

**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,

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**INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT**

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Second Quarter Report for 2012. The report covers the months of April, May and June 2012. 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 13th day of August, 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

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## Monitor's Quarterly Report Second Quarter 2012

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

The following is the Monitor's Second Quarter Report for 2012. 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:	Consultant Report on Facilities
Document Attachment B:	Consultant Report on Classification
Document Attachment C:	Consultant Report on Staffing Compliance
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 following are the Monitor's general comments for this report.

### **Prison Rape Elimination Act (PREA) Regulations**

On May 17, 2012, the U.S. Department of Justice issued the regulations required by the Prison rape Elimination Act of 2003. (PREA) The act required the development of regulations which have going through an extensive rule-making review process before being formally issued. The rules apply to correctional facilities for adults and for youth. The rules are accessible online at:

*[http://www.ojp.usdoj.gov/programs/pdfs/prea\\_final\\_rule.pdf](http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf)*

Because this case and the PREA regulations both seek prevention from harm for youth confined in correctional facilities, the PREA standards cover operational and physical conditions in youth corrections facilities for topics that are also covered by the provisions of this case. The following is a summary of key information about the PREA regulations.

**Application:** The standards are to be immediately binding on the Federal Bureau of Prisons. 42 U.S.C. 15607(b). They also apply to states in general, and to the Commonwealth, but there is a three-year timetable for initial auditing and compliance enforcement. The PREA standards provide for a three-year audit cycle beginning on August 20, 2013, and for each year of the audit cycle, the agency must have a minimum of 1/3 of its facilities audited. The initial governors' certifications will be due in the summer of 2013, and may impact grant funds beginning on October 1, 2013 (FY 2014).

Eventually, if the Governor does not certify full compliance with the standards, the Commonwealth will be subject to the loss of five percent of any Department of Justice grant funds that it would otherwise receive for correctional purposes, unless the Governor

submits an assurance that such five percent will be used only for the purpose of enabling the State to achieve and certify full compliance with the standards in future years. 42 U.S.C. 15607(c).

**Relation to the provisions in this case:** The following table summarizes provisions of this case which are also addressed, in whole or in part, by PREA regulations.

<b>Provision</b>	<b>Related PREA Standards</b>
S.A. 50 Training	115.332, 115.334, and 115.335.
S.A.52 Classification	115.341, 115.342
C.O. 34 Suicide and Self-Mutilation Training	115.335
S.A.48 Staffing	115.313
S.A. 74 Discipline	
S.A. 78a Administrative Action	115.321, 115.322, 115.361, 115.362, 115.264, 115.366, 115.367, 115.368, and 115.371
S.A. 78b. Abuse Reporting	115.351, 115.364
S.A. 78c. Abuse Reporting	115.371
S.A. 78d. Notifications	115.371
S.A. 78f. Investigations	115.371
S.A., 78h. Case Tracking	115.365
S.A. 78i. Criminally Charged Employees	115.362, 115.364, 115.366 and 115.367.
Separation Order of December 4, 2006	115.362, 115.364, 115.366 and 115.367.
S.A. 79 Protection and Isolation	115.342
January 2009 Stipulation Paragraph 1	115.313, 115.364
S.A. 80 Protective Custody	115.342, 115.368

**Staffing:** The regulations require that *“each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented. Only security staff shall be included in these ratios. Any facility that, as of the date of publication of the final rule, is not already obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph shall have until October 1, 2017, to achieve compliance.”* Since the Commonwealth is already obligated to meet the specified staffing ratios based on Paragraph 48 in this case, the staffing requirements take effect immediately, and based on the evidence presented in the current and recent compliance reports, the Commonwealth is currently non-compliant with the PREA staffing requirements

**Standard of Compliance:** The law requires “full compliance” which the rules define as “compliance with all material requirements of each standard except for *de minimis* violations, or discrete and temporary violations during otherwise sustained periods of compliance.”

**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. Responses to the Request for Qualifications “RFC” document were due Monday May 7<sup>th</sup>.

The Monitor has requested information from the Commonwealth as to the basis for the classification distribution of the proposed capacity of the facility. The Monitor was at one point advised that a classification study could be undertaken, but as of the time this report

is issued, not report has been provided. The Monitor's concern is that the Commonwealth should not proceed with the development of a facility which would result in ongoing violations of the classification provision (S.A. 52) in this case.

PREA regulation 115.318 requires "*(a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse.*" The capacity to appropriately separate youth (both detained and committed) based on a validated classification system would be essential. Furthermore, if the site of the facility increases the duration of confinement in lock-up facilities before transportation, this might also have PREA implications.

### **S.A. 48 Staffing Compliance**

The report on staffing compliance shows that the percentage of compliance with staffing requirements on the 6:00 am – 2:00 pm shift was as follows: Bayamon – 10%, Humacao – 6% and Villalba 29%. For on the 2:00 pm to 10:00 pm shift, compliance was: Bayamon – 11%, Humacao – 1% and Villalba 9%.

### **Special Education and Mental Health Services**

On July 12 and 13, the Monitor, along with consultants Tom Kucharski and Victor Herbert, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco, visited CTS Humacao and CTS Bayamon. The purpose of the site visits was to pilot a process of combined review of Special Education and Mental Health records for youth receiving services in both domains. At Humacao, although all cases were identified for mental health treatment and for special education services, the special education records were not available, so only the Mental Health records could be reviewed. At CTS Bayamon, the Special Education records were also available. Because this was a preliminary process, only 9 records were reviewed, and therefore the findings are preliminary. The following are some preliminary comments.

- However, the majority of mental health records did not have up-to-date treatment plans reflecting necessary information-sharing and coordination among the team members. Most of the consent forms for psychotropic medications did not specifically identify the necessary information (such as treatment risks and alternatives) for the specific medication involved; rather a general list of information for a category of medications was provided. The special education status of the youth is not documented or integrated into the mental health treatment plan.
- Where the special education record was also available, in the majority of cases the IEP recommendations for mental health services were not being implemented, and educational services were not being provided during the summer as required by S.A. 87.

Separately, Peter Leone, Victor Herbert and Ricardo Blanco have been gathering information about education services to youth in transition and protection. The review is generally finding that special education youth in protection and transition are not being provided the services specified in their IEPs.

The Monitor's Office plans to continue these assessments and once a more complete review of a larger number of cases is completed, a summary report will be included in a Quarterly Report.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "F. Warren Benton". The signature is written in a cursive style with a horizontal line extending from the end of the name.

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F. Warren Benton, Ph.D.  
Monitor

## Document Attachment A: Consultant's Report on Facilities

### **United States of America v. Commonwealth of Puerto Rico** **Quarterly Report** **Prepared by Monitor's Consultant Curtiss Pulitzer** **May 10-11, 2012**

#### **Site Visits to CTS Bayamon and CTS Villalba**

This report reflects my site visits for the above referenced facilities on May 10<sup>th</sup> and 11<sup>th</sup>, 2012. On May 10<sup>th</sup>, I held a pre-tour meeting at CTS Bayamon with, Raul Cepeda, the facility Director of CTS and CD Bayamon, Pedro Santiago, Luis Ortiz, 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.

Unfortunately, since my prior visit Ms. Cyndia Irizarry (now the former AIJ Sub-Administrator) who had been present for our tours is no longer involved with DCR (formerly AIJ) juveniles. I was very impressed with her can do and hands on-approach to correcting many of the concerns I have voiced for such a long time. Accordingly, I had requested a meeting with Esdras Velez, now a Deputy Administrator of DCR, and I was able to meet with him on May 11<sup>th</sup>. I expressed my concerns with Ms. Irizarry's unfortunate departure as well as how the juvenile facilities fit into the new reorganization that was being implemented. Mr. Velez showed me the proposed new table of organization for DCR and assured me that the new Juvenile Division will remain operationally autonomous from the adult system and that there will be a separate budget account for the maintenance and repair of the juvenile facilities. He also said that Pedro Santiago and Luis Ortiz would now be part of DCR's Facilities Maintenance and Operations (FMO) division. I expressed a concern that this reorganization could potentially divert Pedro and Luiz from focusing on their responsibilities as it relates the physical plant and fire safety at the existing juvenile facilities. Mr. Velez assured me that this would not happen, and went on to say that there is now a "line of credit" for capital improvements which he did not have prior to the reorganization and that the juvenile facilities now have greater access to DCR's maintenance brigades. I requested a meeting with the new FMO supervisors on my next site visit and Mr. Velez agreed to that request. Mr. Velez also assured me that the roof repairs at Humacao would begin in the new fiscal year with DCR inmates, who are trained in roof repairs, performing the necessary repairs.

On a positive note, prior to our walk-throughs at CTS Bayamon, I was informed that the newly formed brigade of inmates from DCR had repaired the perimeter lighting at CTS and CD Bayamon as well as the other AIJ institutions. In addition, the elevator leading to the medical clinic and infirmary had been repaired and was working well after being out of service for many years. Also, the air conditioning in Intake had been repaired. On the negative side, while the sprinkler systems at CTS and CD Bayamon have been certified as repaired, the

fire and smoke alarms have not. The firm contracted to make the latter repairs (ATC) had ceased to exist and there was no immediate plan to hire a replacement firm. In addition, two out of three motors in the water cisterns were not functioning which is a major concern for the well-being and life safety at the juveniles housed in the two Bayamon facilities.

I also inquired if there had been any progress made on the new automated systems for work orders and fire safety reports that I had been shown in February, but was told there was not.

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 Bayamon and at CTS Villalba.

### **CTS Bayamon**

#### 1. Blue Building (population 13 youth – Mental Health)

- The Blue Building repairs have been completed and overall the housing unit was in very good physical condition. There were only 13 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. I discovered a new leak along the edge of the sound insulation in the clerestory area.
- The showers that have received the new special epoxy paint treatment that I had recommended seems to be holding up very well and there was still no mold developing in the showers as has historically happened when inferior epoxy products had been applied.
- There is still shower water that is escaping from the showers on to the mezzanine and I while I recommended last time that AIJ look at a product made by the Imperial Fastener Company (just one example) that provides a shower curtain system with no hooks, pins, or cords but it is attached with Velcro tabs, there was no movement yet on this recommendation. This product and others similar to it are designed for the correctional market.

#### 2. Orange Building (population 35 youth – Level IV)

- While the hot water had been repaired in Module 1 on my last site visit it was **not** working again.
- 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
- In my last report I reported that eleven (11) doors in this unit needed to be repaired as juveniles apparently are shimmying open the doors. In reality only one door lock was broken (door 39) but the reality is doors are being



shimmied open by juveniles extending their hands through the food pass or by juveniles who are working in the unit and not being supervised. In either case, this is primarily a management problem that must be addressed. A steel vertical bar welded to the door that covers access to the locks may be needed to prevent this vandalism in the future. A better solution would be better management by staff on the unit.

### 3. Green Unit (population 0 youth)

- This Unit is closed and there was no apparent work occurring in this building. 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 many months. DCR stated they are waiting funds to make the repairs.
- DCR may want to use this unit to house juveniles now housed in the Orange building as swing space to allow repairs in the Orange building modules on a pod by pod basis. As the doors are manual due to the failed electronics here, DCR demonstrated to me that with two officers on the module all the door locks could be opened manually in 69 seconds. While, I expressed reservations about this, I agreed that the DCR proposal was acceptable on a short-term basis provided there were two officers on the module at all times. In between my last and current site visit, DCR did use the Green Unit on a short term basis and followed the procedures as agreed to.
- The air conditioning did not appear to be working in Module 3 or in the Program Module.

### 4. Yellow Building (population 20 youth – all detention)

- All the showers were in need of treatment with the new product DCR is now using. One of the floor drains in the shower was still broken and the youth could easily hurt themselves. DCR said they were working on fixing this.
- In Module 3, the air conditioning **has been repaired** and was working an on-going problem for many months.
- The air conditioning in the Program Module is still not working in the common areas but is working in the offices.
- A hasp and padlock was placed on one of the classrooms in the Program Module which may compromise fire safety. I requested that the padlock be removed.
- The sprinklers working in Modules 2 and 3.

### 5. Medical Area

- The ceilings in common area of the clinic which had been repaired in 2011 is continuing to leak with water. There was water on the floor from the roof leak which is a danger to the juveniles and staff in the clinic area. The problem stems from the structural configuration of the air conditioning unit

sitting above the space and the leaks from either the A/C unit and/or rain entering through bad flashing.

- 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, and somewhat operational as the air conditioning was apparently only operating at 50%. Furthermore, the plastic sheeting to keep the cooled air from escaping from the screened window openings was installed several months ago but is **still missing** at the very top openings.
- As stated above I was very pleased to see that the elevator in this building **had been repaired**. For the first time in many years, I was able to access the clinic using the elevator, which will allow compliance with ADA regulations.
- The air conditioning in the infirmary was broken as only fans were running. This condition has caused mold to develop again in this area, a long-standing problem that had been rectified but is now re-appearing.
- The infirmary remains empty and as I have said many times before, 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 DCR 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 have been requesting that the agency provide the Monitor's Office with a medical and mental health operations plan. This request has been on-going for more than **two and half years** on how DCR plans to utilize this amazing yet unused resource.

#### 5. Kitchen

- The air conditioning in the dining room was still not working. Parts for repairs were on order according to Luis Ortiz.
- Water leaks continue to exist and the leaks over the cooking hoods in particular pose a major health problem.
- I was very pleased to see that the tray washing machine equipment **was being utilized** for juveniles eating their meals in the dining room. DCR is using Styrofoam compartmentalized disposable trays for the juveniles housed in CD Bayamon.

#### 6. Laundry

- The laundry looked in very good condition and all the washers and dryers continued to be working.
- The storage areas were also cleared of all flammable material for the first time which was a **major improvement** in fire safety in this area.

#### 7. Education

- School was in session and everything appeared to be functioning normally.
- Air conditioning units were not working in the Hair Care Vocational Classroom and still lacking in the Chapel
- A new problem surfaced in that in two of the classrooms the air conditioning was not working

## 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 well in Central Control and the condensation drain issue seems to have been fixed. The door into Central Control was secured as it should be. All the security controls were working.
- The fire and smoke alarms are still not working which are waiting a new contractor (as described above)
- The air conditioning **was repaired** and working well in Intake but the Overhead door into the Intake garage had been damaged and was not working.
- The air conditioning in the security office was not working. DCR was waiting for a new compressor to be delivered from the US.
- There was continuing improvement in removal of vines from the perimeter fences but more clean-up is required. Much of the vegetation inside and in front of the perimeter fences **has been** cleared.
- 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 **have been** repaired ( as stated above)
- While the sliders on the main walkways were functioning, I was told, I was told that a purchase order was being issued to have the motors replaced as they are old and originally from another DCR facility.
- 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 greatly improving its functionality.

## **CTS Villalba**

The physical plant at Villalba appeared to be in generally good condition and all the housing units were in the process of being painted and all were clean from a housekeeping perspective. While roof leaks had never been a serious issue here, as in Humacao, they are starting to surface and could be very problematic if not fixed quickly. Some air conditioning units were broken and non-functioning electronic locks were the other source of concern. In addition, one of the motors in the cistern that serves the fire sprinkler system was not working correctly and could be a life safety concern in the event of a fire. The issues observed are described below for each of the Housing units in the order they were toured.

