

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

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Fourth Quarter Report for 2011. The report covers the months of October, November and December 2011. This report consists of an introductory statement by the Monitor, along with the compliance ratings tables and special reports by the Monitor's consultants.

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

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

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

Certificate of Service

I HEREBY CERTIFY that this 20th day of February, 2012, 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.

Calle Mayaguez # 212, Esquina Nueva, San Juan, PR 00917

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Monitor's Quarterly Report Fourth Quarter, 2011

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

The following is the Monitor's Fourth 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.

Document Attachment A:	Monitor's Letter Concerning Centralized Youth Facility
Document Attachment B:	Consultant Report on Staffing Compliance
Document Attachment C:	Consultant Report of Facility Provisions
Document Attachment D:	Consultant Report on Operations 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

The Monitor provides the following comments.

Centralized Youth Corrections Facility: The Puerto Rico Public-Private Partnerships Authority (PPP) is considering proposing that a single integrated youth correctional facility be developed by the Commonwealth through PPP. Appendix A is a letter written by the Monitor to Commonwealth officials to summarize potential compliance risks that this project would engender for the Commonwealth.

Based on information available in November, Monitor's Consultant Curtiss Pulitzer, AIA, has advised the Monitor that a preliminary estimate for the construction budget of the facility would assume 800 square feet of space per youth at \$300 per square foot construction cost, and would come to \$150 million. It is not clear from the report issued in January 2012 what the construction budget for the project is, but based on the inferences made about the economics of the project, it would appear that the current project planning assumes a significantly lower budget.

According to the Study issued by the Authority, the private partners assume the risk that a satisfactory facility can be designed and built for the development cost financed by the project.

S.A. 48 Staffing Compliance: The report on staffing compliance shows that compliance with staffing requirements on the day and evening shifts at Bayamon and at Humacao ranges from 19% to 33%.

S.A. 50 In-Service Training: The Annual training report for Calendar Year 2011, ending December 2011, showed 78% compliance with in-service training requirements for youth service officers. The lowest levels of compliance were at CTS Guayama - 58% - and CTS Villalba - 59%. While compliance is not yet achieved, this is a significant improvement over the statistics for the Fiscal Year ending June 2011.

S.A.52 Classification: The Commonwealth submitted the following comments relating to Settlement Agreement Paragraph 52, which states that the Classification System in Detention is not defined and implemented:

Commonwealth Comment: Detention Classification that is being used by the agency was defined, validated and implemented in 2010.

Monitor's Response: There has been no documentation provided as of this report to analyze the results of the pilot of the classification implementation. Compliance reports have consistently reported this. The Monitor's understanding is that there is a procedure developed by the agency which is being implemented by the agency, but there is incomplete compliance documentation as to whether the procedure is being implemented, nor is there documentation as to whether the procedure or its implementation is valid as a classification process.

It is our understanding that the agency is collecting Detention Classification data as of January 2012 which we hope to be able to analyze and report on for the first quarter 2012 report.

Commonwealth Comment: The social work staff were trained and oriented on the results of validation and implementation, and evidence of the same was submitted to Bob Dugan.

Monitor's Response: The Monitor agrees the training took place. The compliance test, however, is whether the process is being documented, implemented and validated. Stated simply, the process has to achieve the goal of separating youth in to physical and operational custody levels which can be demonstrated to protect them with the least necessary restrictions.

Commonwealth Comment: Since 2010 Bayamon Detention Center as well as Ponce Girls and Guaili have been using the instrument, which is also known as the Internal Classification Instrument for youth in Apprehension and Detention.

Monitor's Response: The Monitor agrees that the instrument is being used, but there have been many instances where procedures have been adopted by the agency but implementation in the facilities has not be complete or consistent, or the results of implementation are not what was expected. It is not yet established and documented what is actually being done, but it is our hope that this process can be rigorously monitored by the agency and the Monitor during 2012.

Commonwealth Comment: The said instrument is identified as AIJ-390 of June 1, 2010.

Monitor's Response: The Monitor agrees.

Commonwealth Comment: Living unit # 4 has been designated in accordance with the classification system, into level low and Severe.

Monitor's Response: The Monitor Agrees that this designation has been made. However, it is not established whether the capacity of this unit provides for the necessary numbers of youth; nor whether the physical design and operations of this unit correspond with low and severe levels of custody. It is of concern that the low custody and severe custody youth (potential predators and victims) are placed in the same unit.

Commonwealth Comment: Since January 2012, as part of the second phase of mechanization of records, the mechanized youth records also include the detention classification instrument as part of the continued implementation of this system.

Monitor's Response: This Quarterly Report concerns the fourth quarter of 2011. Additional implementation steps in January 2012 would be considered in the next Quarterly Report.

Commonwealth Comment: Other data requested by Bob Dugan relating to CD Bayamon is being collected in a table. Bob Dugan has had the opportunity to review the table which was designed with his feedback. The data is being collected daily by the social work unit at CD Bayamon, and reflected in the table and transmitted monthly to the central office area of programs and social work.

Monitor's Response: This information will be valuable to Mr. Dugan and to the Monitor's Office in evaluating the implementation and validity of the detention classification process. However, if the information is being collected now, the Commonwealth cannot take the position asserted above that the detention classification system was validated in 2010.

Commonwealth Comment: The process of detention classification stopped being a mere pilot project since Lcdo. Jesus Gozalez approved Policy 21.2-Admission Process, included as part of the AIJ policy and procedures for 2011-2012. In said policy, Detention Classification at admission is established at detention centers.

Monitor's Response: The Monitor's office still considers the detention classification process to be a pilot because it has not yet been documented, evaluated or validated. The Commonwealth can officially adopt it, but this does not change the fact that it is not yet documented, evaluated or validated as required under Settlement Agreement Paragraph 52.

S.A. 78: Abuse Investigations: 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 in the third quarter, and 21 out of 44 (almost half of the cases) were referred late in the 4th quarter. At the start of 2011, all cases were referred on time.

Paragraph 78.e requires that OISC complete investigations within 30 days. For the fourth quarter of 2011, there were 44 cases referred to OISC, one was completed within the 30-day limit specified in Paragraph 78.e. Ten cases initially completed by OISC 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.

Facility Conditions at Humacao: Consultant Curtiss Pulitzer's report concerning Humacao describes alarming conditions. He summarizes: "*Needless to say, the living conditions at Humacao continue to deteriorate and may pose a serious health risk to the juveniles housed there. I am aware that AIJ has requested funding to make the necessary roof repairs but that no money has been forthcoming. This obviously needs major attention and immediate corrective action along with the other needed repairs articulated in this report.*"

Respectfully Submitted,



F. Warren Benton, Ph.D.
Monitor

Document Attachment B: Monitor's Letter Concerning Consolidated Youth Corrections Facility

**Office of the Monitor,
United States v. Commonwealth of Puerto Rico
Civil Action No. 94-2080 CC
Calle Mayaguez # 212, Esquina Nueva, San Juan, PR 00917**

December 20, 2011

Eliezer Aldarondo Ortiz, Esq.
Damaris Delgado Vega, Esq.
Michael C. McCall, Esq.
Aldarondo and Lopes Bras, P.S.C.
16 P.R. Road 199, Suite 400
Guaynabo, PR 00969

Re: Potential New Consolidated Youth Correction Facility in Puerto Rico

Dear Counsel:

I write concerning the plan under study to develop a new consolidated youth correction facility in Puerto Rico. My comments are based on letters I received on August 31st and on September 13th from David Alvarez, Executive Director, Puerto Rico Public-Private Partnerships Authority (PPP). I also conferred by phone with Mr. Alvarez and with project staff and consultants on November 16th and face-to-face on December 5th. I also received a copy of a letter from Commonwealth counsel to the United States counsel on December 9th summarizing the aspects of the project for the United States.

The purpose of this letter is to summarize potential compliance risks that this project would engender for the Commonwealth.

1. Settlement Agreement Provision 29: Compliance with ACA Standards

Settlement Agreement Paragraph 29 states: *"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."*

ACA standards would not permit the construction and operation of a single facility of 600 beds. 3-JTS-2B-03-1 Reads as follows: *"Added August 2006. (Renovations, Additions, New Construction) The training school operates with living units of no more than 16 juveniles. The training school does not exceed a bed capacity of 150 juveniles. COMMENT: A small living and treatment unit is more conducive to enhancing student and staff interaction. Through both design and operation, a 150-bed facility permits cost efficiencies to service delivery advantages of a larger facility while preserving the programmatic advantages of smaller facility size."*

Note that this standard appears in the 2010 supplement and that the companion standard governing juvenile detention (3-JDF-02-01) reads identically.

If the consolidated facility project is undertaken as proposed, use of the facility by the Commonwealth would probably violate Settlement Agreement Provision 29.

It may be possible that the facility could be designed and operated as several co-located semi-autonomous facilities of less than 150 beds, with shared services such as kitchen, maintenance, laundry, health care, and transportation. However, this may require adjustments to the design, construction, staffing and operation of the facility that would impair the assumptions in your Desirability and Convenience Study.

2. Settlement Agreement Provision 52: Classification and Placement

Settlement Agreement Paragraph 52 states: *“ 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”.*

The Commonwealth has not yet achieved compliance with Paragraph 52 for either the detention or commitment phases. Detention classification policy and procedure has not been designed, implemented and validated. Commitment classification has been designed and implemented but not validated.

If the consolidated facility project is undertaken as proposed, use of the facility by the Commonwealth would probably result in violations of Settlement Agreement Provision 52. Once the proper classification levels were identified and validated, some spaces constructed as part of your project would probably no longer be needed, and operation consistent with classification requirements would probably not be possible.

Your facilities would not be configured to accommodate the required separations of custody by gender, classification level, legal status and need for special services.

While there are compliance risks for all levels, a particular area of concern is the housing of Level II youth in a centralized facility when they are supposed to be programmed in their home communities.

3. Maintenance

Settlement Agreement provisions 3, 34. And 38 and Consent Order provision 41 all require ongoing maintenance of the facilities housing youth subject to the case.

The consolidation plan envisions that maintenance will become the contractual responsibility of a private partner. The provisions of the Settlement Agreement and Consent Order apply to and are binding upon agents of the Commonwealth. The private partner with contractual responsibility for maintenance would be an agent of the Commonwealth, and the provisions (including substantive and reporting provisions) would be binding upon the private partner.

A compliance risk involves responsibility for maintenance problems that develop as a result of operationally non-compliant conditions, such as lack of staffing and supervision or improper classification assignments. It is my understanding that the Commonwealth will be required to compensate the private partner for maintenance

services resulting from intentional damage to facilities by youth not supervised, at the time of the incident, in accord with the staffing plan, which assumes compliance with the Settlement Agreement staffing standards.

4. Settlement Agreement Paragraph 48: Required Staff

This provision requires that there be sufficient direct care staff to implement all of the terms of the agreement. The provision sets out coverage ratios for housing units. The Commonwealth has not yet achieved compliance with this requirement, in part because of lack of funds to hire the required positions.

The position of the Monitor's Office, based on the information that we have seen thus far, that your plans understate the number of positions necessary to provide supervision and required services at the consolidated facility, and therefore your plans overstate the amount of funding that can be redirected from staffing and operations to contractual payments to the private partners. We have discussed many of the reasons for this conclusion.

The compliance risk is that funding for implementation of the requirements of the Consent Decree and Settlement Agreement will be diminished because of the payments owed to the public/private partners, or, in the alternative, the availability funds will be diminished because all available funds would be needed to satisfy the Commonwealth's compliance obligations.

