

**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
AND THE MONITOR'S RESPONSE TO THE COURT'S INQUIRY CONCERNING
PARAGRAPH 31 (DOCKET 997)**

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Third Quarter Report for 2011. The report covers the months of July, August and September 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.

Section C on page 5 also provides the Monitor's response to the Court's inquiry (Docket 997) as to whether "*paragraph 31(a) should not be modified to require conformity with the current federal, state and/or local building codes.*"

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

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor, United States v. Commonwealth of Puerto Rico

Calle Mayaguez # 212,

Esquina Nueva,

San Juan, PR 00917

Certificate of Service

I HEREBY CERTIFY that this 15th day of November, 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 Third Quarter, 2011

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

The following is the Monitor's Third 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.

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Document Attachment A:	Consultant Report on Staffing Compliance
Document Attachment B:	Consultant Report of Facility Provisions
Document Attachment C:	Consultant Report on Discipline Provisions
Document Attachment D:	Consultant Report on Mental Health Provisions
Document Attachment E:	Report on Incidents and Understaffing
Document Attachment F:	Abuse Referrals Tracking Report
Document Attachment G:	Abuse Referral Case Assessment Report
Document Attachment H:	Chronology of Site Visits

Separate Attachment One: Table of Compliance Ratings

A. PLRA Decisions

The Court has resolved the outstanding PLRA motions, with the exception of Paragraph 38 where the Court has requested a Monitor's PLRA report which will be forthcoming during November.

The following provisions have been terminated:

- Settlement Agreement 32, 33, 44, 49, 70, 75, 76, 88, 89, and 92.
- Settlement Agreement 31 is terminated except for the following requirement: "Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes."

The terminated provisions have been removed from the Quarterly Report ratings table.

B. Centralized Youth Corrections Facility Project

The Monitor received a letter on August 31st from David Alvarez, Executive Director, Puerto Rico Public-Private Partnerships Authority (PPP), which proposed that a single integrated youth correctional facility be developed by the Commonwealth through PPP. In addition, the letter requested that Pulitzer /Bogard & Associates (P/BA) be permitted to serve as consultants to the PPP project team. This

involvement would be a change to the scope of work that the Monitor previously authorized for P/BA to serve as consultants to the Commonwealth for a minimum security adult corrections facility.

In response to the letter, the Monitor wrote to Mr. Alvarez and posed a series of questions about the proposal, and Mr. Alvarez provided a helpful response. Based on the response the Monitor decided that involvement in the project, in the manner proposed, would conflict with the Order of Appointment of the Monitor which also applies to the Monitor's staff and consultants. The Monitor summarizes here the decision concerning P/BA's involvement on this project.

The Monitor expresses appreciation and admiration for the work of David Bogard and Curtiss Pulitzer in this case, and understands that they are committed to continuing their service as consultants to the Monitor's office. They did not propose the idea of the new youth corrections facility, and the information about the proposed facility in the two letters, including assertions of benefits and advantages of the project, is not based on any study or analysis that they completed. The letters do not necessarily reflect their opinions for or against the project, as they have not yet studied the ideas presented.

Second, Pulitzer and Bogard have made it clear that they neither requested nor proposed that they play a role working directly for the Commonwealth on this project. From the outset, they distanced themselves from any discussions about the project and have clearly stated that their commitment is to the Monitor's office and their roles as consultants to this office. In fact, they did not support the idea of modifying their consulting agreement for the minimum security adult prison and converting it for purposes of the proposed integrated juvenile facility.

The Monitor has reviewed the proposed arrangement described in the response received from Mr. Alvarez. The Monitor finds that the PPP's confidentiality requirements, applied to work relating to a youth corrections facility, would conflict with the reporting requirements of the Monitorship. Curtiss Pulitzer and David Bogard have also communicated that they want to continue to work for the Monitor's office only, and the Monitor agrees that they should continue to serve as consultants to the Monitor's office.

Should it ultimately be determined that the integrated youth facility project should proceed, Curtiss Pulitzer and David Bogard, along with the other consultants to the Monitor's office, might (in their capacities as consultants to the Monitor's Office) provide guidance to Commonwealth officials, in an effort to insure that the facility's design and intended operations will comply with and support implement the terms of the Settlement Agreement. The Settlement Agreement authorizes such technical assistance.

With respect to the merits of the idea of a centralized youth corrections facility, the Monitor makes the following preliminary observations. My personal experience as an analysis of correctional capital and operational costs is that youth correctional facilities achieve relative efficiencies in patterns different from adult facilities, and that residential youth centers achieve scale economies at 60-100 youth and that additional economies of scale are not substantial with additional orders of capacity magnitude. This is because housing unit capacities and staffing requirements do not scale – the total number of officers to staff a 48-youth housing unit is the same as the combined total for three 16-youth housing units – and scaling of educational and mental health services have similar limitations. Efficiencies for transportation related to court appearances seem to be more achievable through video technologies rather than centralized courtrooms which sometimes create more costs by substituting more-expensive travel by judges and attorney for less-expensive travel by youth. However, since all youth detention for boys is already centralized at CD Bayamon, additional transportation cost-benefits from centralization would appear to be limited.

C. Paragraph 31: Monitor's Response to the Court's Inquiry

Page 5 of the court's Statement of Reasons (Docket 997) states: *"The Court notes that the reference made by the Monitor in his PLRA Report of April 25, 2011 is to the 1997 edition of the NFPA Life Safety Code. Since the Court finds that paragraph 31(a) must continue, pursuant to 18 U.S.C. 3626(b)(3), and, further notes that the 2012 edition is the current version of the Life Safety Code, the parties shall SHOW CAUSE by NOVEMBER 18, 2011, why paragraph 31(a) should not be modified to require conformity with the current federal, state and/or local building codes."*

Paragraph 31 reads as follows: *"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."*

The 1997 code was used for the Monitor's April 2011 PLRA Report because it was agreed to in 2005 when another consultant, Michael DiMascio, did the original codes compliance study. At that time, the parties agreed to use the version of the Life Safety Code in effect at the time of the Settlement Agreement.

The Monitor and his consultants believe that the existing language of the provision is satisfactory.¹ The determination of code applicability for buildings and projects is a standard part of compliance assessment or project planning relating to any facility construction and maintenance, and the current language of the provision recognizes this determination process. The process is complex, and requires consideration of the construction history and current use of the building and spaces involved, as well as the scope of any remedial project under consideration. A blanket statement that the most recent version of a code is applicable in all compliance assessments and related projects would be inconsistent with standard professional practice in the application of building codes.

Respectfully Submitted,



F. Warren Benton, Ph.D.
Monitor

¹ The Commonwealth, in the review of the draft of this statement, proposed that only the first sentence should be included, as this first sentence was "concise and specific to the issue of the matter." The Monitor agrees that the first sentence is concise and specific to the issue, but believes that the Court might find the reasons for the Monitor's position to be informative.

Document Attachment A: Consultant Robert Dugan Report on Staffing Compliance

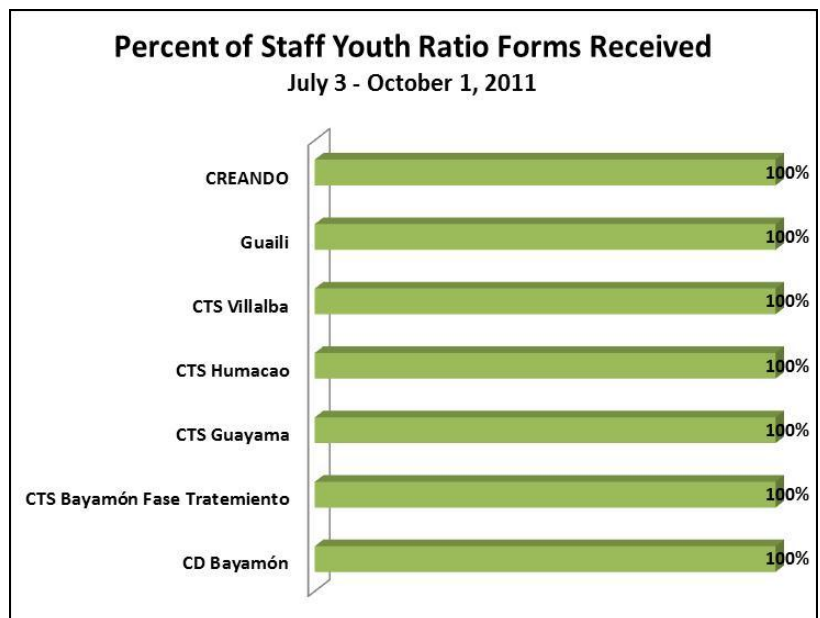
Prepared by Bob Dugan: Office of the Monitor: October 15, 2011

Background:

The following report constructed on October 10, 2011 provides information on Staff Youth Ratio forms that were provided to the consultant for the period of July 3, 2011 thru October 1, 2011.

As of the Friday, October 14, 2011 the following forms have been submitted.

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	13	13
CTS Bayamón Fase Tratamiento	13	13
CTS Guayama	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Guaili	13	13
CREANDO	10	10
Totals	88	88



AIJ submitted a total of 88 facility staff youth ratio forms for the seven operational facilities. For this quarterly reporting period 100% of the staff youth ratio forms were available for analysis. AIJ has consistently been providing requested Staff Youth Ratio forms used for monitoring and reporting.

