital as required by the AIJ policies.	1 officer, 11 juveniles
Nov. 11	CTS Humacao	10-293	Morning	A juvenile was cut in his neck with a piece of a disposable razor blade.	1 officer, 14 juveniles
Nov. 12	CTS Villalba	10-303	Morning	A juvenile was stabbed by other youths in the school area. Apparently, the injuries were caused by a "shank". The juvenile was sent to the hospital and stitches were taken.	unknown
Nov. 12	CTS Villalba	10-307	Night	A juvenile was hit in 3 different occasions by other youths while he was in the living unit. Apparently, a hard object not identified was used.	1 officer, 12 juveniles
Dec. 3	CTS Bayamón	10-327	Night	Allegedly, a juvenile was hit by another juvenile with a broom stick. The incident occurred in the living unit.	1 officer, 14 juveniles
Dec. 12	CTS Humacao	10-321	Afternoon	A juvenile cuthimself in his room while he was under security measures.	1 office, 14 juveniles
Dec. 15	CTS Villalba	10-340	Afternoon	A juvenile was hit in his head by another youth. Apparently, the juvenile was hit with a sox containing bar soaps inside.	1 officer, 13 juveniles
Dec. 17	CTS Villalba	10-338	Afternoon	A juvenile was hit by a group of 5 juveniles from his own living unit. The victim was hit in his head and neck area.	unknown

Dec. 24	CTS Humacao	10-342	Afternoon	A juvenile was found crying by a custody officer in the living unit, allegedly was cut in his back and right leg by other youth. The incident occurred in the living unit.	1 officer, 13 juveniles
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Document Attachment E: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the four quarters 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 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
Incidents		140	147	139	111
	Suicidal Incidents	28	26	15	10
	Self-Mutilation Incidents	112	37	38	25
Suicidal Incidents (From M/H Records)		28	26	15	10
	Youths Involved	28	24	15	9
	Cases involving ideation only	8	12	10	2
	Cases involving suicide intention	2	1	1	1
	Cases w/ ambulatory treatment	22	12	6	2
	Cases with hospitalization	2	2	0	0
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	8	0	0	0
Self-Mutilations Incidents (MH records)		112	37	38	25
	Youths Involved	80	30	34	24
	Cases requiring sutures	21	3	2	1
	Cases requiring hospitalization	1	0	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	4	5	1	4

The above cases come from mental health records. AIG has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a yet-to-be-developed mental health process. Of the 111 suicide and self-mutilation incidents for the third quarter, only 4 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.

With respect to the central review of suicide and self-mutilation gestures and attempts, the Monitor recommends that the central review system either be set up, not later than the end of the first quarter of 2011, or that the Commonwealth revert to at least reporting these incidents in the Paragraph 78 process and providing, for each such incident, a report by the facility psychologist to the Monitor's Office as to the facts and circumstances of the incident and the immediate and subsequent steps taken. In the absence of establishment of a satisfactory central review process by the Commonwealth, the Monitor will set up a standing information request at the start of the second quarter.

The second table concerns incidents that warranted abuse referrals.

Statistics for 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
284 A Incidents		127	71	62	76
Level Two Incidents		112	49	50	62
Referrals to SAISC		112	49	50	62
Suicide Ideation/Attempt		3	0	0	0
Self-Mutilation Idea/Attempt		21	7	3	7
Youth-to-Youth Incidents		55	42	40	42
Youth-to-Youth Injuries		41	25	29	36
Youth-to-Youth with External Care		19	15	11	12
Youth-to-Youth Sexual		2	2	8	4
Youth-to-Youth Sexual w/ Injury		0	1	0	0
Staff-to-Youth Incidents		48	21	19	27
Staff-to-Youth Injuries		33	12	34	14
Staff-to-Youth with External Care		25	2	3	4
Staff-to-Youth Sexual		2	0	3	4
Staff-to-Youth Sexual with Injury		0	0	0	0
SOU 284A Interventions		6	5	4	
284A with Item 5 completed		108	66	49	67
284A with Staffing Compliance		57	32	36	43

Serious incidents reported under Paragraph 78 increased during fourth quarter of 2010.

