

**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 Second Quarter Report for 2011. The report covers the months of April, May and June 2011. 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 1st day of August, 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

USACPR Monitoring Inc.

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Monitor's Quarterly Report Second Quarter, 2011

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

The following is the Monitor's Second Quarter Report for 2011. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision. The narrative supplements the tables, describing recent events and accomplishments, reviews the results of some of the on-site monitoring tours, and examining particular compliance problems and pending issues. The narrative section does not comment on every category of provisions in every quarterly report.

- A. PLRA Motion
- B. Status of the Proposed Modification of the Use of Force Provision
- C. Case-level Monitoring of Mental Health and Special Education Services.....

Document Attachment A: Consultant Robert Dugan Report on Staffing Compliance
 Document Attachment B: Consultant David Bogard report on Discipline Provisions
 Document Attachment C: Report on Incidents and Understaffing
 Document Attachment D: Abuse Referrals Tracking Report
 Document Attachment E: Abuse Referral Case Assessment Report
 Document Attachment F: Case-level Monitoring of Mental Health and Special Education Services
 Document Attachment G: Chronology of Site Visits

Separate Attachment One: Table of Compliance Ratings

A. PLRA Motion and the Monitor's Special Report

The Monitor's report was filed on April 25, 2011.

The Commonwealth filed a report with the Court on July 8, 2011, asserting the following; *"That with the new hires of 176, the expected training of up to eighty four (84) additional youth security officers who are enrolled to start in the academy which will begin next Monday, July 11, 2011 who then will be available for immediate appointment upon conclusion of the academy, the reduction in the juvenile population, the continuous implementation of the CREANDO program, and the already effectuated closing of the Salinas Detention Center, AIJ will have surpassed the number of staff the Monitor had indicated in his letter of December 23, 2009 as the number necessary to be in compliance with the Paragraph 48 ratio of security officers to youth."*

The Monitor offers the following comments about this statement.

1. The purpose of the November 2009 letter was to assist the Commonwealth in planning and budgeting by estimating the number of positions it would take for them to be able to possibly achieve compliance, and by identifying the operational performance assumptions involved. The letter stated clearly that merely hiring the number of youth service officers recommended would not necessarily result in compliance. Compliance could only be achieved if the key operational assumptions were also implemented, such as the actual assignment of the officers to the housing units as Paragraph 48 requires.

2. The letter identified a target number of positions to be filled. That is quite different from the number of candidates to be hired and trained, because the rate of hiring needs to also offset the rate of resignations and terminations. This is not taking place.
3. The Monitor's Paragraph 48 compliance report for April-June (Attachment A) indicates that the Commonwealth complied with the requirements of Paragraph 48 68% of the time on the 6:00 am to 2:00 pm shift and 49% of the time on the 2:00 pm to 10:00 pm shift. Thus it is clear that the Commonwealth has not yet achieved compliance with Paragraph 48.
4. Paragraph 48 is not merely a technical requirement. It is one of the most important provisions of the Settlement Agreement, providing for supervision and protection of youth while in their housing units.
5. The reason that compliance has not been achieved, despite the hiring and training that the Commonwealth reported, can be explained by several of the operational assumptions listed in the November 2009 letter.¹
6. One assumption required "timely replacement of YSOs who resign so that existing YSO positions remain filled at a constant level." The following table presents the number of YSOs assigned to each facility and available for work (not on leave or otherwise inactive) at various times since November 2007.

Facility YSO Count	Nov-07	Apr-09	Jun-09	Nov-09	Mar-10	Jun-11
CD Salinas	100	96	93	93	100	10
CD Bayamon		122	122	116	129	121
CTS Bayamon		41	45	62	67	112
CTS Guayama	100	94	94	91	86	135
Guaynabo Complex	114	0	0			
CTS Villalba	132	133	132	155	163	150
CTS Ponce Boys	116	100	101			
CTS Ponce Girls	146	116	131	180	149	177
CTS Humacao	117	123	122	120	145	138
Mayaguez	40	34	4	9	1	
Camp Santiago – Creando					9	20
<u>Central Administration</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>10</u>
Total	868	862	847	829	852	873
Total Excluding Ponce Girls and Central	719	743	713	646	700	686
Inactive Positions (not including Ponce Girls)		-109	-93	-84	-84	-89
Total Active Positions (excl Ponce Girls and Central)		634	620	562	616	597

Although the Commonwealth has been hiring and training new YSOs, the rate of hiring has not kept up with the rate of terminations and resignations, so that the total number of YSOs at facilities housing boys,

¹ The following assumptions were listed: a) the physical readiness of the Bayamon facilities to accept youth, b) roster management that actually deploys YSOs to the required posts, c) accurate, timely and complete reporting of staff deployment, d) timely replacement of YSOs who resign so that existing YSO positions remain filled at a constant level; e) feasibility of the non-housing posts that AIJ reports to be necessary so that YSOs are not pulled from housing posts to cover non-housing functions, f) population management measures to manage potential growth in the count which would necessitate the reopening of facilities; and g) feasibility of the remaining facilities to manage the program categories and custody classifications of youth to be housed.

686 as of the end of June 2011, is less than the number in place in March 2010 or April 2009. CD Bayamon, CTS Villalba and CTS Humacao have fewer YSOs assigned at the facility than were present in March 2009.

7. A second assumption required “feasibility of the non-housing posts that AIJ reports to be necessary so that YSOs are not pulled from housing posts to cover non-housing functions.” If additional YSOs are assigned to facilities, but the facilities assign them to posts and functions outside of the housing units, then the additional YSOs will not improve compliance with the housing unit staffing ratios required by paragraph 48.

For example, at CTS Humacao there were, on July 22, 2011 during the day shift, 42 YSOs assigned (in the roster) to do functions not related to the housing units. In the Commonwealth’s 2009 staffing plan that was the basis for the position estimates in the Monitor’s 2009 letter, 24 posts were determined by the Commonwealth to be necessary for non-housing unit functions. Because of the loss of regular civil service positions, YSOs are being reassigned to additional non-housing functions such as the dogs program, administrative coordinator (buyer), human resources, etc. As a result, on that date there were 10 youth officers inside the modules when 18 were needed for the housing units operational. The population that day was 81 and one module (I-A) was closed.

Compared to the Commonwealth’s 2009 staffing plan, 18 YSOs were assigned to additional (not in the plan) non-housing posts, and 8 YSOs were not assigned to housing units who should have been there.

For these reasons, the Monitor encourages the Commonwealth to focus on the achievement of compliance with Paragraph 48 housing unit staffing coverage ratios as the primary compliance indicator. These indicators are reported in Attachment A of this report.

The available evidence suggests a) that the Commonwealth has not planned for sufficient hiring and initial training of youth service officers to do more than replace those what are terminated or resign, and b) that new YSOs, when they are available at facilities, are not consistently assigned to housing units posts to achieve compliance with Paragraph 48.

B. Paragraph 77

The Monitor, Monitor’s Consultant and counsel for both parties met to discuss the revision of Paragraph 77 to address concerns raised by the Monitor’s consultant about the interpretation, implementation and compliance monitoring for the provision. Based on the conference call the Monitor has asked the parties to consider the following revision:

In no event is physical force, including the use of restraints, 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 others, to maintain or regain control of an area of the facility, including the justifiable protection of property from damage; and prevention of escapes; and then only after less severe alternatives have been reasonably used or rejected as unworkable. 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.

The revision clarifies the circumstances under which force and/or restraint may be used, and clarifies the reporting expectations after the incident. The next step is for the parties to advise the Monitor as to whether the proposed language is acceptable.²

C. Case-Level Monitor of Mental Health and Special Education Services

Attachment F presents is the first draft of an instrument of the assessment of mental health care and special education services. The basic idea is to do an assessment of services provided for four 12-youth samples of populations, to see if these youth were receiving the services they were supposed to receive.

The instrument focuses on 4 populations:

- Detention intake
- Commitment intake
- Most Severe Mental Health
- Most Severe Special Education Needs

For each group, 12 cases are examined each quarter in some depth.

It is completed during the third month of each quarter by AIJ personnel, and Monitor's Office staff and consultants review the results during the first month of each quarter so it can go into the QR.

Respectfully Submitted,



F. Warren Benton, Ph.D.
Monitor

² The Monitor is deferring intensive compliance monitoring for paragraph 77 until the modification is either approved or rejected. The United States disagrees with the Monitor's approach. The problem, as the Monitor sees it, is that the current language of Paragraph 77 is operationally impractical. For example, it requires prior approval by the facility director or his/her designee before restraints can be applied. In any emergency when use of restraints becomes immediately necessary for the reasons listed in the provision, it is imprudent for the staff member to wait until approval is received in advance. If ultimately necessary the Monitor would assess compliance with the existing provision, but the Monitor believes it would be more constructive to reach some level of agreement on the revisions first.

Document Attachment A: Consultant Robert Dugan Report on Staffing Compliance

AIJ Staffing Quarterly Report: April 3, 2011 – July 2, 2011

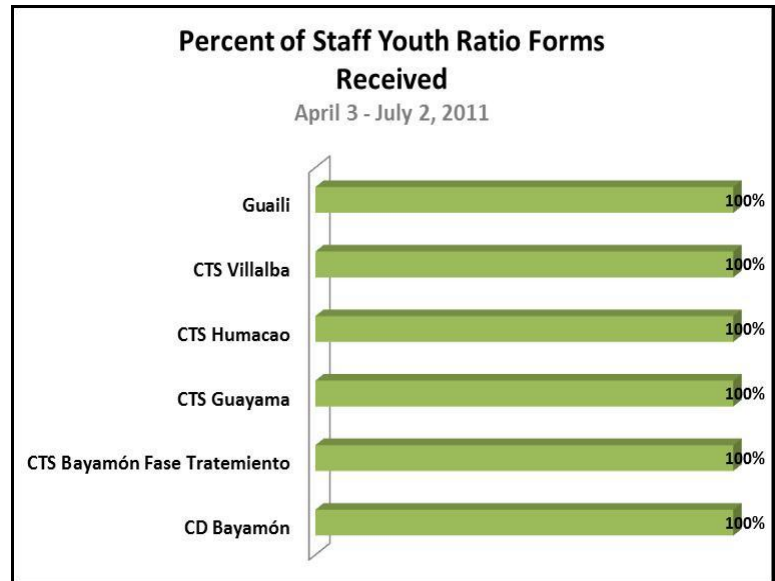
Prepared by Bob Dugan: Office of the Monitor: July 10, 2011

Background:

The following report constructed on July 10, 2011 provides information on Staff Youth Ratio forms that were provided to the consultant for the period of April 3, 2011 thru July 2, 2011.