### Vivienda D1:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings
- The A/C compressor that services cells F131-134 and F218-221 had been out of service for eight days at the time of my site visit

- None of the intercoms that allow a juvenile to call for assistance to the housing unit control either to be allowed out of their rooms at night to facilitate access the toilet facilities or to call for assistance in an emergency were functioning. According the YDO's the intercoms have not worked for two years. This is apparently the case in all if the housing units

Vivienda D2:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings
- The lock on room 109 was broken

Vivienda C1:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings. The mold in this pod seemed worse than in Housing Unit C.

Vivienda C2:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings
- There was no A/C in rooms F139-142 and F 222-225. This may be a similar problem to what I observed in the adjacent housing pod.
- I conducted a spot check on the fire exit door and the housing unit control officer was able to quickly open the door electronically. In addition, the grass area which serves as a place of refuge was well maintained. However, the dirt caked on the exit door edges were an indication that the fire safety coordinators are doing adequate inspections of the fire exits.

Vivienda B1:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings, but there was less mold growing in this pod.
- The air conditioning did not seem to be working well in the dayroom and in particular room C-147 was very warm.
- The electronic locks were not working in rooms E 229-231.
- I tested both fire exit doors in this pod and door 149A could not be opened electronically by the housing unit control officer while the second door, 149B, worked fine.

Vivienda B2:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings, but there was less mold growing in this pod as well.
- The A/C compressor was broken on one side of the pod affecting rooms 157-159 and 233-236.

Vivienda A1:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings, and was particularly bad here.
- While the air conditioning was working in this pod, it was not as warm as in the other housing units

Vivienda A2:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings.
- Room E 218 had water leaking into the room as did rooms E221 and 222. In the latter case, the water leaks were coming from the A/C units on the roof
- I spot checked fire exit door 125B and the housing unit control officer was able to quickly open the door electronically
- I observed that several of the sprinkler heads were missing their protective covers that direct the water from the sprinkler head as well as their escutcheon plates. Pedro was going to verify the validity of this observation, but the fire safety coordinator stated that the protective covers were never there from the outset.

In touring other locations I noted that part of the insulation in the Gym was hanging down loose from the ceiling which could cause injury to both juveniles and staff should it fall. Also, there was water on the floor from the roof leaking over the bleacher area. While the leak was fixed last November, apparently the roof repair has not held. In addition, the air conditioning in the admission, central control and the social work area were not working.

We met with the facility director Kelvin Vega after the tour and I told him what I had observed. He acknowledged the air conditioning problem and said that the firm that has a maintenance contract on the A/C was in the process of making repairs.

**PREA**

In reviewing the recently promulgated PREA regulations, I reviewed the stipulation and consent order provisions that I am responsible for monitoring and the extent to which PREA applies, is dependent on the Commonwealth's adoption of PREA within their codes as paragraph S.A. 31 that states:

“Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes”

For the proposed consolidated juvenile facility, there are several provisions that will apply. Specifically, the following provisions may apply per S.A. 31 and will definitely apply for any new construction:

115.313 (a) requires the agency to develop, implement and document a plan for video monitoring to protect residents against sexual abuse;

115.313 (d) (3) requires the agency to complete an annual assessment and adjustments of the facility's deployment of video monitoring and other monitoring technologies.

115.318 (a) requires that PREA considerations be incorporated into any new facility design or substantial modification/expansion.

### **Plumbing Report**

There has been a rapid deterioration in the number of defective plumbing fixtures from the last quarter of 2011, when there were 21, to the last quarter when there were 50, to the current quarter, when there were 81. There has been nearly a four-fold increase in broken fixtures in nine months. The Bayamon facilities accounted for nearly all of the increases. Below are the figures for this quarter:

- CD Bayamon - 21
- CTS Bayamon - 21 (Blue, Orange and Yellow units)
- Guali - 1
- Guayama - 14
- Humacao - 18
- Villalba – 6
- Creando - 0

The full summary appears on the following page by facility. There are also some general comments regarding observations made during the facility tours.

## QUARTERLY PLUMBING REPORT

July 23-27, 2012

Facility	Modules in use	Toilets			Urinals			Showers			Sinks			Drinking Water	Hot water available (yes/no)	General Comments	Summary of Broken Fixtures
		# toilets	# broken	# available	# urinals	# broken	# available	# showers	# broken	# available	# sinks	# broken	# available				
CTS Guayama	7 of 9	14	2	12	8	1	7	21	7	14	21	4	17	ok	yes	Two modules used for administrative purposes. Most of the broken showers need shower heads.	14
CTS Humacao	8 of 8	32	4	28	32	5	27	32	2	30	32	7	25	1 module water service not constant	partial	Roof leaks, 1 sprinkle system off (IV-A) 1 emergency door only works manually, 21 rooms have no air conditioning system.	18
CTS Villalba	8 of 8	32	4	28	32	0	32	32	0	32	32	2	32	ok	yes	Two air conditioning units not working living units. Some doors only work electronically. Roof leaks.	6
CD Bayamon	6 of 8	24	2	22	24	13	11	24	3	21	24	3	21	ok	no hot water in two modules	Roof leaks and rooms without air conditioning system were found. Some doors only work manually.	21
CTS Bayamon	8 of 11	133	3	129	0	0	0	15	15	15	135	3	132	ok	yes	Living Unit Green closed, improvements in medical area, 1 emerg. door not work.	21
Guali	1	4	1	3	0	0	0	4	0	4	4	0	4	ok	yes	none	1
CREANDO	4	12	0	12	0	0	0	12	0	12	18	0	18	ok	yes	none	0
<b>Totals</b>	<b>42 of 49</b>	<b>251</b>	<b>16</b>	<b>234</b>	<b>96</b>	<b>19</b>	<b>77</b>	<b>140</b>	<b>27</b>	<b>128</b>	<b>266</b>	<b>19</b>	<b>249</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>81</b>

## Document Attachment B: Consultant Robert Dugan Report on Classification

### DRC Classification Quarterly Report: April 1, 2012 – June 30, 2012

Prepared by Bob Dugan: Office of the Monitor: July 15, 2012

#### Prison Rape Elimination Act:

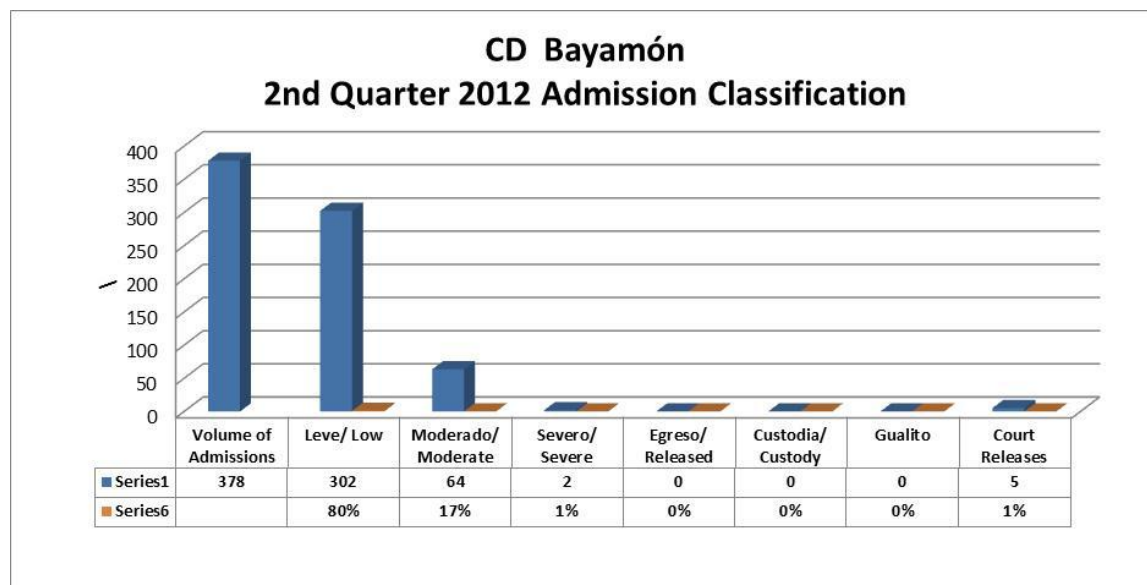
**S.A. 52.** states the following: At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.

#### **This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.241.**

Specifically classification and screening must assess for risk of sexual victimization and abusiveness using an objective screening instrument. The standards require that youths be screened for risk of being sexually abused or sexually abusive and that screening information be used to inform housing, bed, work, education, and program assignments.

#### Second Quarter April 1, 2012 – June 30, 2012 CD Bayamón Admission Classification:

The Second Quarter of 2012 is the first time that DRC has produced CD Bayamón Admission Classification data to be included in the Quarterly Report.



There were 378 admissions for the second quarter, of which 80% were classified as low; 17% were classified as moderate; and 1% were classified as severe.

DRC is having a classification validation study conducted on committed and detention youth. The results of the validation study have not been produced at this time.



## Document Attachment C: Consultant Robert Dugan Report on Staffing Compliance

### **DRC Staffing Quarterly Report: April 1, 2012 – June 30, 2012**

Prepared by Bob Dugan: Office of the Monitor: July 15, 2012

### **Prison Rape Elimination Act:**

**S.A. 48.** States the following:

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.

48.a Method One: Defendants may provide documentation of consistent supervision by not less than one (1) direct care worker to eight (8) juveniles during day and evening shifts and not less than one (1) direct care worker to sixteen (16) juveniles during normal sleeping hours.

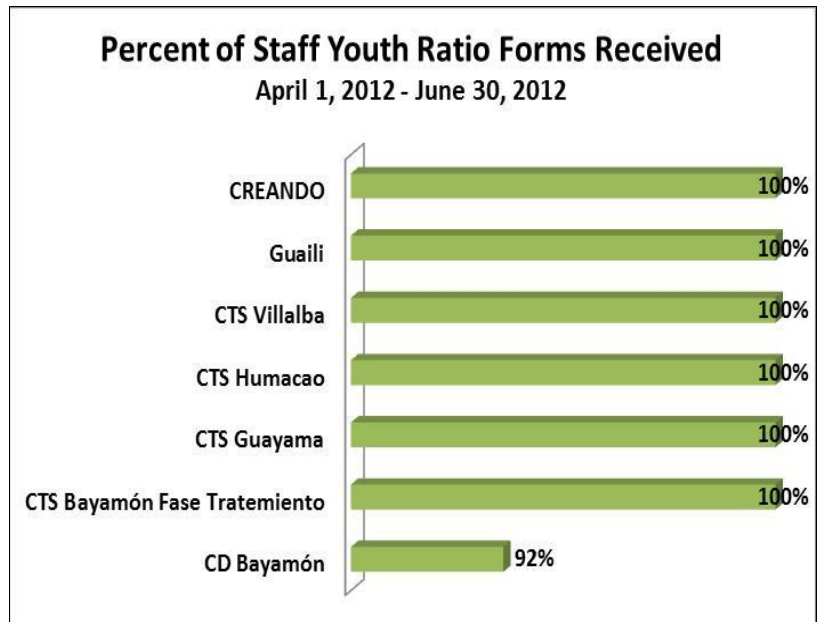
48.b Method Two: Defendants may develop, and submit to the Court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignments necessary to implement the terms of this agreement, taking into consideration the physical configuration and function of spaces, the classifications and risk profiles of youths involved, the incident patterns in the settings involved the routine availability in the settings of other categories of staff, and the overall numbers of direct care positions necessary to consistently achieve the coverage proposed. Once a plan is approved for a facility, Defendants shall document the employment of the necessary overall numbers of direct care staff, and the ongoing deployment of such staff in accordance with the plan.

**This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.313,c:** Each secure juvenile facility shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented.

### **Background:**

The following report provides information on Staff Youth Ratio forms that were provided to the consultant for the period of April 1, 2012 thru June 30, 2012. As of the Sunday, July 15, 2012 the following forms have been submitted.

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
<a href="#">CD Bayamón</a>	13	12
<a href="#">CTS Bayamón Fase Tratamiento</a>	13	13
<a href="#">CTS Guayama</a>	13	13
<a href="#">CTS Humacao</a>	13	13
<a href="#">CTS Villalba</a>	13	13
<a href="#">Guaili</a>	13	13
<b>CREANDO</b>	8	8
<b>Totals</b>	<b>86</b>	<b>85</b>



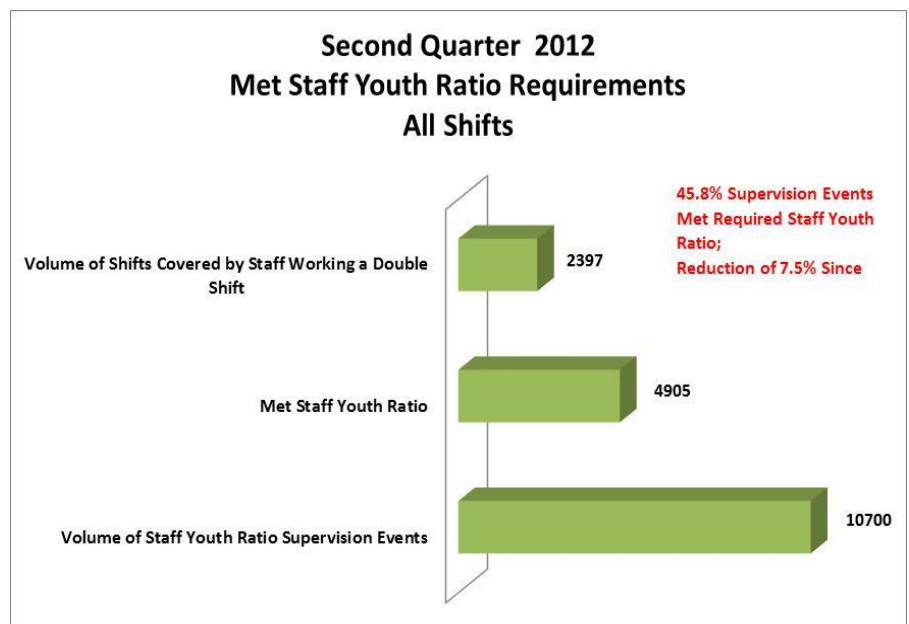
DRC submitted a total of 85 facility staff youth ratio forms for the seven operational facilities requiring staff youth ratios, allowing for 99% of the staff youth ratio forms being available for analysis. CD Bayamón did not provide the Staff Youth Ratio Form for the week of May 27. With this exception, DRC has consistently been providing all requested Staff Youth Ratio forms used for monitoring and reporting. CREANDO was operational for eight of the thirteen weeks of the second quarter reporting period.