For the third quarter, 43 of the 76 284A reports documented staffing compliance based on Paragraph 48.

The next table summarizes initial case management.

Statistics for 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
Initial Case Management					
284A percent with admin actions		95%	92%	94%	92%
284A Within 24 hours		91%	86%	77%	78%
284A Within 72 hours		97%	96%	99%	98%
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		48%	26%	54%	29%

The 20-day completion rate for local investigations had fallen to 26% for the second quarter, improved to 54% for the third quarter, and then fell again to 29% for the fourth 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 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
SAISC					
	Cases Referred from this quarter	99	48	49	59
	Referred Within 1 day	92	48	49	59
	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 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
SAISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	0
	Completed in 11-20 workdays	0	0	0	1
	Completed in 21-30 workdays	3	0	1	5
	Completed in 31-45 workdays	9	5	7	0
	Completed in more than 45 workdays	8	4	3	1
	Not completed yet.	79	39	38	52

Paragraph 78.e requires that SAISC complete investigations within 30 days. For the entire year 2010, there were 208 cases referred to SAIEC, and only 10 were completed within the 30-day limit specified in Paragraph 78.e.

The Monitor has modified the tracking report to add additional rows to this table to track the subsequent processing of cases not completed during the quarter in which the cases were initiated. The Commonwealth has not yet been able to provide the requested information.

In discussions about 30-day deadline compliance, the SAISC Director reported that there are a significant number of cases that are completed by SAISC and then return to SAISC by the Commonwealth Department of Justice for further investigation. The revised reporting format will also track these cases.

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

Statistics for 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
Administrative Determinations					
	Cases with youth discipline referrals	59	40	53	54
	Cases with youth discipline actions	43	27	45	34
	Cases with youth no discipline actions	16	13	8	20
	Cases staff/youth with determinations	0	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 2010		2010-1st	2010-2nd	2010-3rd	2010-4th
Prosecutorial Determinations		0	0	1	0
	Cases with no determinations	5	1	0	1
	Cases with decision not to prosecute	19	4	4	3
	Cases with referral for prosecution	6	0	2	0
	Total cases documented	30	5	7	4

Document Attachment F: 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-21, N-3	The percentage for this report is 88%. The percentage in the last Quarterly Report was 92%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-24	The percentage for this report is 100%. 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-20, N-3, Blank-1	The percentage for this report is 83%. The percentage in the last Quarterly Report was 94%.
A.4 Was evidence preserved?	Y-7, N/A-14 N-3	The percentage for this report is 30%. The percentage in the last Quarterly Report was 42% In this reporting period all the cases evaluated were classified as level II. Reduced Compliance
A.5 Was investigation initiated promptly?	Y-23, N-1,	The percentage for this report is 96%. The percentage in the last Quarterly Report was 86%.
A.6 Was the 284-A filed within 24 hours?	Y-23, N-1	The percentage for this report is 96%. The percentage in the last Quarterly Report was 97%.
A.7 Did the reporting official file an incident report before the end of shift?	Y-24	The percentage for this report is 100%. The percentage in the last Quarterly Report was 97%.
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-24	The percentage for this report is 100%. The percentage in the last Quarterly Report was 94%.
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-24	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-12, N-5, N/A-7	The percentage for this report is 50%. The percentage in the last Quarterly Report was 58%.
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-23, N-1	The percentage for this report is 96%. The percentage in the last Quarterly Report was 100%
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-15, N-1, N/A-8	The percentage for this report is 63%. The percentage for the last Quarterly Report was 83%. Reduced Compliance
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-20, N-3, N/A-1	The percentage for this report is 83%. The percentage in the last Quarterly Report was 94%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	N-8, N/A-16	The percentage for this report is 0%. A low percentage is a positive fact. Improved Compliance
A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-17, N-26, N/A-1	The percentage for this report is 71%. The percentage in the last Quarterly Report was 30% Improved 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?		The information was not provided.
B.2 If the case was considered serious by the facility where the incident took place, were the police contacted within 24 hours?		
B3. 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- 14, N-11, N/A – 5	Only 30 complete cases were received for this reporting period. The percentage for this report is 47%. The percentage in the last Quarterly Report was 72%. Reduced Compliance
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-3, N-27	The percentage for this report is 1%. The percentage in the last Quarterly Report was less than 2%. For this question 6 cases were classified as level I.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-3, N-27	The percentage for this report is 1%. The percentage in the last Quarterly Report was less than 2%. For this question 6 cases were classified as level I.
C.4 Was physical evidence preserved and documented?	Y-4, N-1, N/A-24, Blank-1	The percentage for this report is less than 2%. The percentage in the last Quarterly Report was less than 2%.
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-5, N-1, N/A-24	The percentage for this report is less than 2%. The percentage in the last Quarterly Report was 30%. In the sample only 6 cases were classified as Level I. Reduced Compliance
C.6 Was the completion of the investigation documented in the tracking database?	Y-30	The percentage for this report is 100%. The percentage in the last Quarterly Report was 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-30	The answers do not represent the facilities' real situations.