5. Funding for Compliance

1994 Consent Order paragraphs 43 and 44, as well as Settlement Agreement paragraphs 17, 23 and 24 provide that the Commonwealth is responsible for compliance with the Consent Order and the Settlement Agreement including providing the resources necessary to implement the requirements.

In the most recent compliance report for the third quarter of 2011, the Commonwealth was in violation of at least 13 provisions in part because of insufficient resources to implement the requirements.

The consolidated facility project is proposed to be funded from availability funding resulting from savings in operating costs of the consolidated facility compared to the operating costs of the current facilities.

The compliance risk is that funding for implementation of the requirements of the Consent Decree and Settlement Agreement will be diminished because of the payments owed to the public/private partners, or, in the alternative, the availability funds will be diminished because all available funds would be needed to satisfy the Commonwealth's compliance obligations.

6. Consultation with the United States

In a letter dated December 8, 2011, counsel for the United States requested an analysis of how this project will affect the Commonwealth's obligations under the Consent Decree. The request asked for detailed analysis related to how the Commonwealth would meet requirements related to classification, staffing, protection of youth and rehabilitative services.

The Commonwealth responded in a letter dated December 8, 2011, communicating the following legal positions:

... the project is still being conceptualized. There is nothing built or finally decided regarding such project at the present time that would warrant a compliance evaluation with regards to the stipulations of case USA v. Commonwealth, 94-CV-2080.

At this early stage of the project, the Commonwealth does not have any information to share with Counsel with regards to the impact of the project on future compliance with regards to "...staffing levels, classification system, protection of youth from harm and the provision of rehabilitative services."

However we understand that until the project is built and is actually being operated to provide services to youth, our responsibility as to compliance and information is with regards to the AIJ's facilities that are currently functioning and providing services to youth.

If the parties proceed as the Commonwealth proposes, the public/private partners for the project will not be fully aware of the United States' positions about risks related to non-compliance with the Consent Order and Settlement Agreement until after the project is constructed.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Warren Benton". The signature is fluid and cursive, written over a white background.

F. Warren Benton, Ph.D.
Monitor

cc: Counsel for the United States

Document Attachment B: Consultant Robert Dugan Report on Staffing Compliance

AIJ Staffing Quarterly Report: October 2, 2011 – December 31, 2011

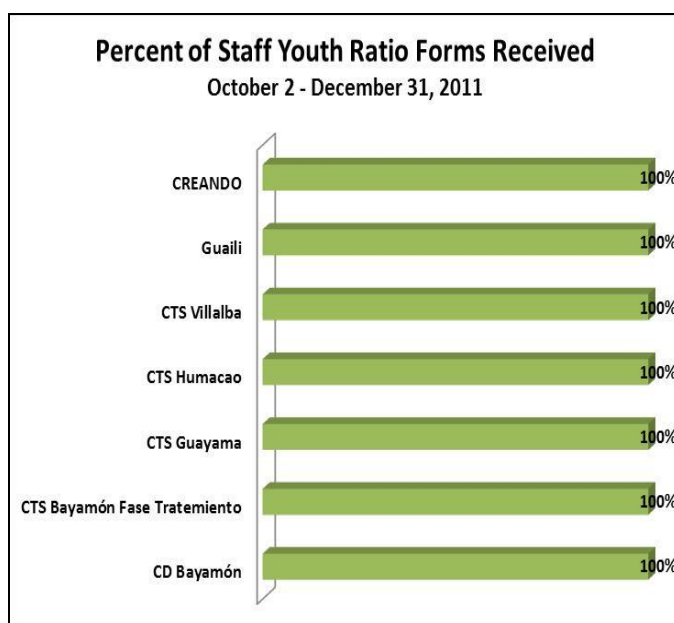
Prepared by Bob Dugan: Office of the Monitor: January 13, 2012

Background:

The following report constructed on January 13, 2012 provides information on Staff Youth Ratio forms that were provided to the consultant for the period of October 2, 2011 thru December 31, 2011.

As of the Friday, January 13, 2012 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	7	7
Totals	85	85



AIJ submitted a total of 85 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.

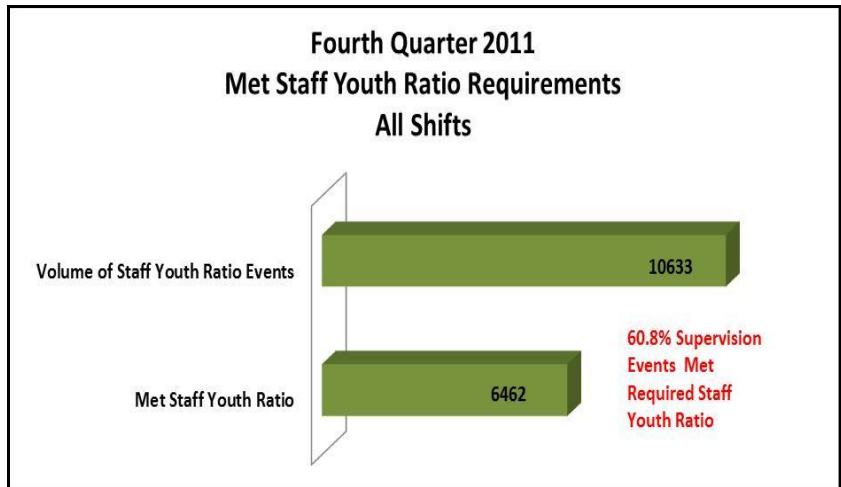
CREANDO was operational for seven of the thirteen weeks (48 days of operation) of the fourth quarter reporting period.

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

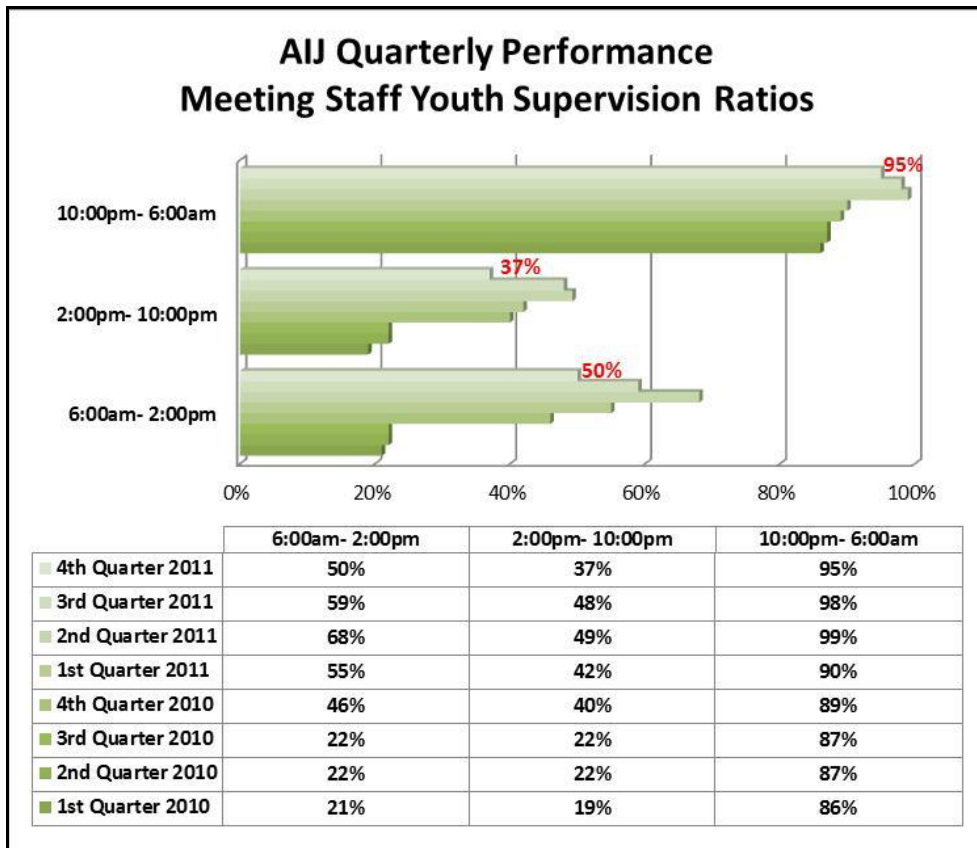
AIJ Staff Youth Ratio Averages:

During the Fourth Quarter reporting period (October 2, 2011 thru December 31, 2011), AIJ documented a total of 10633 shift / unit events that required staff to youth supervision. This is an increase of 216 staff youth supervision events since the Third Quarter of 2011 (10417 events).

Of the 10633 shift / unit events, 6462 of the events (60.8%) were supervised with the required staff youth ratios, a 7.7% reduction since the Third Quarter of 2011 reporting period.



The following chart represents the AIJ agency Staff Youth Ratio averages by shift for the last eight quarters through December 31, 2011:



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

- 6:00 am- 2:00 pm shift: 50% of events, 9% reduction
- 2:00 pm- 10:00 pm shift: 37% of events, 11% reduction
- 10:00 pm- 2:00 am shift: 95% of events, 3% reduction

AIJ Agency 1:1 Supervision Events:

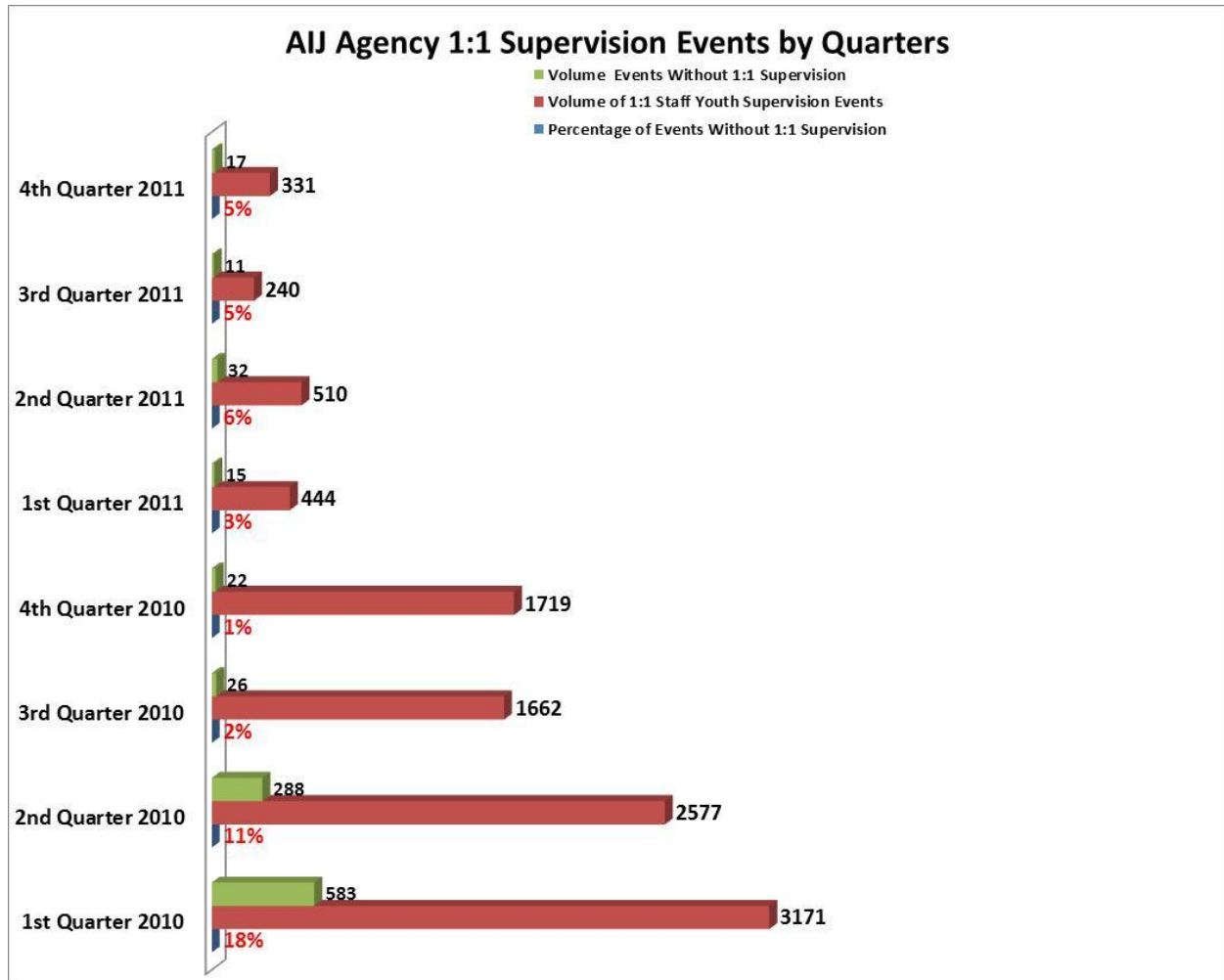
From the First Quarter of 2010 through the Third Quarter of 2011, there had been a remarkable reduction in the volume of youth designated for 1:1 supervision.