As of the Friday, July 8, 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	13	13
CTS Bayamón Fase Tratamiento	13	13
CTS Guayama	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Guaili	13	13
Totals	78	78



AIJ submitted a total of 78 facility staff youth ratio forms for the six operational facilities. For this quarterly reporting period 100% of the staff youth ratio forms were available for analysis. For all of the 2010 Quarterly Reports and this first and second 2011 Quarterly Report, AIJ has provided 100% of requested Staff Youth Ratio Forms.

The table displaying the date that staff youth ratio forms were received is on page 14 of this report.

****Although AIJ has reopened and operated Program CREANDO during this reporting period, no staff youth ratio forms have been submitted for analysis. Additionally, this consultant has not visited this program this quarter.**

AIJ Staff Youth Ratio Averages:

During the Second Quarter reporting period (April 3 thru July 2, 2011), AIJ documented a total of 9727 shift / unit events that required staff to youth supervision. This is a reduction of 281 staff youth supervision events since the First Quarter of 2011.

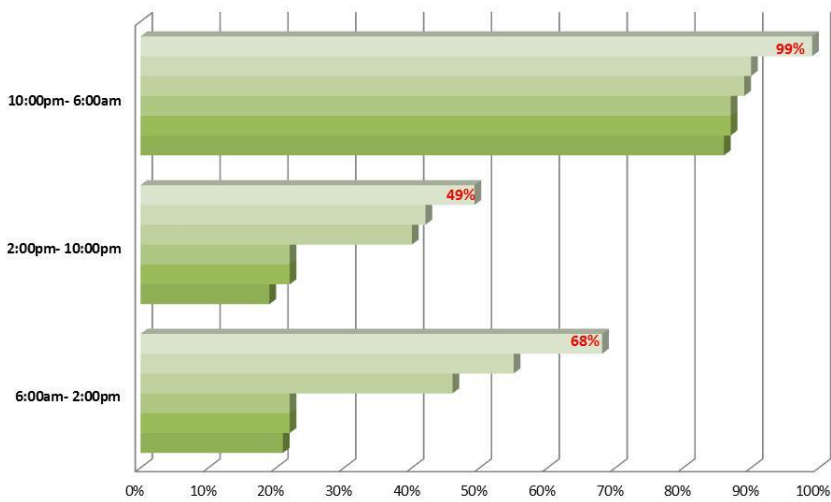
Of the 9729 shift / unit events, 7021 of the events (72%) were supervised with the required staff youth ratios, an improvement of 9.6% since the First Quarter of 2011.

This volume of staff youth supervision events is a continuing reduction from the volume of events in the First Quarter of 2011 (10,008 shift / unit events, 6246 of the events (62.4%) were supervised with the required staff youth ratios).



The following chart represents the AIJ agency Staff Youth Ratio averages by shift for the last six quarters through July 2, 2011:

**AIJ Quarterly Performance
Meeting Staff Youth Supervision Ratios**



The Second Quarter of 2011 has resulted in the following improvements in meeting Staff Youth Ratios:

- 6:00 am- 2:00 pm shift: 13% improvement
- 2:00 pm- 10:00 pm shift: 7% improvement
- 10:00 pm- 2:00 am shift: 9% improvement

	6:00am- 2:00pm	2:00pm- 10:00pm	10:00pm- 6:00am
2nd Quarter 2011	68%	49%	99%
1st Quarter 2011	55%	42%	90%
4th Quarter 2010	46%	40%	89%
3rd Quarter 2010	22%	22%	87%
2nd Quarter 2010	22%	22%	87%
1st Quarter 2010	21%	19%	86%

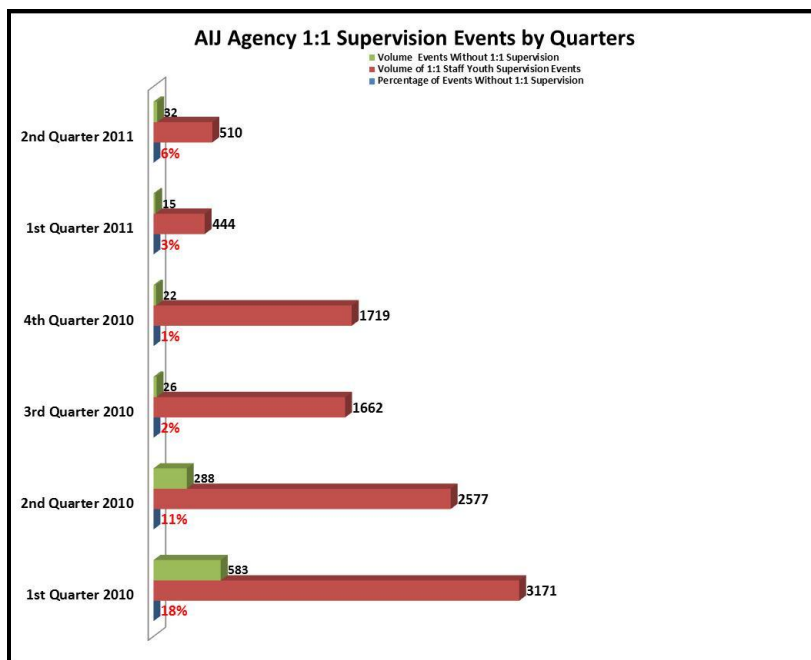
AIJ Agency 1:1 Supervision Events:

Over the course of the last six quarterly reports, there has been a remarkable reduction in the volume of youth designated for 1:1 supervision with a slight increase for the 2nd Quarter Of 2011:

- 3171 events 1st Quarter 2010
- 2577 events 2nd Quarter 2010;
- 1662 events 3rd Quarter 2010
- 1719 events 4th Quarter 2010
- 444 events 1st Quarter 2011
- 510 events 2nd Quarter 2011

Correspondingly, although there had been a continual reduction in the volume of youth without required 1:1 supervision through 2010 there has been an increase over for the 2nd Quarter of 2011

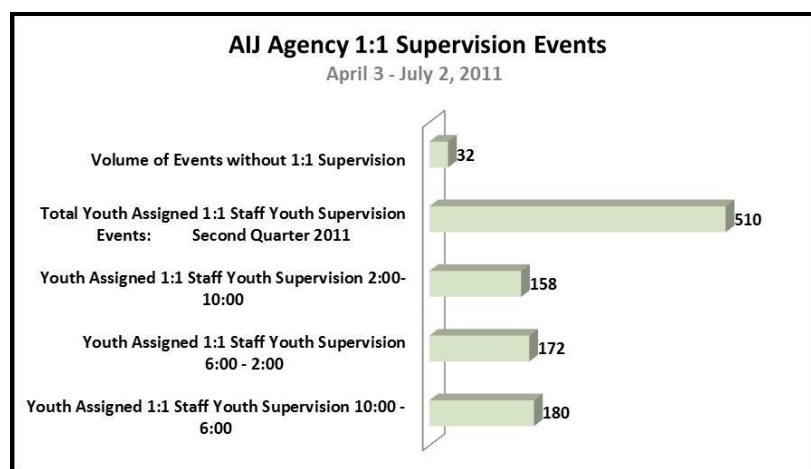
- 583 events 1st Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3rd Quarter 2010
- 22 events 4th Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011



During the Second Quarter 2011 reporting period, AIJ documented a total of 510 events that required 1:1 staff to youth supervision.

Of the 510 1:1 events, 32 of the events (6.2%) were not supervised with the required 1:1 staff youth ratio.