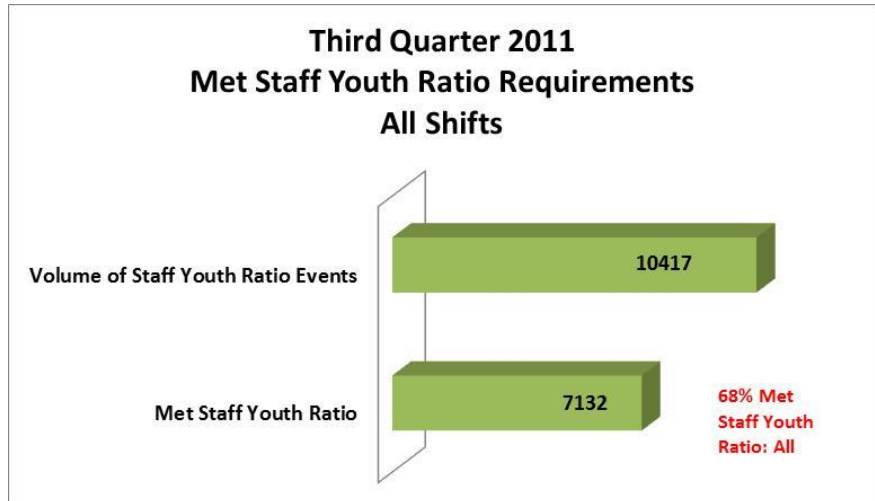
CREANDO, although operational in the second reporting quarter, did not submit forms for the second quarter report. CREANDO submitted ten of the thirteen weeks of staff youth ratio forms for the third quarter reporting period. CREANDO graduated residents on September 12, 2011.

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

AIJ Staff Youth Ratio Averages:

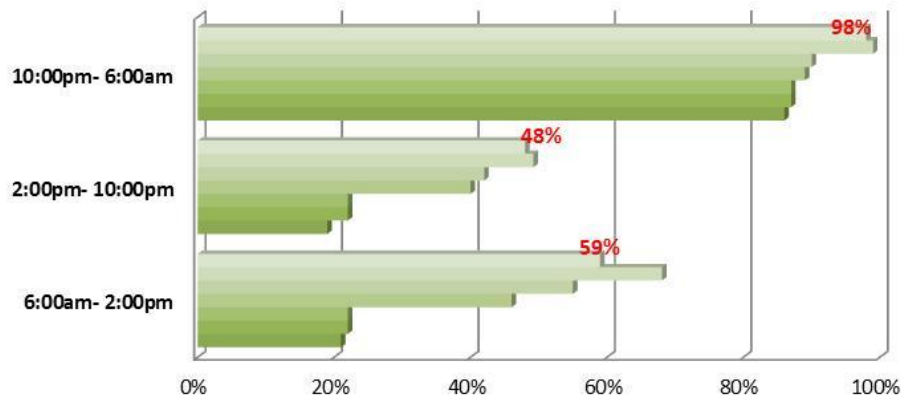
During the Third Quarter reporting period (July 3 thru October 1, 2011), AIJ documented a total of 10417 shift / unit events that required staff to youth supervision. This is an increase of 680 staff youth supervision events since the Second Quarter of 2011 (9727 events).

Of the 10417 shift / unit events, 7132 of the events (68%) were supervised with the required staff youth ratios, a 4% reduction since the second quarter reporting period of 2011.



The following chart represents the AIJ agency Staff Youth Ratio averages by shift for the last seven quarters through October 1, 2011:

AIJ Quarterly Performance Meeting Staff Youth Supervision Ratios



The Third Quarter of 2011 has resulted in reduction in improvements in meeting Staff Youth Ratios:

- 6:00 am- 2:00 pm shift: 59% of events, 9% reduction
- 2:00 pm- 10:00 pm shift: 48% of events, 1% reduction
- 10:00 pm- 2:00 am shift: 98% of events, 1% reduction

	6:00am- 2:00pm	2:00pm- 10:00pm	10:00pm- 6:00am
3rd Quarter 2011	59%	48%	98%
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%

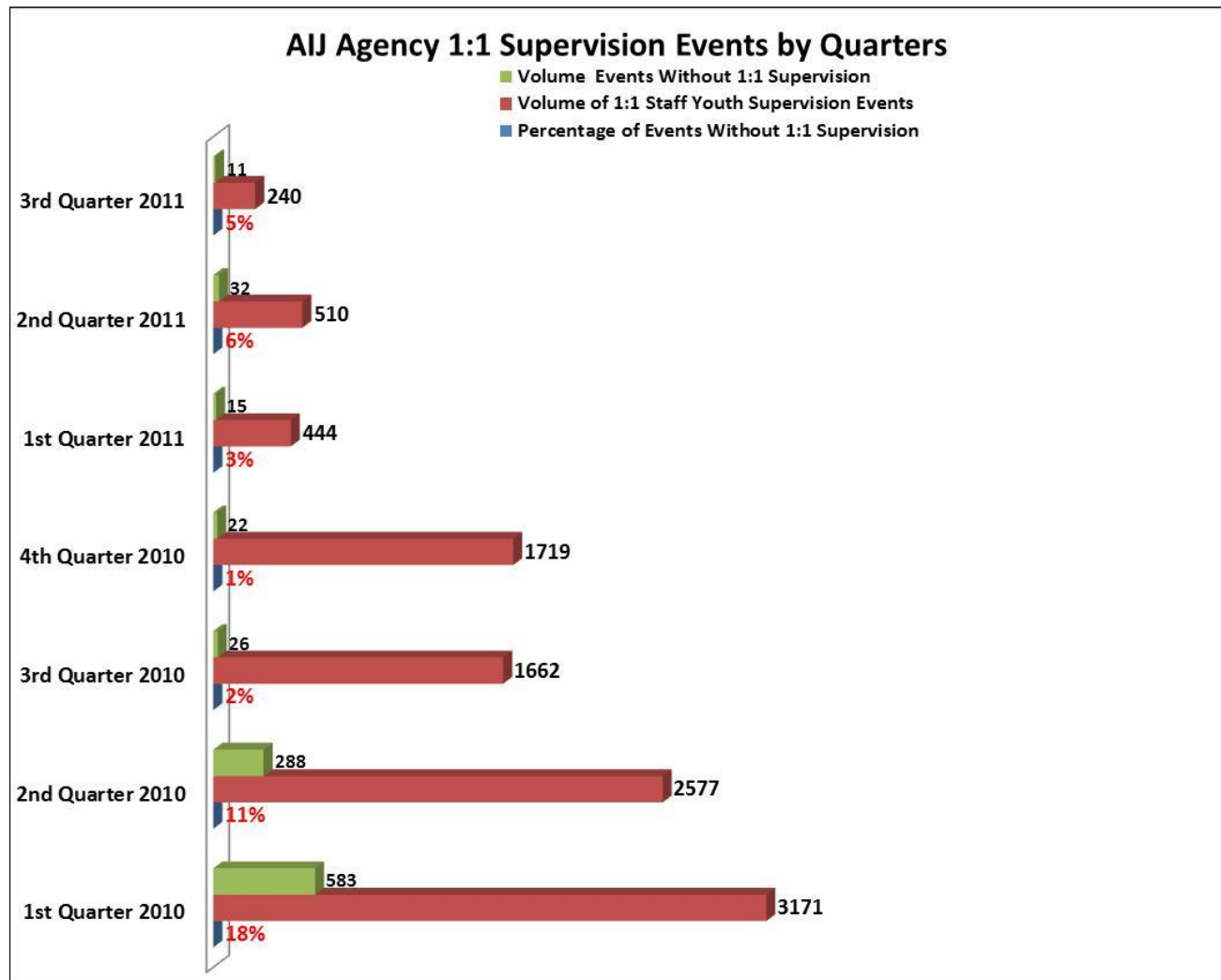
AIJ Agency 1:1 Supervision Events:

Over the course of the last seven quarterly reports, there has been a remarkable reduction in the volume of youth designated for 1:1 supervision with a slight increase for the 3rd Quarter Of 2011:

- 3171 events 1st Quarter 2010
- 2577 events 3rd Quarter 2010
- 1662 events 3rd Quarter 2010
- 1719 events 4th Quarter 2010
- 444 events 1st Quarter 2011
- 510 events 3rd Quarter 2011
- 240 events 3rd 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 3rd Quarter of 2011:

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



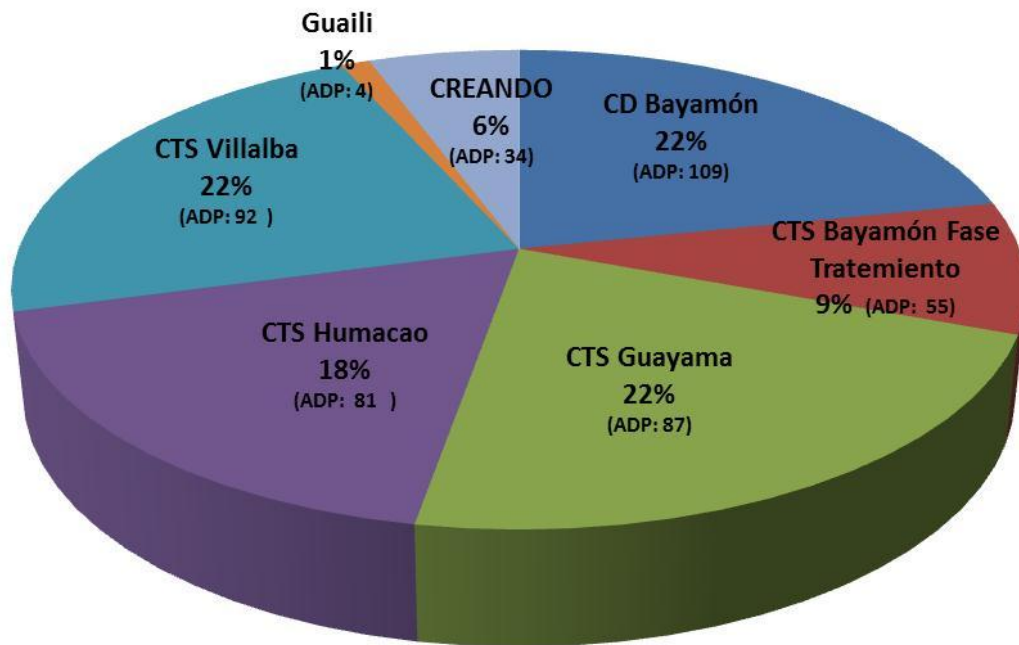
AJJ Average Daily Population:

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 (July 3 thru October 1, 2011) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.

Percentage of AIJ Agency Population

July 3, 2011 - October 1, 2011

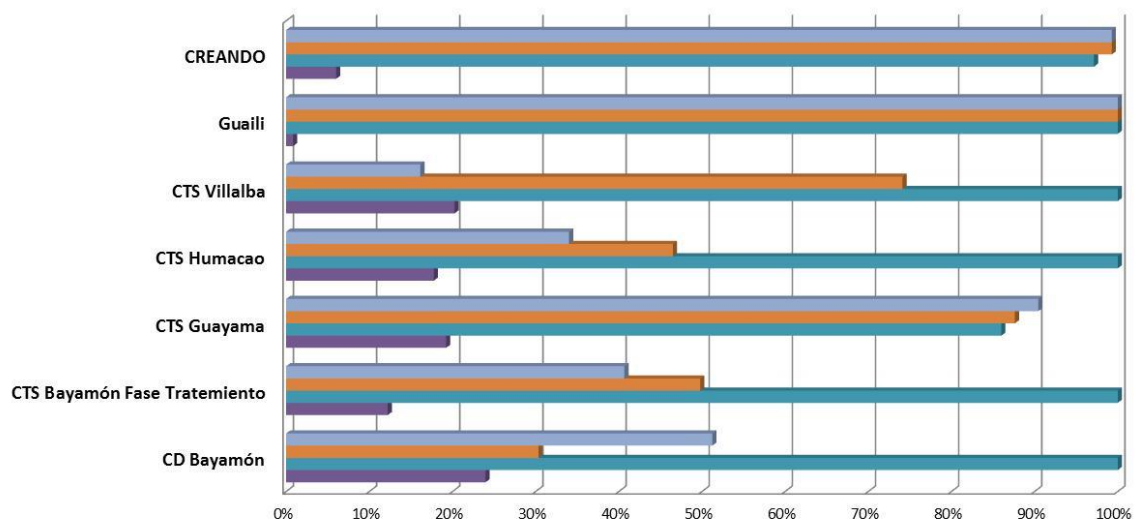


The staff youth ratio analysis below represents the staffing information received for the period from July 3, 2011 thru October 1, 2011 (13 weeks). The purple bar for each facility represents the proportionate average daily population that facility contributes to the AIJ average daily population. The table of average daily population can be found on page 15 of this report.

During the third quarter reporting period (July 3, 2011 thru October 1, 2011), CD Bayamon, CTS Humacao and CTS Bayamón Fase Tratamiento have the largest volume of staffing deficiencies, representing 51% of the AIJ youth population. There has been deterioration in CTS Bayamón Fase Tratamiento staff youth ratio compliance and improvement in the 6:00 – 2:00 staff youth ratio compliance for CTS Villalba.

Facility Performance: Staff Youth Ratio Performance by Shift

July 3, 2011 - October 1, 2011



	CD Bayamón	CTS Bayamón Fase Tratamiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	CREANDO
■ Percentage of Time Met Staff Youth Ratio 2:00- 10:00	51%	41%	90%	34%	16%	100%	99%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	30%	50%	88%	47%	74%	100%	99%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%	100%	86%	100%	100%	100%	97%
■ Percentage of AIJ Agency Population	24%	12%	19%	18%	20%	1%	6%

CD Bayamón Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

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

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

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

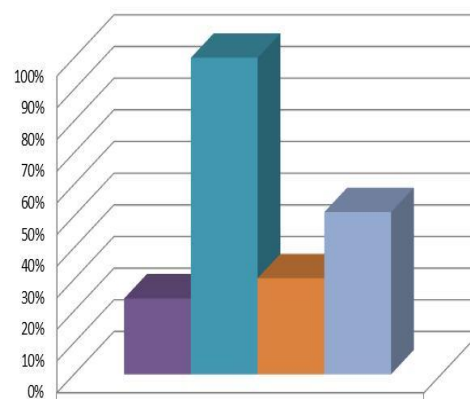
For the 3rd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: an 15% reduction since second quarter reporting
- 2:00 pm – 10:00 pm: a 20% improvement

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CD Bayamón
Percent of Unit Events Meeting Staff Youth Ratio



Percentage of AIJ 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	30%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	51%

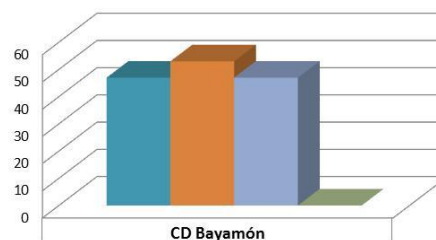
******CD Bayamón contributed 147 of the 240 (61%) AIJ 1:1 supervision events for the 3rd Quarter reporting period.

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

0.54/ 147 youth supervision events for the 3rd Quarter of 2011

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

CD Bayamón
1:1 Supervision Events



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	47
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	53
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	47
Volume of Events without 1:1 Supervision	0

CTS Bayamón Fase Tratamiento Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

Level 4 and 5 Facility:

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

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

For the 3rd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

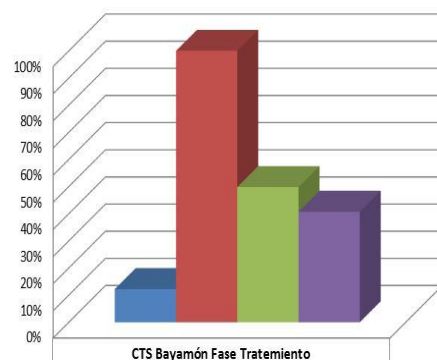
- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: an 18% reduction since second quarter reporting
- 2:00 pm – 10:00 pm: a 15% reduction since second quarter reporting

**** CTS Bayamón Fase Tratamiento reported two weeks (8/14-20; 8/28-9/3) with twelve hour shifts.**

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Bayamón Fase Tratamiento
Percent of Unit Events Meeting Staff Youth Ratio



Percentage of All Agency Population	12%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	50%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	41%

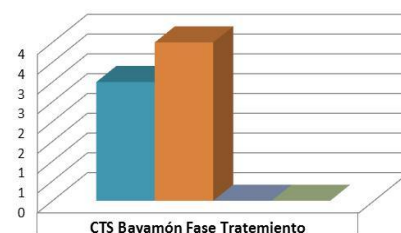
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0.3/ 7 youth supervision events for the 3rd Quarter of 2011

20 less 1:1 required supervision events since second quarter reporting period.