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-13, N-11	The percentage for this report is 54%. The information in the last Quarterly Report was 89%. Reduced 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-14, Blank - 9	The percentage for this report is less than 1%. The information in the last Quarterly Report was less than 1%.
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-15, Blank - 9	The percentage for this report is 62%. The information in the last Quarterly Report was 100%. Reduced Compliance
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-15, Blank - 9	The percentage for this report is 62%. The information in the last Quarterly Report was 100%. Reduced Compliance
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-15, Blank - 9	The percentage for this report is 62%. The information in the last Quarterly Report was 100%. Reduced Compliance
D.6 Did the investigation provide proposed findings?	Y-14, N-1, Blank - 9	The percentage for this report is 58%. The information in the last Quarterly Report was 94%. Reduced Compliance
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y – 15, Blank - 9	The percentage for this report is 62%. The information in the last Quarterly Report was 94%. In this question if the percentage of “Yes” is high it reflects non compliance. Improved Compliance

There is deteriorated compliance in most categories.

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-26, N-4	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 87% of the cases. The percentage in the last Quarterly Report was 75%.
F.2 Does the Monitor's Office confirm the timeliness facts as asserted in Page B?		The information was not provided.
F.3 Does the Monitor's Office confirm the timeliness facts as asserted in Page C?	N/A - 30	The percentage for this report is 100%. The percentage in the last Quarterly Report was 92%.
F.4 Does the Monitor's Office confirm the timeliness facts as asserted in Page D?	Y-24	The percentage for this report is 100%. The percentage for the last Quarterly Report was 100%.
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?		The information was not provided.
F.7 Does the Monitor's Office confirm the investigation quality as asserted in page C?	Y-26, N-4	The percentage for this report is 87 %. 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-24	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 G: Site Visit Chronology

The Monitor's Office has conducted site visits to several facilities in order to assess conditions and operations, and to inform the process of developing monitoring protocols and in developing recommendations for improvements where needed. In addition, Deputy Monitor Javier Burgos 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.

- October 4, 2010: Consultants Victor Herbert and Peter Leone, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
- October 5, 2010: Consultants Victor Herbert and Peter Leone, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to the Bayamon Complex.
- October 4, 2010: Consultants Victor Herbert and Peter Leone, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Ponce, Villalba and Guayama.
- October 26, 2010: Consultants David Bogard and Bob Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
- October 27, 2010: Consultants David Bogard and Bob Dugan, Deputy Monitor Javier Burgos And Associate Monitor Ricardo Blanco Site visit to CTS Humacao.
- October 27, 2010: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.
- November 3, 2010: Consultant Tom Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
- November 4, 2010: Consultant Tom Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
- November 24, 2010: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
- November 29, 2010: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.
- November 29, 2010: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
- November 30, 2010: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
- December 1, 2010: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate

Monitor Ricardo Blanco site visit to CTS Bayamon.