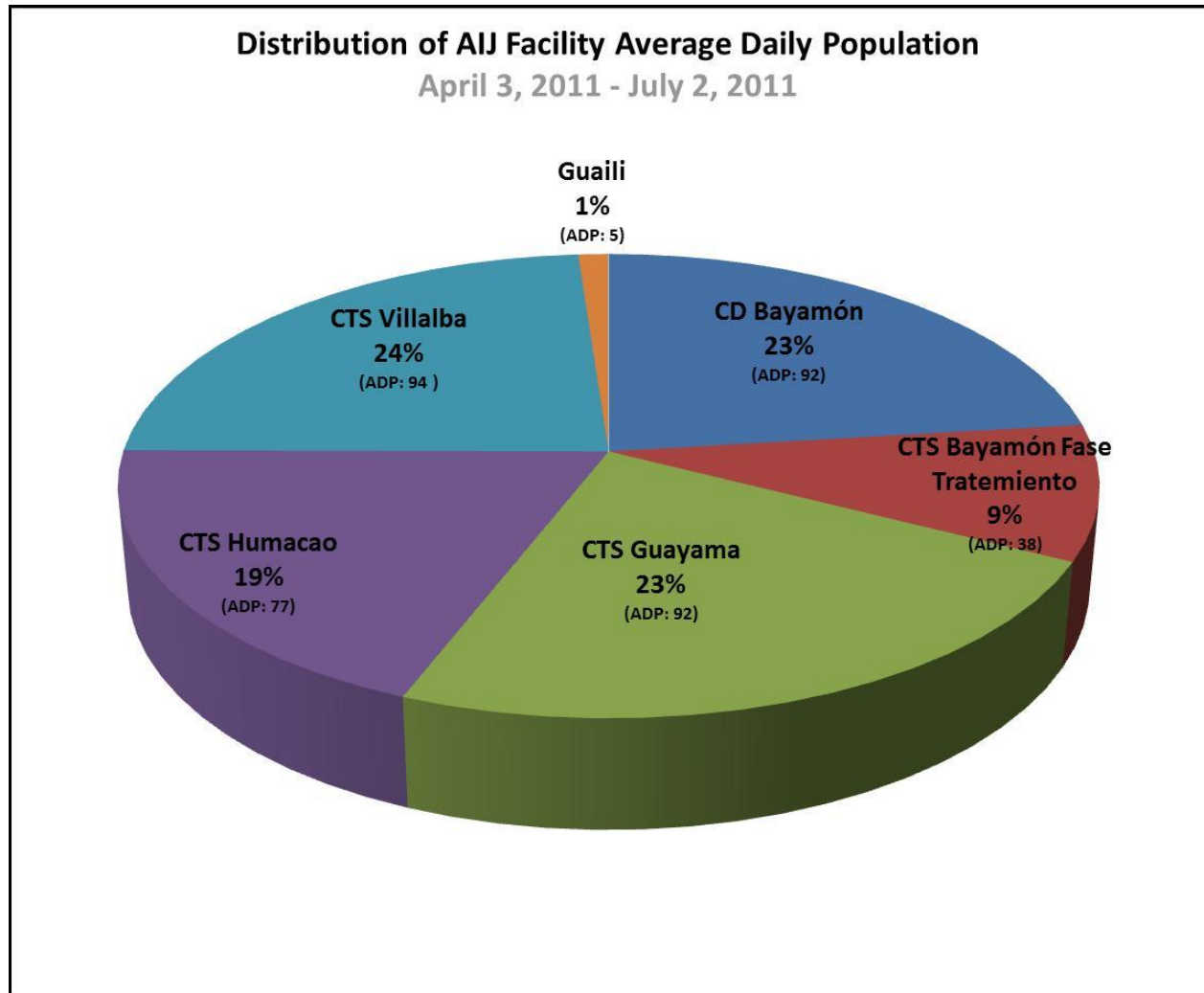
This is an increase from First Quarter of 2011 when 3.3% of 1:1 supervision events were not supervised with the required 1:1 staff youth ratio.



AIJ Average Daily Population:

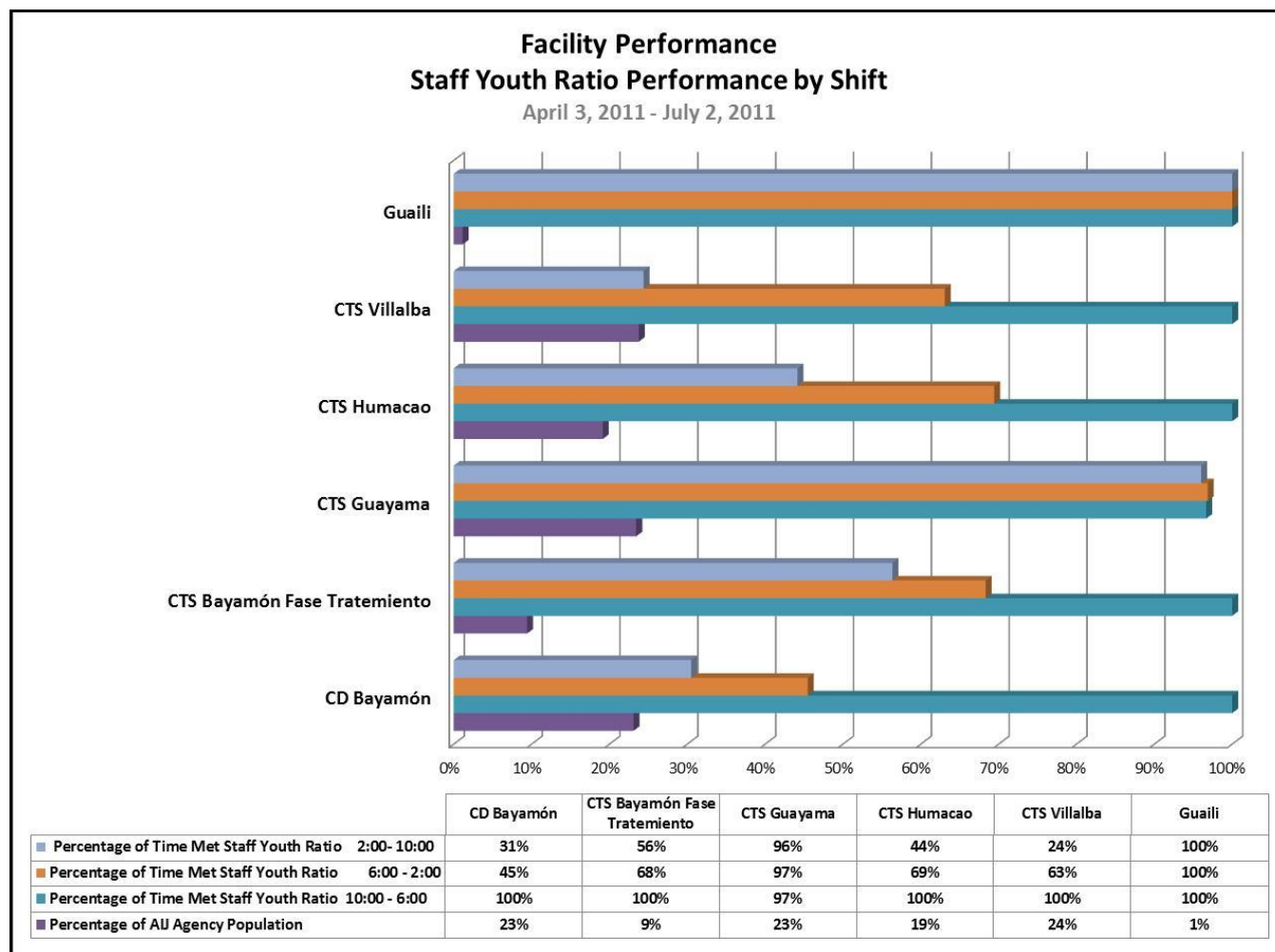
Analysis of Staff Youth Ratio forms has been expanded to provide perspective to not only the number of shifts that are in compliance with expected staff youth ratios, but to display staffing information compared to facility average daily population (ADP). Facility average daily population was computed 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 (April 3 thru July 2, 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 April 3, 2011 thru July 2, 2011 (13 weeks). The purple bar for each facility represents the proportionate average daily population that facility contributes to the AIJ average daily population. The table of average daily population can be found on page 15 of this report.

During the second quarter reporting period (April 3, 2011 thru July 2, 2011), CD Bayamon, CTS Villalba, and CTS Humacao have the largest volume of staffing deficiencies, representing 66% of the AIJ youth population.



CD Bayamón Staff Youth Ratio Analysis:

April 3, 2011 thru July 2, 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: 13 of 13 requested

For the 2nd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: a 3% improvement
- 6:00 am – 2:00 pm: a 17% improvement
- 2:00 pm – 10:00 pm: a 9% improvement

******CD Bayamón contributed 226 of the 510 (44%) AIJ 1:1 supervision events for the 2nd Quarter reporting period.

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

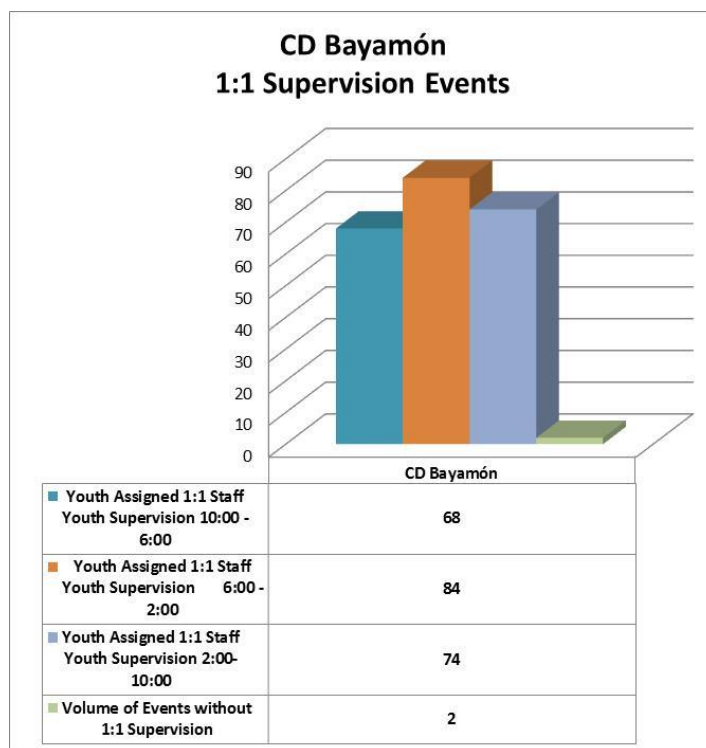
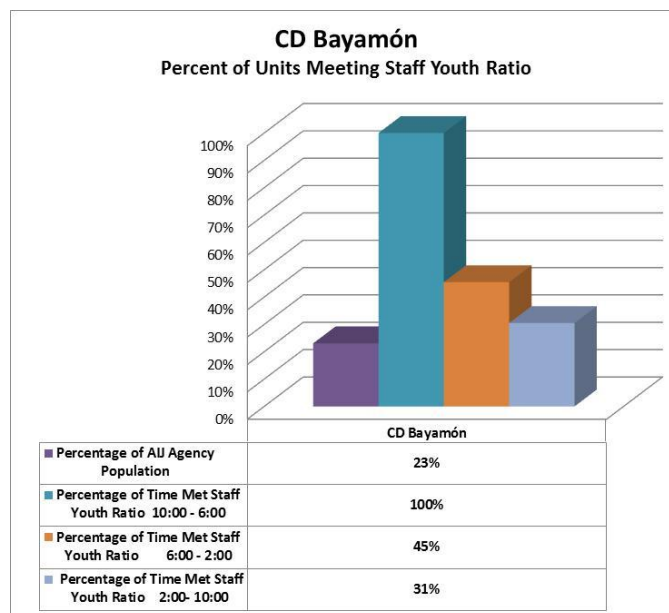
0.83/ 228 youth supervision events for the 2nd Quarter of 2011