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

CTS Bayamón Fase Tratamiento
1:1 Supervision Events



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	3
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	4
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	0
Volume of Events without 1:1 Supervision	0

CTS Guayama Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

Level 3 Facility:

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

Percent of Forms Available: 100%

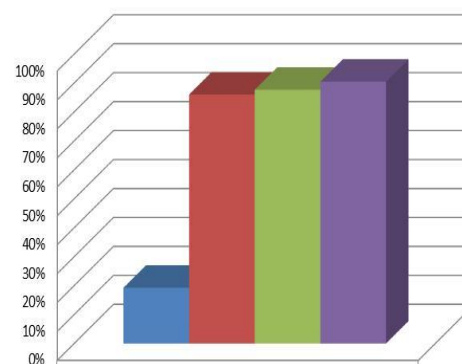
Volume of Weeks Analyzed: 13 of 13 requested

For the 3rd Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: an 11% reduction since second quarter reporting
- 6:00 am – 2:00 pm: an 11% reduction since second quarter reporting
- 2:00 pm – 10:00 pm: a 6% reduction since second quarter reporting

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

CTS Guayama
Percent of Unit Events Meeting Staff Youth Ratio



CTS Guayama	
Percentage of All Agency Population	19%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	86%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	88%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	90%

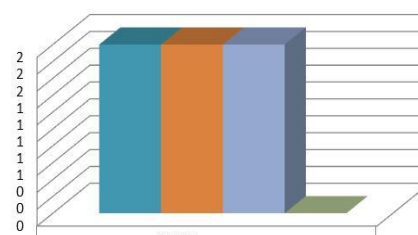
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0.02/6 youth events for the 3rd 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	2
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	2
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	2
Volume of Events without 1:1 Supervision	0

CTS Humacao Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

Level 4 Facility:

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

Percent of Forms Available: 100%

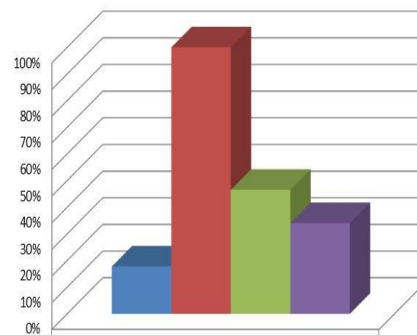
Volume of Weeks Analyzed: 13 of 13 requested

For the 3rd 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 22% reduction since second quarter reporting
- 2:00 pm – 10:00 pm: a 10% reduction since second quarter reporting

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

CTS Humacao
Percent of Unit Events Meeting Staff Youth Ratio



Percentage of All Agency Population	18%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	47%
Percentage of Time Met Staff Youth Ratio 2:00-10:00	34%

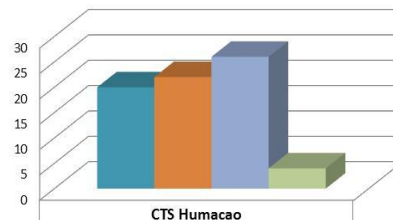
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0.25/ 72 youth supervision events for the 3rd Quarter of 2011

Volume of 1:1 Events Without Required staffing during reporting period: **4**

- *There has been continual reduction each quarter in the volume of 1:1 youth supervision events that have not been supervised as required. Four events for the third quarter is one less than reported in the second quarter.*

CTS Humacao
1:1 Supervision Events



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	20
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	22
Youth Assigned 1:1 Staff Youth Supervision 2:00-10:00	26
Volume of Events without 1:1 Supervision	4

CTS Villalba Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

Level 5 Facility:

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

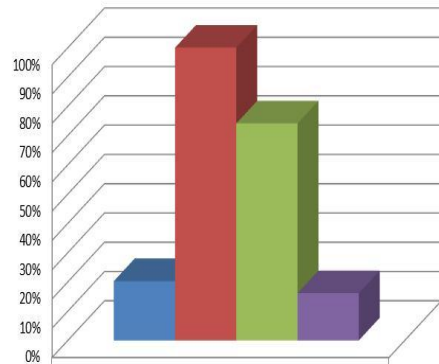
Percent of Forms Available: 100%**Volume of Weeks Analyzed:** 13 of 13 requested

For the 3rd 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: an 11% improvement
- 2:00 pm – 10:00 pm: a 9% improvement

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

CTS Villalba
Percent of Unit Events Meeting Staff Youth Ratio



CTS Villalba	
Percentage of All Agency Population	20%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	74%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	16%

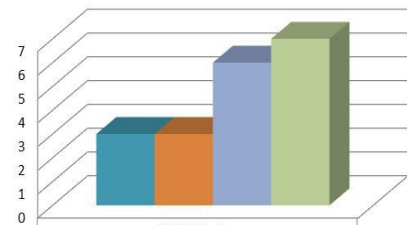
Average volume of youth assigned 1:1 staff youth supervision per reported day:

0.04/ 19 youth supervision events for the 3rd Quarter of 2011

Volume of 1:1 Events Without Required staffing during reporting period: **7**

This is an reduction from the 22 1:1 events without required staffing in the second quarter.

CTS Villalba
1:1 Supervision Events



CTS Villalba	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	3
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	3
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	6
Volume of Events without 1:1 Supervision	7

Guaili Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

Level 2 Facility:

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

Percent of Forms Available: 100%

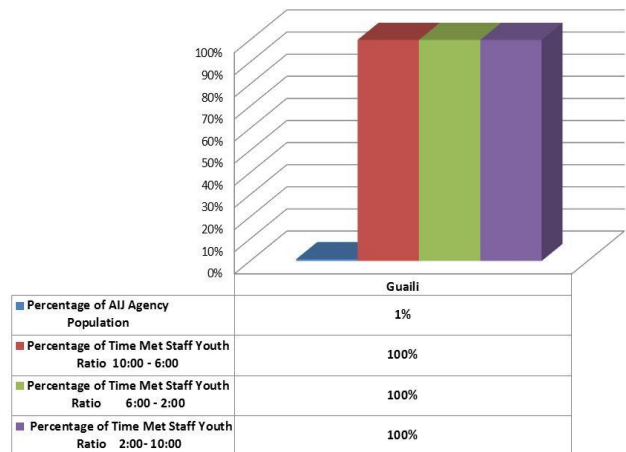
Volume of Weeks Analyzed: 13 of 13 requested

Guaili has maintained Staff Youth Ratio expectations for all four quarters of 2010 and the 1st, 2nd and 3rd Quarter of 2011.

Guaili represents 1% of the AIJ institutional population.

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

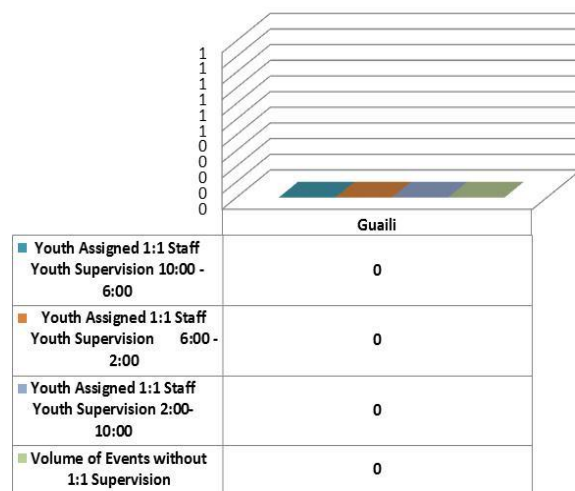
Guaili
Percent of Unit Events Meeting Staff Youth Ratio



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



CREANDO Staff Youth Ratio Analysis:

July 3, 2011 thru October 1, 2011

Level 2 Facility:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 10 of 10

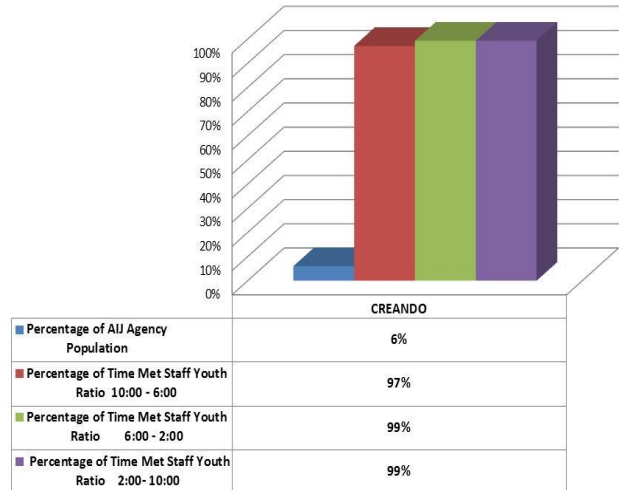
Although in operation during the second quarter of 2011, this is the first quarter that CREANDO has submitted Staff Youth Ratio Forms. CREANDO Program graduation occurred on September 12, 2011. Consequently, no forms were received for the last three weeks of the reporting quarter.

CREANDO represents 6% of the AIJ institutional population.

Volume of Weeks Analyzed: 10

Volume of Days Analyzed: 70

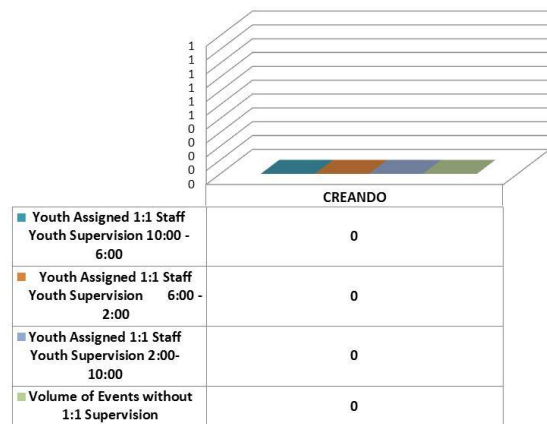
CREANDO
Percent of Unit Events Meeting Staff Youth Ratio



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**

CREANDO
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	Average Daily Population
CD Bayamón	100%	24%	100%	30%	51%	109
CTS Bayamón Fase Tratamiento	100%	12%	100%	50%	41%	55
CTS Guayama	100%	19%	86%	88%	90%	87
CTS Humacao	100%	18%	100%	47%	34%	81
CTS Villalba	100%	20%	100%	74%	16%	92
Guaili	100%	1%	100%	100%	100%	4
CREANDO	100%	6%	97%	99%	99%	34

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: Third Quarter 2011	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	47	53	47	147	0	91
CTS Bayamón Fase Tratamiento	3	4	0	7	0	91
CTS Guayama	2	2	2	6	0	91
CTS Humacao	20	22	26	68	4	91
CTS Villalba	3	3	6	12	7	91
Guaili	0	0	0	0	0	91
CREANDO	0	0	0	0	0	70
Totals	75	84	81	240	11	616