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

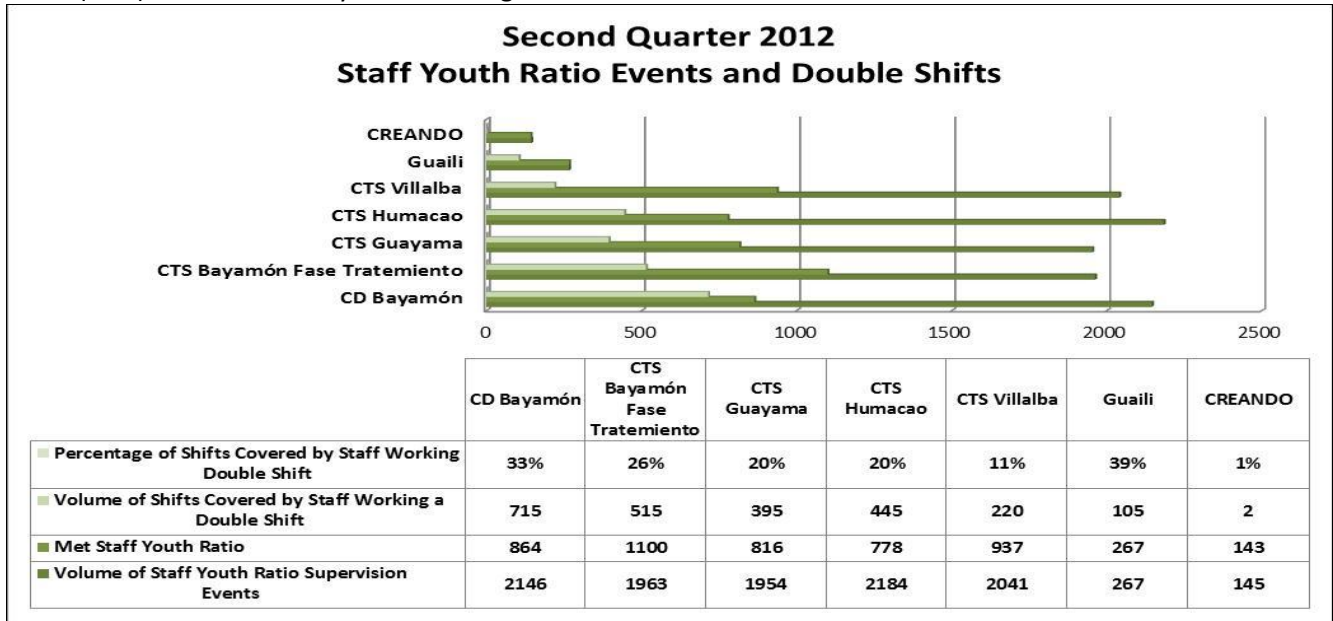
**DRC Staff Youth Ratio Averages:**

During the Second Quarter 2012 reporting period (April 1, 2012 thru June 30, 2012), DRC documented a total of 10700 shift / unit events that required staff to youth supervision. This is an decrease of 96 staff youth supervision events since the First Quarter of 2012 (10796 events).

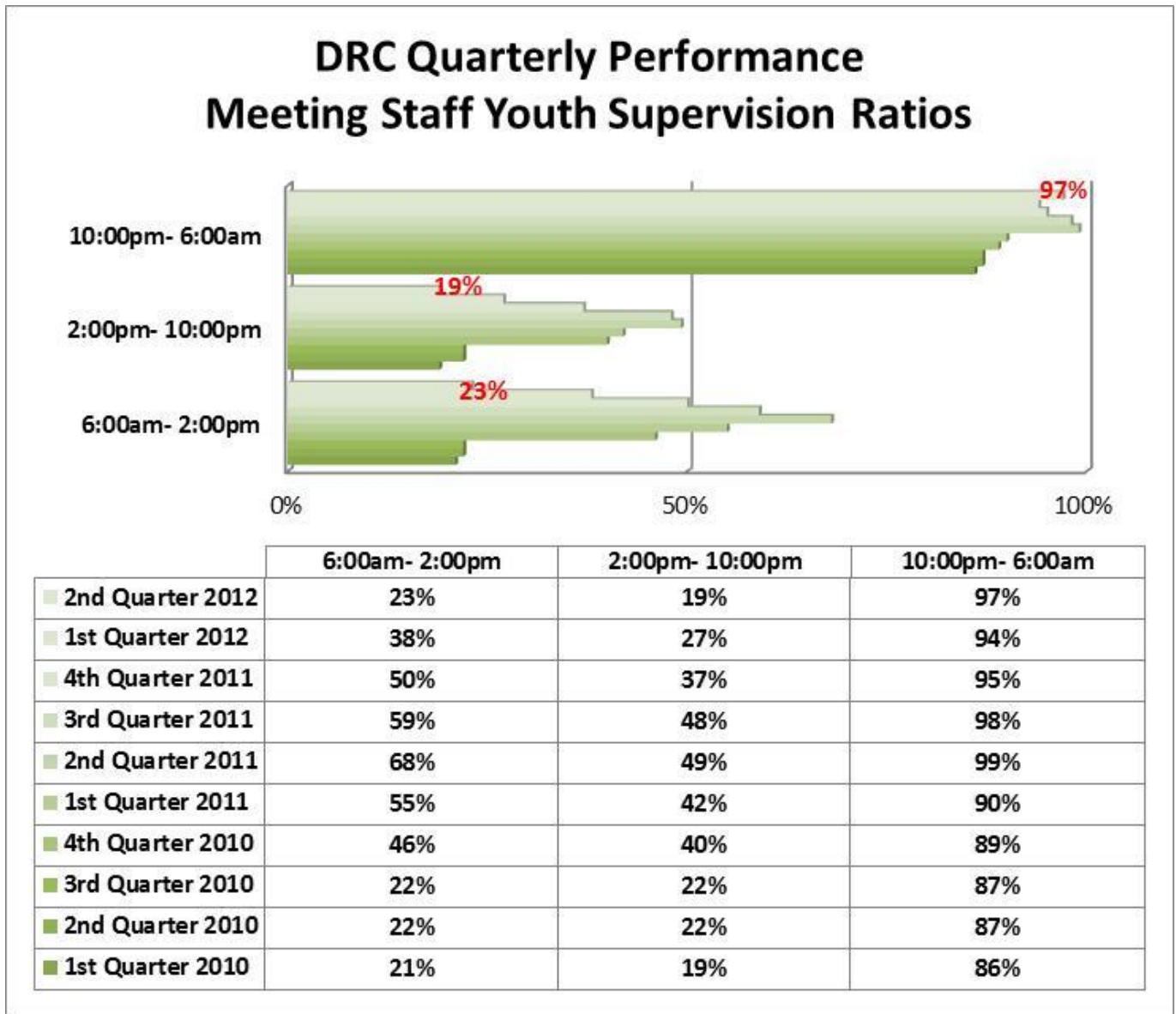
Of the 10700 shift / unit events, 4905 of the events (45.8%) were supervised with the required staff youth ratios, a 7.5 % reduction since the Fourth Quarter of 2011, which was preceded by a 7.4% reduction for the First Quarter of 2012 reporting period.



The Second Quarter Report provides additional data on the volume of staff that are working double shifts in order to meet the reported staff youth ratios. For the Second Quarter 2012, 2397 of the 10700 staff youth ratio events (22%) were covered by staff working a double shift.



The following chart represents the DRC agency Staff Youth Ratio averages by shift for the last ten quarters through June 30, 2012:



The Second Quarter of 2012 has resulted in continuing reductions in meeting Staff Youth Ratios during waking hours:

- 6:00 am- 2:00 pm shift: 23% of events, 15% reduction
- 2:00 pm- 10:00 pm shift: 19% of events, 8% reduction
- 10:00 pm- 2:00 am shift: 97% of events, 3% increase

**DRC Agency 1:1 Supervision Events:**

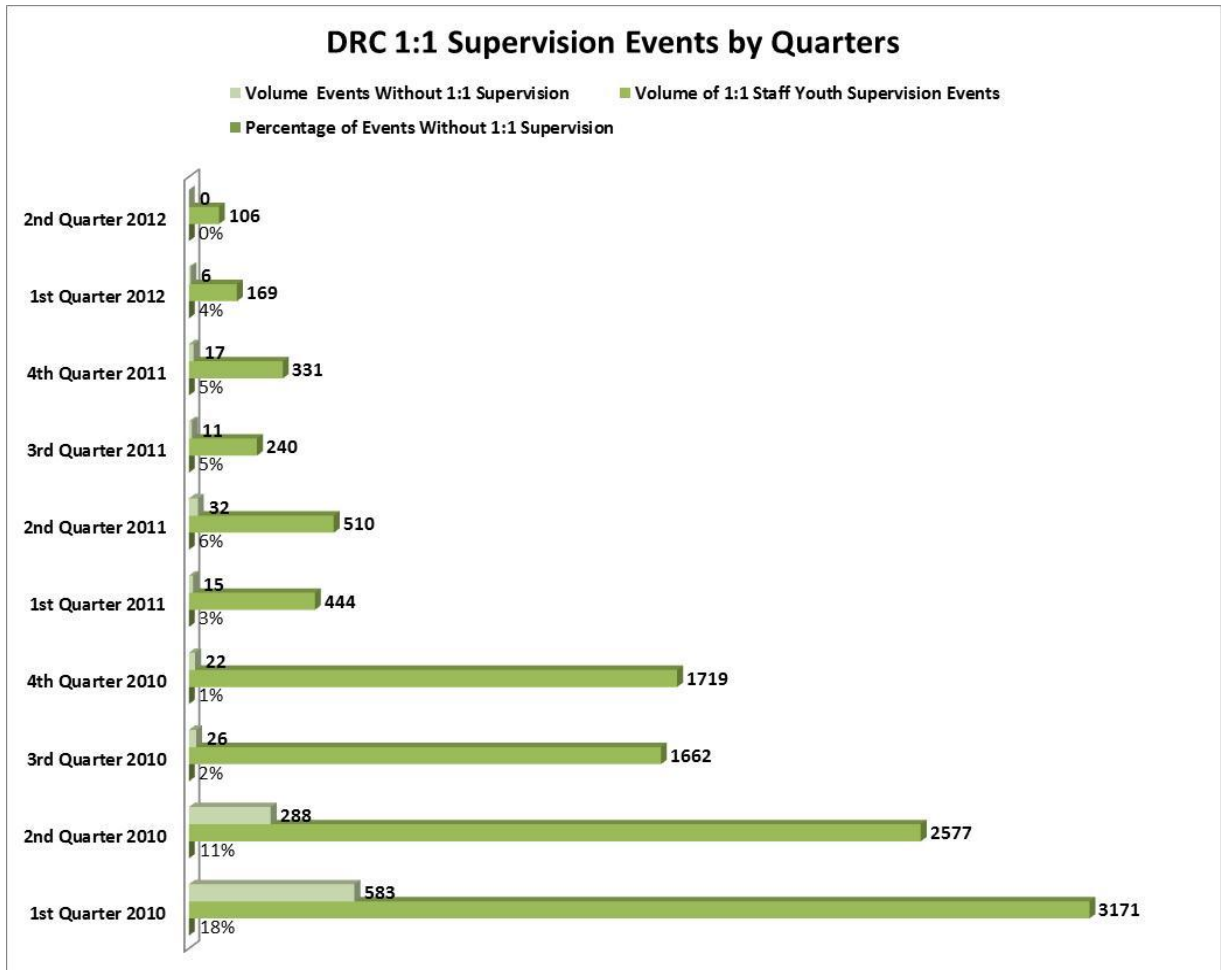
From the First Quarter of 2010 through the Third Quarter of 2011, there had been a remarkable reduction in the volume of youth designated for 1:1 supervision.

The Second Quarter of 2012 reporting period is the lowest volume of 1:1 supervision events reported:

- 3171 events 1<sup>st</sup> Quarter 2010
- 2577 events 2nd Quarter 2010
- 1662 events 3<sup>rd</sup> Quarter 2010
- 1719 events 4<sup>th</sup> Quarter 2010
- 444 events 1st Quarter 2011
- 510 events 2nd Quarter 2011
- 240 events 3rd Quarter 2011
- 331 events 4<sup>th</sup> Quarter 2011
- 169 events 1st Quarter 2012
- 106 events 2nd Quarter 2012

Correspondingly, the Second Quarter of 2012 has the fewest volume of these events without required supervision: 0 events:

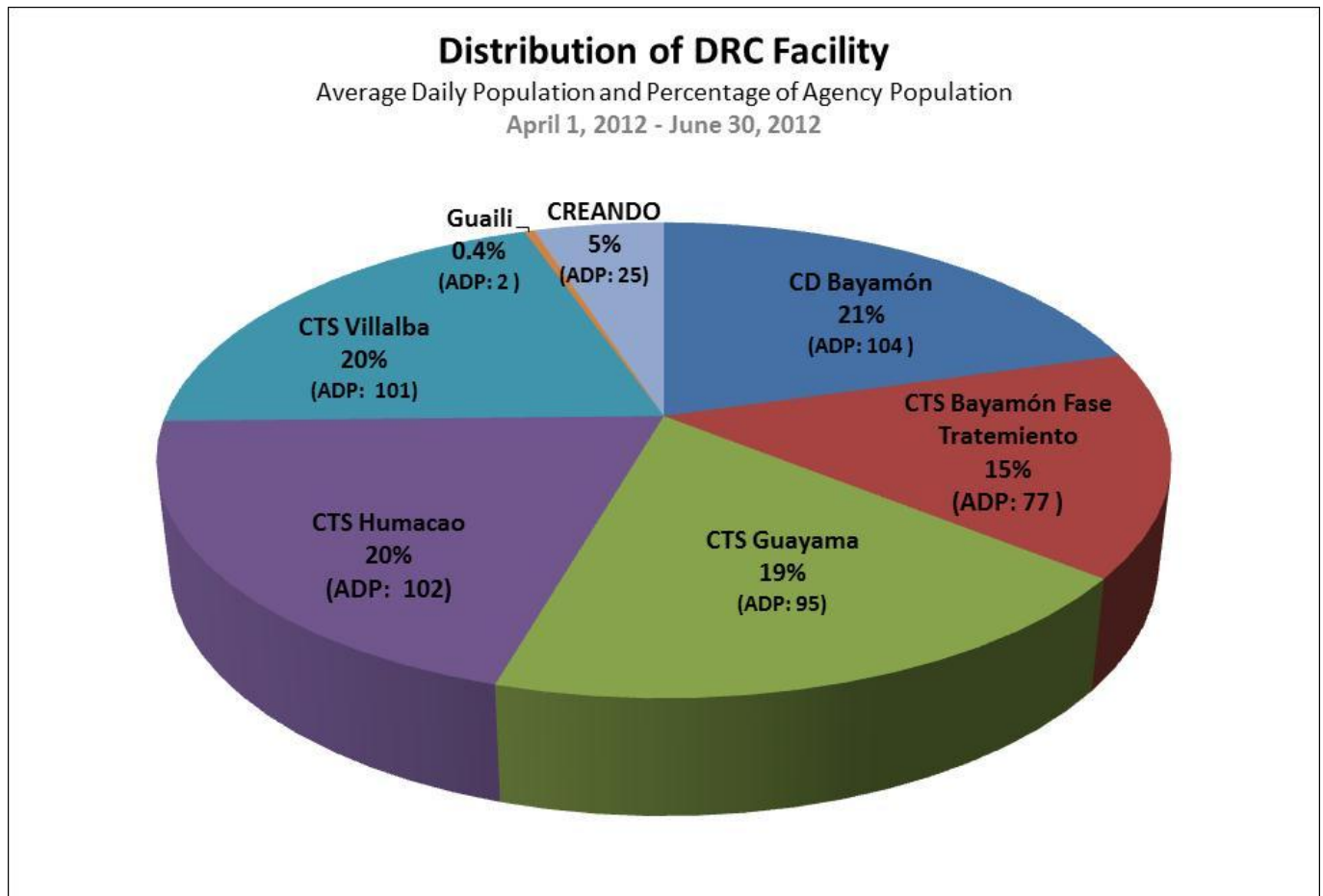
- 583 events 1<sup>st</sup> Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3<sup>rd</sup> Quarter 2010
- 22 events 4<sup>th</sup> Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4<sup>th</sup> Quarter 2011
- 6 events 1st Quarter 2012
- 0 events 2nd Quarter 2012



**DRC Average Daily Population:**

Analysis of Staff Youth Ratio forms displays staffing information compared to facility average daily population (ADP). Facility average daily population was computed from the weekly Staff Youth Ratio forms by averaging the 6:00-2:00 shift facility population on the first Monday of each of the thirteen reporting weeks.