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

2

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



CTS Bayamón Fase Tratamiento Staff Youth Ratio Analysis:

April 3, 2011 thru July 2, 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: 13 of 13 requested

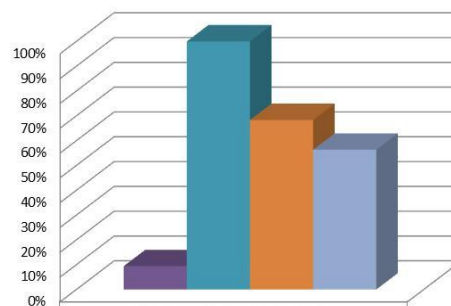
For the 2nd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: a 0% improvement
- 6:00 am – 2:00 pm: a 16% improvement
- 2:00 pm – 10:00 pm: a 8% improvement

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Bayamón Fase Tratamiento
Percent of Units Meeting Staff Youth Ratio



CTS Bayamón Fase Tratamiento	
Percentage of AU Agency Population	9%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	68%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	56%

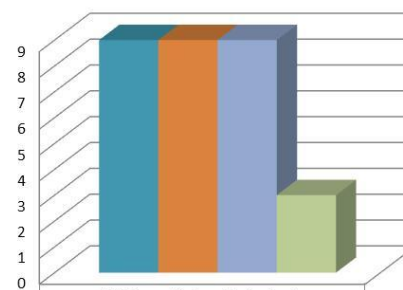
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0.1/ 27 youth supervision events for the 2nd Quarter of 2011

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

3

CTS Bayamón Fase Tratamiento
1:1 Supervision Events



CTS Bayamón Fase Tratamiento	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	9
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	9
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	9
Volume of Events without 1:1 Supervision	3

CTS Guayama Staff Youth Ratio Analysis:

April 3, 2011 thru July 2, 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%

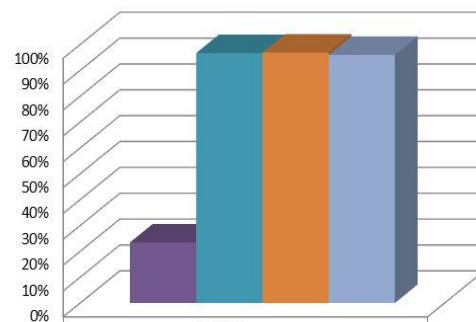
Volume of Weeks Analyzed: 13 of 13 requested

For the 2nd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: a 1% reduction
- 6:00 am – 2:00 pm: a 52% improvement
- 2:00 pm – 10:00 pm: a 2% reduction in improvement

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

CTS Guayama
Percent of Units Meeting Staff Youth Ratio



CTS Guayama	
Percentage of All Agency Population	23%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	97%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	97%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	96%

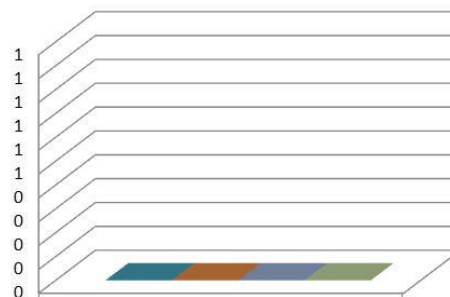
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0/0 youth events for the 2nd Quarter of 2011

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

0

CTS Guayama
1:1 Supervision Events



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

CTS Humacao Staff Youth Ratio Analysis:

April 3, 2011 thru July 2, 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: 13 of 13 requested

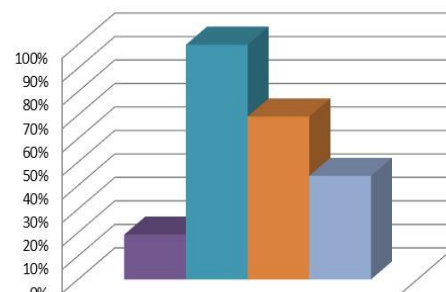
For the 2nd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: a 23% improvement
- 2:00 pm – 10:00 pm: a 7% improvement

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Humacao
Percent of Units Meeting Staff Youth Ratio



CTS Humacao	
■ Percentage of All Agency Population	19%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	69%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	44%

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

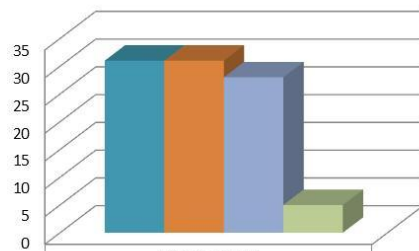
0.33/ 90 youth supervision events for the 2nd Quarter of 2011

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

5

- *There has been continual reduction each quarter in the volume of 1:1 youth supervision events that have not been supervised as required.*

CTS Humacao
1:1 Supervision Events



CTS Humacao	
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	31
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	31
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	28
■ Volume of Events without 1:1 Supervision	5

CTS Villalba Staff Youth Ratio Analysis:

April 3, 2011 thru July 2, 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

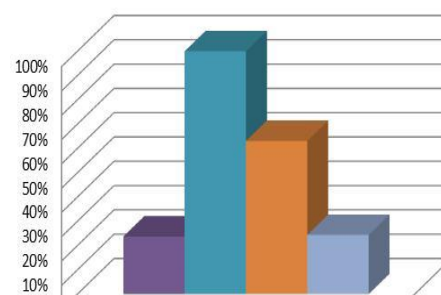
Percent of Forms Available: 100%**Volume of Weeks Analyzed:** 13 of 13 requested

For the 2nd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: a 9% improvement
- 2:00 pm – 10:00 pm: a 7% improvement

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

CTS Villalba
Percent of Units Meeting Staff Youth Ratio



CTS Villalba	
■ Percentage of AU Agency Population	24%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	63%
■ Percentage of Time Met Staff Youth Ratio 2:00- 10:00	24%

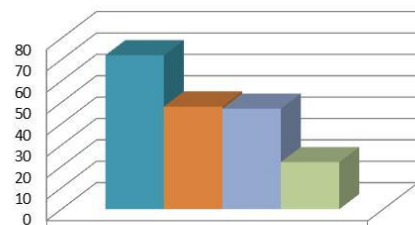
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0.61/ 167 youth supervision events for the 2nd Quarter of 2011

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

22

CTS Villalba
1:1 Supervision Events



CTS Villalba	
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	72
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	48
■ Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	47
■ Volume of Events without 1:1 Supervision	22

Guaili Staff Youth Ratio Analysis:

April 3, 2011 thru July 2, 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%

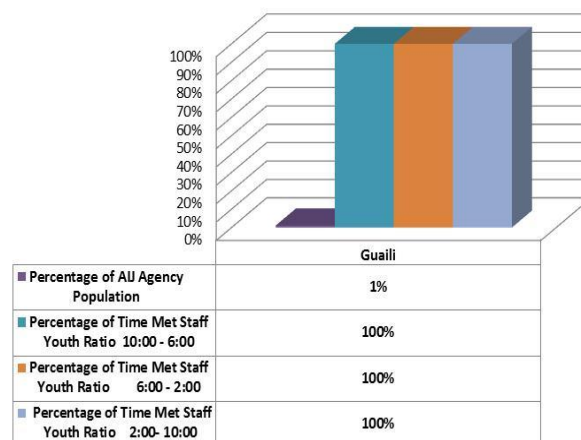
Volume of Weeks Analyzed: 13 of 13 requested

Guaili has maintained Staff Youth Ratio expectations for all four quarters of 2010 and the 1st and 2nd Quarter of 2011.

Guaili represents 1% of the AIJ institutional population.

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

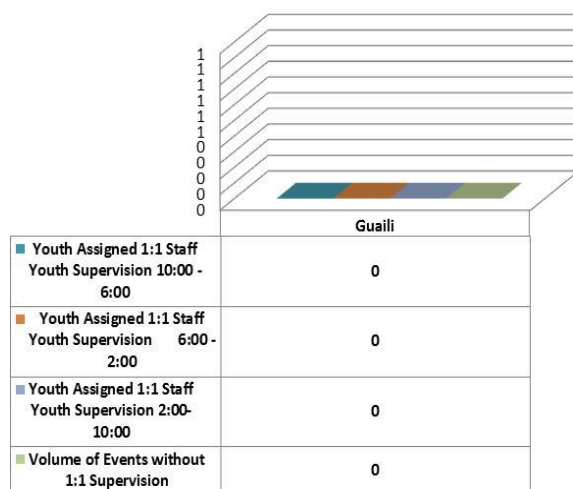
Guaili
Percent of Units Meeting Staff Youth Ratio



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

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

Guaili
1:1 Supervision Events



Facility Table of Shift Compliance with Staff Youth Ratio:

	Percent of Staff Youth Ratio Forms Received	Percentage of All Agency Population	Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	Percentage of Time Met Staff Youth Ratio 2:00- 10:00
CD Bayamón	100%	24%	100%	28%	22%
CTS Bayamón Fase Tratamiento	100%	10%	100%	52%	48%
CTS Guayama	100%	24%	45%	99%	96%
CTS Humacao	100%	17%	100%	46%	37%
CTS Villalba	100%	24%	100%	54%	17%
Guaili	100%	1%	100%	100%	100%