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

<u>Date</u>	<u>CD Bayamon</u>	<u>CTS Bayamón</u> <u>Fase</u> <u>Tratamiento</u>	<u>CTS</u> <u>Guayama</u>	<u>CTS</u> <u>Humacao</u>	<u>CTS Villalba</u>	<u>Guaili</u>	<u>Program</u> <u>CREANDO</u>
July 3 - July 9, 2011	7/19/2011	8/17/2011	7/19/2011	7/19/2011	7/19/2011	7/19/2011	7/19/2011
July 10 - July 16, 2011	7/22/2011	7/19/2011	7/22/2011	7/22/2011	7/22/2011	7/22/2011	7/22/2011
July 17 - July 23, 2011	8/17/2011	8/17/2011	8/5/2011	8/15/2011	7/29/2011	8/5/2011	7/29/2011
July 24 - July 30, 2011	8/5/2011	8/5/2011	8/5/2011	8/5/2011	8/5/2011	8/15/2011	8/5/2011
July 31 - August 6, 2011	8/15/2011	8/15/2011	8/15/2011	8/15/2011	8/15/2011	8/15/2011	8/15/2011
August 7 - August 13, 2011	8/23/2011	8/23/2011	8/23/2011	8/23/2011	8/23/2011	8/30/2011	9/8/2011
August 14 - August 20, 2011	9/8/2011	9/8/2011	8/30/2011	8/23/2011	9/15/2011	8/30/2011	8/30/2011
August 21 - August 27, 2011	9/8/2011	8/30/2011	9/8/2011	9/8/2011	9/15/2011	8/30/2011	9/26/2011
August 28 - September 3, 2011	9/8/2011	9/8/2011	9/15/2011	9/8/2011	9/15/2011	9/8/2011	10/3/2011
September 4 - September 10, 2011	9/15/2011	9/15/2011	9/15/2011	9/15/2011	9/15/2011	9/15/2011	9/26/2011
September 11 - September 17, 2011	9/26/2011	9/26/2011	9/26/2011	9/26/2011	9/26/2011	9/26/2011	No Population
September 18 - September 24, 2011	10/3/2011	10/3/2011	10/3/2011	10/3/2011	10/3/2011	10/6/2011	No Population
September 25 - October 1, 2011	10/6/2011	10/6/2011	10/6/2011	10/6/2011	10/6/2011	10/6/2011	No Population
	13	13	13	13	13	13	10
Volume of Forms Submitted	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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

Dates of Reporting Period	<u>CD</u> <u>Bayamon</u>	<u>CTS</u> <u>Bayamón</u> <u>Fase</u> <u>Tratamiento</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>
July 3 -July 9, 2011	104	47	<u>84</u>	86	94	<u>5</u>	<u>34</u>
July 10 -July 16, 2011	105	45	<u>83</u>	82	94	<u>5</u>	<u>34</u>
July 17 -July 23, 2011	114	51	<u>81</u>	82	92	<u>4</u>	<u>34</u>
July 24 -July 30, 2011	123	49	<u>79</u>	82	95	<u>4</u>	<u>34</u>
July 31 -August 6, 2011	115	61	<u>80</u>	84	94	<u>4</u>	<u>34</u>
August 7 -August 13, 2011	108	67	<u>87</u>	83	93	<u>4</u>	<u>34</u>
August 14 -August 20, 2011	105	60	<u>81</u>	<u>83</u>	92	<u>4</u>	<u>34</u>
August 21 -August 27, 2011	101	57	<u>86</u>	<u>81</u>	93	<u>3</u>	<u>34</u>
August 28- September 3, 2011	112	<u>56</u>	<u>87</u>	<u>81</u>	89	<u>3</u>	<u>34</u>
September 4- September 10, 2011	106	<u>55</u>	<u>89</u>	<u>78</u>	91	<u>4</u>	<u>33</u>
September 11- September 17, 2011	112	<u>52</u>	<u>89</u>	<u>76</u>	90	<u>4</u>	No Population
September 18 - September 24, 2011	106	<u>63</u>	<u>102</u>	<u>74</u>	84	<u>3</u>	No Population
September 25 -October 1, 2011	102	<u>57</u>	<u>106</u>	<u>75</u>	93	<u>2</u>	No Population
Totals	1413	720	1134	1047	1194	49	339
Percentage of AIJ Agency Population	24%	12%	19%	18%	20%	1%	6%
Average Daily Population	109	55	87	81	92	4	34

Document Attachment B: Status Report on Renovation Projects

Curtiss J. Pulitzer, AIA,

This memorandum reflects my site visits for the above referenced facilities on July 5th and 6th and my meeting with Luis Ortiz, Pedro Santiago and Rosa Fernandez, at AIJ headquarters on July 5th.

Below is a summary of persistent and new problems and maintenance issues that still remain to be addressed at CTS and CD Bayamon.

CTS Bayamon

1. Blue Building

- This building is still being renovated. I was pleased to see that the new special paint surfaces were applied in the shower areas and hopefully on my next visit, we can observe if the application is successful. Unfortunately, the same epoxy paint that AIJ has used in the past, including the showers in other units, was applied again to the floors in the Blue building and will likely begin to peel again once juveniles will again occupy the building.

While acoustical treatments were applied to the clerestories in the same manner as was applied in the other Bayamon housing units, the quantities of acoustical treatment need to be increased to match what has been installed in the other housing units. This must be done to be in compliance with provisions of the Settlement Agreement.

- Unfortunately, I saw a number of other problems in the Blue Building:
 - There was standing water on the mezzanine in Module 2
 - Noticed water leak damage in the dormitories on the upper level in Module 2
 - Smoke detectors were missing in Module 2
 - In several of the rooms in Module 2, security wall plates and screws were still missing
 - In Module 3 , water stains were visible from leaks in one of the rooms that was supposed to be an office
 - There were big water puddles inside one of the mezzanine level dorms and also on the walkway facing the dorms on the lower level in Module 3
 - There was mold on the ceiling, water puddles on the floor and epoxy peeling off the floor in the Program unit of Module 3

2. Orange Building

- The dayroom floors, group showers and the cells with showers in them all need the new painting treatment. Hopefully, the new product being used by AIJ can be applied in these locations.
- In general, the building was in good condition and the air conditioning was working well
- Several of the locks in this unit needed to be repaired and WCS was scheduled to make these repairs.

3. Green Unit

- This Unit is closed and the cell door locks were being worked on. This building has been mainly vacant due to the now repaired water pipe problems. However, the electronics were damaged due to damage from the broken water pipes adjacent to mini-control and now they all need to be repaired once again.

4. Yellow Building

- The Module 2 exit door was being repaired
- There was still no hot water in Module 1 and the hot water in Module 3 needed to be adjusted to be warmer.
- All the showers were in need of treatment with the new product AIJ is now using.
- In Module 3, leaks from the floor drains have returned and there was water and mold on the floor

5. Medical Area

- The ceiling in the clinic was repaired but was still leaking and the ceiling was open on the day of the site visit
- I was pleased to see that AIJ had extended the ducts from the clinic and infirmary sides to the large open center space between these two areas to provide some cooling and humidification control of this volume. However, the plastic sheeting to keep the cooled air from escaping had not yet been installed.
- The primary concern here was that the air conditioning was not working on the Infirmary side, which in past visits has never been a problem. Without air conditioning, mold will re-develop further setting back the ability to use this space
- I was told that a contract was going to be issued to repair the elevator in this building
- The infirmary was not staffed and there have never been any juveniles housed there. A tremendous amount of money was spent there to create crisis and suicide watch beds to serve not only Bayamon but also other facilities. In addition, this is the only AIJ facility with the ability to appropriately provide in-patient skilled nursing care to serve not only CTS and CD Bayamon but other facilities as well. I am still waiting to see the medical and mental health operations plan that I have requested for more than a year on how AIJ plans to utilize this amazing yet unused resource

5. Kitchen

- Although the kitchen and dining room appear to be working well, water leaks continue to exist and the leaks over the cooking hoods in particular pose a major health problem.
- I was pleased to see that the tray washing machine equipment is still being utilized and the dirty tray pass-through from the dining room to this area was functioning as planned.

6. Laundry

- While the laundry was made operational earlier this year and was functioning well, it has reverted to a storage area again. In particular, the old non-fire retardant mattresses were being stored there which poses a major fire hazard in

this area. These mattresses need to be removed from all AIJ facilities. In addition one washer and one dryer were not working, although staff were managing to get the laundry completed with the remaining two washers and dryers.