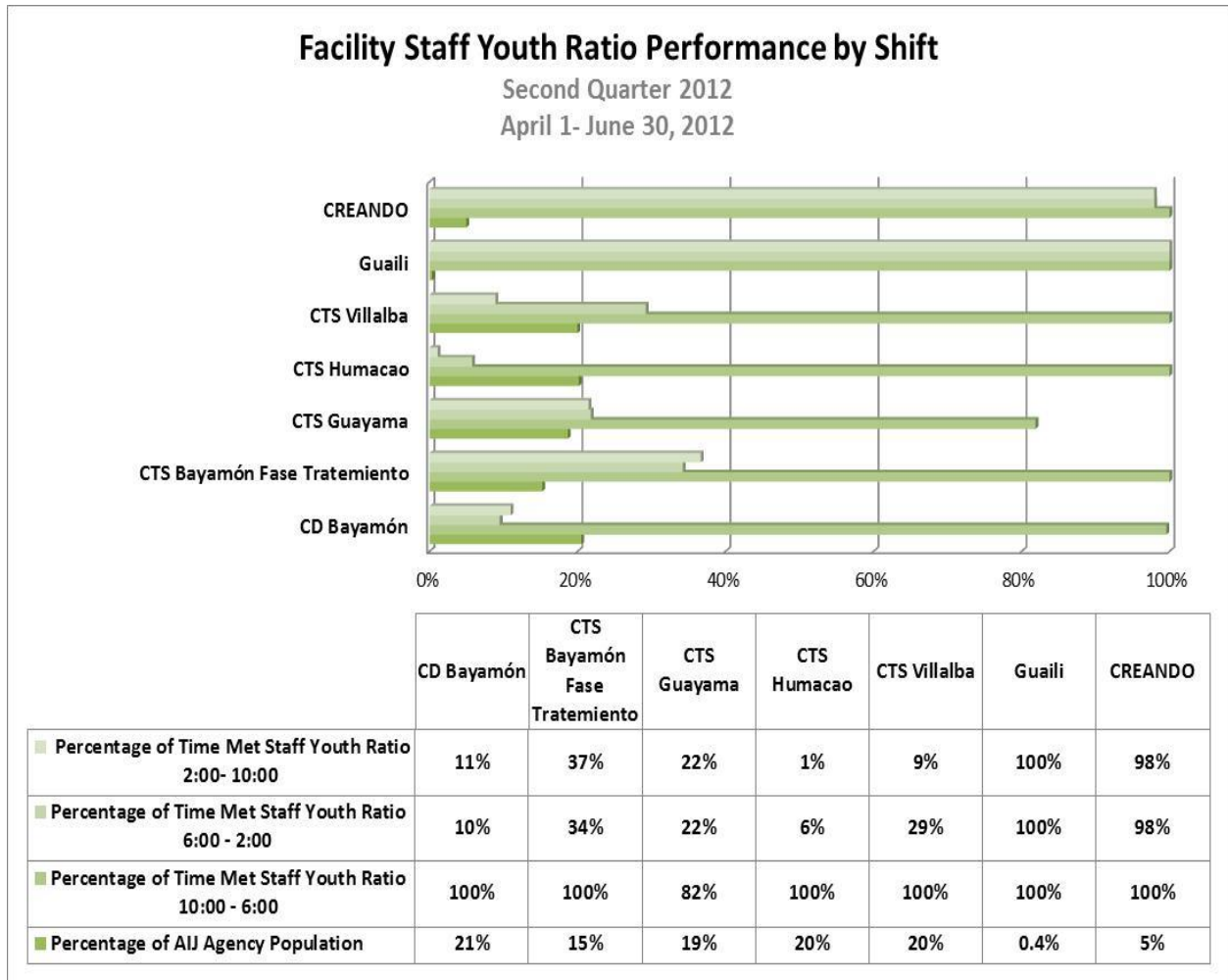
The table below displays each facilities average daily population for the reporting cycle (April 1, 2012 thru June 30, 2012) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



**Facility Staff Youth Ratio Performance by Shift:**

The staff youth ratio analysis below represents the staffing information received for the period from April 1, 2012 thru June 30, 2012 (13 weeks). The dark green bar for each facility represents the proportionate average daily population that facility contributes to the DRC average daily population. The table of average daily population can be found on page 15 of this report.

During the Second Quarter reporting period (April 1, 2012 thru June 30, 2012), CD Bayamon, CTS Humacao and CTS Villalba have the largest volume of staffing deficiencies, representing 61% of the DRC youth population.



### CD Bayamón Staff Youth Ratio Analysis:

April 1, 2012 thru June 30, 2012

**Level 5 Facility:** DRC has CD Bayamón as a detention center, classified as a Level 5 facility.

At this time all of the detention youth population is 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:** 92%

**Volume of Weeks Analyzed:** 12 of 13 requested

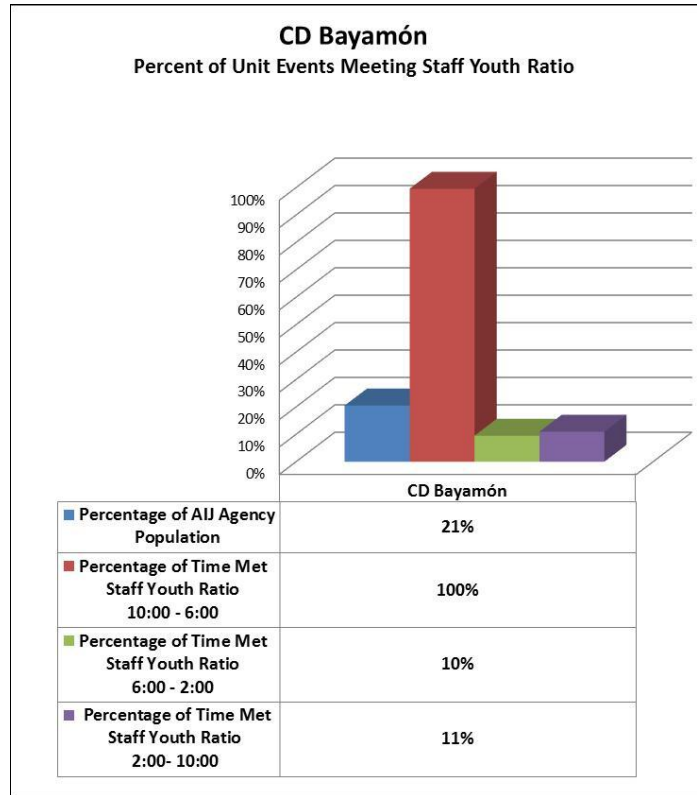
- **Volume of Staff Youth Ratio Events:** 2146
- **Volume of Staffing Events with Staff Working a Double Shift:** 715 (33%)

For the Second Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:

- **10:00pm - 6:00am:** maintained 100% required staff youth ratio
- **6:00 am – 2:00 pm:** an 2% reduction since 2012 First Quarter reporting
- **2:00 pm – 10:00 pm:** a 1% reduction since 2012 First Quarter reporting

**Volume of Weeks Analyzed: 12**

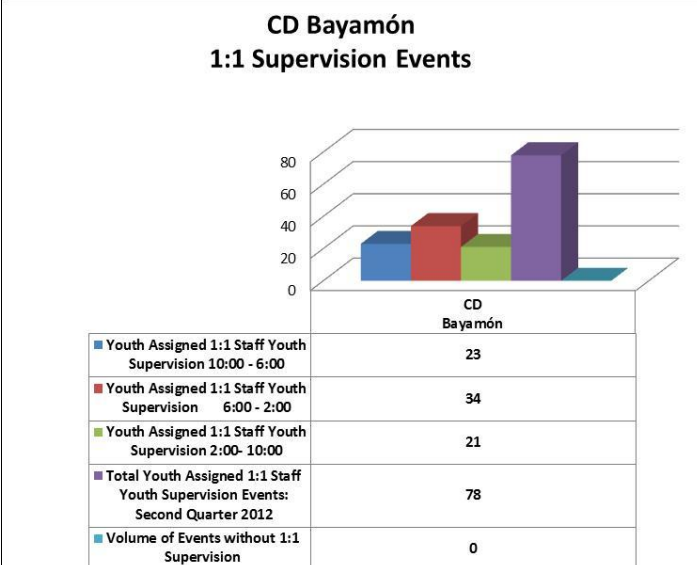
**Volume of Days Analyzed: 84**



**\*\*CD Bayamón contributed 78 of the 106 (74%) DRC 1:1 supervision events for the Second Quarter reporting period.**

Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.29**

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





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

April 1, 2012 thru June 30, 2012

**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

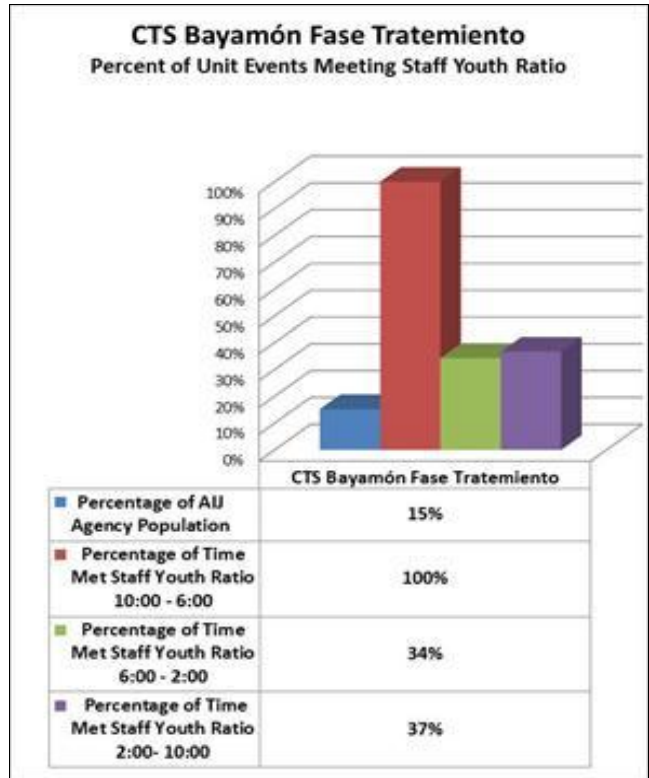
- **Volume of Staff Youth Ratio Events:** 1963
- **Volume of Staffing Events with Staff Working a Double Shift:** 515 (26%)

For the Second Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: a 8% reduction since the 2012 First Quarter reporting
- 2:00 pm – 10:00 pm: a 10% reduction since the 2012 First Quarter reporting

**Volume of Weeks Analyzed: 13**

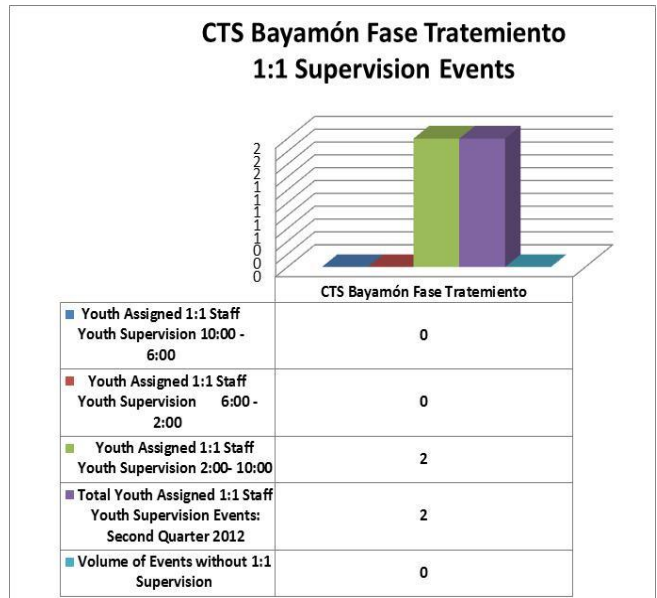
**Volume of Days Analyzed: 91**



Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.01**

**2 youth supervision events for the Second Quarter of 2012**

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



### CTS Guayama Staff Youth Ratio Analysis:

April 1, 2012 thru June 30, 2012

**Both a Level 2 and 3 Facility:**  
**Guayama staff youth ratio is being analyzed as follows:**

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

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

- **Volume of Staff Youth Ratio Events: 1945**
- **Volume of Staffing Events with Staff Working a Double Shift: 395 (20%)**

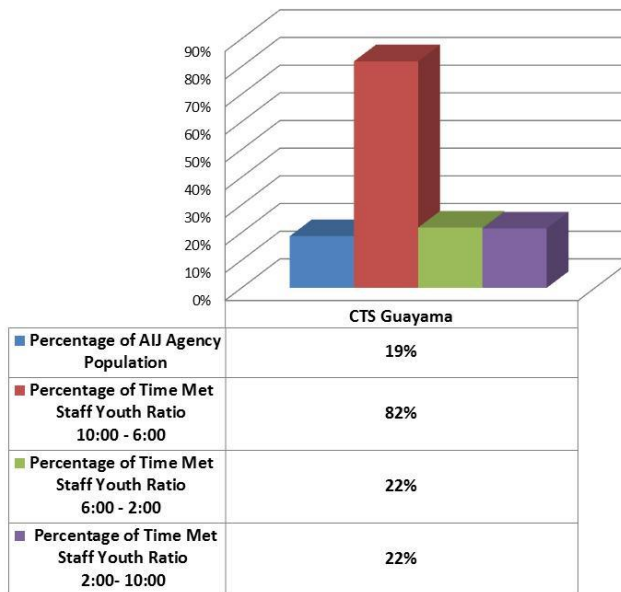
**For the Second Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:**