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

	Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	Total Youth Assigned 1:1 Staff Youth Supervision Events: Quarter	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	89	65	63	217	3	91
CTS Bayamón Fase Tratamiento	6	10	7	23	0	91
CTS Guayama	10	10	9	29	0	91
CTS Humacao	25	31	25	81	9	91
CTS Villalba	19	43	32	94	3	91
Guaili	0	0	0	0	0	91
Totals	149	159	136	444	15	546

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

<u>Date</u>	<u>CD Bayamon</u>	<u>CTS Bayamón Fase Tratamiento</u>	<u>CTS Guayama</u>	<u>CTS Humacao</u>	<u>CTS Villalba</u>	<u>Guaili</u>	<u>Program CREANDO</u>
April 3 - 9, 2011	<u>5/27/2011</u>	<u>5/19/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/20/2011</u>	<u>5/11/2011</u>	
April 10 - 16, 2011	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	
April 17 - 23, 2011	<u>5/11/2011</u>	<u>5/19/2011</u>	<u>5/11/2011</u>	<u>5/19/2011</u>	<u>5/20/2011</u>	<u>5/20/2011</u>	
April 24 - April 30, 2011	<u>5/11/2011</u>	<u>5/19/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/20/2011</u>	
May 1 - May 7, 2011	<u>5/19/2011</u>	<u>5/19/2011</u>	<u>5/19/2011</u>	<u>5/11/2011</u>	<u>5/11/2011</u>	<u>5/20/2011</u>	
May 8 - May 14, 2011	<u>5/19/2011</u>	<u>6/3/2011</u>	<u>5/27/2011</u>	<u>5/19/2011</u>	<u>6/3/2011</u>	<u>6/9/2011</u>	
May 15 - May 21, 2011	<u>5/27/2011</u>	<u>6/3/2011</u>	<u>5/27/2011</u>	<u>5/19/2011</u>	<u>5/27/2011</u>	<u>6/9/2011</u>	
May 22 - May 28, 2011	<u>6/3/2011</u>	<u>6/9/2011</u>	<u>6/3/2011</u>	<u>6/3/2011</u>	<u>6/3/2011</u>	<u>6/9/2011</u>	
May 29 - June 4, 2011	<u>6/9/2011</u>	<u>6/9/2011</u>	<u>6/17/2011</u>	<u>6/9/2011</u>	<u>6/9/2011</u>	<u>6/9/2011</u>	
June 5 - June 11, 2011	<u>6/17/2011</u>	<u>6/17/2011</u>	<u>6/17/2011</u>	<u>6/17/2011</u>	<u>6/17/2011</u>	<u>6/17/2011</u>	
June 12 - June 18, 2011	<u>6/24/2011</u>	<u>6/24/2011</u>	<u>6/24/2011</u>	<u>6/24/2011</u>	<u>7/7/2011</u>	<u>6/24/2011</u>	
June 19 - June 25, 2011	<u>7/7/2011</u>	<u>7/7/2011</u>	<u>7/5/2011</u>	<u>7/7/2011</u>	<u>7/7/2011</u>	<u>7/1/2011</u>	
June 26 - July 2, 2011	<u>7/5/2011</u>	<u>7/5/2011</u>	<u>7/5/2011</u>	<u>7/5/2011</u>	<u>7/7/2011</u>	<u>7/6/2011</u>	
	13	13	13	13	13	13	0
Volume of Forms Submitted	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	0.00%

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

Dates of Reporting Period	<u>CD</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>CREANDO</u>
	<u>Bayamon</u>	<u>Fase</u> <u>Tratamiento</u>					
April 10 - 16, 2011	75	46	89	76	99	3	
April 17 - 23, 2011	80	35	93	70	109	4	
April 24 - April 30, 2011	80	34	95	73	108	4	
May 1 -May 7, 2011	87	31	92	72	110	4	
May 8 -May 14, 2011	104	31	92	74	112	5	
May 15 -May 21, 2011	92	34	93	75	108	5	
May 22 -May 28, 2011	96	35	94	76	103	5	
May 29 -June 4, 2011	91	37	92	77	100	5	
June 5 -June 11, 2011	92	36	95	81	94	4	
June 12 -June 18, 2011	104	33	97	84	1	6	
June 19 -June 25, 2011	94	49	88	81	90	6	
June 26 -July 2, 2011	111	50	85	85	90	5	
Totals	1204	491	1222	998	1239	60	
Percentage of AIJ Agency Population	23%	9%	23%	19%	24%	1%	

Document Attachment B: Report on Discipline Provisions

Prepared by Monitor's Consultant David M. Bogard

During the dates of May 23-24 and June 7-9 I visited all seven AIJ facilities, including the CREANDO program at Camp Santana. The following is a summary of key observations and findings as a result of these site visits related to those discipline provisions that are not currently pending before the Court as PLRA termination motions filed by the Commonwealth.

Use of Force

I reviewed the use of force logbook at each facility to review the quality of record keeping, to determine the overall number of use of force incidents since the beginning of the year, to obtain an overview of the types of force that are being used, e.g., physical restraint, mechanical restraint, chemical agents, etc. In addition, I used the log to identify the most recent three or four use of force incidents, which I then requested copies of for further analysis.

Key Findings

- Humacao is using OC in more than 90% of use of force incidents (25 of 27 year to date), which suggests that lesser forms of force are not consistently being employed. This facility has had a few incidents with 10-12 juveniles participating and others with 3-4 juveniles.
- Villalba has recently been categorizing in the use of force log the type of force used as "minimum necessary force" rather than specifying the actual type/method of force used.
- Villalba is listing incidents in which no force was applied as use of force incidents. These cases involved officers using de-escalation techniques and alternatives to force, which is extremely positive and required by policy, but they were not *use of force* incidents. We have previously observed this phenomenon at Guayama.
- Humacao and Villalba have considerably more use of force incidents than do the other facilities, likely as a result of the higher custody level of the juveniles in these two facilities. Cases in which OC was used.
- Ponce Girls has had 8 use of force incidents year to date, all with mechanical restraints applied.
- CD Bayamon has had 31 incidents year to date, with most involving officers simply holding the juvenile (sujetar) or measures taken to "separate the juveniles." Two of five incidents in which OC was used involved more than ten youth fighting in the school area.
- There continues to be confusion about the completion of incident reports by officers who witnessed the incident or participated in it, but did not personally use force. All witnesses to a use of force incident, including those staff who actually applied the force, should be documenting what they did and observed. I recommended in my April 20, 2011 report that AIJ clarify this understandable confusion by allowing witnesses to denote what they observed by use of "ut" (un testigo) or "O" (observar) even if they personally did not use force.

- CREANDO reports that they have never had a use of force incident, but would follow AIJ policy in case a need arose. Staff reportedly do not carry OC or have access to it.
- CTS Bayamon's use of force logbook displayed no use of force incidents in 2011. Facility staff committed to clarifying this with the Monitor's Office the day after the site visit.

I also initiated a new use of force evaluation process this quarter. With the assistance of Monitor's Office staff, I collected the three to four most recent use of force incident reports from each facility (except CREANDO, which has had no incidents). These will be evaluated using an 11point evaluation tool designed to assess compliance with Paragraph 77 and AIJ policy governing use of force.

I encountered several logistical difficulties as I attempted to implement this process. First, after selecting and collecting incident report packages (incident reports and Cernimiento forms) from several institutions, we were informed that all requests for copies of reports needed to be channeled through someone in central office; this has badly delayed the receipt of information and will prove to be a substantial impediment to the successful implementation of this review process. Second, the reports that we did take away, as well as those that were subsequently provided to the Monitor's Office by central office, had many problems including critical information being cut off at the bottom of pages during the photocopying process and missing incident reports (for example, where there were three participants/witnesses only one or two of the reports were received).

I had hoped to complete the initial evaluation in time to include the findings in this report, but the logistical issues have not yet been resolved.

It is my intention to repeat this process each quarter from now on.

Transitional Measures (TM)

Progress is being made in this area. In response to my recommendations that this status not be an informal one as it was for an extended period of time, AIJ has issued draft policies that the facilities are working under. This policy is reflective of the terms of P 80 as it pertains to protective custody, mandating that juveniles are housed appropriately and afforded access to all services. A second draft policy, including my input, was distributed to the facilities in June.

At each facility I requested to see the log of transitional measures cases, including documentation of the juveniles currently in that status. When a facility had juveniles in that status, Monitor's office staff and I interviewed the youth in their housing locations and reviewed living unit log books to ascertain what services were being provided.

Key Findings

- There continues to be considerable confusion at the institutions between protective custody and transitional measures.
- Humacao has far more TM cases than any other facility (13 on June 9). The next closest number was at Villalba (3).
- Guayama had no TM cases on May 23 and had not had one for more than a month.

- Ponce Girls and Guaili had no TM cases in 2011.
- CD Bayamon had no TM cases the day I visited and has had a total of 6 year to date. Four of the cases were court orders that were more likely intended to be for PC and I recommend that the facility comply precisely with the court order or seek clarification from the court rather than placing a juvenile on TM because of a well intended desire to reintegrate the juvenile.
- CTS Bayamon has had 16 TM cases year to date, although 13 of those were placed on one that status on one day (no documentation was available to explain this situation).
- Villalba had three TM cases the day I visited, a relatively low number considering the magnitude of the problems occurring there (see discussion below)
- Facilities are attempting to reintegrate juveniles into general population as soon as possible. For example, while Humacao has had several juveniles in TM status for 6-8 weeks, the vast majority were in and out of the status in 2-3 days.
- CREANDO has no need for this status as any juvenile who met the criteria would be transferred to another facility.
- There is no documentation to verify that juveniles are consistently receiving 20 minutes of education instruction daily. I was told by staff that the juveniles receive up to two hours, but the most they reported receiving was 20 minutes and several said that teachers merely dropped off materials.
- Youth are being asked to sign a form each month stating that they have not been denied any services. I do not find this to be useful or reliable.
- A system of documentation of education services is being piloted at Humacao. This could prove to be a good mechanism to document education services.
- Two Juveniles on TM status at Humacao reported not receiving education for weeks. Evidence to the contrary was apparently provided to Central Office bt Humacao staff, but was not forwarded to the Monitor's Office.
- Facilities are not posting 15 minute watch logs next to the doors of juveniles on TM status.