December 2, 2010: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CDT Ponce “Girls”.

December 2, 2010: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.

December 13, 2010: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Humacao.

December 14, 2010: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Bayamon.

December 16, 2010: Associate Monitor Ricardo Blanco Site visit to CTS Villalba.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Fourth 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.							See the Monitor's March 2011 PLRA Report.
S.A. 32. Defendants shall eliminate ventilation and acoustical echoing problems at Centro Juvenile Metropolitano in Bayamón.							See the Monitor's March 2011 PLRA Report.
S.A. 33. Defendants will ensure that ventilation and acoustical systems provide healthful living and working conditions for juveniles and staff in all facilities.							See the Monitor's March 2011 PLRA Report.

Provision	P	S	R	T	D	G	Comment
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	N	#	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 AIJ staff. The adequacy of the training which will need to be reviewed by Victor Herbert.
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 AIJ 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.

Provision	P	S	R	T	D	G	Comment
S.A. 44. Defendants agree to provide mattresses constructed of fire retardant materials.							See the Monitor's March 2011 PLRA Report.

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 4th 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. Agency meeting staffing ratio requirements: 6:00 – 2:00: 46% of events: 24% improvement from 3 rd quarter 2:00 – 10:00: 40% of events: 18% improvement from 3 rd quarter 10:00 – 6:00: 89% of events. 2% improvement from 3 rd quarter Guaili has met 100% staff youth ratio requirements for all four quarters of 2010. See the 2010 Fourth QR narrative for more information about staffing compliance.
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 May 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 most recent report (provided in February 2011) indicates 59% compliance with this provision across AIJ. The lowest levels of compliance are at CREANDO (48%) and Mayaguez (44%). The highest levels are at the Central Office (75%) and at CTS Bayamon (72%). Curiously, across the street at CD Bayamon the compliance level is 50%.
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	#	I	#	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 early 2011. 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.							<ul style="list-style-type: none"> See the Monitor's March 2011 PLRA Report.
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.							<ul style="list-style-type: none"> See the Monitor's March 2011 PLRA Report.
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.	N	#	I	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>Concerted efforts will be required to fully determine compliance levels once there is resolution of the wording of this provision. A new incident report has been designed and implemented throughout the system this quarter, which has already been found to provide more and better information about use of force incidents.</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. The Commonwealth Police do not respond to the Monitor's information requests. See the Attachment to the QR concerning Abuse Referral Case Assessments.
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"> For the entire year 2010, there were 208 cases referred to SAIEC, and only 10 were completed within the 30-day limit specified in Paragraph 78.e. For the first two quarters of 2010, of 147 cases referred, 118 were still open cases lacked complete investigations. During the fourth quarter, of 59 cases, 52 were not completed within 45 days. 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 on a timely basis.
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 mental health 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"> There are 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. Documentation relative to this provision is lacking in general and does not support compliance with education requirements specifically.

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 in some cases inadequate services in others, particularly 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	Consultant Victor herbert's most recent examination of services for youth in isolation indicates that for the most part, all youth in isolation do not receive the services to which they are entitled. This true for students eligible for special education services as well as other youth.. (See comments for Provision 80.)
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.							All special education positions are now filled (5 months into the school year). The Monitor's consultants do not have direct knowledge of whether newly hired and other special education teachers are updating IEPs. Consultant Leone believes, based on past experience, that when special education teachers have been employed, they have been reviewing and revising IEPs. However, the substance of the modifications have not yet been reviewed.