- **10:00pm- 6:00am: a 15% increase since 2012 First Quarter reporting**
- **6:00 am – 2:00 pm: a 48% reduction since 2012 First Quarter reporting**
- **2:00 pm – 10:00 pm: a 43% reduction since 2012 First Quarter reporting**

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 91**

**CTS Guayama**  
 Percent of Unit Events Meeting Staff Youth Ratio

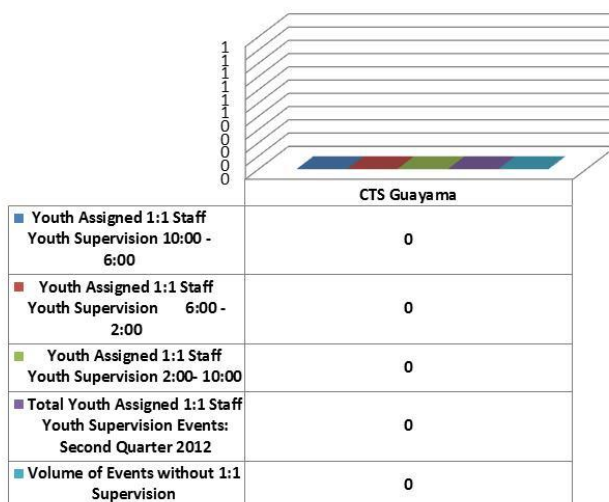


**CTS Guayama reported no youth on 1:1 supervision for the Second Quarter.**

Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.0**

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

**CTS Guayama**  
 1:1 Supervision Events



### CTS Humacao Staff Youth Ratio Analysis:

April 1, 2012 thru June 30, 2012

**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

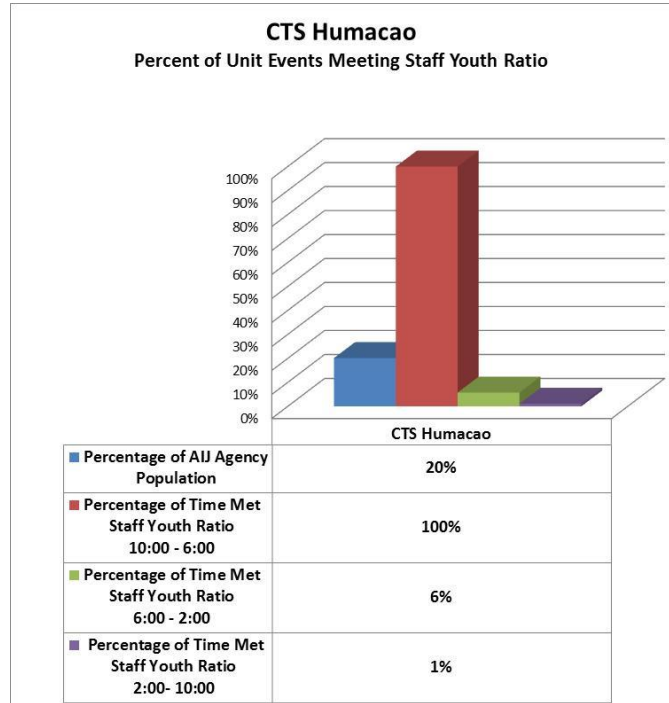
- **Volume of Staff Youth Ratio Events: 2184**
- **Volume of Staffing Events with Staff Working a Double Shift: 445 (20%)**

**For the Second Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:**

- **10:00pm- 6:00am: maintained at 100%**
- **6:00 am – 2:00 pm: a 5% reduction since 2012 First Quarter reporting**
- **2:00 pm – 10:00 pm: a 8% reduction since 2012 First Quarter reporting**

**Volume of Weeks Analyzed: 13**

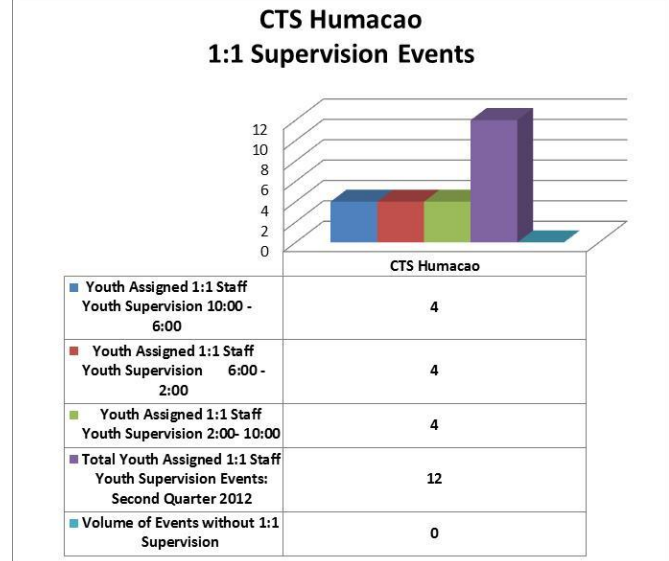
**Volume of Days Analyzed: 91**



Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.04**

**12 youth supervision events for the Second Quarter of 2012**

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



### CTS Villalba Staff Youth Ratio Analysis:

April 1, 2012 thru June 30, 2012

**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

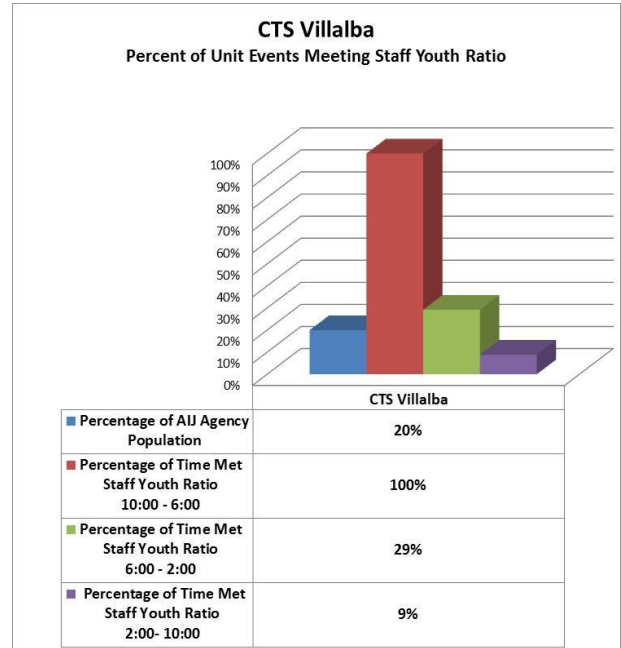
- **Volume of Staff Youth Ratio Events:** 2041
- **Volume of Staffing Events with Staff Working a Double Shift:** 220 (11%)

**For the Second Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:**

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: a 38% reduction since 2012 First Quarter reporting
- 2:00 pm – 10:00 pm: an 3% reduction since 2012 First Quarter reporting

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 91**

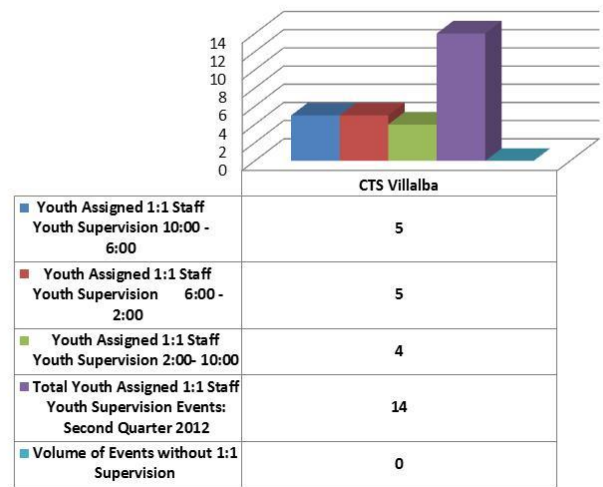


Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.05**

**14 youth supervision events for the Second Quarter of 2012**

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

### CTS Villalba 1:1 Supervision Events



### Guaili Staff Youth Ratio Analysis:

April 1, 2012 thru June 30, 2012

**Level 2 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

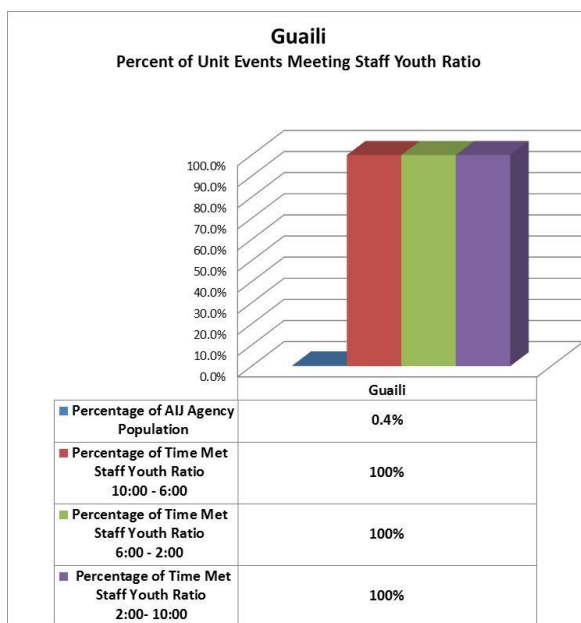
- Volume of Staff Youth Ratio Events: 267
- Volume of Staffing Events with Staff Working a Double Shift: 105 (39%)

Guaili has maintained Staff Youth Ratio expectations for all ten quarters of 2010, 2011 and 2012 reporting periods.

Guaili represents 0.4% of the DRC institutional population.

**Volume of Weeks Analyzed: 13**

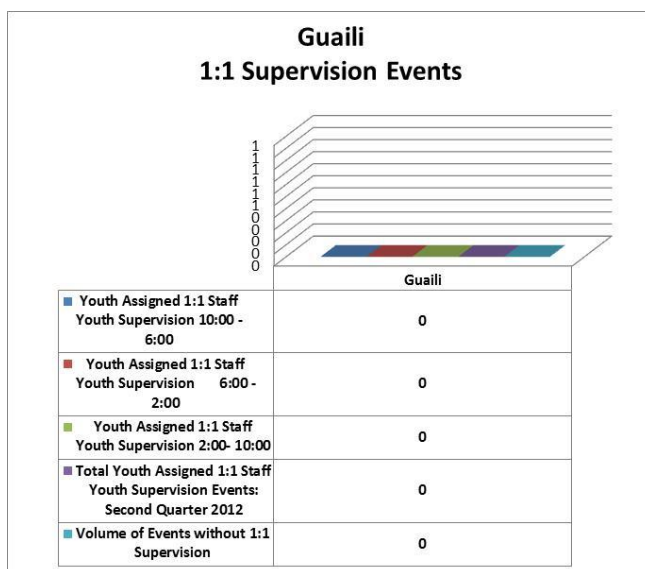
**Volume of Days Analyzed: 91**



Guaili reported no youth on 1:1 supervision for the Second Quarter.

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:

April 1, 2012 thru June 30, 2012

**Level 2 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:** 8 of 8 requested

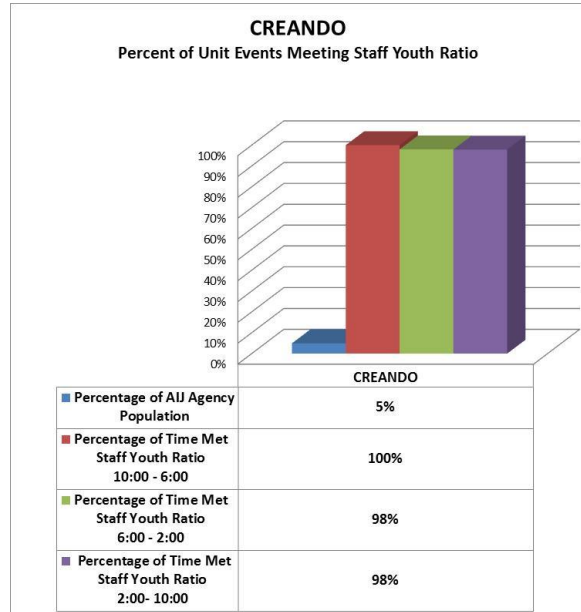
- **Volume of Staff Youth Ratio Events:** 145
- **Volume of Staffing Events with Staff Working a Double Shift:** 2 (1%)

For the Second Quarter reporting period, CREANDO was in operation for 48 days of the reporting period, with a new session starting on June 9, 2012.

CREANDO represents 5% of the DRC institutional population.

**Volume of Weeks Analyzed: 8**

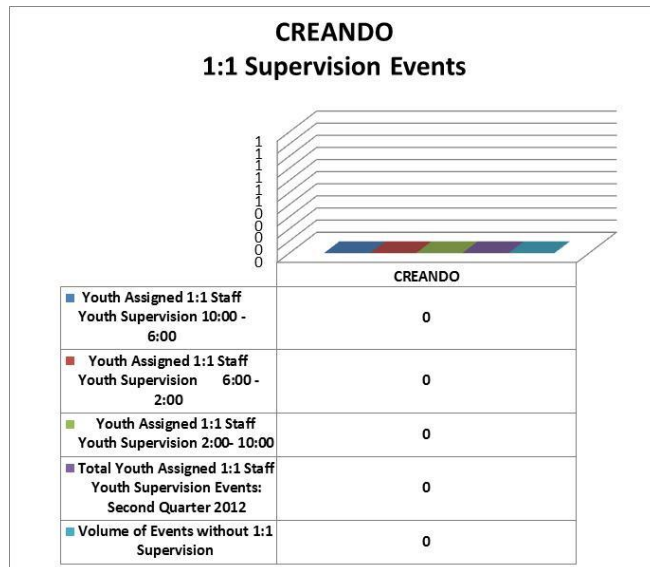
**Volume of Days Analyzed: 48**



CREANDO reported no youth on 1:1 supervision for the Second Quarter.