Considerable work remains to be done to fully and properly implement and stabilize this process. The status is needed to provide a measure of stability and an opportunity for staff to counsel and work with youth who have had troubles adapting in multiple modules or who insist on remaining separate from the general institutional movement patterns because they want to "stay out of trouble." That said, there is insufficient documentation to verify that the juveniles are receiving services and necessary supervision and the large numbers of juveniles seeking out this status suggests that there are significant problems in certain facilities.

Protective Custody

- CD Bayamon had no PC cases the day I visited and has had a total of only three year to date.
- No PC cases at Humacao the day we visited and none for a month previous to that.
- No PC at CD Bayamon on day we visited and only three year to date.
- One long-term PC case at Villalba. Youth was reportedly sexually assaulted at CTS Bayamon and transferred to Villalba along with the aggressors, which presents obvious concerns about classification and placement decisions. The facility director reported that

this decision was made by DEC because Villalba is the sole Level 4 institution and all youth involved were classified as Level 4, although if the allegations were accurate I wonder why the aggressors of a sexual assault were not classified as Level 5?

Disciplinary Measures

I have long opined that there are insufficiently serious disciplinary measures or controlled environments *for the few youth who are responsible for the most serious incidents*. Youth who will order attacks on staff or facility directors will surely not be deterred by a penalty of loss of privileges for a couple of weeks. This is not to suggest that the lack of strict disciplinary sanctions is the sole reason for awful behavior (ultimately, there must be a sufficient number of staff who are prepared to control behavior and be the authority figures in the institutions), but it is a significant consideration.

Paragraph 79 does permit the use of disciplinary isolation but AIJ has refused to use it for years, at least in part because of the confusing language of the provision. And nothing in the Settlement Agreement prohibits AIJ from establishing close custody treatment units for the small number particularly difficult or troubled youth whose actions place other youth and staff in jeopardy.

Additional efforts should occur to bolster and support the behavior modification program that I understand has lost some of its effectiveness due to staff reductions. I encourage AIJ to consider all of these options.

- Villalba has had 482 disciplinary violation year to date; many were group incidents, including several instances of group “autolaceration,”
- There was a very serious incident at Villalba on May 11 in which an officer was struck and the facility director was surrounded and threatened. The leaders of this incident were sanctioned only with loss of privileges for two weeks.
- Humacao has had 176 disciplinary hearings year to date. The most used sanction is orientation, with about 20% receiving limited dayroom access and several loss of privileges.
- The most frequently employed sanction at Guayama was suspended privileges, with many sanctions indicating “PMC.”
- CREANDO relies on AIJ’s rules and disciplinary measures, but deals with the few cases that they encounter informally.
- Ponce Girls has had 42 disciplinary cases year to date, with about 1/3 resulting in a limited dayroom sanction, 1/3 loss of privileges, and about 10% PMC; Guali has had 14 year to date with two youths responsible for the majority of them and 12 of 14 resulting in PMC.
- CD Bayamon has had a very high number of disciplinary hearings this year (279); 90% resulted in orientation.

Villalba

Villalba appears to be experiencing significant incidents at a pace beyond the other institutions, including Humacao. I say this because of the very high number of disciplinary reports year to date (482 versus 179), a very serious incident on May 11 in which youth “leaders” allegedly gave orders for an officer to be attacked, for the facility director to be threatened, and for large

numbers of youth to engage in autolacerations, and because it seems that youth are running the institution. This information was relayed to us during my meeting with the Facility Director, but I have not yet been provided with translations of portions of relevant incident reports to confirm the verbal version of the incident.

Document Attachment C:
 Report on Incidents and Understaffing
 April - June 2011

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.

Apr. 1	CTS Villalba	11-081	Morning	A juvenile, allegedly was sodomized by other juveniles in the living unit second level. The youth officer was in the first level during the incident.	1 officer, 13 juveniles
Apr. 4	CTS Guayama	11-086	Morning	A juvenile was hit in his head by other juvenile. The victim resulted with an open wound in the right eye area. The victim was taken to the hospital.	1 officer, 13 juveniles
Apr. 17	CTS Guayama	11-094	Night	A juvenile was hit in his right hand and head by other juveniles. The incident occurred in Living Unit III.	1 officer, 12 juveniles (officer working double shift)
Apr. 19	CTS Guayama	11-097	Morning	A juvenile, allegedly was hit in his leg by other juvenile because he didn't follow follows orders from the living unit "leader".	1 officer, 12 juveniles
Apr. 27	CTS Bayamón	11-102	Afternoon	A group of 4 juveniles hit another juvenile in the module. The incident occurred in the stairs area.	1 officer, 9 juveniles
May 1 -2	CTS Villalba	11-107	Afternoon	A juvenile was hit by other juveniles while he was in his room. Apparently, the victim didn't want to follows a module's leader order requesting to attack other juvenile. The incident occurred in Living Unit C.	1 officer, 12 juveniles
May 3	CTS Ponce Girls	11-110	Afternoon	A girl, allegedly was touched in her private areas while they were playing the game "Twister".	1 officer, 10 juveniles
May 6	CTS Villalba	11-111	Afternoon	A juvenile was hit by a group of juveniles in Living Unit D-1. The incident occurred in the bathroom area.	1 officer, 13 juveniles
May 11, 13	CTS Ponce Girls	11-131	not available	Allegedly, a girl was touched by a youth officer in different parts of her body. Apparently, the officer was offering her some gifts. The incident occurred in the living unit's basketball court during the recreation period.	1 officer, 12 juveniles
Jun. 15	CTS Bayamón	11-152	Morning	Juveniles from Living Unit Yellow, modules I and II got into a cell in module II and hit the juvenile that was inside.	0 officer, 10 juveniles

Jun. 16	CTS Ponce Girls	11-153	Afternoon	A girl was observed in an unacceptable and prohibited conduct with a youth officer supervisor. The incident occurred during the recreation period in the facility's open square.	1 officer, 9 juveniles
Jun. 19	CTS Guayama	11-155	Morning	Allegedly, a juvenile was hit by other juvenile with a metal object. The incident occurred in the living unit.	1 officer, 10 juveniles

Document Attachment D: 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 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
Incidents		139	111	259	196
	Suicidal Incidents	15	10	23	20
	Self-Mutilation Incidents	38	25	59	73
Suicidal Incidents (From M/H Records)		15	10	23	20
	Youth Involved	15	9	21	20
	Cases involving ideation only	10	2	11	15
	Cases involving suicide intention	1	1	0	1
	Cases w/ ambulatory treatment	6	2	4	19
	Cases with hospitalization	0	0	0	1
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	0	0	0	0
Self-Mutilations Incidents (MH records)		38	25	59	73
	Youth Involved	34	24	56	65
	Cases requiring sutures	2	1	0	1
	Cases requiring hospitalization	0	0	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	1	4	2	8

The above cases come from mental health records. AIG has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a recently developed mental health process. Of the 196 suicide and self-mutilation incidents for the third quarter, only 8 resulted in a Paragraph 78a abuse referral. The remaining cases were to be referred to the mental health process.

The second table concerns incidents that warranted abuse referrals.

Statistics for 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
284 A Incidents		62	76	75	83
	Level Two Incidents	50	62	54	51
	Referrals to SAISC	50	62	54	51
	Suicide Ideation/Attempt	0	0	0	0
	Self-Mutilation Idea/Attempt	3	7	2	8
	Youth-to-Youth Incidents	40	42	46	64
	Youth-to-Youth Injuries	29	36	28	48
	Youth-to-Youth with External Care	11	12	12	15
	Youth-to-Youth Sexual	8	4	6	5
	Youth-to-Youth Sexual w/ Injury	0	0	0	0
	Staff-to-Youth Incidents	19	27	30	19
	Staff-to-Youth Injuries	34	14	8	6
	Staff-to-Youth with External Care	3	4	3	2
	Staff-to-Youth Sexual	3	4	1	1
	Staff-to-Youth Sexual with Injury	0	0	0	0
	SOU 284A Interventions	4		5	4
	284A with Item 5 completed	49	67	53	71
	284A with Staffing Compliance	36	43	30	51

The next table summarizes initial case management.

Statistics for 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
Initial Case Management					
	284A percent with admin actions	94%	92%	92%	96%
	284A Within 24 hours	77%	78%	85%	90%
	284A Within 72 hours	99%	98%	96%	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	54%	29%	33%	53%

The 20-day completion rate for local investigations remains low but has improved. The 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 OISC, which is the new title for the investigation unit previously referred to as "SAISC."

Statistics for 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
OISC					
	Cases Referred from this quarter	49	59	51	51
	Referred Within 1 day	49	59	30	30
	Referred Within 3 days	0	0	0	21
	Referred Within 10 Days	0	0	0	0
	Referred Within 20 Days	0	0	0	0

Based on the new investigation procedure, cases are to be immediately provided to the OISC investigator responsible for the facility involved. There appears to be a decline in the timely referral of cases to OISC.