The Fourth Quarter of 2011 reporting period is the first increase (plus 90 events) since the First Quarter of 2010:

- 3171 events 1st Quarter 2010
- 2577 events 2nd Quarter 2010
- 1662 events 3rd Quarter 2010
- 1719 events 4th Quarter 2010
- 444 events 1st Quarter 2011
- 510 events 2nd Quarter 2011
- 240 events 3rd Quarter 2011
- 331 events 4th 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 of six events since the Third Quarter of 2011:

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



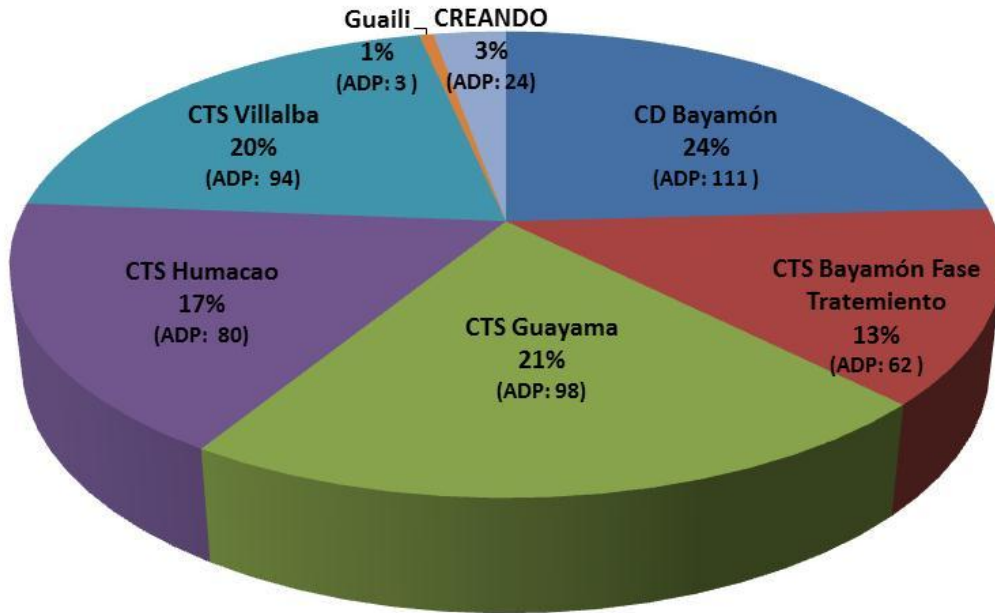
AIJ Average Daily Population:

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

The table below displays each facilities average daily population for the reporting cycle (October 2, 2011 thru December 31, 2011) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.

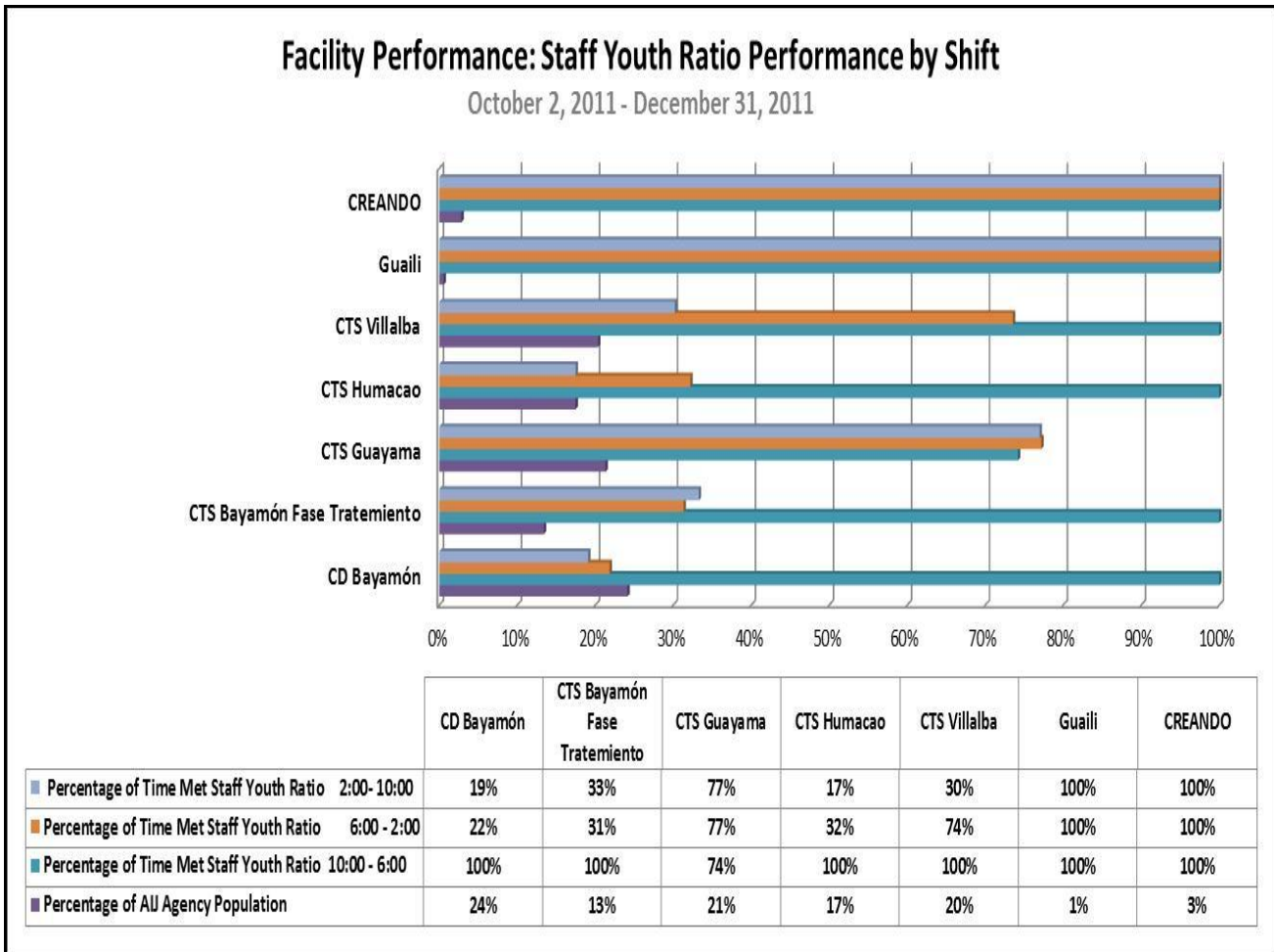
Distribution of AIJ Facility Average Daily Population

October 2 - December 31, 2011



The staff youth ratio analysis below represents the staffing information received for the period from October 2, 2011 thru December 31, 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 Fourth quarter reporting period (October 2, 2011 thru December 31, 2011), CD Bayamon, CTS Humacao and CTS Bayamón Fase Tratamiento have the largest volume of staffing deficiencies, representing 58% of the AIJ youth population.



CD Bayamón Staff Youth Ratio Analysis:

October 2, 2011 thru December 31, 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

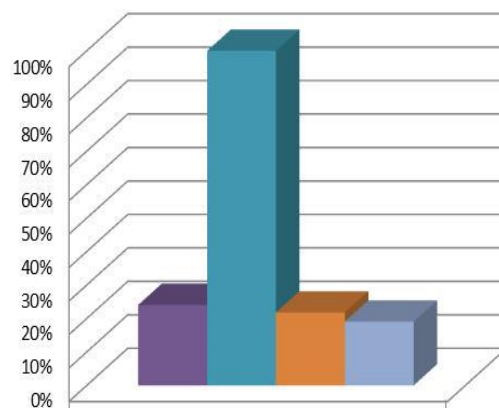
For the Fourth Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: an 8% reduction since third quarter reporting
- 2:00 pm – 10:00 pm: a 32% reduction since third quarter reporting

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CD Bayamón
Percent of Unit Events Meeting Staff Youth Ratio



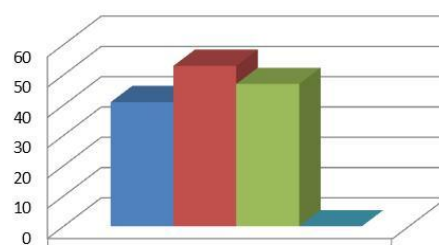
CD Bayamón	
Percentage of All Agency Population	24%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	22%
Percentage of Time Met Staff Youth Ratio 2:00- 10:00	19%

****CD Bayamón contributed 141 of the 331 (43%) AIJ 1:1 supervision events for the Fourth Quarter reporting period.**

Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.52**

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

CD Bayamón
1:1 Supervision Events



CD Bayamón	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	41
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:

October 2, 2011 thru December 31, 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 Fourth Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

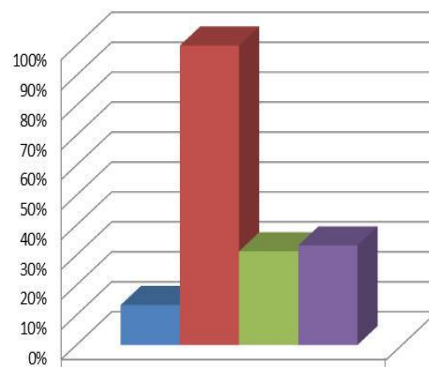
- **10:00pm- 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: an 19% reduction since third quarter reporting**
- **2:00 pm – 10:00 pm: a 8% reduction since third quarter reporting**

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Bayamón Fase Tratamiento

Percent of Unit Events Meeting Staff Youth Ratio



CTS Bayamón Fase Tratamiento	
■ Percentage of All Agency Population	13%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	31%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	33%

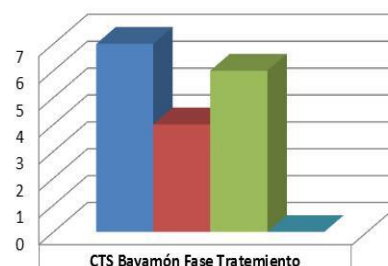
Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.06**

17 youth supervision events for the Fourth Quarter of 2011

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

** An increase of 10 1:1 supervision events from the Third Quarter.

CTS Bayamón Fase Tratamiento 1:1 Supervision Events



CTS Bayamón Fase Tratamiento	
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	7
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	4
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	6
■ Volume of Events without 1:1 Supervision	0