7. Education

- School was not in session so I did not tour the building

8. Gymnasium

- As reported in my earlier site visit the Gymnasium is in excellent condition

7. Overall Security and Site Issues

- The air conditioning had been turned off in Central Control due to a condensation drain issue. While the electronics were working, a lack of humidity control will result in mold growing again in this area as well as potential damage to the security electronics.
- The fire and smoke alarms are still not working
- The air conditioning was not working in Intake as well, which is the first time I had seen this problem.
- While much of the vines growing on and through the perimeter fences have been removed, many more plants still remain on the exterior fence. The remaining vegetation should be cleared and treated to remain clear of vegetation
- Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
- Perimeter security lights are still not working
- All sliders on the main walkways have been repaired and are now working
- The CCTV system for the facility has never been completed
- The service yard is still in a poor state of repair and must be repaved

CD Bayamon

I was very concerned to see that the entire facility, once again, had **no working sprinkler system**. While this had been a major life safety problem more than 18 months ago nearly all the sprinklers had been replaced then and the standpipes fixed. On my visit I saw a new contractor working in Modules A and B and who is replacing nearly 90% of the heads, primarily due to damage by juveniles, which is a serious management problem. In addition the standpipes were turned off in Modules C and D waiting for the replacement heads to be installed. The fire and smoke alarms likewise still have not been repaired. Obviously the failure of life safety systems in CD Bayamon is a major concern. In addition, there are still serious plumbing issues and there was no hot water for the showers in D (Delta) Module.

On a positive note, I did see that the juvenile call buttons from the rooms were working and that staff seemed to understand the procedures associated with the notification alarms to allow juveniles to exit their rooms to use the toilet facilities when in lockdown mode while also notifying the module officer by radio.

CTS Guayama

We made a quick stop in Guayama to see the new paint application in the showers in the Step-down Unit. The new application had been applied to the showers and the entire bathroom area. While it had only been installed a short time, it appeared to be holding up well. Renovations to the lighting and other remodeling had not yet been started in this unit, although I was told it was imminent during my last site visit there several months ago.

CTS Humacao

The roof water leaks throughout the facility at Humacao continue to worsen and have turned into a serious concern and possibly a health risk for the juveniles residing there. Unit 1 has been totally closed for many months due to leaks in many of the juvenile rooms. There is mold growing on the ceilings in the housing units and there is standing water on the mezzanine floor attributable to the water leaks

In the remaining three housing units, I counted at least 16 juvenile rooms out of a total of 90 rooms with serious to moderate water leaks. In addition, the plumbing was in very poor condition. In Housing Unit 4B, I discovered termites "comejen" embedded in the concrete in Room 5.

Because Unit 1 is closed, there were insufficient beds available in the housing units to accommodate all the remaining juveniles, which required that two juveniles had to sleep in the admissions area at night. I also witnessed several of the old non-fire retardant mattresses in use in the admissions area where the juveniles were sleeping. Last, but not least, I observed that many of the juveniles were locked in their rooms for no apparent reason.

Needless to say, the living conditions at Humacao have deteriorated considerably and may pose a serious health risk to the juveniles housed there. I am aware from my meeting with Rosa that AIJ has requested funding to make the necessary roof repairs but that no money had been forthcoming at the time of my site visit. This obviously needs major attention and immediate corrective action.

Document Attachment C: Report on Operations Provisions

Prepared by Monitor's Consultant David M. Bogard

It is notable that on September 30, 2011 Judge Cerezo terminated two provisions that fall under the category of discipline, Paragraphs 75 and 76. Paragraph 75 governed the grievance system, while Paragraph 76 prohibited the disciplinary system from limiting other rights set forth in the agreement.

As a result, the focus of my monitoring work now shifts to the following remaining provisions:

Paragraph 74- Disciplinary system
Paragraph 77- Use of Force
Paragraph 79- Disciplinary Isolation
Paragraph 80- Protective Custody

Key or current issues relative to the remaining provisions are as follows:

Paragraph 74- Disciplinary system

- Monitoring has revealed sanctions that are not approved and inappropriate use of limited dayroom access as a means for group punishment.
- There is a need for development of a formal training program for existing and newly appointed disciplinary board officers.
- Disciplinary board members are also in need of training.
- AIJ needs to modify its policies and practices to ensure that juveniles receive and are permitted to retain copies of disciplinary reports, charges, and notification of rights as set forth in this provision.

Paragraph 77- Use of Force

- 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 several years.
- The trial project to review, using an 11 point evaluation tool, 3-5 recent use of force incident reports at each facility each quarter was unsuccessful for numerous logistical reasons including:
 - AIJ insisted that all copies of reports had to be channeled through central office, which created time and quality control problems;
 - Poor photocopying resulted in critical information being unavailable
- AIJ has collected information for one month concerning the frequency or restraints usage, which is being benchmarked against national PbS data. This process will likely need to be formalized rather than being done on an ad hoc basis per this trial project.
- The frequency of use of OC at Humacao as opposed to other forms of restraint or alternatives to force requires further evaluation

- 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.
- Inconsistencies in how different facilities log use of force incidents

Paragraph 79- Disciplinary Isolation

- The language of this paragraph still needs to be clarified and reworked as it is unworkable as either a mental health or a disciplinary provision
- Currently, there are insufficient disciplinary sanctions available for the small number of juveniles who commit the most serious offenses. The number and seriousness of offenses (e.g., almost 500 disciplinary offenses in the first six months of the year) suggests a need for a variety of measures, including disciplinary sanctions that may be more effective and taken more seriously by the juveniles.

Paragraph 80- Protective Custody

- The number of protective custody cases has apparently diminished as of late.
- The provision of education is the most significant concern. A system of documentation of education services is being piloted at Humacao. This could prove to be a good mechanism to document education services.
- There is confusion between protective custody and transitional measures
- A new policy on Transition Measures has been in the drafting stage for some time now. It should be issued shortly and it will hopefully provide some clarity and improved processes in regard to the small number of youth who can't or won't get along with others in general population units.

Document Attachment D: Mental Health Care

L. Thomas Kucharski, PhD
Licensed psychologist
Mental Health Consultant

In August and September 2011 I made site visits to Villalba, Guayama and Humacao. The second trip was planned to coincide with the review conducted by Dr. Davies the mental health expert for the US Department of Justice. As part of the monitoring process I reviewed medical records, met with staff and toured the facilities. My assistant Dr. Barbara Quinones interviewed several youth. My findings are as follows.

Psychological assessment and treatment planning remains seriously deficient with almost all youth diagnosed with either a conduct disorder, substance abuse disorder or antisocial behavior disorder. Noteworthy was the very small number of youth treated with psychotropic medications. This included youth who had historically been diagnosed with ADHD and Bipolar Disorder. Several youth were treated with antipsychotic medications who did not carry a diagnosis of a psychotic disorder.² At Humacao ALL youth were diagnosed with Conduct Disorder. It is not clear how the diagnosis was arrived at. Many had co-occurring substance abuse diagnoses. No youth at Humacao were identified with symptoms of depression, anxiety, psychosis or post traumatic stress syndrome. Similar results were found at Guayama and Villalba. It is inconceivable that in this population that no youth presents with mental health problems other than antisocial behavior and substance abuse. Dr. Quinones' interviews with five youth revealed that two had significant mental health concerns, one with post traumatic stress symptoms and one with symptoms of borderline personality. This prevalence of 20% comports with large scale prevalence rates of mental health difficulties in incarcerated youth. Totally absent was any analysis of psychological factors that led to the youth's offense conduct.

Treatment planning remains deficient. Because the youth are not being adequately assessed, their treatment plans do not reflect their treatment needs. Common descriptors listed as problems (e.g. poor judgment, impulse control problems) are found on almost all treatment plans. It is unclear how the mental health team measures/identified these as problems. I suspect that they have these problems listed because they are in custody. Youth are provided group and individual therapy on an irregular basis. Staff informed me that there was no schedule of treatment groups because they could be called to a crisis at anytime and would need to cancel scheduled treatment sessions. Some youth, even those on psychotropic medication and presumably those with the most serious treatment needs, are seen one or two times/month in EITHER group or individual treatment. They are not consistently seen by the same treatment provider.

Nowhere is there any evidence that treatments with known efficacy are in use. There is no systematic, organized use of cognitive behavior therapy, dialectical behavior or therapy for proven family interventions. There are no manualized treatments for aggression, sexual offending, depression, relapse prevention, criminal thinking styles or any evidenced based treatments for traumatic experiences. The Behavior Management Program continues to be underfunded and as a result rewards are infrequent and inconsistent. The proposed aspect of the Behavior Management Program where youth who maintain positive behavior are re-classified to

² The United States commented in the review of this report that their expert consultant determined that several of the youth receiving psychotropic medications were in fact psychotic and in need of the medication.

the next lower security level is not operating. Youth at Humacao a level 5 facility report that they do not want to be transferred to Villalba a level 4 facility stating that Villalba is more dangerous than Humacao. This serves as a significant disincentive for the re-classification system of the Behavior Management Program. On the positive side many more youth in the level 2 Guayama facility are now attending programs in the community. All records reviewed documented completion of drug education.

Youth at Humacao reported that they were attending school only two days/week and then only in the morning. The explanation for this was that there had been fights in school and school was cancelled for security reasons. It was commonly observed that only one officer was present on the units.

Document Attachment E:
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.