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:**

Second Quarter 2012 Staff Youth Ratio Forms	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	92%	21%	100%	10%	11%	104
CTS Bayamón Fase Tratamiento	100%	15%	100%	34%	37%	77
CTS Guayama	100%	19%	82%	22%	22%	95
CTS Humacao	100%	20%	100%	6%	1%	102
CTS Villalba	100%	20%	100%	29%	9%	101
Guaili	100%	0.4%	100%	100%	100%	2
CREANDO	100%	5%	100%	98%	98%	25

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

Second Quarter 2012 Youth Assigned 1:1 Supervision	Percent of Staff Youth Ratio Forms Received	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: Second Quarter 2012	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	92%	21%	23	34	21	78	0	84
CTS Bayamón Fase Tratamiento	100%	15%	0	0	2	2	0	91
CTS Guayama	100%	19%	0	0	0	0	0	91
CTS Humacao	100%	20%	4	4	4	12	0	91
CTS Villalba	100%	20%	5	5	4	14	0	91
Guaili	100%	0.4%	0	0	0	0	0	91
CREANDO	100%	5%	0	0	0	0	0	49
<b>Totals</b>	<b>99%</b>	<b>100%</b>	<b>32</b>	<b>43</b>	<b>31</b>	<b>106</b>	<b>0</b>	<b>588</b>

**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>	<u>Ponce Ninas</u>
April 1 - 7, 2012	<u>5/7/2012</u>	<u>5/9/2012</u>	<u>5/8/2012</u>	<u>5/8/2012</u>	<u>6/13/2012</u>	<u>5/8/2012</u>	<u>5/8/2012</u>	<u>5/24/2012</u>
April 8 - 14, 2012	<u>5/9/2012</u>	<u>5/9/2012</u>	<u>5/8/2012</u>	<u>5/14/2012</u>	<u>6/13/2012</u>	<u>5/8/2012</u>	<u>6/13/2012</u>	<u>5/24/2012</u>
April 15 - 21, 2012	<u>5/9/2012</u>	<u>6/13/2012</u>	<u>5/8/2012</u>	<u>5/8/2012</u>	<u>6/13/2012</u>	<u>5/8/2012</u>	<u>5/8/2012</u>	<u>5/24/2012</u>
April 22 - April 28, 2012	<u>5/9/2012</u>	<u>6/13/2012</u>	<u>5/15/2012</u>	<u>5/8/2012</u>	<u>6/13/2012</u>	<u>5/8/2012</u>	<u>5/8/2012</u>	<u>5/24/2012</u>
April 29 - May 5, 2012	<u>5/15/2012</u>	<u>6/13/2012</u>	<u>5/15/2012</u>	<u>6/13/2012</u>	<u>5/14/2012</u>	<u>5/15/2012</u>	NA	<u>5/24/2012</u>
May 6 - May 12, 2012	<u>5/24/2012</u>	<u>6/13/2012</u>	<u>5/24/2012</u>	<u>5/24/2012</u>	<u>5/24/2012</u>	<u>5/24/2012</u>	NA	<u>5/24/2012</u>
May 13 -May 19, 2012	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	NA	<u>6/29/2012</u>
May 20 -May 26, 2012	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/29/2012</u>	<u>6/13/2012</u>	NA	<u>6/29/2012</u>
May 27 -June 2, 2012		<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/13/2012</u>	<u>6/29/2012</u>	<u>6/13/2012</u>	NA	<u>6/29/2012</u>
June 3 -June 9, 2012	<u>6/29/2012</u>	<u>6/29/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>	<u>6/29/2012</u>	<u>7/11/2012</u>	<u>6/29/2012</u>	<u>6/29/2012</u>
June 10 -June 16, 2012	<u>6/29/2012</u>	<u>7/5/2012</u>	<u>7/11/2012</u>	<u>6/29/2012</u>	<u>6/29/2012</u>	<u>7/11/2012</u>	<u>6/29/2012</u>	<u>6/29/2012</u>
June 17 -June 23, 2012	<u>6/29/2012</u>	<u>6/29/2012</u>	<u>7/11/2012</u>	<u>6/29/2012</u>	<u>6/29/2012</u>	<u>7/11/2012</u>	<u>6/29/2012</u>	<u>7/11/2012</u>
June 24 -June 30, 2012	<u>7/13/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>	<u>7/11/2012</u>
	12	13	13	13	13	13	8	13
<b>Volume of Forms Submitted</b>	<b>92.31%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

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



<b>Dates of Reporting Period</b>	<b><u>CD</u> <u>Bayamon</u></b>	<b><u>CTS</u> <u>Bayamón</u> <u>Fase</u> <u>Tratamiento</u></b>	<b><u>CTS</u> <u>Guayama</u></b>	<b><u>CTS</u> <u>Humacao</u></b>	<b><u>CTS</u> <u>Villalba</u></b>	<b><u>Guaili</u></b>	<b><u>Program</u> <u>CREANDO</u></b>
April 1 - 7, 2012	109	78	101	99	101	2	<u>24</u>
April 8 - 14, 2012	113	93	100	102	103	2	<u>24</u>
April 15 - 21, 2012	111	69	89	111	103	2	<u>23</u>
April 22 - April 28, 2012	83	80	98	107	103	2	<u>NA</u>
April 29 - May 5, 2012	88	75	106	105	101	2	<u>NA</u>
May 6 - May 12, 2012	93	68	99	106	103	2	<u>NA</u>
May 13 -May 19, 2012	101	65	96	107	102	2	<u>NA</u>
May 20 -May 26, 2012	117	80	100	104	103	2	<u>NA</u>
May 27 -June 2, 2012		84	96	106	102	2	<u>NA</u>
June 3 -June 9, 2012	108	82	98	104	105	1	27
June 10 -June 16, 2012	106	78	83	100	96	1	27
June 17 -June 23, 2012	91	76	81	94	105	1	26
June 24 -June 30, 2012	113	75	83	94	103	2	26
<b>Totals</b>	<b>104</b>	<b>77</b>	<b>95</b>	<b>102</b>	<b>101</b>	<b>2</b>	<b>25</b>
<b>Percentage of AIJ Agency Population</b>	<b>21%</b>	<b>15%</b>	<b>19%</b>	<b>20%</b>	<b>20%</b>	<b>0.4%</b>	<b>5%</b>

## Document Attachment D: Report on Operations Provisions

### **United States of America v. Commonwealth of Puerto Rico** 2012-2<sup>nd</sup> Quarter Report

***Prepared by Monitor's Consultant David M. Bogard***

**July 9, 2012**

I made two site visits to monitor DCR<sup>1</sup> facilities this quarter. The first visits occurred May 15-17. During this period I visited Ponce Ninas, CTS Villalba, CTS Humacao and CD Bayamon. In addition, on May 16, I facilitated a meeting with numerous DCR staff, Monitor's Consultant Bob Dugan and Commonwealth's counsel to discuss issued concerning incident reports, discipline, and use of force data.

During the dates of June 18-21 I visited four DCR facilities-CTS Villalba, CTS Humacao, CTS Guayama and CD Bayamon. In addition, on June 19, I met with representatives of DCR, including Aida Burgos, Miguel Segura, and Nelson Echevarria (from CTS Humacao) as well as Monitor's Consultant Bob Dugan at the Monitor's office. This meeting was largely a follow-up session to the May discussions concerning new logging, data reporting and documentation requirements for use of force and restraints.

I note that some data reported in my First Quarter 2012 Report concerning use of force was subsequently determined by me to be unreliable. I discovered this during the course of the quality assurance efforts conducted by myself and Bob Dugan in May and June. This data was drawn from a new reporting process that was put into place in conjunction with the institutions' reporting of staffing data and should have been viewed as a work in progress rather than a definitive reporting of incidents. While certain trends can be gleaned from this data, such as OC as a type of force most often deployed at Humacao yet rarely or never used at other institutions, specific reporting is not yet reliable and, as such, I will not be reporting the same type of data this quarter. It is my hope that the quality assurance activities to date (discussed below), combined with improved reporting systems and definitions that are in progress, will yield more reliable data from which to evaluate use of force and compliance under P77.

An important topic discussed briefly at the June 16 meeting was the Prison Rape Elimination Act, (PREA). DCR must begin to prepare for implementation of PREA, which became effective on May 12, 2012. This process will require changes to staffing, policies, training, investigations, hiring practices and possibly physical plant modifications.

The following is a summary of key recommendations resulting from these site visits and the May 16 and June 19 meetings.

1. As a follow-up to the May 16 meeting and prior to this discussion, David Bogard and Bob Dugan submitted to DCR drafts of a new Use of Force Log and a new Infirmiry Restraints Log. DCR staff made many excellent revisions to the forms, which were

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<sup>1</sup> As per direction of the Court Monitor, facilities previously referred to as "AIJ" are now to be referred to as "DCR."

discussed at this meeting. Additional changes were made and agreed to, with the following steps to follow:

- a. DCR will pilot test the new instruments at Humacao beginning in July
  - b. David and Bob will return to Puerto Rico in August to review with DCR staff the experience with the forms and any changes that are necessary based on the pilot.
  - c. The final versions of the forms will be completed in late-August, training will be provided to all institutions, and the new forms will be officially implemented systemwide by October 1.
  - d. The forms will be maintained in Excel and will be submitted along with each facility's staffing workbook that is submitted to Aida Burgos and transmitted to Bob Dugan.
2. David Bogard and Bob Dugan have been undertaking a quality assurance process to determine the reliability and validity of the use of force data being reported with the staffing workbooks. We have been identifying numerous discrepancies as we check reported data against source documents, including the incident reports, use of force logs, and infirmary mechanical restraint logs. Some of these issues arise as a result of confusion as to how to properly complete incident reports, while there are other cases of use of force incidents that were reflected in use of Force Logs not being included in the data reports, and other instances where the infirmary logs showed that restraints were used but the use of force log did not reflect the use of restraints or even the use of force. There also appears to be questions about reporting at Villalba. Recommendations are as follows:
- a. Staff assigned to report use of force data to the monitor's Consultants via Aida Burgos should perform internal quality assurance checks to ensure that use of Force Logs and Infirmary Restraint Logs are consistent and that incident reports and use of force logs are consistent;
  - b. The information reported in the Use of Force workbook should accurately reflect the information documented in Incident Reports, Use of Force Logs and the Infirmary Restraint Log;
  - c. Special assistance should be provided to Villalba management staff to insure that use of force is accurately and consistently reported on Incident Reports.
3. Modifications to the Incident Report format are required to incorporate improvements and better respond to how the form is used in practice. Until such time as the form can be officially modified, I recommend the following instructions be conveyed by the Training Section to staff at the institutions:
- a. When providing a positive response to any of the issues in sections 2,8,9,12,13,14,16, only a check mark will be used. Staff will not use an "x" or "si" for positive responses.
  - b. In section 12 and 13 of the Incident Report, staff will use a check to identify those measures they have taken personally. If they have observed any of these actions, they will complete the box with a "T" for un testigo; they will then identify who took such actions in the narrative in Section 10.
4. Policy 9.18, which governs use of force, should be revised as follows:
- a. Youth subject to any form of restraint-chemical, mechanical (excluding outside transports), or physical (the policy does not currently require this after physical

- restraints)-must be escorted to the infirmary for evaluation, treatment and documentation.
- b. Any time a youth is brought to the infirmary as a result of any type of restraints being used, medical staff will complete the Infirmary Restraints Log. All required fields must be completed.
  - c. The Shift Supervisor will carefully review all incident reports prepared by staff after use of force incidents to insure that all fields are completed properly, that staff clearly identify what they did versus what they observed, and narratives are completed where necessary to further explain check boxes and other fields, e.g., if staff witnessed an action taken by another, the narrative should identify the persons who took the action and other witnesses.
  - d. The Shift Supervisor will complete all fields in the Use of Force Log.
5. Requirements for 15 minute room safety checks for youth on protective custody, transitional measures, or pre-hearing segregation should be clarified in a training memorandum and in policy as follows:
- a. 15 minute safety check forms must be posted on or next to the youth's door and entries made only when the officer arrives at that location and actually checks on the youth's status. The actual time the check occurred must be documented on the form.
  - b. Practice, interpretation of DCR policy, and forms concerning the definition of 15 minute checks should be modified. Safety checks should be made once in every 15 minute increment. They should not be made routinely on the hour, at 15 minutes after, 30 minutes after and 45 minutes after. For example, the following two hour pattern would be acceptable because a check was made within each 15 minute increment, even though more than 15 minutes may sometimes lapse between checks:
    - 4:08
    - 4:27
    - 4:42
    - 5:00
    - 5:08
    - 5:24
    - 5:44
    - 5:58
6. The evaluation of disciplinary hearings at the institutions should be completed by the end of August. It will contain specific recommendations for changes to policies and procedures and for training of disciplinary boards so that procedures are consistent with the requirements of Paragraph 74 and good corrections due process considerations. The Training Section should defer such training and policy modifications until the systemwide evaluation has been completed.
7. Additional measures are required to reduce the control that youth leaders are exerting in the facilities. There are currently insufficient disciplinary sanctions to deter and/or sanction the leaders in order to insure that staff, rather than youth, are in control of the housing modules and facilities.

PREA

The following discussion addresses PREA compliance issues associated with the Settlement Agreement provisions that I am primarily monitoring.

- P74- Discipline: The relevant PREA Standard is 115.378: (Interventions and disciplinary sanctions for residents).
  - Sub-paragraph (b) requires that disciplinary sanctions for resident-on-resident sexual abuse be commensurate with the nature and circumstances of the abuse committed and the resident's disciplinary history. I maintain that the sanctions currently available under DCR policy are not commensurate with the gravity of sexual abuse. Even the highest level sanctions (Falta Extrema) are not sufficient to deter such conduct, e.g., loss of privileges for 30 days, and DCR policy and practice does not allow for the use of isolation as a disciplinary sanction. In addition, current policy does not require or state that the disciplinary committee must consider the resident's disciplinary history when imposing sanctions.
  - Sub-paragraph (c) requires that the disciplinary process consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. While I understand that this does typically occur in practice, it does not appear to be required in policy.
  - Sub-paragraph (e) states that a resident may be disciplined for sexual contact with staff only if the staff member is found to have not consented to such contact; this is not currently incorporated in DCR disciplinary policies.
- P80- Protective Custody: The relevant PREA Standards are 115.342 (Placement of residents in housing, bed, program, education and work assignments) and 115.368 (Post-allegation protective custody)
  - While PREA 115.368 governs the use of protective custody for victims of sexual abuse, it refers to Section 115.342 for the substantive protections required. This section has several provisions that would apply to DCR's protective custody and transitional measures policies and practices but are not currently addressed in DCR policy. These include: subparagraph (b)'s requirement that residents in isolation receive daily visits from a medical or mental health care clinician [documentation of this is not currently available] and subparagraph (c)'s prohibition against placing a resident in a particular bed assignment *solely* on the basis of their being lesbian, gay, bisexual, transgender, or intersex.
  - 115.342 Subparagraph (b) prohibits denial of daily large muscle exercise and any legally required programming or special education services to residents who are isolated to keep them and/or other residents safe. Physical plant restrictions and staffing shortages may currently serve to deny such services to residents in Protective Custody or Transitional measures related isolation.
- P 75 –Grievances: This provision was terminated in September 2011.<sup>2</sup> That said, there are a substantial number of specific requirements set forth in PREA standard 115.352 (Exhaustion of administrative remedies) that will need to be reflected in

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<sup>2</sup> See, Judge Cerezo's Order on the Commonwealth's Motion to terminate this provision under the Prison Litigation Reform Act.

DCR Policy 14.7 and in the juvenile handbook and other forms of communication with juveniles. These requirements speak to timing of filings and responses to grievances alleging staff sexual abuse of residents, who grievances are filed with, prohibitions against retaliation, who may file grievances on behalf of juveniles, and many other issues that are germane to exhaustion of remedies in satisfaction of PLRA's requirements.

## Document Attachment E: Report on Incidents and Understaffing April – June 2012

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.

For each of these cases, the number of youth service officers present in the housing unit did not meeting the ratio requirement of Paragraph 48, which is the same requirement as standard 115.313 of the Prison Rape Elimination Act. The "Type of Incident" column indicates the Commonwealth's incident severity classification, where a "2" means that the incident is classified as "Serious."