CTS Guayama Staff Youth Ratio Analysis:

October 2, 2011 thru December 31, 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

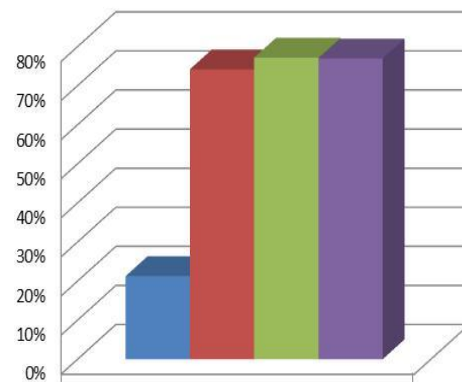
For the Fourth Quarter of 2011 there has been the following improvement in Staff Youth Ratio supervision:

- 10:00pm- 6:00am: an 12% reduction since third quarter reporting
- 6:00 am – 2:00 pm: an 11% reduction since third quarter reporting
- 2:00 pm – 10:00 pm: a 13% reduction since third 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 AU Agency Population	21%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	74%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	77%
Percentage of Time Met Staff Youth Ratio 2:00- 10:00	77%

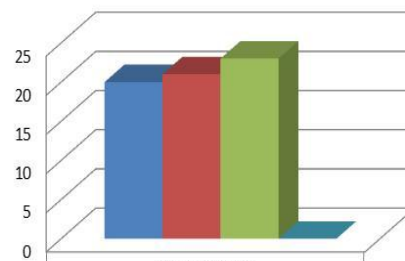
Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.02**

64 youth events for the for the Fourth Quarter of 2011

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

**** An increase of 58 1:1 supervision events from the Third Quarter**

CTS Guayama
1:1 Supervision Events



CTS Guayama	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	20
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	21
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	23
Volume of Events without 1:1 Supervision	0

CTS Humacao Staff Youth Ratio Analysis:

October 2, 2011 thru December 31, 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%

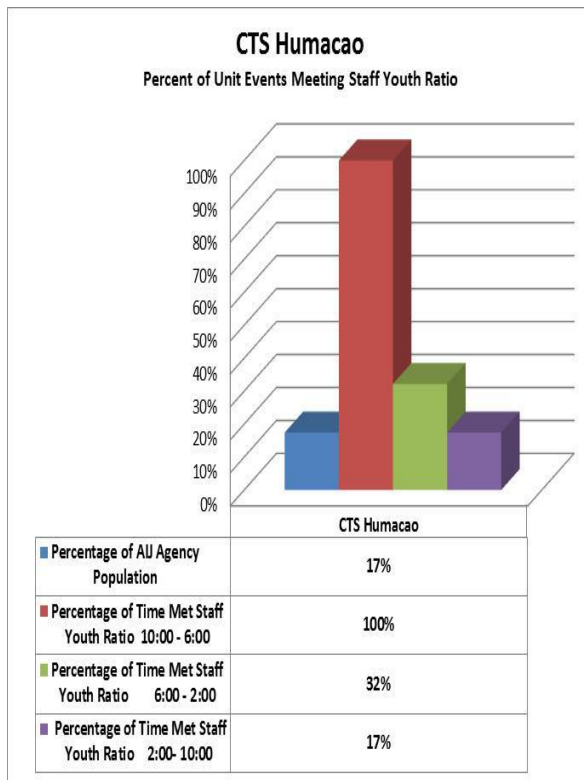
Volume of Weeks Analyzed: 13 of 13 requested

For the Fourth 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 15% reduction since third quarter reporting
- 2:00 pm – 10:00 pm: a 17% reduction since third quarter reporting

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

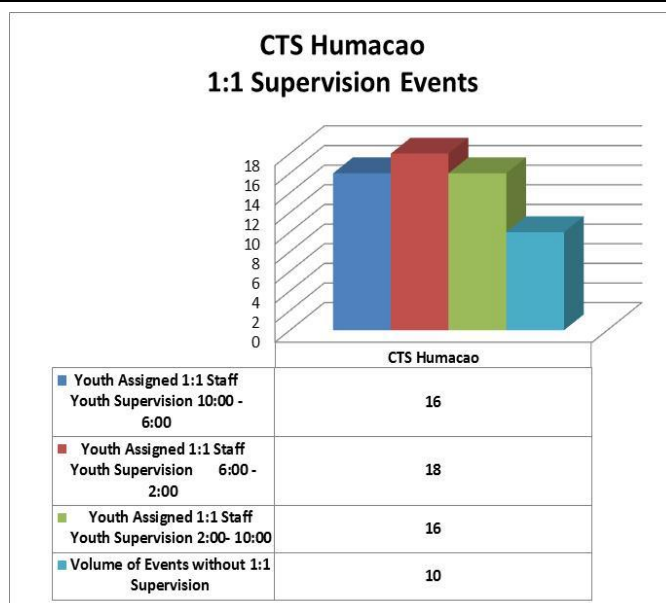


Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.18**

50 youth supervision events for the Fourth Quarter of 2011

Volume of 1:1 Events Without Required staffing during reporting period: **10**

- *The volume of 1:1 youth supervision events that have not been supervised as required is six more than reported in the Third Quarter.*



CTS Villalba Staff Youth Ratio Analysis:

October 2, 2011 thru December 31, 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%

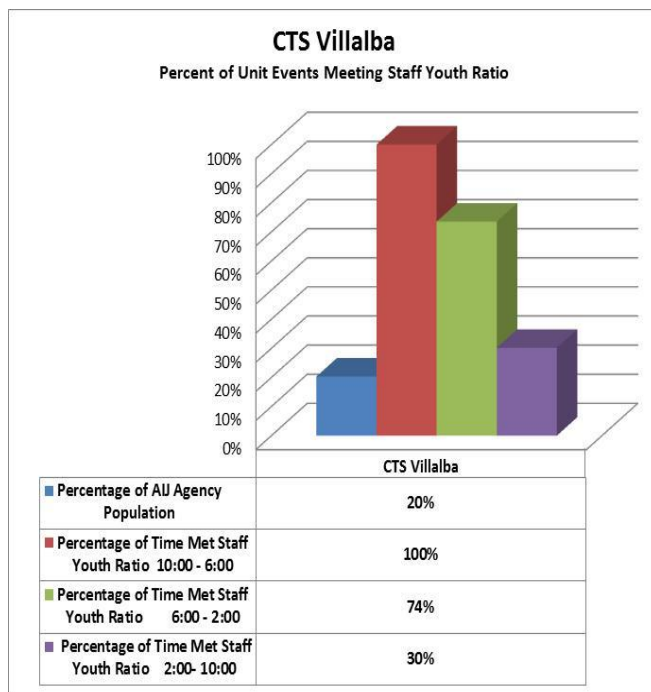
Volume of Weeks Analyzed: 13 of 13 requested

For the Fourth 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: maintained at 74%
- 2:00 pm – 10:00 pm: a 14% improvement

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

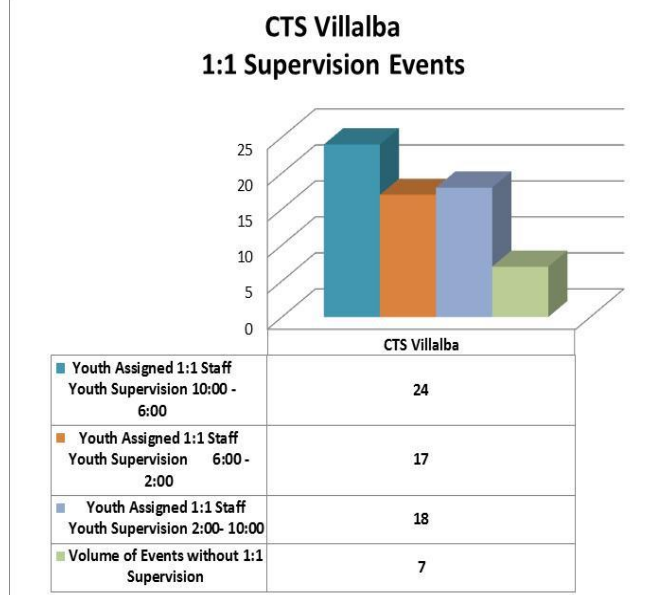


Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.22**

59 youth supervision events for the Fourth Quarter of 2011

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

This is the same volume of 1:1 events without required staffing as reported in the third quarter.



Guaili Staff Youth Ratio Analysis:

October 2, 2011 thru December 31, 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%

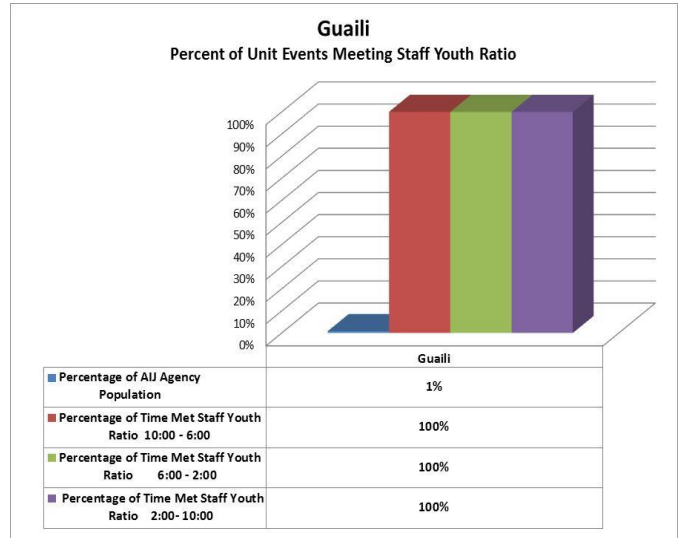
Volume of Weeks Analyzed: 13 of 13 requested

Guaili has maintained Staff Youth Ratio expectations for all eight quarters of 2010 and 2011 reporting periods.

Guaili represents 1% of the AIJ institutional population.

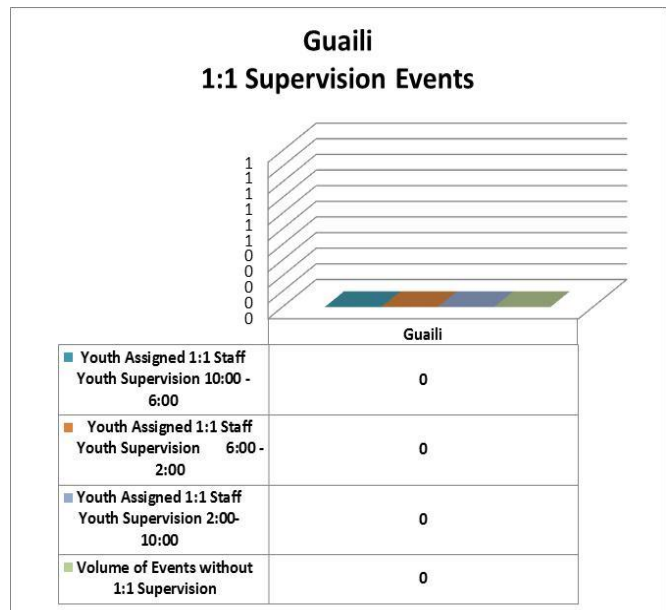
Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



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 Staff Youth Ratio Analysis:

October 2, 2011 thru December 31, 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%

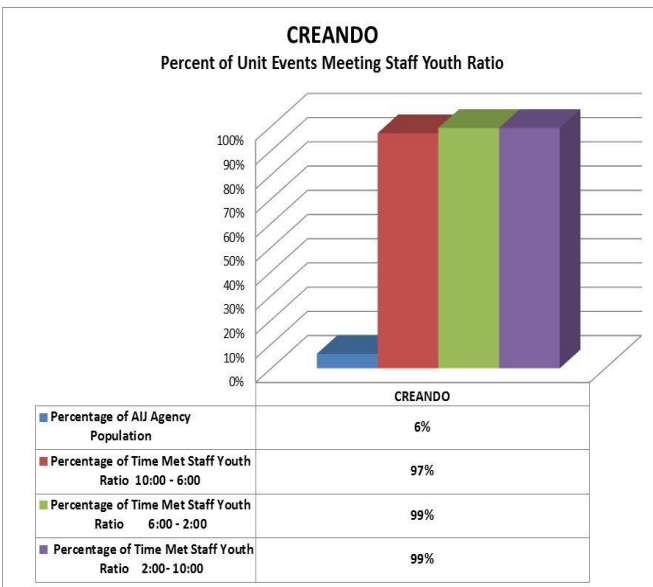
Volume of Weeks Analyzed: 7 of 7 requested

CREANDO was operational for seven of the thirteen weeks (48 days of operation) of the fourth quarter reporting period.