Jul. 3	CTS Bayamon	11-164	Morning	Two juveniles punched another in his face. The incident occurred in Living Unit Orange	1 officer, 10 juveniles
Jul. 20	CTS Villalba	11-181	Afternoon	A juvenile was severely injured during a fight in the living unit. The incident occurred in the module's second level.	1 officer, 13 juveniles
Jul. 28	CTS Villalba	11-183	Afternoon	Two juveniles were hit by a group of juveniles from their own module.	1 officer, 13 juveniles
Aug. 2	CTS Villalba	10-192	Morning	A juvenile was hit in different parts of his body by another juvenile. The incident occurred in the module.	1 officer, 12 juveniles
Aug.14	CD Bayamon	11-201	Afternoon	A juvenile was stabbed three times with a shank by other juveniles. The incident occurred in the module.	1 officer, 14 juveniles
Aug.16	CTS Bayamón	11-307	Morning	A juvenile attacked another juvenile with a broom stick. The incident occurred in the module.	1 officer, 13 juveniles
Aug.28	CTS Bayamon	11-223	Night	Two modules in the same living unit were found without staff. There was only one officer in the living unit's mini control.	0 officer, 18 juveniles
Sept. 4	CTS Villalba	11-226	Afternoon	A juvenile was severely injured by a group of juveniles from the same module. The incident occurred in front of the module's door.	1 officer, 13 juveniles
Sept. 9	CTS Villalba	11-238	Afternoon	A juvenile was hit in his head by a group of juveniles from his own module.	1 officer, 10 juveniles

Sept.16	CTS Villalba	11- 249	Afternoon	Two juveniles were found fighting inside the module.	1 officer 12 juveniles
Sept.21	CTS Villalba	11- 250	Afternoon	A juvenile was assaulted by a group of 8 juveniles from his own module. The victim in this case was severely injured.	1 officer, 10 juveniles
Sept.22	CTS Villalba	11- 248	Afternoon	A juvenile was hit in his face by another juvenile from causing him a severe hematoma in his eye.	1 officer, 12 juveniles

Document Attachment F: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the last quarter of 2010 and the first three quarters of 2011. 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		2010-4th	2011-1st	2011-2nd	2011-3rd
Incidents		111	259	196	240
	Suicidal Incidents	10	23	20	26
	Self-Mutilation Incidents	25	59	73	53
Suicidal Incidents (From M/H Records)		10	23	20	26
	Youth Involved	9	21	20	25
	Cases involving ideation only	2	11	15	26
	Cases involving suicide intention	1	0	1	0
	Cases w/ ambulatory treatment	2	4	19	16
	Cases with hospitalization	0	0	1	0
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	0	0	0	1
Self-Mutilations Incidents (MH records)		25	59	73	53
	Youth Involved	24	56	65	47
	Cases requiring sutures	1	0	1	2
	Cases requiring hospitalization	0	0	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	4	2	8	5

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 240 suicide and self-mutilation incidents for the third quarter, only 6 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		2010-4th	2011-1st	2011-2nd	2011-3rd
284 A Incidents		76	75	83	88
Level Two Incidents		62	54	51	73
Referrals to SAISC		62	54	51	73
Suicide Ideation/Attempt		0	0	0	1
Self-Mutilation Idea/Attempt		7	2	8	5
Youth-to-Youth Incidents		42	46	64	51
Youth-to-Youth Injuries		36	28	48	30
Youth-to-Youth with External Care		12	12	15	10
Youth-to-Youth Sexual		4	6	5	1
Youth-to-Youth Sexual w/ Injury		0	0	0	0
Staff-to-Youth Incidents		27	30	19	36
Staff-to-Youth Injuries		14	8	6	19
Staff-to-Youth with External Care		4	3	2	2
Staff-to-Youth Sexual		4	1	1	1
Staff-to-Youth Sexual with Injury		0	0	0	0
SOU 284A Interventions			5	4	6
284A with Item 5 completed		67	53	71	71
284A with Staffing Compliance		43	30	51	50

The next table summarizes initial case management.

Statistics for 2010-2011		2010-4th	2011-1st	2011-2nd	2011-3rd
Initial Case Management					
284A percent with admin actions		92%	92%	96%	99%
284A Within 24 hours		78%	85%	90%	73%
284A Within 72 hours		98%	96%	98%	90%
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		29%	33%	53%	47%

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		2010-4th	2011-1st	2011-2nd	2011-3rd
OISC					
	Cases Referred from this quarter	59	51	51	73
	Referred Within 1 day	59	30	30	45
	Referred Within 3 days	0	0	21	28
	Referred Within 10 Days	0	0	0	0
	Referred Within 20 Days	0	0	0	0

Paragraph 78.c requires that cases are to be provided to the OISC investigator responsible for the facility involved within 24 hours of knowledge of the incident. There appears to be a decline in the timely referral of cases to OISC – 28 of 73 cases were referred late.

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

Statistics for 2010-2011		2010-4th	2011-1st	2011-2nd	2011-3rd
OISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	0
	Completed in 11-20 workdays	1	3	1	0
	Completed in 21-30 workdays	5	6	2	0
	Completed in 31-45 workdays	0	7	1	1
	Completed in more than 45 workdays	1	12	0	3
	Completed in a subsequent quarter		32	44	40
	Not completed yet.	52	23	45	69
	Returned for Further investigation		0	7	2
	Further Investigation Completed		0	10	1

Paragraph 78.e requires that OISC complete investigations within 30 days. For the third quarter of 2011, there were 73 cases referred to OISC, and none were completed within the 30-day limit specified in Paragraph 78.e.

Three 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 involve 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		2010-4th	2011-1st	2011-2nd	2011-3rd
Administrative Determinations					
Cases with youth discipline referrals		54	52	70	54
Cases with youth discipline actions		34	37	43	60
Cases with youth no discipline actions		20	15	27	8
Cases staff/youth with determinations		0	0	0	0
Cases recommending personnel actions		0	0	3	6
Prior Stf/Yth Cases w/ Determinations			15	0	0
Prior Cases – Recmd Personnel Action			10	16	7

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		2010-4th	2011-1st	2011-2nd	2011-3rd
Prosecutorial Determinations		0	0	2	0
Cases with no determinations		1	1	0	0
Cases with decision not to prosecute		3	0	1	13
Cases with referral for prosecution		0	5	7	1
Total cases documented		4	6	10	14

Of 14 cases documented, 1 was referred for prosecution.

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

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

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

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

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

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

The first table relates to initial incident reporting.

Case Assessment Instrument – Section A – Initial Reporting		
Assessment Criterion	Status Y/N/NA	Comment
A.1 Was the incident promptly reported?	Y-29, N-4	The percentage for this report is 88%. The percentage in the last Quarterly Report was 92%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-33	The percentage for this report is 100%. The percentage in the last Quarterly Report was 97%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-31, N-1, N/A-1	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%.
A.4 Was evidence preserved?	Y-5, N/A-26 N-1, Blank-1	The percentage for this report is 15%. The percentage in the last Quarterly Report was 50% In this question 15 of 33 represent level I cases. Reduced Compliance
A.5 Was investigation initiated promptly?	Y-26, N-1, N/A-5	The percentage for this report is 84%. The percentage in the last Quarterly Report was 94%.
A.6 Was the 284-A filed within 24 hours?	Y-28, N-5	The percentage for this report is 84%. The percentage in the last Quarterly Report was 97%. Reduced Compliance
A.7 Did the reporting official file an incident report before the end of shift?	Y-29, N-4	The percentage for this report is 88%. The percentage in the last Quarterly Report was 97%. Reduced Compliance
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-31, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%. The tracking statistics reveal that for the 3 rd quarter of 2011, 28 of 73 cases were referred late – after 2 or 3 days, so this sample of cases is inconsistent with the report relating to all cases.
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-31, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 100%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-22, N-3, N/A-8	The percentage for this report is 67%. The percentage in the last Quarterly Report was 58%. This requirement applies also to Level I cases.
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-33	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-28, N-2, N/A-3	The percentage for this report is 84%. The percentage for the last Quarterly Report was 83%.
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-32, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 94%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-2, N-15, N/A-16	The percentage for this report is less than 1%. A low percentage is a positive fact.

A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-17, N-9, N/A-1, Blank-6	The percentage for this report is 30%. The percentage in the last Quarterly Report was 42% Reduced Compliance
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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?		For this reporting period the PRDOJ sent a table with information related to 3 Level II cases. It contains the following: case number, and case disposition. All the cases are active and waiting for further procedures. The table also has a list of cases requested by the Court Monitor but not received by the PRDOJ.
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 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- 25, N-4, N/A – 1, Blank-3	The percentage for this report is 76%. The percentage in the last Quarterly Report was 72%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-18, N-2, N/A-13,	The percentage for this report is less than 2%. The percentage in the last Quarterly Report was less than 1%. For this question 14 cases were classified as level I but, only 4 complied with the requirement.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-16, N-2, N/A-15	The percentage for this report is less than 48%. The percentage in the last Quarterly Report was less than 1%. Improved Compliance
C.4 Was physical evidence preserved and documented?	N/A-18, Blank-15	The percentage for this report is 0%. The percentage in the last Quarterly Report was 2%.
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-14, N-6, N/A-13	The percentage for this report is 42%. The percentage in the last Quarterly Report was 30%. In the sample only 14 cases were classified as Level I. Improved Compliance
C.6 Was the completion of the investigation documented in the tracking database?	Y-33	The percentage for this report is 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-27, Blank –6	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-6, N-6	The percentage for this report is 50%. The information in the last Quarterly Report was 89%. Reduced Compliance.
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	Y-2, N-10	The percentage for this report is 2%. The information in the last Quarterly Report was less than 1%.
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-12	The percentage for this report is 100%. The information in the last Quarterly Report was 50%. Improved Compliance
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-12	The percentage for this report is 100%. The information in the last Quarterly Report was 54%. Improved Compliance
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-12	The percentage for this report is 100%. The information in the last Quarterly Report was 50%. Improved Compliance
D.6 Did the investigation provide proposed findings?	Y-1, Blank-11	The percentage for this report is less than 1%. The information in the last Quarterly Report was 94%. Reduced Compliance
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-12, N-1	According to the information provided only 1 of 12 cases was completed on time due to lack of staff. In the last Quarterly Report the percentage was 94%. Reduced Compliance
D.8 Did SAISC completed the investigation within 30 days of receipt of the referral?		The information was not provided.