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

Statistics for 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
OISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	0
	Completed in 11-20 workdays	0	1	3	1
	Completed in 21-30 workdays	1	5	6	2
	Completed in 31-45 workdays	7	0	7	1
	Completed in more than 45 workdays	3	1	12	0
	Completed in a subsequent quarter			32	44
	Not completed yet.	38	52	23	45
	Returned for Further investigation			0	7
	Further Investigation Completed			0	10

Paragraph 78.e requires that OISC complete investigations within 30 days. For the second quarter of 2011, there were 51 cases referred to OISC, and only 3 were completed within the 30-day limit specified in Paragraph 78.e.

Seven cases were returned by the Commonwealth Department of Justice for further investigation. This suggests that the prosecutors found the investigations to be incomplete or inadequate in some respect. These statistics are hard to interpret because they appear to involved cases from a previous quarter.

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

Statistics for 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
Administrative Determinations					
Cases with youth discipline referrals		53	54	52	70
Cases with youth discipline actions		45	34	37	43
Cases with youth no discipline actions		8	20	15	27
Cases staff/youth with determinations		0	0	0	0
Cases recommending personnel actions		0	0	0	3
Prior Stf/Yth Cases w/ Determinations				15	0
Prior Cases – Recmd Personnel Action				10	16

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 2010-2011		2010-3rd	2010-4th	2011-1st	2011-2nd
Prosecutorial Determinations		1	0	0	2
Cases with no determinations		0	1	1	0
Cases with decision not to prosecute		4	3	0	1
Cases with referral for prosecution		2	0	5	7
Total cases documented		7	4	6	10

Document Attachment E: 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?		
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-26, N-1	The percentage for this report is 96%. The percentage in the last Quarterly Report was 91%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-27	The percentage for this report is 100%. The percentage in the last Quarterly Report was 85%. Improved Compliance
A.4 Was evidence preserved?	Y-3, N/A-24	The percentage for this report is less than 1%. The percentage in the last Quarterly Report was 29%. Reduced Compliance
A.5 Was investigation initiated promptly?	Y-22, N-2, N/A-1, blank-2	A.1 Was the incident promptly reported?
A.6 Was the 284-A filed within 24 hours?	Y-22, N-5	The percentage for this report is 81%. The percentage in the last Quarterly Report was 82%.
A.7 Did the reporting official file an incident report before the end of shift?	Y-25, N-1, blank-1	The percentage for this report is 92%. The percentage in the last Quarterly Report was 76%. Improved Compliance
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-25, N-2	The percentage for this report is 92%. The percentage in the last Quarterly Report was 88%.
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-25, N-2	The percentage for this report is 92%. The percentage in the last Quarterly Report was 88%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-16, N-3, N/A-8	The percentage for this report is 59%. The percentage in the last Quarterly Report was 47%. Improved Compliance
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-25, N-2	The percentage for this report is 92%. The percentage in the last Quarterly Report was 85%.
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-21, N/A-6	The percentage for this report is 78%. The percentage for the last Quarterly Report was 71%.
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-23, N-3 N/A-1	The percentage for this report is 85%. The percentage in the last Quarterly Report was 85%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	N-13, N/A-14	The percentage for this report is less than 0%. The percentage in the last Quarterly Report was 1%.
A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-11, N-11, N/A-2, blank-3	The percentage for this report is 41%. The percentage in the last Quarterly Report was 50%. Reduced Compliance

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

The PRDOJ sent a table with information related to 14 of 15 cases requested. Prosecutors from different judicial districts decided that there was no evidence to file charges in 13 cases. One case was terminated administratively by the police officer.

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?		
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- 18, N-4, N/A – 4, blank-1	Only 27 complete cases were received for this reporting period. The percentage for this report is 67%. The percentage in the last Quarterly Report was 71%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-8, N-5, N/A-14	The percentage for this report is 30%. The percentage in the last Quarterly Report was 1%. For this question, 12 cases were classified as level I. Improved Compliance
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-8, N-5, N/A-14	The percentage for this report is 30%. The percentage in the last Quarterly Report was 15%. For this question, 12 cases were classified as level I. Improved Compliance
C.4 Was physical evidence preserved and documented?	Y-4, N/A-23, blank-4	The percentage for this report is 15%. The percentage in the last Quarterly Report was 26%. Reduced Compliance
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-3, N-10, N/A-14	The percentage for this report is 11%. The percentage in the last Quarterly Report was 25%. In the sample only 12 cases were classified as Level I. Reduced Compliance
C.6 Was the completion of the investigation documented in the tracking database?	Y-27	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%. During the last 4 years the data base was operated manually.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-15, blank-12	The answers do not represent the facilities real situation.

The next table concerns investigations by SAISC.

Case Assessment Instrument – Section D – SAISC Investigation		
NOTE: Completed only for Level II cases.		
Assessment Criterion	Status Y/N/NA	Comment
D.1 If the case was a Level II case, was the referral received by SAISC within 24 hours?	Y-8, N-7	The percentage for this report is 53%. The information in the last Quarterly Report was 37%. Improved Compliance
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	Y-5, N-10	The percentage for this report is less than 33%. The information in the last Quarterly Report was less than 18%. Improved Compliance
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-13, blank - 2	The percentage for this report is 87%. The information in the last Quarterly Report was 73%. Improved Compliance
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-13, blank - 2	The percentage for this report is 87%. The information in the last Quarterly Report was 73%. Improved Compliance
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-13, blank - 2	The percentage for this report is 87%. The information in the last Quarterly Report was 73%. Improved Compliance
D.6 Did the investigation provide proposed findings?	Y-1, N-1, Blank - 13	The percentage for this report is less than 1%. The information in the last Quarterly Report was 32%. Reduced Compliance
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y – 10, N - 1 Blank - 4	The percentage for this report is 67%. The information in the last Quarterly Report was 59%. In this question if the percentage of “Yes” is high it reflects non compliance. Reduced Compliance

There is improved 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-24, N-3	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 89% of the cases. The percentage in the last Quarterly Report was 85%.
F.2 Does the Monitor's Office confirm the timeliness facts as asserted in Page B?		The information was provided partially and in a different format.
F.3 Does the Monitor's Office confirm the timeliness facts as asserted in Page C?	Y-26, N-1	The percentage for this report is 96%. The percentage in the last Quarterly Report was 100%.
F.4 Does the Monitor's Office confirm the timeliness facts as asserted in Page D?	Y-15	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 provided partially and in a different format.
F.7 Does the Monitor's Office confirm the investigation quality as asserted in page C?	Y-24, N-3	The percentage for this report is 89 %. 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-15	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 F:
Case-Level Assessment of Mental Health and Special Education Services

Monitor's Office Assessment Plan
Mental Health Services and Education Services
Version 1.1

Summary

The purpose of the Assessment Plan is to evaluate compliance with Settlement Agreement provisions related to mental health services, education services, and special education services. The assessment is based on regular examinations of selections of cases

Sample Population

Group A - Detention Intake: 12 cases selected at random from detention during the previous quarter. These cases must have remained in detention for more than 10 days. These youth are selected at random by the Monitor's Office from all male youth received at detention centers during the first two months of each quarter. The Commonwealth will provide a list of all cases meeting this criteria and the Deputy or Associate Monitor will select the cases through a random procedure which will vary each quarter.

Group B – Commitment Intake: 12 cases selected at random from commitment reception during the previous quarter. These you are those received for commitment placement during the first two months of each quarter. The Commonwealth will provide a list of all cases meeting this criteria and the Deputy or Associate Monitor will select the cases through a random procedure which will vary each quarter.

Group C: Most Serious Mental Health Needs: 12 cases selected by AIJ and the Monitor's Office as those with the most serious mental health needs. These youth must have been in AIJ custody for the first two months of each quarter. The Monitor's Office may include cases from a previous review for follow-up review.

Group D: Most Serious Special Education Needs: 12 cases selected by AIJ and the Monitor's Office as those with the most serious special education needs. These youth must have been in AIJ custody for the first two months of each quarter. The Monitor's Office may include cases from a previous review for follow-up review.

Timetable

The assessments are completed by Commonwealth personnel during the months of March, June, September and December. The Monitor's Office identifies the 48 cases to be assessed at the start of the month, and the assessment sheets are due at the end of the month. The Monitor's Office staff and consultants review the assessment sheets and compile a summary report during the months immediately following the assessments – April, July, October and January – so that the summary report can be part of the Monitor's quarterly compliance report each quarter.

Group A: 12 cases selected at random from detention during the previous quarter. These cases must have remained in detention for more than 10 days.

Assessment Criterion	Commonwealth	Monitor	Comment
The youth has received a thorough psychiatric evaluation. (C.O.36)	Y N	Y N	
Any suicidal and/or self-mutilating behaviors have been documented in the treatment record. (S.A.63)	Y N	Y N	
If suicidal and/or self-mutilating behaviors were recognized, a complete mental health screening was completed. (S.A.63)	Y N NA	Y N NA	
If suicidal and/or self-mutilating behaviors were recognized, treatment was provided consistent with accepted professional standards. (S.A.63)	Y N NA	Y N NA	
If the youth was receiving psychotropic medication, the youth was seen by a child psychiatrist.	Y N NA	Y N NA	
The youth was screened for physical and learning disabilities. (S.A. 86)	Y N	Y N	
The youth was assessed for hearing impairments.	Y N	Y N	
The youth was assessed for speech and/or language impairments. (S.A. 86)	Y N	Y N	
The youth was assessed for visual impairments. (S.A. 86)	Y N	Y N	
The youth was assessed for mental retardation. (S.A. 86)	Y N	Y N	
The youth was assessed for serious emotional disturbances. (S.A. 86)	Y N	Y N	
If there was a prior school record of educational disability, the record was ordered. (S.A. 86)	Y N	Y N	
If the youth had not been previously identified as having an educational disability, but indications of such a disability exist, an adequate evaluation was performed. (S.A. 88)	Y N	Y N	

Group B: 12 cases selected at random from commitment reception during the previous quarter.