Case #	Date Of Incident	Shift	Institution	Ratio	Summary or Case Comments	Type of Incident
12-091	April 3, 2012	6/2	CREANDO	23-1	An officer slaps a youth and yell at him. The youth make a joke in front of the custody officer (Sergeant) at the building 702 in the CREANDO program. The sergeant was referred to the police and the youth was taken to the hospital.	2
12-107	April 11, 2012	2/10	CD Bayamon	12-1	A group of 8 youths from living unit A-2 Hit another two youths from the same living unit.	2
12-106	April 8, 2012	6/2	CD Bayamon	14-1	A group of 13 youths from living unit Bravo I hit another youth from the same living unit; cutting him in different parts of his body. It appears they used a pen or a sharp object.	2
12-096	April 7, 2012	6/2	CD Bayamon	14-1	A fight between two youths led an officer to start hitting and fighting with one of them. The incident occurred in Delta I. The officer name is Jose Trinidad Otero.	2
12-113	April 24, 2012	2/10	CTS Guayama	20-1	Allegedly a youth received multiple hits in different parts of his body. Apparently by a group of youths. He did not want to explain what happened. He was taken to the nurse office.	1
12-100	April 4, 2012	2/10	CTS Humacao	11-1	Allegedly a group of youths from living unit 2 module B started to hit another youth. The youth was severely cut in his face and was taken to the hospital, were he required stitches. The other youths were taken to the medical area due	2

					to the use of O/C.	
12-105	April 11, 2012	6/2	CTS Humacao	? - ?	Allegedly a group of youths from living unit 4-A are constantly threatening and hitting another youth; he was taken to the hospital for x rays.	1
12-088	April 2, 2012	6/2	CTS Villalba	12-1	Allegedly a youth was cut in his leg area by other youth using a razor. This happened in the bathroom area of living unit (B-1).	1
Case #	Date Of Incident	Shift	Institution	Ratio	Summary or Case Comments	Type of Incident
12-104	April 10, 2012	10/6	CTS Villalba	14-1	A youth was severely cut by a group of 3 youths using a razor. He had 4 profound injuries that required stitches. He was taken to the hospital; the incident happened in unit B-2.	2
12-109	Referred on April 17, 2012	?	CTS Bayamon	14-1	A youth alleges that he has being a victim of aggression and sexual abuse by two youths in the "Puertas" Living unit or blue building.	2
12-110	April 18, 2012	2/10	CTS Humacao	14-1	A youth in transitional measures TM was place in room 7 in living unit V2 module 2B. While in his room the youth cut his self with a razor several times, creating profound injuries. Then the youth alleged that he swallowed the razor; the youth was taken to medical unit.	2
12-126	May 11, 2012	2/10	CD Bayamon	15-1	Allegedly a youth hit another youth in the chest area; also he threatens the youth with a group of juveniles in living unit B-2.	1
12-159	May 5, 2012.	2/10	CTS Guayama	15-1	Two youths were hitting another youth in the bathroom area of living unit 7.	1
12-141	May 28, 2012	2/10	CTS Guayama	14-1	Allegedly a youth was threatening by other youths with a piece of razor. This happened in living unit V-1.	1
12-122	May 8, 2012	2/10	CTS Guayama	20-1	Allegedly a group of 3 youths hit another youth; he was taken to the hospital and they take x rays.	1
Case #	Date Of Incident	Shift	Institution	Ratio	Summary or Case Comments	Type of Incident
12-120	May 2, 2012	6/2	CTS Villalba	15-1	Allegedly a group of 19 youths from living units B1 and B2 in the school area started to fight. In the incident 4 youths got injuries due to a razor, which one of the youth had in his possession.	2
12-121	May 8, 2012	6/2	CTS Villalba	13-1	Allegedly a youth from living unit C-1 was hit by a special operations officer (U.O.E.). The UOE officer kicks him in his knee area.	1
12-142	May 28, 2012	2/10	CD Bayamon	11-1	Allegedly a group of 3 youths hit another youth in the head and face	2



					area with soaps in a blanket. This happened in the youth room in living unit III	
12-176	June 30, 2012	2/10	CD Bayamon	7-0	Allegedly a group of youths forced and pin down another youth while others put their privates parts in different places of his body. The youth eventually escape a got a sharp object to defend his self. He then informed an officer of what happened. His living unit his Charlie 2.	?
12-171	June 29, 2012	2/10	CTS Humacao	15-1	Allegedly two youths hit another youth in the bathroom area of his living unit Charlie 2.	1
12-149	June 4, 2012	2/10	CTS Guayama	Not specified 0-0 at least 4-0	Allegedly 3 youths in living unit V hit and bites another youth. The youth was bitten in his right rib cage area.	?
12-166	June 24, 2012	6/2	CTS Villalba	15-1	Allegedly a youth hit another youth in the bathroom area of living unit C-1.	1
12-169	June 25, 2012	2/10	CTS Bayamon	6-0	Allegedly a youth was hit in the head and neck area by 5 other youths in order to let him know the norms and rules of the module leader.	2
12-165	June 22, 2012	2/10	CTS Bayamon	8-1	Allegedly officer Jesus Castillo Colon used O/C against a youth, without following the proper procedures and policies.	2
12-156	June 15, 2012	6/2	CTS Bayamon	6-0	Allegedly a youth was hit and pushed down the stairs of the living unit by a group of 5 youths. Before this the youths try to abuse him sexually. The officer assigned to the module was not present and was identified as officer Castillo. The youth was hospitalized due to problems with his lung.	2
12-151	June 10, 2012	2/10	CDT Ponce "Girls"	10-1	Allegedly a youth has made various sexual approaches to another youth while being in living unit Module 1.	2
12-147	June 5, 2012	6/2	CTs Humacao	13-1	Allegedly an officer from living unit 1A used O/C against a youth, which wanted to hit another youth. The youth that was sprayed explained that the officer hit him in the head with the O/C bottle after using it. The nurse report explains that the youth arrived sprayed with O/C, in shackles and with a red marking in his forehead.	2

## Document Attachment F: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for last two quarters of 2011 and the first two quarters of 2012. 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 2011-2012	2011-3rd	2011-4th	2012-1st	2012-2nd
Incidents	240	217	161	188
Suicidal Incidents	26	50	34	25
Self-Mutilation Incidents	53	49	32	46
Suicidal Incidents (From M/H Records)	26	50	34	25
Youth Involved	25	43	27	24
Cases involving ideation only	26	38	30	23
Cases involving suicide intention	0	1	0	1
Cases w/ ambulatory treatment	16	47	33	23
Cases with hospitalization	0	3	1	2
Cases leading to death	0	0	0	0
Cases with 284a report filed	1	0	0	0
Self-Mutilations Incidents (MH records)	53	49	32	46
Youth Involved	47	43	28	39
Cases requiring sutures	2	0	0	1
Cases requiring hospitalization	0	0	0	2
Cases leading to death	0	0	0	0
Cases with a 284a report filed	5	2	2	7

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 188 suicide and self-mutilation incidents for the third quarter, only 7 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 2011-2012	2011-3rd	2011-4th	2012-1st	2012-2nd
284 A Incidents	88	66	88	85
Level Two Incidents	73	52	76	68
Referrals to SAISC	73	52	76	68
Suicide Ideation/Attempt	1	0	0	0
Self-Mutilation Idea/Attempt	5	2	2	7
Youth-to-Youth Incidents	51	41	16	55
Youth-to-Youth Injuries	30	14	26	26
Youth-to-Youth with External Care	10	8	9	14
Youth-to-Youth Sexual	1	2	8	5
Youth-to-Youth Sexual w/ Injury	0	0	1	0
Staff-to-Youth Incidents	36	25	17	30
Staff-to-Youth Injuries	19	4	17	10
Staff-to-Youth with External Care	2	1	2	1
Staff-to-Youth Sexual	1	0	3	0
Staff-to-Youth Sexual with Injury	0	0	0	0
SOU 284A Interventions	6	1	2	3
284A with Item 5 completed	71	49	67	75
284A with Staffing Compliance	50	28	41	41

The next table summarizes initial case management.

Statistics for 2011-2012	2011-2nd	2011-3rd	2011-4th	2012-1st
Initial Case Management				
284A percent with admin actions	99%	98%	86%	88%
284A Within 24 hours	73%	88%	97%	86%
284A Within 72 hours	90%	98%	2%	8%
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	47%	78%	50%	44%

The 20-day completion rate for local investigations remains low. 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 2011-2012		2011-3rd	2011-4th	2012-1st	2012-2nd
OISC					
	Cases Referred from this quarter	73	44	76	57
	Referred Within 1 day	45	20	29	26
	Referred Within 3 days	28	9	27	20
	Referred Within 10 Days	0	15	15	11
	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 persistent decline in the timely referral of cases to OISC. At the start of 2011, all cases were being referred on time.

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

Statistics for 2011-2012		2011-3rd	2011-4th	2012-1st	2012-2nd
OISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	0
	Completed in 11-20 workdays	0	0	1	1
	Completed in 21-30 workdays	0	1	1	0
	Completed in 31-45 workdays	1	1	2	7
	Completed in more than 45 workdays	3	7	7	0
	Completed in a subsequent quarter	40	33	54	44
	Not completed yet.	69	35	65	43
	Returned for Further investigation	2	10	7	2
	Further Investigation Completed	1	4	3	4

Paragraph 78.e requires that OISC complete investigations within 30 days. For the second quarter of 2012, there were 57 cases referred to OISC, and one was completed within the 30-day limit specified in Paragraph 78.e.

Two of the eight cases initially completed by OISC were returned by the Commonwealth Department of Justice for further investigation. This suggests that the prosecutors found 25% of 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 2011-2012	2011-3rd	2011-4th	2012-1st	2012-2nd
Administrative Determinations				
Cases with youth discipline referrals	54	39	60	90
Cases with youth discipline actions	60	32	45	67
Cases with youth no discipline actions	8	5	13	23
Cases staff/youth with determinations	0	18	0	2
Cases recommending personnel actions	6	9	0	5
Prior stf/yth Cases w/ Determinations	0	2	7	13
Prior Cases – Recmd Personnel Action	7	3	8	5

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 2011-2012	2011-3rd	2011-4th	2012-1st	2012-2nd
Prosecutorial Determinations	0	0	1	1
Cases with no determinations	0	0	0	0
Cases with decision not to prosecute	13	5	4	3
Cases with referral for prosecution	1	1	1	0
Total cases documented	14	6	6	4

Of 4 cases documented, 1 was referred for prosecution.

## Document Attachment G: Abuse Referral Case Assessment Report April – June 2012

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.

<b>Case Assessment Instrument – Section A – Initial Reporting</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
A.1 Was the incident promptly reported?	Y-31, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 91%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-31, N/A-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-31, N/A-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 100%.
A.4 Was evidence preserved?	Y-15, N-1 N/A-16	The percentage for this report is 47%. The percentage in the last Quarterly Report was 56%. In this reporting period 32 Level II cases were selected.
A.5 Was investigation initiated promptly?	Y-30, N-1, Blank-1	The percentage for this report is 94%. The percentage in the last Quarterly Report was 82%.
A.6 Was the 284-A filed within 24 hours?	Y-30, N-1, Blank-1	The percentage for this report is 94%. The percentage in the last Quarterly Report was 91%.
A.7 Did the reporting official file an incident report before the end of shift?	Y-30, N-1 N/A-1	The percentage for this report is 94%. The percentage in the last Quarterly Report was 100%.
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-30, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 100%.
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-30, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 100%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-18, N-12, N-2	The percentage for this report is 56%. The percentage in the last Quarterly Report was 53%.
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-29, N-2, N/A-1	The percentage for this report is 91%. The percentage in the last Quarterly Report was 97%.
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-20, N-1 N/A-11	The percentage for this report is 62%. The percentage for the last Quarterly Report was 68%.
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-31, N/A-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 100%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-1, N-8, N/A-22	The percentage for this report is 1%. A low percentage is a positive fact.
A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-15, N-9, N/A-1, Blank-7	The percentage for this report is 48%. The percentage in the last Quarterly Report was 62%.

<b>Case Assessment Instrument – Section B – Police and Prosecutorial Investigation</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
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 19 Level II cases. It contains the following: case number, and case disposition. Fifteen of nineteen cases were dismissed administratively by the police agent or investigator. In two cases the Juvenile Prosecutor did not present charges against perpetrators (juveniles). One case was not evaluated by the PRDOJ due to lack of a complaint number.
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?		



<b>Case Assessment Instrument – Section C – Facility Investigation</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y- 24, N-5, Blank-3	The percentage for this report is 75%. The percentage in the last Quarterly Report was 67%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-16, N-16,	The percentage for this report is 50%. The percentage in the last Quarterly Report was 20%. For this question 14 cases most of the cases were classified as level II. <b>Improved Compliance</b>
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-15, N-17,	The percentage for this report is less than 47%. The percentage in the last Quarterly Report was 23%. <b>Improved Compliance</b>
C.4 Was physical evidence preserved and documented?	Y-4, N-1, N/A-23, Blank-4	The percentage for this report is 1%. The percentage in the last Quarterly Report was less than 1%.
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	N/A-32	The percentage for this report is 0%. All the cases received were classified as Level II.
C.6 Was the completion of the investigation documented in the tracking database?	Y-32	The percentage for this report is 100%. During the last 4 years the data has been operated manually.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-32	The answers do not represent the facilities real situation. Most of the compliance officers and investigators are Youth Officers.

<b>Case Assessment Instrument – Section D – SAISC Investigation</b>		
<b>NOTE: Completed only for Level II cases.</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
D.1 If the case was a Level II case, was the referral received by SAISC within 24 hours?	Y-12, N-20,	The percentage for this report is 37%. The information in the last Quarterly Report was 31%.
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	Y-2, N-30	The percentage for this report is less than 1%. The information in the last Quarterly Report was 19%. <b>Reduced Compliance</b>
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-31, Blank-1	The percentage for this report is 97%. The information in the last Quarterly Report was 89%.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-31, Blank-1	The percentage for this report is 97%. The information in the last Quarterly Report was 89%.
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-31, Blank-1	The percentage for this report is 97%. The information in the last Quarterly Report was 89%.
D.6 Did the investigation provide proposed findings?	Blank-32	The percentage for this report is less than 0%. The information in the last Quarterly Report was 1%.
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-28, Blank-4	According to the information provided less than 1% 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.

<b>Case Assessment Instrument – Section E – Case Tracking and Outcomes</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
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?		

<b>Case Assessment Instrument – Section F – Monitor's Office Assessment</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-29, N-3	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 91% of the cases. The percentage in the last Quarterly Report was 85%.
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?	Y-30, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%.
F.4 Does the Monitor's Office confirms the timeliness facts as asserted in Page D?	Y-32	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-29, N-3	The percentage for this report is 91 %. 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-28, N-4	The percentage for this report is 87 %. 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.