For the Fourth Quarter reporting period, CREANDO represents 3% of the AIJ institutional population.

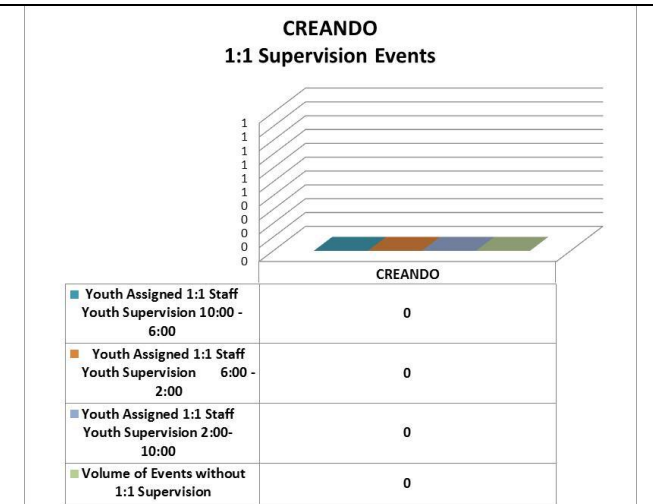
Volume of Weeks Analyzed: 7

Volume of Days Analyzed: 48



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**



Facility Table of Shift Compliance with Staff Youth Ratio:

	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ 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%	22%	19%	111
CTS Bayamón Fase Tratamiento	100%	13%	100%	31%	33%	62
CTS Guayama	100%	21%	74%	77%	77%	98
CTS Humacao	100%	17%	100%	32%	17%	80
CTS Villalba	100%	20%	100%	74%	30%	94
Guaili	100%	1%	100%	100%	100%	3
CREANDO	100%	3%	100%	100%	100%	24

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

	Percentage of AIJ Agency Population	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	24%	41	53	47	141	0	91
CTS Bayamón Fase Tratamiento	13%	7	4	6	17	0	91
CTS Guayama	21%	20	21	23	64	0	91
CTS Humacao	17%	16	18	16	50	10	91
CTS Villalba	20%	24	17	18	59	7	91
Guaili	1%	0	0	0	0	0	91
CREANDO	3%	0	0	0	0	0	48
Totals	100%	108	113	110	331	17	594

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

<u>Date</u>	<u>CD Bayamon</u>	<u>CTS Bayamón Fase Tratamiento</u>	<u>CTS Guayama</u>	<u>CTS Humacao</u>	<u>CTS Villalba</u>	<u>Guaili</u>	<u>Program CREANDO</u>
October 2 - October 8, 2011	10/19/2011	10/19/2011	12/1/2011	10/19/2011	10/19/2011	10/19/2011	NA
October 9 - October 15, 2011	11/1/2011	11/1/2011	10/19/2011	10/19/2011	10/19/2011	11/1/2011	NA
October 16 - October 22, 2011	11/1/2011	11/1/2011	11/1/2011	11/1/2011	11/1/2011	11/1/2011	NA
October 23 - October 29, 2011	11/4/2011	11/4/2011	11/4/2011	11/4/2011	11/4/2011	11/4/2011	NA
October 30 - November 5, 2011	<u>11/14/2011</u>	<u>11/14/2011</u>	<u>11/21/2011</u>	<u>11/14/2011</u>	<u>11/14/2011</u>	<u>11/14/2011</u>	NA
November 6 - November 12, 2011	<u>11/21/2011</u>	<u>11/21/2011</u>	<u>11/21/2011</u>	<u>11/21/2011</u>	<u>11/21/2011</u>	<u>11/21/2011</u>	NA
November 13 - November 19, 2011	11/28/2011	11/28/2011	11/28/2011	11/28/2011	11/28/2011	11/28/2011	11/28/2011
November 20 - November 26, 2011	12/1/2011	12/1/2011	12/1/2011	12/1/2011	12/1/2011	12/1/2011	12/1/2011
November 27 - December 3, 2011	<u>12/22/2012</u>	<u>12/22/2012</u>	<u>12/22/2012</u>	<u>12/27/2011</u>	<u>12/22/2012</u>	<u>12/22/2012</u>	<u>12/27/2011</u>
December 4 - December 10, 2011	<u>12/22/2012</u>	<u>12/22/2012</u>	<u>12/22/2012</u>	<u>12/27/2011</u>	<u>12/22/2012</u>	<u>12/22/2012</u>	<u>12/22/2012</u>
December 11 - December 17, 2011	<u>12/27/2011</u>	<u>12/27/2011</u>	<u>12/27/2011</u>	<u>12/27/2011</u>	<u>12/27/2011</u>	<u>12/22/2012</u>	<u>12/27/2011</u>
December 18 - December 24, 2011	<u>1/1/2012</u>	<u>1/11/2012</u>	<u>1/1/2012</u>	<u>1/1/2012</u>	<u>1/1/2012</u>	<u>1/1/2012</u>	<u>1/1/2012</u>
December 25 - December 31, 2011	<u>1/10/2012</u>	<u>1/11/2012</u>	<u>1/10/2012</u>	<u>1/10/2012</u>	<u>1/10/2012</u>	<u>1/10/2012</u>	<u>1/10/2012</u>
	13	13	13	13	13	13	7
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>CTS</u> <u>Guayama</u>	<u>CTS</u> <u>Humacao</u>	<u>CTS</u> <u>Villalba</u>	<u>Guaili</u>	<u>Program</u> <u>CREANDO</u>
		<u>Fase</u> <u>Tratamiento</u>					
October 23 - October 29, 2011	<u>108</u>	<u>68</u>	102	<u>81</u>	97	<u>3</u>	<u>NA</u>
October 30 - November 5, 2011	<u>121</u>	<u>55</u>	106	<u>83</u>	98	<u>2</u>	<u>NA</u>
November 6 -November 12, 2011	<u>92</u>	<u>64</u>	<u>108</u>	<u>84</u>	96	<u>2</u>	<u>NA</u>
November 13 - November 19, 2011	<u>126</u>	<u>59</u>	<u>108</u>	<u>83</u>	91	<u>2</u>	25
November 20 -November 26, 2011	114	<u>63</u>	<u>94</u>	<u>79</u>	91	<u>3</u>	24
November 27- December 3, 2011	110	<u>69</u>	<u>94</u>	<u>76</u>	88	<u>3</u>	24
December 4 -December 10, 2011	111	64	94	81	89	3	24
December 11 -December 17, 2011	111	67	94	80	89	3	24
December 18 - December 24, 2011	107	61	93	<u>79</u>	92	3	24
December 25 - December 31, 2011	105	61	92	<u>82</u>	88	3	24
Totals	1442	802	1274	1045	1217	33	169
Percentage of AIJ Agency Population	24%	13%	21%	17%	20%	1%	3%
Average Daily Population	111	62	98	80	94	3	24
Percentage of AIJ Agency Population	24%	13%	21%	17%	20%	1%	3%

Document Attachment C: Status Report on Renovation Projects Curtiss Pulitzer, AIA

This memorandum reflects my site visits for the above referenced facilities on November 16th and 17th, 2011. On November 16th, I held a pre-tour meeting at CTS Bayamon with Raul Cepeda, the new Director of CTS and CD Bayamon, Pedro Santiago, the fire safety officers from the two facilities, Taraneh Ferdman and the Deputy Court Monitors, Javier Burgos and Ricardo Blanco. We discussed some of the issues at both facilities in advance of the tour which was very helpful. The positive news was that the sprinkler system was working at CD Bayamon and waiting certification and that a contractor, ATC, had been issued a purchase order to make repairs to the fire alarm systems at CD Bayamon and that work was progressing and would be finished in a few weeks. Of great concern was that the sprinkler systems in the Green, Orange and Yellow buildings at CTS Bayamon were not working, although the systems had been working on earlier site visits.

Below are a list of positive developments as well as persistent and new problems and maintenance issues that still remain to be addressed at CTS and CD Bayamon and at CTS Humacao.

CTS Bayamon

1. Blue Building (population 11 youth)

- The Blue Building repairs have been completed and overall the housing unit was in very good physical condition. There were only 11 juveniles housed there on the day of my visit and Module 3 was not being utilized
- There were still some minor mold problems on the ceiling of the education module. In addition new basketball hoops were installed in the rec yard.
- The showers that have received the new special epoxy paint treatment that I had recommended seems to be holding up very well and for the first time, there was no mold developing in the showers as has historically happened when inferior epoxy products had been applied.

2. Orange Building (population 15 youth)

- The hot water was not working in Module 1 but was working in 2 and 3. Module 1 housed 8 youth and there were 7 in Module 2. Module 3 was empty.
- 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 in the Blue Building and at Guayama can be applied in these locations.
- In general, the building was in good condition and the air conditioning was working well
- Eleven (11) doors in this unit needed to be repaired as juveniles apparently are shimmying open the doors. New strikes or a bar preventing access to the locks appears needed to prevent this in the future. WCS were supposed to make these repairs.
- The sprinklers were not working in modules 3 and 4

3. Green Unit

- This Unit is closed and the cell door locks were being worked on and not completed. This building has been 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 and were not yet repaired during my visit. This condition has persisted for several months. AIJ stated they are waiting funds to make the repairs.
- I was concerned to see the doors to the unit left open with the air conditioning still running. There were birds flying through the empty building. If this condition does not end, this unit will fall into the same disrepair that existed several years ago during the dispute with the contractors

4. Yellow Building (population 34 youth)

- In conducting random fire exit door tests, I discovered that exit door 124-A could not be opened electronically.
- The hot water problems noted in my August report have been repaired.
- All the showers were in need of treatment with the new product AIJ is now using. One of the floor drains in the shower was broken and the youth could hurt easily hurt themselves.
- In Module 3, the air conditioning compressor was working at 50% capacity. While it is under a service contract no repairs had been made for a while according to the youth.
- The air conditioning was not working in the program unit.
- The sprinklers were not working in modules 2 and 3.