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 during this quarter. A manual version was maintained that provides for very limited analysis and reporting.
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-29, N-4	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 88% of the cases. The percentage in the last Quarterly Report was 75%. Improved Compliance
F.2 Does the Monitor's Office confirm the timeliness facts as asserted in Page B?		Some information was sent, but not in the form required.
F.3 Does the Monitor's Office confirm the timeliness facts as asserted in Page C?	N/A - 28, N-5	The percentage for this report is 84%. The percentage in the last Quarterly Report was 92%.
F.4 Does the Monitor's Office confirm the timeliness facts as asserted in Page D?	Y-12	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?		Some information was provided, but not in the form required.
F.7 Does the Monitor's Office confirm the investigation quality as asserted in page C?	Y-25, N-8	The percentage for this report is 76 %. 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-12	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 H: 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.

July 5, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit to CTS Bayamon.

July 5, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit to CD Bayamon.

July 6, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit CTS Guayama.

July 6, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit CTS Humacao.

July 20, 2011: Deputy Monitor Javier Burgos & Associate Monitor Ricardo Blanco site visit to CD Bayamon.

July 20, 2011: Deputy Monitor Javier Burgos site visit to CTS Bayamon.

July 22, 2011: Deputy Monitor Javier Burgos & Associate Monitor Ricardo Blanco site visit to CTS Humacao.

July 22, 2011: Deputy Monitor Javier Burgos & Associate Monitor Ricardo Blanco site visit to CTS Guayama.

August 8, 2011: Associate Monitor Ricardo Blanco site visit to "Guaili".

August 16, 2011: Consultant Tom Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.

August 17, 2011: Federal Monitor F. W. Benton, Consultant Tom Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco meeting at CTS Bayamon.

August 17, 2011: Consultant Tom Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.

August 17, 2011: Consultant Tom Kucharski, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.

August 30, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit to CTS Bayamon.

August 30, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit to CD Bayamon.

August 31, 2011: Consultant Curtiss Pulitzer & Associate Monitor Ricardo Blanco site visit to CTS Villalba.

Sept. 6, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit CD Bayamon.

Sept. 8, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit CTS Humacao.

Sept. 22, 2011: Deputy Monitor Javier Burgos site visit to CTS Guayama.

Sept. 28, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit To CTS Bayamon.

Sept. 29, 2011: Consultants Tom Kucharski & Barbara Quinonez, Deputy Monitor Javier Burgos & Associate Monitor Ricardo Blanco site visit to CTS Guayama.

Sept. 30, 2011: Consultants Tom Kucharski & Barbara Quinonez, Deputy Monitor Javier Burgos & Associate Monitor Ricardo Blanco site visit to CTS Humacao.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Third Quarter 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	<p>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. The number of broken fixtures recently surveyed are summarized as follows:</p> <ul style="list-style-type: none"> • CD Bayamon - 17 • CTS Bayamon - 0 (Blue, Orange and Yellow units) • Guali - 0 • Guayama -1 • Humacao -3
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	#	<p>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.</p>
S.A.31. Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	<p>In light of the recent evaluation of the currently operating AIJ facilities by the Court Monitor's code and fire safety consultant, it is apparent that numerous life and fire safety violations still exist and have not been remedied to date. In addition, the staff responsible for maintaining code and fire safety for AIJ have certified compliance with this provision in their recent PLRA motion indicating a lack of training and understanding of the requirements of this provision. Furthermore, the Commonwealth has not allocated sufficient resources to allow compliance of this provision.</p>

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.							See Monitor's PLRA Report which will be provided during November 2011.

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 3 rd quarter of 2011, all of the facilities submitted the staffing compliance reports. Program CREANDO submitted 10 of the requested 13 weeks, in light of resident program graduation on September 12, 2011. Agency meeting staffing ratio requirements: 6:00 am- 2:00 pm shift: 59% of events, 9% reduction 2:00 pm- 10:00 pm shift: 48% of events, 1% reduction 10:00 pm- 2:00 am shift: 98% of events, 1% reduction Guaili has met 100% staff youth ratio requirements for all four quarters of 2010 and all three reporting quarters of 2011. See the 2011 3rd 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/ 240 3 rd quarter 2011). 11 reported instances of youth not receiving 1:1 supervision in 3rd 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. 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) indicated 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 was 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. There has been no documentation provided as of this report to analyze the results of the pilot of the classification implementation.

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 assesses 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.

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	N	N	<ul style="list-style-type: none"> All rules are specified in handbook. Monitor's Consultant maintains that "Written notice" requires that juvenile retain a copy of rule violation. 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. See the discussion of this issue in the QR narrative 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	N	<ul style="list-style-type: none"> 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. Concerted efforts will be required to fully determine compliance levels once there is resolution of the wording of this provision. A new incident report is being used although some practical flaws have been identified. Concerns about high frequency of use of OC at Humacao See the discussion of this issue in the QR narrative report.

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.	N	#	#	#	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. The Monitor infers that the Commonwealth Police lack a procedure or policy to comply.
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 OISC, and only 10 were completed within the 30-day limit specified in Paragraph 78.e. For the 3rd quarter of 2011, no cases were completed within 30 days. It appears from the tracking statistics that the substantial majority of serious cases referred to SAISC are not 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. See the discussion of this issue in the QR narrative report.
<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>	Y	N	#	#	N	N	<ul style="list-style-type: none"> Confusion between transitional measures and PC Problems getting access to education 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	R	I	Y	N	The AIJ facilities began the school year in August more fully staffed than in recent years. By the end of September, AIJ had only three teacher vacancies in the system. One of the three vacancies was due to the death of one of the teachers.
S.A. 86a. Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 <u>et seq.</u> Defendants shall screen juveniles for physical and learning disabilities.	Y	Y	Y	I	Y	#	AIJ was fully staffed for special education services during this reporting period. The Department of Education has provided two facilitators to Bayamon CD to screen students and procure students' records. The Monitor's Office has not yet conducted a systematic assessment to determine whether the screenings are adequate. Compliance with 86a requires compliance with 86b.
S.A. 86b. The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.							This provision has been separated out to identify the requirements for adequate screenings.

Provision	P	S	R	T	D	G	Comment
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	Y	I	#	#	With the addition of a facilitator from the Department of Education, AIJ has improved its ability to obtain students' prior school records. Document reviews during site visits indicate that teachers meet, assess students prior IEPs and modify them as necessary. However, a systematic review of the records has not been completed by the Monitor's Office.
S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	Y	Y	I	Y	N	<ul style="list-style-type: none"> There has been a marked improvement in the delivery of special education services during the past quarter associated with increased staffing. Because of Hurricane Irene, Consultant Leone was not able to visit all facilities to review the adequacy of services. Record reviews during visits to Bayamon CTS and Humacao CTS indicated that with the exception of students in transition or protective custody, students were receiving the services specified in their IEPs. A comprehensive assessment of the IEPs has not yet been conducted to determine whether the IEPs are recommending the services necessary to meet the "unique needs each juvenile. Observations and discussion with staff indicated that instruction for special education students included both small group activities as well as instruction in regular education classes.
S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	Y	Y	I	#	#	<ul style="list-style-type: none"> Certified special education teachers, many of them new to the profession, provide education services to youth. All vocational education positions were filled during this reporting period. Special education students were enrolled in vocational courses consistent with their IEP recommendations. All AIJ teachers, including special educators, were scheduled to receive training designed to integrate technology into their teaching. A systematic review of special education plans has not yet been conducted to determine whether the IEPs recommend appropriate services for each youth.
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	#	#	There are unresolved differences between plaintiffs and defendants about the meaning of year round services. Students eligible for special education services, like other students in AIJ, do not receive services from the end of May to the beginning of August.

Provision	P	S	R	T	D	G	Comment
S.A. 94. Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.	N	N	N	I	N	N	<ul style="list-style-type: none"> There is no policy in place to implement this provision. A recent examination of services for youth in isolation indicates that for the most part, all youth in isolation receive 20-30 minutes maximum each day. This true for students eligible for special education services as well as other youth. This level of service is an improvement over previous efforts but is still short of providing adequate services to youth in protective custody and those on transition.
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	Y	Y	I	#	#	<ul style="list-style-type: none"> All special education positions are filled. Visits to Humacao and Bayamon CTS indicated that teachers were periodically reviewing students' IEP. A systematic assessment has not yet been conducted to determine whether the Monitor's Office concurs with the determinations about the effectiveness of IEP implementations. Additional visits will be conducted during subsequent quarters to document the occurrence of this practice in all facilities.