- April 3, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CD Bayamon.
- April 3, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Bayamon.
- April 4, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Humacao.
- May 1, 2012: Consultant Thomas Kucharski and Associate Monitor Ricardo Blanco site Visit to CD Bayamon.
- May 2, 2012: Consultant Thomas Kucharski and Associate Monitor Ricardo Blanco site Visit to CTS Bayamon.
- May 10, 2012: Consultant Curtis Pulitzer and Associate Monitor Ricardo Blanco site visit To CTS Bayamon.
- May 10, 2012: Consultant Curtiss Pulitzer and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
- May 15, 2012: Consultants David Bogard and Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CDT Ponce "Girls".
- May 15, 2012: Consultants David Bogard and Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to "Guaili" Institution.
- May 15, 2012: Consultants David Bogard and Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
- May 16, 2012: Consultants David Bogard and Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
- May 17, 2012: Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.

May 23, 2012: Consultants Peter Leone and Victor Herbert and Associate Monitor Ricardo Blanco Site visit to CD Bayamon.

May 23, 2012: Consultants Peter Leone and Victor Herbert and Associate Monitor Ricardo Blanco Site visit to CTS Bayamon.

May 30, 2012: Associate Monitor Ricardo Blanco site visit to CDT Ponce "Girls".

May 30, 2012: Associate Monitor Ricardo Blanco site visit to CTS Villella.

June 1, 2012: Associate Monitor Ricardo Blanco 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  
Second Quarter 2012

Provision	P	S	R	T	D	G	Comment
<b>Compliance Category and Rating Definitions</b>							
<b>Compliance Category P</b>	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.						
<b>Compliance Category S</b>	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.						
<b>Compliance Category R</b>	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.						
<b>Compliance Category T</b>	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.						
<b>Compliance Category D</b>	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.						
<b>Compliance Category G</b>	This category concerns <u>General Compliance</u> - the overall achievement of compliance with the provision involved.						
<b>Compliance Rating Definitions</b>	"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
<b>Facility Provisions</b>							
<b>C.O. 41:</b> Within ninety (90) days of the filing of this Consent Order, Defendants shall repair all defective plumbing in the facilities in this case. The defective plumbing shall be repaired first at Mayaguez, Ponce Industrial, Ponce Detention and Humacao.	N	N	N	#	#	N	<p>Compliance with this provision will be impossible to achieve under the current AIJ operating procedures and policies as it pertains to maintenance. Key issues are a lack of sufficient numbers of maintenance personnel coupled with an arcane procurement process for parts. The defendants concur with this assessment through numerous conversations with the monitor's office but to date no viable plan has been created to address plumbing and maintenance repairs in a timely manner. The number of broken fixtures for the current quarter are summarized below. There has been a rapid deterioration in the number of defective plumbing fixtures from the last quarter of 2011, when there were 21, to the last quarter when there were 50, to the current quarter, when there were 81. The Bayamon facilities accounted for nearly all the increase. Below are the figures for this quarter:</p> <ul style="list-style-type: none"> <li>• CD Bayamon - 21</li> <li>• CTS Bayamon - 21 (Blue, Orange and Yellow units)</li> <li>• Guali - 1</li> <li>• Guayama - 14</li> <li>• Humacao - 18</li> <li>• Villalba - 6</li> <li>• Creando - 0</li> </ul> <p>See my primary compliance report for the details on plumbing repairs.</p>
<b>C.O. 29.</b> Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	N	Y	N	#	<p>The defendants have closed several older facilities that had serious fire and life safety code violations as well as non-compliance with ACA standards and ADA regulations. Accordingly, AIJ is close to compliance with this provision pending the availability of additional resources to both document compliance as well complete necessary repairs and/or renovations to allow full compliance with this provision. It is recommended that an audit be conducted to determine how ADA compliance can be achieved.</p>

<b>Provision</b>	<b>P</b>	<b>S</b>	<b>R</b>	<b>T</b>	<b>D</b>	<b>G</b>	<b>Comment</b>
<b>S.A.31.</b> Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	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.
<b>S.A. 34.</b> 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.
<b>S.A. 35.</b> 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 documented. The monitor's office is waiting to see the monthly automated results from the fire safety officer as the exit door checks are supposed to be documented in AIJ's new data and tracking system.

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 37.</b> 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.</p>	Y	Y	Y	N	#	N	<p>Pedro Santiago the AIJ Fire Safety Officer has been providing regular training in all emergency procedures to the fire safety coordinators and appropriate A IJ staff. The adequacy of the training will need to be reviewed by Victor Herbert.</p> <p>However, it appears that current training needs to be improved in witnessing erratic performance of several of the Fire Safety Coordinators at each facility over the past 12 months.</p>
<p><b>S.A. 38.</b> 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	#	D	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 did not receive these reports. In addition, the Fire and Safety Officer has often not verbally informed the monitor's office of fire and life safety systems failures or of other serious fire safety concerns. In the past 12 months during my field observations, I have also noticed a complacency of the fire safety coordinators in carrying out their responsibilities in several of the facilities. Since my last quarterly report, and during my last site visit, I did see some improvement with compliance of this provision. The proposed automation of these reports for review may allow AIJ to achieve compliance with the documentation aspects of this provision.</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
<b>Policies and Procedures</b>							
<p><b>S.A. 45.</b> 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.</p>	N					N	<p>In the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case.</p>
<b>Staffing</b>							
<p><b>S.A. 48.</b> 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.</p>	N	N	N	N	Y	N	<p>For the 2nd quarter of 2012, all of the facilities submitted the staffing compliance reports, with the exception of one form from CD Bayamon.</p> <p>Agency meeting staffing ratio requirements:  6:00 am- 2:00 pm shift: 23% of events, 15% reduction  2:00 pm- 10:00 pm shift: 19% of events, 8% reduction  10:00 pm- 2:00 am shift: 97% of events, 3% increase</p> <p>Guaili has met 100% staff youth ratio requirements for ten consecutive quarters.</p> <p>There has been a continual reduction in Staff Youth Ratio compliance during the last two 2011 and 1<sup>st</sup> and 2<sup>nd</sup> reporting quarter of 2012 .</p> <p>See the 2012 2<sup>nd</sup> QR narrative for more information about staffing compliance.</p> <p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313.</p>
<p><b>January 2009 Stipulation Paragraph 1:</b> 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.</p>	Y	N	N	N	N	N	<p>Reported 106 youth requiring 1:1 supervision, reduction of 56 youth from 1st QR 2012.</p> <p>0 reported instances of youth not receiving 1:1 supervision in 2<sup>nd</sup> quarter 2012.</p> <p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364</p>

Provision	P	S	R	T	D	G	Comment
<p><b>January 2009 Stipulation Paragraph 2:</b> 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.</p>	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.
<p><b>January 2009 Stipulation Paragraph 3:</b> 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.</p>	#	#	#	#	#	#	The Commonwealth has decided not to employ this provision to enhance coverage.
<p><b>January 2009 Stipulation Paragraph 4:</b> 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.</p>	Y	N	N	#	N	N	The new YSOs have been deployed to youth corrections facilities.
<p><b>January 2009 Stipulation Paragraph 5:</b> 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.</p>	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
<b>Training</b>							
<p><b>S.A. 50.</b> 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	<ul style="list-style-type: none"> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.332, 115.334, and 115.335.</li> <li>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.</li> </ul>
<b>Classification</b>							
<p><b>S.A. 52.</b> 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	<ul style="list-style-type: none"> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.341 and 115.342.</li> <li>DCR is undertaking a validation study of committed and detention youth . Staff have been trained on the youth detention classification instrument. Documentation has been provided for the classification of youth for detention for the months of the 2<sup>nd</sup> quarter.</li> <li>The second quarter CD Bayamón admission classification resulted in 378 admissions, of which 302 (80%) are classified as low; 64 (17%) are classified as moderate; 2 (1%) are classified as severe; and 5 (1%) were court releases.</li> </ul>

Provision	P	S	R	T	D	G	Comment
<b>Mental Health and Substance Abuse Treatment</b>							
<b>S.A. 59.</b> 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.
<b>C.O. 29:</b> 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
<b>C.O. 30:</b> Defendants provide adequate qualified staff members for the residential treatment program, which include a child psychiatrist, psychologist, occupational therapist, social workers and nurses.	Y	N	N	#	#	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.
<b>C.O. 34.</b> 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"> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.335..</li> </ul>
<b>C.O. 36.</b> Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	N	N	#	N	N	N	<ul style="list-style-type: none"> <li>Psychologist hours had been cut from 35 to 30 hours. Youth are not adequately assessed.</li> <li>Treatment plans are not individualized and treatment progress not assessed and documented.</li> <li>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.</li> <li>Assessment is seriously deficient with many youth being diagnosed as free of mental health concerns.</li> <li>Because the evaluation of youth is so deficient, appropriate treatment services are not being provided.</li> </ul>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 62.</b> 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"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>
<p><b>S.A. 63.</b> 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"> <li>• 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.</li> </ul>



Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 66.</b> 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"> <li>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.</li> <li>The Monitor's consultant believes that there should be central oversight of psychiatric services by a psychiatrist.</li> </ul>
<p><b>S.A. 67.</b> 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"> <li>The current informed consent process in 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.</li> </ul>
<p><b>S.A. 71.</b> Stimulants, tranquilizers, and psychopharmacological drugs shall only be used as deemed medically necessary and shall not be administered for punishment.</p>	#	N	Y	#	#	N	<p>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.</p>
<p><b>S.A. 72.</b> 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.</p>	Y	Y	Y	Y	N	N	<p>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.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 73.</b> 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.</p>	N	N	N	N	N	N	<p>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.</p>

Provision	P	S	R	T	D	G	Comment
<b>Discipline</b>							
<b>S.A. 74.</b> 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.	N	Y	N	N	Y	N	<ul style="list-style-type: none"> <li>Concerns about group punishment now being supported by AIJ policy.</li> <li>Monitor's office currently conducting evaluation of disciplinary hearings</li> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.378</li> </ul>
<b>S.A. 77.</b> No corporal punishment shall be imposed on any juvenile. The use of physical force by staff shall be limited to instances of justifiable self-defense, protection of others, and prevention of escapes. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing serious bodily harm to himself or to another, the facility director or his/her designee must approve the use of restraints before they are applied.	N	#	I	N	N	N	<ul style="list-style-type: none"> <li>Current data reporting on use of force is unreliable based on QA efforts.</li> <li>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.</li> <li>Use of force and restraints logging deficiencies require new formats and internal quality mechanisms</li> <li>Continued concerns about high frequency of use of OC at Humacao</li> <li>See the discussion of this issue in the QR narrative report.</li> </ul>

Provision	P	S	R	T	D	G	Comment
<b>Abuse and Maltreatment Investigation and Management</b>							
<p><b>S.A. 78.a</b> 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>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.321, 115.322, 115.361, 115.362, 115.264, 115.366, 115.367, 115.368, and 115.371.</p> <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"> <li>• Evidence is rarely preserved.</li> <li>• Suspected youth are separated from their victim(s) less than half of the time.</li> </ul>
<p><b>S.A. 78.b</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>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.361 and 115.364.</p> <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>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 78.c</b> 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	<ul style="list-style-type: none"> <li>• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371.</li> <li>• The timeliness of initial reporting by AIJ, based on AIJ records, has been high.</li> <li>• The Commonwealth Police do not respond to the Monitor's information requests for case analysis information.</li> <li>• Cases are promptly referred to SAISC.</li> </ul>
<p><b>S.A.78.d</b> 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"> <li>• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371.</li> <li>• 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.</li> </ul>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 78.e</b> 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"> <li>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.</li> <li>For the 3<sup>rd</sup> quarter of 2011, no cases were completed within 30 days.</li> <li>It appears from the tracking statistics that the substantial majority of serious cases referred to SAISC are not investigated on a timely basis.</li> </ul>
<p><b>S.A. 78.f</b> 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"> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371.</li> <li>No process is in place to assess whether compliance is achieved with respect to investigation quality.</li> <li>No standards have been formally adopted.</li> </ul>
<p><b>S.A. 78.g</b> 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"> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371.</li> <li>No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.</li> </ul>
<p><b>S.A. 78.h</b> 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"> <li>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.365.</li> <li>Case tracking is inconsistent and incomplete.</li> <li>The case tracking information system has not been updated at all during 2008.</li> <li>AIJ lacks staffing and resources to do meaningful analysis of cases</li> </ul>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 78.i</b> 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"> <li>• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.362, 115.364, 115.366 and 115.367.</li> <li>• AIJ policies comply with this provision.</li> <li>• Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision.</li> <li>• 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.</li> </ul>
<p><b>Separation Order, of December 4, 2006:</b> 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	<ul style="list-style-type: none"> <li>• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.362, 115.364, 115.366 and 115.367.</li> </ul>

Provision	P	S	R	T	D	G	Comment
<b>Protection and Isolation</b>							
<p><b>S.A. 79.</b> 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>	#	#	#	#	#	#	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.342.</p> <ul style="list-style-type: none"> <li>• This provision is related to both Discipline and Mental Health. The meaning and application of the provision continues to be unresolved.</li> <li>• There is no evidence to suggest that mental health isolation is being used for disciplinary purposes and AIJ policy prohibits this.</li> <li>• See the discussion of this issue in the QR narrative report.</li> </ul>
<p><b>S.A. 80.</b> 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>	#	N	#	#	N	N	<ul style="list-style-type: none"> <li>• Confusion between transitional measures and PC</li> <li>• Problems getting access to education and large muscle physical activity</li> <li>• Inconsistent documentation of room checks; some logs posted on doors, others kept on dayroom table and different methods of logging.</li> <li>• <i>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.368 and 115.342</i></li> </ul>



Provision	P	S	R	T	D	G	Comment
<b>Education and Vocational Services</b>							
<p><b>S.A. 81.</b> 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 2011 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><b>S.A. 86a.</b> 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>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><b>S.A. 86b.</b> 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><b>S.A. 87.</b> 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><b>S.A. 90.</b> 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"> <li>• Visits to each institution, interviews with youth at Humacao, and examination of unit logs and education records showed that students in transition or protective custody were not receiving the services specified in their IEPs.</li> </ul>
<p><b>S.A. 91.</b> 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"> <li>• 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.</li> <li>• Special education students were enrolled in vocational courses consistent with their IEP recommendations.</li> <li>• A systematic review of special education plans has not yet been conducted to determine whether the IEPs recommend appropriate services for each youth.</li> </ul>
<p><b>S.A. 93.</b> 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 DCR, do not receive services from the end of May to the beginning of August.</p>
<p><b>S.A. 94.</b> 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"> <li>• A recent review of services provided for youth in isolation, referred to as youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. (See also comment for S.A. 90).</li> <li>• Youth in isolation receive some services, some days but often materials are delivered to the housing units and students receive minimal or no direct services from teachers.</li> </ul>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 95.</b> When an IEP is ineffective, Defendants shall timely modify the IEP.</p>	Y	Y	Y	I	#	#	<ul style="list-style-type: none"> <li>All special education positions are filled.</li> <li>Visits to Humacao and Bayamon CTS indicated that teachers were periodically reviewing students' IEP.</li> <li>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.</li> </ul>
<b>Funding and Implementation</b>							
<p><b>C.O. 43</b> 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"> <li>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.</li> <li>Since the budget is insufficient to implement the requirements of the decree, the Monitor infers that the request was also insufficient.</li> </ul>