Assessment Criterion	Commonwealth	Monitor	Comment
The youth has been assessed for a substance abuse problem. (S.A. 59)	Y N	Y N	
If the youth has a substance abuse problem, the youth has a treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers. (S.A. 59)	Y N NA	Y N NA	
The treatment plan is individualized. (S.A. 59)	Y N NA	Y N NA	
The youth has received a thorough psychiatric evaluation. (C.O.36)	Y N	Y N	
Any suicidal and/or self-mutilating behaviors have been documented in the treatment record. (S.A.63)	Y N	Y N	
If suicidal and/or self-mutilating behaviors were recognized, a complete mental health screening was completed. (S.A.63)	Y N NA	Y N NA	
If suicidal and/or self-mutilating behaviors were recognized, treatment was provided consistent with accepted professional standards. (S.A.63)	Y N NA	Y N NA	
If the youth was receiving psychotropic medication, the youth was seen by a child psychiatrist.	Y N NA	Y N NA	
If psychotropic medication is prescribed, appropriate informed consent is documented in the record.	Y N NA	Y N NA	
The youth has an individualized treatment plan identifying problems, including medical needs, and establishing individual therapeutic goals. (S.A. 73)	Y N	Y N	
The youth was screened for physical and learning disabilities. (S.A. 86)	Y N	Y N	
The youth was assessed for hearing impairments.	Y N	Y N	
The youth was assessed for speech and/or language impairments. (S.A. 86)	Y N	Y N	
The youth was assessed for visual impairments. (S.A. 86)	Y N	Y N	
The youth was assessed for mental retardation. (S.A. 86)	Y N	Y N	
The youth was assessed for serious emotional disturbances. (S.A. 86)	Y N	Y N	
If there was a prior school record of educational disability, the record was ordered. (S.A. 86)	Y N	Y N	

Assessment Criterion	Commonwealth	Monitor	Comment
If the youth had not been previously identified as having an educational disability, but indications of such a disability exist, an adequate evaluation was performed. (S.A. 88)	Y N	Y N	
The youth has an individualized treatment plan identifying individual problems. (S.A. 73)	Y N NA	Y N NA	
The plan identifies medical needs if applicable. (S.A. 73)	Y N NA	Y N NA	
The plan establishes individual therapeutic goals (S.A. 73)	Y N NA	Y N NA	
The plan provides for group and/or individual counseling addressing the problems identified. (S.A. 73)	Y N NA	Y N NA	

Group C: 12 cases selected by AIJ and the Monitor's Office as those with the most serious mental health needs.

Assessment Criterion	Commonwealth	Monitor	Comment
The youth has been assessed for a substance abuse problem. (S.A. 59)	Y N	Y N	
If the youth has a substance abuse problem, the youth has a treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers. (S.A. 59)	Y N NA	Y N NA	
The treatment plan is individualized. (S.A. 59)	Y N NA	Y N NA	
The treatment plan is being implemented, (S.A. 29 and S.A. 73)	Y N NA	Y N NA	
The youth has received a thorough psychiatric evaluation. (C.O.36)	Y N	Y N	
Any suicidal and/or self-mutilating behaviors have been documented in the treatment record. (S.A.63)	Y N	Y N	
If suicidal and/or self-mutilating behaviors were recognized, a complete mental health screening was completed. (S.A.63)	Y N NA	Y N NA	
If suicidal and/or self-mutilating behaviors were recognized, treatment was provided consistent with accepted professional standards. (S.A.63)	Y N NA	Y N NA	
The youth engaged in a suicidal and/or self-mutilating behavior during the first two months of the quarter.	Y N	Y N	
The above behavior was reported through the Paragraph 78 process or the mental health process.	P78 MH N	P78 MH N	
If reported through the MH process, there is a written central review report in the record.	Y N NA	Y N NA	
If, at the time of the behavior, there was already an MH review report in the file, the review and treatment plan was updated.	Y N NA	Y N NA	
If the youth was receiving psychotropic medication, the youth was seen by a child psychiatrist.	Y N NA	Y N NA	
If psychotropic medication is prescribed, appropriate informed consent is documented in the record.	Y N NA	Y N NA	
The youth has an individualized treatment plan identifying problems, including medical needs, and establishing individual therapeutic goals. (S.A. 73)	Y N	Y N	
The treatment plan is being implemented, (S.A. 29 and S.A. 73)	Y N NA	Y N NA	
If the youth needed residential treatment during the quarter, it was provided. (C.O. 36)	Y N NA	Y N NA	
If the youth needed inpatient hospitalization during the quarter, it was provided. (C.O. 36)	Y N NA	Y N NA	

Group D: 12 cases selected by AIJ and the Monitor's Office as those with the most serious special education needs.

Assessment Criterion	Commonwealth	Monitor	Comment
The youth has been assessed for a substance abuse problem. (S.A. 59)	Y N	Y N	
If the youth has a substance abuse problem, the youth has a treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers. (S.A. 59)	Y N NA	Y N NA	
The treatment plan is individualized. (S.A. 59)	Y N NA	Y N NA	
The youth has received a thorough psychiatric evaluation. (C.O.36)	Y N	Y N	
Any suicidal and/or self-mutilating behaviors have been documented in the treatment record. (S.A.63)	Y N	Y N	
If suicidal and/or self-mutilating behaviors were recognized, a complete mental health screening was completed. (S.A.63)	Y N NA	Y N NA	
If suicidal and/or self-mutilating behaviors were recognized, treatment was provided consistent with accepted professional standards. (S.A.63)	Y N NA	Y N NA	
If the youth was receiving psychotropic medication, the youth was seen by a child psychiatrist.	Y N NA	Y N NA	
If psychotropic medication is prescribed, appropriate informed consent is documented in the record.	Y N NA	Y N NA	
The youth has an individualized treatment plan identifying problems, including medical needs, and establishing individual therapeutic goals. (S.A. 73)	Y N	Y N	
If the youth needed residential treatment during the quarter, it was provided. (C.O. 36)	Y N NA	Y N NA	
If the youth needed inpatient hospitalization during the quarter, it was provided. (C.O. 36)	Y N NA	Y N NA	
The youth received education for at least 5 days per week 6 hours per day, except during June and July.	Y N NA	Y N NA	
The youth has an Individual Education Plan. (IEP)	Y N	Y N	
If under 18, the a parent or surrogate parent participated in the development of the IEP. (S.A. 90)	Y N NA	Y N NA	

If 18 or over, the youth participated in the development of the IEP. (S.A. 90)	Y N NA	Y N NA	
During the two months of service, the necessary qualified and experienced teachers were employed to provide the services in the IEP.	Y N	Y N	
The IEP was implemented.	Y N	Y N	
The youth was provided 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.	Y N	Y N	
IEP services for this youth were provided during each month since this youth was received into AIJ. (S.A. 93)	Y N	Y N	
During the past two months, the youth received a full day of instruction 5 days per week. (S.A. 93)	Y N	Y N	
If the youth was isolated during the past two months, educational services continued to be provided that were comparable to those provided when they youth was not isolated. (S.A. 94)	Y N NA	Y N NA	
During the past 6 months, the IEP was assessed to determine whether they youth is making effective progress. (S.A. 95)	Y N NA	Y N NA	
If the youth was not making effective progress, the IEP was modified. (S.A. 95)	Y N NA	Y N NA	

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.

April 11, 2011:	Consultants Peter Leone & Victor Herbert site visit to CTS Villalba.
April 11, 2011:	Consultants Peter Leone & Victor Herbert site visit to CDT Ponce "Girls".
April 11, 2011:	Consultants Peter Leone & Victor Herbert site visit to Home Group "Guaili".
April 11, 2011:	Consultants Peter Leone & Victor Herbert site visit to CTS Guayama.
April 12, 2011:	Consultants Peter Leone & Victor Herbert site visits to CTS Bayamon & CD Bayamon.
April 12, 2011:	Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
April 13, 2011:	Consultant David Bogard and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
April 13, 2011:	Consultant Victor Herbert site visit to CTS Humacao.
May 4, 2011:	Consultant Bob Dugan and Associate Monitor Ricardo Blanco site visit to CD Bayamon and CTS Bayamon.
May 5, 2011:	Consultant Bob Dugan and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
May 23, 2011:	Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama
May 24, 2011:	Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to Ponce "Girls" and CREANDO
June 7, 2011:	Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon & CTS Bayamon.
June 8, 2011:	Consultant David Bogard, and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
June 9, 2011:	Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Second Quarter 2011

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 2 nd quarter of 2011, all of the facilities submitted the staffing compliance reports, with the exception of Program CREANDO. Agency meeting staffing ratio requirements: 6:00 – 2:00: 68% of events: 13% improvement from 1st quarter 2011 2:00 – 10:00: 49% of events: 7% improvement from 1st quarter 2011 10:00 – 6:00: 99% of events. 9% improvement from 1st quarter 2011 Guaili has met 100% staff youth ratio requirements for all four quarters of 2010 and 1 st and 2 nd quarter of 2011. See the 2011 2nd QR narrative for more information about staffing compliance.
January 2009 Stipulation Paragraph 1: All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.	Y	N	N	N	N	N	A remarkable reduction in volume of youth requiring 1:1 Staff youth ratio supervision (3171 events 1 st quarter 2010/ 510 2nd quarter 2011). 32 reported instances of youth not receiving 1:1 supervision in 2nd quarter 2011.
January 2009 Stipulation Paragraph 2: All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48, 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	The detention classification system is not yet fully defined and implemented. A pilot program is being evaluated. Staff have been trained. Application of classification does not result in specific housing unit assignments at this time. AIJ is developing a second phase of the electronic files application that will include revisions of the Classification scoring instrument. As of June 1, 2011, AIJ is documenting characteristics of detention youth assessment classification practices.

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>	#	#	#	#	#	#	See the discussion of this issue in the QR narrative report.

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.