5. Medical Area

- The ceilings in the clinic and infirmary have been repaired and the air conditioning was working in the clinic. Roof repairs were still being made in the infirmary area.
- The registers that lead from the extended the ducts that were put in place last summer to provide some cooling and humidity control and avoid mold problems in the large volume adjacent to the clinic and infirmary volume were in place, but not yet operational. Furthermore, the plastic sheeting to keep the cooled air from escaping from the screened window openings still has not been installed.
- I was told in August that a contract was going to be issued to repair the elevator in this building. I was told again in November that a P.O. was issued and that work would soon commence to finally fix the elevator.
- The infirmary was staffed by a nurse and doctor who is there Monday, Wednesdays and Fridays. However, very juveniles come to the clinic and there have never been any juveniles housed in the infirmary. A tremendous amount of money was spent here 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 **one and a half years** 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 not pleased to see that the tray washing machine equipment was not being utilized except for lunch meals. AIJ stated that there was a staffing shortage in the kitchen to man the washing equipment so AIJ is therefore using Styrofoam compartmentalized plates which is not only expensive but presents a major environmental hazard as the Styrofoam is not bio-degradable. Perhaps juveniles could be given a job assignment, preferably paid, to help wash the plates, glasses and cutlery after meals.

6. Laundry

- The laundry looked in very good condition and the old mattresses, which were a fire hazard and stored in a back area, had been removed since my last visit.
- One large and one small washer were working, while one large one was waiting for parts. Two dryers were working and one was also waiting for parts. The CD Bayamon laundry is used as a backup when needed.

7. Education

- School was in session and everything appeared to be functioning normally.
- Air conditioning units are still lacking in the Hair Care Vocational Classroom and Chapel

8. Gymnasium

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

7. Overall Security and Site Issues

- The air conditioning was working again in Central Control and the condensation drain issue seems to have been fixed.
- The fire and smoke alarms are still not working
- The air conditioning was still not working in Intake
- While some of the vines growing on and through the perimeter fences have been removed, many more plants still remain. The remaining vegetation between and around all the perimeter fences still need to be cleared and treated to remain clear of vegetation
- Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
- Perimeter security lights are still not working
- There are several sliders on the main walkways that were not functioning. It was my understanding that a purchased order was issued to have the motors replaced
- All sliders on the main walkways have been repaired and are 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 but much of the debris that had been stored there previously has been removed

The sprinkler systems are now working at CD Bayamon and waiting certification by the sprinkler vendor, Epsilon (I received a copy of this contract while there). ATC, the fire alarm vendor, has been issued a purchase order to make repairs to the fire alarm systems and work was progressing and I was told would be finished in a few weeks. Also, I was told that a purchase order was issued to purchase 80 new duplicate security keys to allow Pedro to begin the process of creating new emergency response key rings in Central Control.

Other issues observed included:

- Door 72 in Bravo -1 was not working
- The air conditioning was not working well in modules Alpha 2 and Charlie 1. Alpha 2 was very warm and I recommended vacating the module until the air conditioning could be repaired. Although there is a service contract to repair the air conditioning at CD Bayamon, the service provider is not performing the repairs as required per their contract, unfortunately.
- There was a bent metal panel in the shower in module Delta-1 that was bent exposing a large hole. The bent panel was also a hazard to the youth taking a shower.
- The exit doors have finger grips instead of real door pulls. AIJ informed me that they are to be replaced but gave me no schedule

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 re-opened for Sumariados as AIJ and the facility needed the bed capacity so that juveniles would not need to sleep in the Admissions area. However, there are still many leaks in the juvenile rooms in Unit 1 as well as all the other housing units. There is mold growing on the ceilings in the housing units and I observed standing water on the mezzanine floor attributable to the water leaks in one unit as well as on the floor adjacent to unit control in Unit 1.

During my last visit there were at least 16 juvenile rooms out of a total of 90 rooms with serious to moderate water leaks. I requested a complete updated list of juvenile rooms with bad water leaks that need repairing, but never received that from the facility. We need to carefully track this situation.

There is also a serious problem with a lack of hot water for the showers in housing modules 2A, 2B, 3B and 4A. In Unit 4A, if you flushed the toilet numerous times, it apparently cleared out the cold water in the pipes and allowed some warm water to eventually reach the showers. The hot water system must be replaced. Installing a tankless hot water system could solve these problems which must be rectified. The dollar cost of wastage in water being flushed down the toilets in an effort to obtain hot water could pay for the repairs.

While the exit doors I checked were functioning properly, the grass areas outside the door were so overgrown, they became useless as a place of refuge in case an evacuation was necessary. The Director of the facility told me he had no equipment to

cut the grass and had to rely on the City of Humacao to supply equipment to cut the grass. The insulation hanging down from the Gym ceiling has worsened and could seriously hurt a juvenile or staff member should it fall to the floor and there are non-fire retardant mattresses being stored at the end of the corridor adjacent to housing Unit 4, which is a real fire hazard. Last, there is also serious mold growing on the exterior walls of the inner courtyards.

On a positive note, the front of the facility had been painted and the fire sprinkler and fire alarm systems were working.

Needless to say, the living conditions at Humacao continue to deteriorate and may pose a serious health risk to the juveniles housed there. I am aware that AIJ has requested funding to make the necessary roof repairs but that no money has been forthcoming. This obviously needs major attention and immediate corrective action along with the other needed repairs articulated in this report.

Document Attachment D: Report on Operations Provisions

Prepared by Monitor's Consultant David M. Bogard

The focus of my monitoring work is on the following remaining provisions:

Paragraph 74- Disciplinary system

Paragraph 77- Use of Force

Paragraph 79- Disciplinary Isolation

Paragraph 80- Protective Custody (including Transitional Measures)

During the dates of October 24-26, 2011 I visited three AIJ facilities-CTS Villalba, CTS Humacao and CD Bayamon. In addition, on October 24, I met with representatives of AIJ, including their legal counsel, to discuss the status of my monitoring of the remaining discipline provisions.

Key issues discussed at the October 24 meeting were as follows:

Paragraph 74- Disciplinary system

- AIJ needs to establish a formal training curriculum for disciplinary officers and other staff who routinely serve as committee members. I requested the opportunity to review and comment on the training, which needs to cover in-depth the policies and procedures governing discipline, compliance with the Settlement Agreement provisions governing discipline, the process from the initial disciplinary report through the hearing and appeals, how hearings are to be conducted, etc. AIJ determined that Giovanni Alomar and Ida Burgos will work on this.
- I reminded AIJ that I previously pointed out in my April 2011 report a concern that juveniles were not being permitted to *retain* the requisite "written notice of any rule violation" (per P 74); currently, the written notice is provided to the youth who signs it and it is then filed in the youth's social work file. There was extensive discussion and some disagreement as to whether this is required by the terms of the Settlement Agreement, although no substantive objections to such a measure were raised.
- Bob Dugan and I expressed concerns that have been raised for several years about the unavailability of significant sanctions for very serious rule infractions committed by a small number of youth. The Consultants opined that the relatively minor sanctions currently available per AIJ policy are insufficient to deter serious misbehavior. Since AIJ discontinued the use of disciplinary isolation more than ten years ago, staff have attempted to use the approved sanctions and behavior modification system to address serious misbehavior (and, on occasion, departed from the approved sanctions out of a perceived need to control dangerous behavior, i.e., informal establishment of restrictions on evening dayroom access before any policy was established allowing this). Bob Dugan and I once again suggested that AIJ consider planning and designing a limited specialized unit for the most serious rule violators and juvenile leaders, with a multi-disciplinary approach involving tight security, limited privileges, behavior modification techniques,

and mental health support (although the unit would not be for youth identified as being mentally ill).

Paragraph 77- Use of Force

- Resolution of the disparities that continue to exist between AIJ's use of force policy, training and practice and the language of the current Paragraph 77 is a condition precedent to any efforts to fully evaluate the defendants' level of compliance with this provision.
- An attempt made in the Spring to evaluate use of force incidents at each facility (using an 11 point evaluation criteria) was unsuccessful because AIJ central office insisted that copies of all incident reports had to be channeled from the institutions to someone designated in central office, to the Monitor's Office and finally to the Monitor's Consultant. The inordinate amount of time required to complete all these steps and the poor quality of the repeated photocopying and scanning led to this effort being discontinued mid-course.
- I previously requested that AIJ collect data about restraint incidents so that comparisons could be made against the Performance Based Standards (PbS) data-base for benchmarking purposes. Data was collected in June and analyzed, but a subsequent request for the same data to be collected for the month of October did not occur (or was not provided to me).
- The current Incident Report is flawed by the fact that staff who are not direct participants in incidents, e.g., the ones who actually applied force to a juvenile, are not routinely documenting the specifics about the force that other staff did use.

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
- AIJ staff and counsel indicated that they do not wish to re-institute disciplinary isolation, especially given the convoluted language of Paragraph 79 and the difficulties that would be inherent in achieving compliance.

Paragraph 80- Protective Custody (and Transitional Measures)

- Maria del Carmen noted that in the Q2-2011 Report incorrectly reported that the institutions had received a second draft of the policy governing transitional measures; in fact, only one has been circulated and is being used.
- I provided AIJ with comments on the second draft transitional measures policy on October 11. AIJ will now incorporate the comments as appropriate and issue a formal policy.
- AIJ requested that I provide comments on the second re-draft of a new policy governing protective custody (this was completed on October 27).

Key findings and observations from visits to three facilities were as follows:

Discipline:

I reviewed the discipline logbook at each facility to review the quality of record keeping, to determine the overall number of incidents the preceding quarter, and to obtain an overview of the sanctions being used

- Villalba has had 760 disciplinary rule violation incidents year to date; many were group incidents. This is a very high number of rule violations,
- Villalba's disciplinary officer is screening all disciplinary reports and redirecting many of them to the treatment committee for informal resolution.
- Villalba's log needs to better reflect actual numerical sequences (e.g., #760-799 were skipped) and the log should list the actual rule violation rather than statements such as "incident at school."
- Humacao has had 93 disciplinary rule violation incidents involving 436 juveniles from July 1-October 26. While most disciplinary reports involve one juvenile, some involve charges to 8-10 separate juveniles, each of whom received an individual hearing (as is required by policy and due process considerations).
- The most used sanction at Humacao is orientation, followed by suspension of privileges and limited dayroom access. Disciplinary boards frequently decided to change the charged youth's assigned modules, although this is not an actual sanction.
- CD Bayamon has had 199 disciplinary rule violation incidents since July, although about two thirds of these were addressed informally outside of the disciplinary system. Only violations classified as "severe" or "extreme" are dealt with by the disciplinary boards; lesser violations are addressed via the mentoring program.
- The most used sanction at CD Bayamon is limited dayroom access, followed by restrictions on youth receiving special food during visits.
- CD Bayamon's disciplinary board frequently determines that youth are not responsible for the charged rule violations. This suggests that officers may be simply charging all youth involved in an incident and allowing the board to "sort it out" later. It is, however, an indication of fairness on the part of the disciplinary board.

Use of Force

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

- Villalba continues to categorize in the use of force log the type of force used as "minimum necessary force" rather than specifying the actual type/method of force used. Concerns about this have been pointed out previously.
- Villalba has had 12 use of force incidents since July.
- Special Operations is the only staff who routinely carry OC while inside Villalba.
- Humacao has had 20 use of force incidents since August, with 19 of 20 involving the use of OC.
- Humacao's director explained that OC is preferred because of the ongoing concern that juveniles may be armed with sharp instruments and therefore staff safety considerations call for avoidance of hands-on techniques. While these concerns may have some basis in

fact due to the many razors found there, the use of OC in almost 100% of incidents raises concerns and would appear to violate AIJ Policy 9.18, which requires that OC be “used only in extreme situations and as a last option when other forms of intervention have been exhausted” (my understanding of the policy based on an auto-translation of it). Special Operations officers routinely carry OC while inside Humacao, as do a limited number of facility staff on each shift in such areas as the school. OC is stored in mini-controls and the Special Operations Office. The routine presence of Special Operations officers inside the perimeter and the fact that they and some facility staff routinely carry OC are clearly major contributing factors to the high and seemingly disproportionate use of OC.

- Humacao has discontinued the helpful practice of identifying the location of use of force incidents in the use of force log, purportedly on advice of central office personnel. This should be reconsidered.
- CD Bayamon has had 29 use of force incidents since July. In contrast to Humacao, only two of 29 involved use of OC.
- There is a pattern of increasing numbers of use of force incidents at CD Bayamon over the past four months: July (4); August (6); September (8) and October (11; through 10/26). Facility staff attributes the increase to a higher concentration of juveniles charged with homicide/attempted homicide and the frequent and routine transfer out of the facility of youth leaders and the resultant attempts by other youth to assume control.
- Special Operations is the only staff who routinely carry OC while inside CD Bayamon. OC is stored in the Supervisors’ office and can be used by supervisors only.
- During our tour of CD Bayamon, a youth alleged to the Deputy Monitor that he was assaulted on October 19 by three officers in the barber area and received numerous bruises and lost a tooth as a result of punches by the officers. The case was referred for investigation by the Facility Director per the Cernimiento. A review of incident reports confirms that an incident did occur in that area on that date; medical records (reviewed by the Deputy Monitor) confirmed the injuries; documentation by officers does not include a description of the assault as alleged.

Protective Custody (and Transitional Measures):

At each facility I requested information concerning the number and location of youth on transitional measures and protective custody status. When a facility had juveniles in one or both of those statuses, Monitor’s office staff and I interviewed the youth in their housing locations and reviewed living individual logs to ascertain what services were being provided and whether checks are being made every 15 minutes.

- There continues to be significant confusion between protective custody and transitional measures and, in many cases, they are difficult to distinguish. That said, as the protections afforded youth in Paragraph 80 for protective custody are also being incorporated into AIJ policy and practice for transitional measures.
- Many of the youth who are placing themselves on transitional measures are doing so because of fear of confrontation or conflict with youth “leaders” in the modules.
- Access to education seems to be improving.
- Documentation of safety checks has improved since AIJ adopted a new form of documentation.
- Villalba had 5 youth on Transitional Measures and 1 on Protective Custody.

- The juvenile on protective custody and one of the youth on transitional measures were housed in the Admissions area at Villalba. The second draft on transitional measures policy prohibits youth on that status from being housed in admissions as does the draft policy on protective custody.
- The two youth housed in admissions at Villalba reported that they are receiving 20-25 minutes of education, per subject/teacher, every day. They also report receiving all other services, although recreation has only been passive/indoor, and the youth on protective custody reported that he had not seen the treatment committee for several weeks (this was not confirmed).
- Interviews with the 4 youth on transitional measures in the modules at Villalba revealed that they are fearful of other youth or don't want to enter general population out of concerns that they will be in conflict with other youth.
- Villalba's logging of safety and activity checks has improved, although individual logs are not consistently taped to/adjacent to room doors versus being placed inside module log books.
- Humacao had 4 youth on transitional measures and none on protective custody. All 4 were placed on transitional measures in the past two days as a result of threats by other youth or altercations.
- CD Bayamon had no youth on transitional measures or protective custody.

Considerable work remains to be done to fully and properly implement and stabilize the transitional measures status. AIJ has made progress in terms of providing services and attempting to re-integrate youth into the general population modules where appropriate. The status is needed to provide a measure of stability and safety for youth who have had troubles adapting in multiple modules or who insist on remaining separate from the general institutional movement patterns because they want to "stay out of trouble." The fact that there are so many juvenile "leaders" and that this dynamic is acknowledged (and even accepted) by the administration at some facilities, makes it likely that youth will continue to request transitional measures. These are disturbing trends, indicative of a lack of control by staff, and compounded by staff deficiencies.

Document Attachment E: Report on Incidents and Understaffing October - December 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.

There is a possibility that some cases are missing from this table, and the Monitor's Office is assessing this possibility. If there turn out to be missing cases, the parties will be informed and an updated table will be included in the next QR.

Oct. 3	CTS Villalba	11- 253	Afternoon	A juvenile was hit in different parts of his body by other juvenile. The incident occurred in room 126.	1 officer, 12 juveniles
Oct. 4	CTS Bayamón	11- 260	Afternoon	A juvenile allegedly was hit by other juvenile in the module's bathroom. The incident occurred as a sanction against the victim because he doesn't want to follows the module's leader rules.	1 officer, 15 juveniles
Oct. 9	CTS Humacao	11- 257	Morning	A group of juveniles hit another youth in Living Unit A-1.	1 officer, 11 juveniles
Oct. 22	CTS Bayamón	11- 276	Afternoon	A juvenile was hit in his head and back by a group of juveniles. The incident occurred in the module's day room area.	1 officer, 13 juveniles
Oct. 23	CD Bayamón	11- 273	Morning	A juvenile was threatened by other juvenile using a "shank". The incident occurred under module's stairs, Living Unit Yellow.	1 officer, 14 juveniles
Oct. 23	CTS Villalba	11- 272	Afternoon	A juvenile was hit by other youth in the module's bathroom.	1 officer, 13 juveniles
Nov. 5	CTS Humacao	11- 277	Afternoon	A juvenile was hit in his head by other juvenile. The incident occurred inside the module.	1 officer, 14 juveniles
Dec. 2	CTS Bayamón	11- 291	Afternoon	A juvenile was hit in the module by a group of 4 juvenile. The aggression was part of a welcome ceremony between the youths.	1 officer, 9 juveniles
Dec. 10	CTS Humacao	11- 300	Morning	A juvenile was stabbed in his leg and hit in different parts of his body by a group of youths. The incident occurred in the module.	1 officer, 13 juveniles

Dec. 11	CTS Villalba	11- 299	Morning	A juvenile was hit by other youth with a shampoo bottle's cap. According to the incident report the custody officer assigned to that module had also 3 juveniles in protective custody and another juvenile under transitional measure.	1 officer, 14 juveniles
Dec. 12	CTS Guayama	11- 302	Afternoon	A custody officer found two juveniles having oral sex inside	1 officer, 14 juveniles
Dec. 18	CD Bayamón	11- 311	Afternoon	A juvenile was cut in both arms by other youth in the module. The incident occurred in the victim's room.	1 officer, 14 juveniles
Dec. 20	CTS Humacao	11- 309	Morning	A juvenile was cut severely in his face by other juvenile with a piece of a disposable razor blade. The victim was taken to the hospital for stitches. The incident occurred inside the module.	1 officer, 13 juveniles
Dec. 21	CTS Villalba	11- 312	Morning	A juvenile was hit in different parts of his body by a group of 5 juveniles. The incident occurred in the module. According to the 284 form the officer was not inside the module during the incident.	0 officer, 9 juveniles
Dec. 26	CTS Villalba	11- 314	Afternoon	A juvenile was assaulted by a group of 13 juveniles in the module's day room area. The victim was taken to the hospital.	1 officer, 14 juveniles
Dec. 28	CD Bayamón	11- 316	Morning	A juvenile was hit by other juvenile with a soap bar inside a sox.	1 officer, 13 juveniles (the officer was working a double shift)
Dec. 30	CD Bayamón	11- 320	Morning	A juvenile was hit by a group of juveniles. He was taken inside one of the module's rooms to be assaulted.	1 officer, 12 juveniles

Document Attachment F: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the four 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 2011		2011-1st	2011-2nd	2011-3rd	2011-4th
Incidents		259	196	240	217
	Suicidal Incidents	23	20	26	50
	Self-Mutilation Incidents	59	73	53	49
Suicidal Incidents (From M/H Records)		23	20	26	50
	Youth Involved	21	20	25	43
	Cases involving ideation only	11	15	26	38
	Cases involving suicide intention	0	1	0	1
	Cases w/ ambulatory treatment	4	19	16	47
	Cases with hospitalization	0	1	0	3
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	0	0	1	0
Self-Mutilations Incidents (MH records)		59	73	53	49
	Youth Involved	56	65	47	43
	Cases requiring sutures	0	1	2	0
	Cases requiring hospitalization	0	0	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	2	8	5	2

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 217 suicide and self-mutilation incidents for the third quarter, only 2 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 2011	2011-1st	2011-2nd	2011-3rd	2011-4th
284 A Incidents	75	83	88	66
Level Two Incidents	54	51	73	52
Referrals to SAISC	54	51	73	52
Suicide Ideation/Attempt	0	0	1	0
Self-Mutilation Idea/Attempt	2	8	5	2
Youth-to-Youth Incidents	46	64	51	41
Youth-to-Youth Injuries	28	48	30	14
Youth-to-Youth with External Care	12	15	10	8
Youth-to-Youth Sexual	6	5	1	2
Youth-to-Youth Sexual w/ Injury	0	0	0	0
Staff-to-Youth Incidents	30	19	36	25
Staff-to-Youth Injuries	8	6	19	4
Staff-to-Youth with External Care	3	2	2	1
Staff-to-Youth Sexual	1	1	1	0
Staff-to-Youth Sexual with Injury	0	0	0	0
SOU 284A Interventions	5	4	6	1
284A with Item 5 completed	53	71	71	49
284A with Staffing Compliance	30	51	50	28

The next table summarizes initial case management.

Statistics for 2011	2011-1st	2011-2nd	2011-3rd	2011-4th
Initial Case Management				
284A percent with admin actions	92%	96%	99%	98%
284A Within 24 hours	85%	90%	73%	88%
284A Within 72 hours	96%	98%	90%	98%
284B or Local Report Within 5 days	N/A	N/A	N/A	N/A
284B or Local Report Within 15 days	N/A	N/A	N/A	N/A
284B or Local Report Within 20 days	33%	53%	47%	78%

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 2011	2011-1st	2011-2nd	2011-3rd	2011-4th
OISC				
Cases Referred from this quarter	51	51	73	44
Referred Within 1 day	30	30	45	20
Referred Within 3 days	0	21	28	9
Referred Within 10 Days	0	0	0	15
Referred Within 20 Days	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 in the third quarter, and 21 out of 44 (almost half of the cases) were referred late in the 4th quarter. At the start of the year, all cases were referred on time.

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

Statistics for 2011	2011-1st	2011-2nd	2011-3rd	2011-4th
OISC Investigation Durations				
Completed in less than 10 workdays	0	0	0	0
Completed in 11-20 workdays	3	1	0	0
Completed in 21-30 workdays	6	2	0	1
Completed in 31-45 workdays	7	1	1	1
Completed in more than 45 workdays	12	0	3	7
Completed in a subsequent quarter	32	44	40	33
Not completed yet.	23	45	69	35
Returned for Further investigation	0	7	2	10
Further Investigation Completed	0	10	1	4

Paragraph 78.e requires that OISC complete investigations within 30 days. For the fourth quarter of 2011, there were 44 cases referred to OISC, one was completed within the 30-day limit specified in Paragraph 78.e.

Ten cases initially completed by OISC 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 2011	2011-1st	2011-2nd	2011-3rd	2011-4th
Administrative Determinations				
Cases with youth discipline referrals	52	70	54	39
Cases with youth discipline actions	37	43	60	32
Cases with youth no discipline actions	15	27	8	5
Cases staff/youth with determinations	0	0	0	18
Cases recommending personnel actions	0	3	6	9
Prior Stf/Yth Cases w/ Determinations	15	0	0	2
Prior Cases – Recmd Personnel Action	10	16	7	3

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

Of 6 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-33, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 88%.

A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-35	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-35	The percentage for this report is 100%. The percentage in the last Quarterly Report was 94%.
A.4 Was evidence preserved?	Y-12, N/A-22 N-1	The percentage for this report is 34%. The percentage in the last Quarterly Report was 14% In this question 15 of 35 represent level I cases. Improved Compliance
A.5 Was investigation initiated promptly?	Y-31, N-4	The percentage for this report is 88%. The percentage in the last Quarterly Report was 84%.
A.6 Was the 284-A filed within 24 hours?	Y-33, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 84%. Improved Compliance
A.7 Did the reporting official file an incident report before the end of shift?	Y-35	The percentage for this report is 100%. The percentage in the last Quarterly Report was 88%. Improved Compliance
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-34, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 94%.
A.9 Was the AIJ preliminary investigation reported within 24 hours to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration.	Y-35	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-11, N-3, N/A-21	The percentage for this report is 31%. The percentage in the last Quarterly Report was 67%. Reduced Compliance
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-34, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 100%
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-30, N/A-5	The percentage for this report is 86%. The percentage for the last Quarterly Report was 84%.
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-35	The percentage for this report is 100%. The percentage in the last Quarterly Report was 97%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-4, N-12, N/A-19	The percentage for this report is 11%. 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-7, N/A-2, Blank-9	The percentage for this report is 48%. The percentage in the last Quarterly Report was 30% Improved Compliance

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 12 Level II cases. It contains the following: case number, and case disposition. Eleven of twelve cases were dismissed administratively by the police investigator. One case was dismissed by the prosecutor in coordination with the police investigator.
B.2 If the case was considered serious by the facility where the incident took place, were the police contacted within 24 hours?		
B.3. Were PRPD expectations met for promptly initiating an investigation?		
B.4 Did PRPD investigators determine that evidence was appropriately preserved?		
B.5 If prosecutors communicated an intent to proceed criminally, was AIJ informed to delay any compelled interview of the subject until the criminal investigation was completed?		
B.6 Were PRPD expectations met for timeliness in completing the investigation?		
B.7 Was completion of the investigation documented?		
B.8 If there was timeliness non-compliance, was related to shortage of staffing?		

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- 22, N-9, N/A – 1, Blank-3	The percentage for this report is 67%. The percentage in the last Quarterly Report was 76%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-11, N-3, N/A-20, Blank-1	The percentage for this report is 31%. The percentage in the last Quarterly Report was less than 2%. For this question 15 cases were classified as level I and 11 complied with the requirement. Improved Compliance
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-11, N-3, N/A-20, Blank-1	The percentage for this report is less than 31%. The percentage in the last Quarterly Report was 48%. Reduced Compliance
C.4 Was physical evidence preserved and documented?	Y-4, N-1, N/A-22, Blank-8	The percentage for this report is 11%. The percentage in the last Quarterly Report was 0%. Improved Compliance
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-8, N-5, N/A-21, Blank-1	The percentage for this report is 29%. The percentage in the last Quarterly Report was 42%. In the sample only 15 cases were classified as Level I. Reduced Compliance
C.6 Was the completion of the investigation documented in the tracking database?	Y-33, N-1 Blank-1	The percentage for this report is 94%. 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-33, Blank –2	The answers do not represent the facilities real situation.

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-12, N-8	The percentage for this report is 60%. The information in the last Quarterly Report was 50%. Improved Compliance
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	N-15, Blank-5	The percentage for this report is 0%. The information in the last Quarterly Report was 2%.
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-15, Blank-5	The percentage for this report is 75%. The information in the last Quarterly Report was 100%. Reduced Compliance
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-15, Blank-5	The percentage for this report is 75%. The information in the last Quarterly Report was 100%. Reduced Compliance
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-15, Blank-5	The percentage for this report is 75%. The information in the last Quarterly Report was 100%. Reduced Compliance
D.6 Did the investigation provide proposed findings?	Blank-20	The percentage for this report is less than 0%. The information in the last Quarterly Report was 1%. Reduced Compliance
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-20	According to the information provided 0% of the cases were completed on time due to lack of staff. In the last Quarterly Report the percentage was less than 1%.
D.8 Did SAISC completed the investigation within 30 days of receipt of the referral?		The information was not provided.

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?		

Case Assessment Instrument – Section F – Monitor's Office Assessment		
Assessment Criterion	Status Y/N/NA	Comment
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-30, N-5	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 85% of the cases. The percentage in the last Quarterly Report was 88%.
F.2 Does the Monitor's Office confirms 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 confirms the timeliness facts as asserted in Page C?	N/A -31, N-4	The percentage for this report is 88%. The percentage in the last Quarterly Report was 84%.
F.4 Does the Monitor's Office confirms the timeliness facts as asserted in Page D?	Y-20	The percentage for this report is 100%. The percentage for the last Quarterly Report was 100%.
F.5 Does the Monitor's Office confirms the timeliness facts as asserted in Page E?		The Information was not provided.
F.6 Does the Monitor's Office confirms 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 confirms the investigation quality as asserted in page C?	Y-31, N-4	The percentage for this report is 88 %. 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-20	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.

- October 4, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CTS Villalba.
- October 4, 2011 Consultants Peter Leone and Victor Herbert to CTS Humacao
- October 5, 2011 Consultants Peter Leone and Victor Herbert to CTS and CD Bayamon
- October 6, 2011 Consultants Peter Leone and Victor Herbert to CTS Ponce Ninas
- October 7, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CTS Bayamon.
- October 7, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CD Bayamon.
- October 24, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CTS Bayamon.
- October 24, 2011: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CD Bayamon.
- October 25, 2011: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
- October 26, 2011: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
- October 26, 2011: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.
- November 16, 2011: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
- November 16, 2011: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.
- November 17, 2011: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.

- November 22, 2011: Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
- December 6, 2011: Consultant Bob Dugan and Deputy Monitor Javier Burgos site visit to Salinas "CREANDO" program.
- December 6, 2011: Consultant Bob Dugan and Deputy Monitor Javier Burgos site visit to CTS Villalba.
- December 6, 2011: Consultant Bob Dugan and Deputy Monitor Javier Burgos site visit to CTS Guayama.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Fourth 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							
<p>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.</p>	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 <p>See the primary compliance report for further information.</p>
<p>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.</p>	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>
<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.</p>	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	N	Y	N	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 will need to be reviewed by Victor Herbert. However, it appears that current training is not adequate in witnessing the poor performance of several of the Fire Safety Coordinators at each facility.

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	#	#	N	#	#	#	<p>Historically, reports have been prepared weekly and monthly by the various institutional fire safety coordinators. These in turn were reviewed by the AIJ Fire Safety Officer, and then submitted to the monitor's office. For quite some time, the monitor's office have not been receiving these reports. In addition, the Fire and Safety Officer has not verbally informed the monitor's office of fire and life safety systems failures or of other serious fire safety concerns. In my field observations, I am also noticing a complacency of the fire safety coordinators in carrying out their responsibilities in several of the facilities.</p> <p>While I believe the above lapses can be remedied with improved management practices and enhanced training, the key obstacle to full compliance with this provision is "Defendants shall correct in a timely manner any fire safety deficiency noted in the reports of the Fire and Safety Officer." Resources to achieve this have not been allocated nor have adequate maintenance procedures and procurement policies been put in place to allow for deficiencies to be corrected in a timely manner.</p>

Provision	P	S	R	T	D	G	Comment
Policies and Procedures							
S.A. 45. Within one year of the approval of this agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement by the Court, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.	N					N	In the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case.
Staffing							
S.A. 48. Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.	N	N	N	N	Y	N	For the 4th quarter of 2011, all of the facilities submitted the staffing compliance reports. Program CREANDO submitted all 7 weeks of operation for this quarter. . Agency meeting staffing ratio requirements: 6:00 am- 2:00 pm shift: 50% of events, 9% reduction 2:00 pm- 10:00 pm shift: 37% of events, 11% reduction 10:00 pm- 2:00 am shift: 95% of events, 3% reduction Guaili has met 100% staff youth ratio requirements for all four quarters of 2010 and all four quarters of 2011. There has been a continual reduction in Staff Youth Ratio compliance during the 3 rd and 4 th reporting quarters. See the 2011 4th 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	The first increase in seven quarters of the volume of youth requiring 1:1 supervision (331 events 90 more than the 240 events reported in the 3 rd quarter 2011). 17 reported instances of youth not receiving 1:1 supervision in 4th 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							
<p>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.</p>	Y	N	N	I	Y	N	<p>The most recent annual report for the calendar year 2011 indicated 78% compliance with this provision across AIJ. The lowest level of compliance is a Villalba (59%) and Guayama (58%). While compliance has not yet been achieved, this is an improvement over the report for the Fiscal Year ending June 2011.</p>
Classification							
<p>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.</p>	N	#	#	#	#	N	<p>The detention classification system is not yet fully defined and implemented. A pilot program is being evaluated. Staff have been trained. Documentation is incomplete as of this report to analyze the results of the pilot of the classification implementation.</p>

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
<p>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.</p>	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.
<p>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.</p>	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
<p>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.</p>	Y	#	N	N	N	N	<ul style="list-style-type: none"> The current staffing for mental health professionals does not make it possible for a psychiatrist to "immediately evaluate" the youth. This is an overly stringent requirement. Youth should be evaluated immediately by n medical staff and placed on Therapeutic observation and seen by the psychiatrist or psychologist within 8 hours. This generally occurs. However, recent site visits revealed numerous youth isolated reportedly for reasons other than MH concerns. Many of these youth had serious MH concerns with automutilation being common. Minimal MH treatment is being provided these youth. Because youth with MH difficulties are poorly assessed and not identified treatment is not provided in accordance with accepted professional standards.
<p>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.</p>	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.
<p>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.</p>	#	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							
<p>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.</p>	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.
<p>S.A. 77. No corporal punishment shall be imposed on any juvenile. The use of physical force by staff shall be limited to instances of justifiable self-defense, protection of others, and prevention of escapes. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing serious bodily harm to himself or to another, the facility director or his/her designee must approve the use of restraints before they are applied.</p>	N	#	I	N	N	N	<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							
<p>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.</p>	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.
<p>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.</p>	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>
<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.</p>	Y	Y	Y	#	N	N	<p>The timeliness of initial reporting by AIJ, based on AIJ records, has been high. The Commonwealth Police do not respond to the Monitor's information requests for case analysis information. Cases are promptly referred to SAISC.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	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.
<p>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.</p>	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.
<p>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.</p>	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
<p>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.</p>	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.
<p>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.</p>	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
<p>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.</p>	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.
<p>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.</p>	N	Y	Y	N	N	N	<p>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.</p>

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							
<p>S.A. 81. Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the 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.</p>	Y	N	R	I	Y	N	<p>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.</p>
<p>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 <i>et seq.</i> Defendants shall screen juveniles for physical and learning disabilities.</p>	Y	Y	Y	I	Y	#	<p>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.</p>
<p>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.</p>							<p>This provision has been separated out to identify the requirements for adequate screenings.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	Y	Y	Y	I	#	#	<p>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.</p>
<p>S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.</p>	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.
<p>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.</p>	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.
<p>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.</p>	#	N	N	I	#	#	<p>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.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	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.
<p>S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.</p>	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.
Funding and Implementation							
<p>C.O. 43 Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the requirement sums of money will be established so as to implement this Consent order.</p>	Y	Y	N		N	N	<ul style="list-style-type: none"> • The Commonwealth legal position is that the required report is the agency budget request. The budget request is not routinely provided to the Monitor or the United States. • Since the budget is insufficient to implement the requirements of the decree, the Monitor infers that the request was also insufficient.