

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

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

INFORMATIVE MOTION TO FILE THE MONITOR'S QUARTERLY REPORT

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's Fourth Quarter Report for 2012. The report covers the months of October, November and December 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 27th day of February, 2013, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor

Office of the Monitor, U.S. v. Commonwealth of Puerto Rico

USACPR Monitoring Inc.

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Monitor's Quarterly Report Fourth Quarter 2012

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

The following is the Monitor's Fourth 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 Staffing Compliance
Document Attachment B:	Report on Incidents and Understaffing
Document Attachment C:	Abuse Referrals Tracking Report
Document Attachment D:	Abuse Referral Case Assessment Report
Document Attachment E:	Consultant Report on Facilities
Document Attachment F:	Chronology of Site Visits

Separate Attachment One: Table of Compliance Ratings

Staffing: 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: CD Bayamon – 26%, Humacao – 15% and Villalba 13%. For on the 2:00 pm to 10:00 pm shift, compliance was: CD Bayamon – 25%, Humacao – 11% and Villalba 15%.

Operations: Bob Dugan and David Bogard are continuing the process of assisting DCR with a quality assurance process for quarterly data reported on use of force, transitional measures and protective custody. There have been many changes made as a result of this process and the quality of data is improving incrementally. It is their hope to begin including this data and analysis by the Q3 Report this year, when it will hopefully be more reliable.

On December 12, 2012 Bob Dugan and David Bogard provided training to DCR Juvenile staff on reporting of monitoring data for Paragraphs 77 and 80.

Dugan and Bogard continue to be very concerned about the frequency of incidents involving large numbers of youth, including incidents involving 8-10 youth attacking one youth. This occurred twice at Villalba (October 14 and December 17) and several times at Humacao this quarter (e.g., October 12, November 1, November 7) They have repeatedly recommended (along with Bob Dugan) to DCR staff directly and through Quarterly Reports) that DCR consider the establishment of a specialized housing environment for youth identified as leaders. This would be classification driven and would be intended to disincentivize youth from being leaders.

Respectfully Submitted,



F. Warren Benton, Ph.D.
Monitor

Document Attachment A: Consultant Robert Dugan Report on Staffing

DCR Staffing Quarterly Report: September 30, 2012 – December 29, 2012

Prepared by Bob Dugan: Office of the Monitor: January 19, 2013

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.

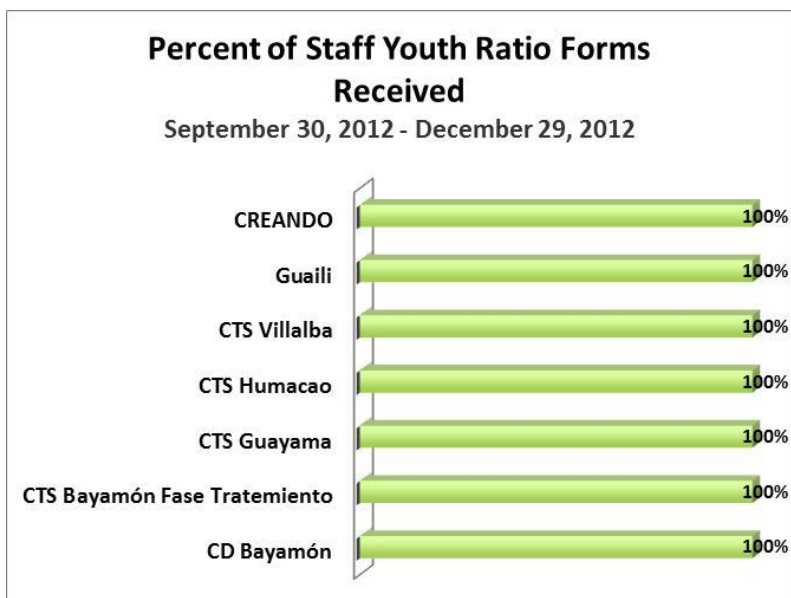
48.b Method Two: Defendants may develop, and submit to the Court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignments necessary to implement the terms of this agreement, taking into consideration 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 September 30, 2012 thru December 29, 2012. As of the Saturday, October 19, 2013 the following forms have been submitted.

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	13	13
CTS Bayamón Fase Tratamiento	13	13
CTS Guayama	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Guaili	13	13
CREANDO	8	8
Totals	86	86



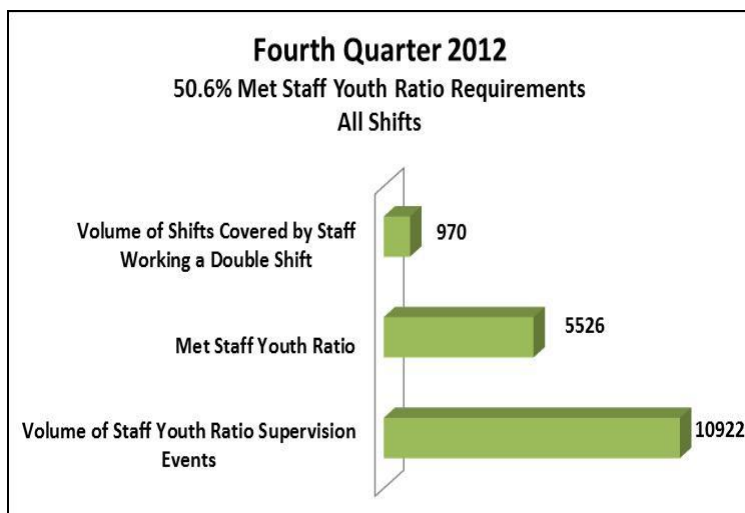
DCR submitted a total of 86 facility staff youth ratio forms for the seven operational facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. DCR has consistently been providing all requested Staff Youth Ratio forms used for monitoring and reporting. CREANDO was operational for eight weeks of the fourth quarter reporting period. The table displaying the date that staff youth ratio forms were received is on page 15 of this report.

DCR Staff Youth Ratio Averages:

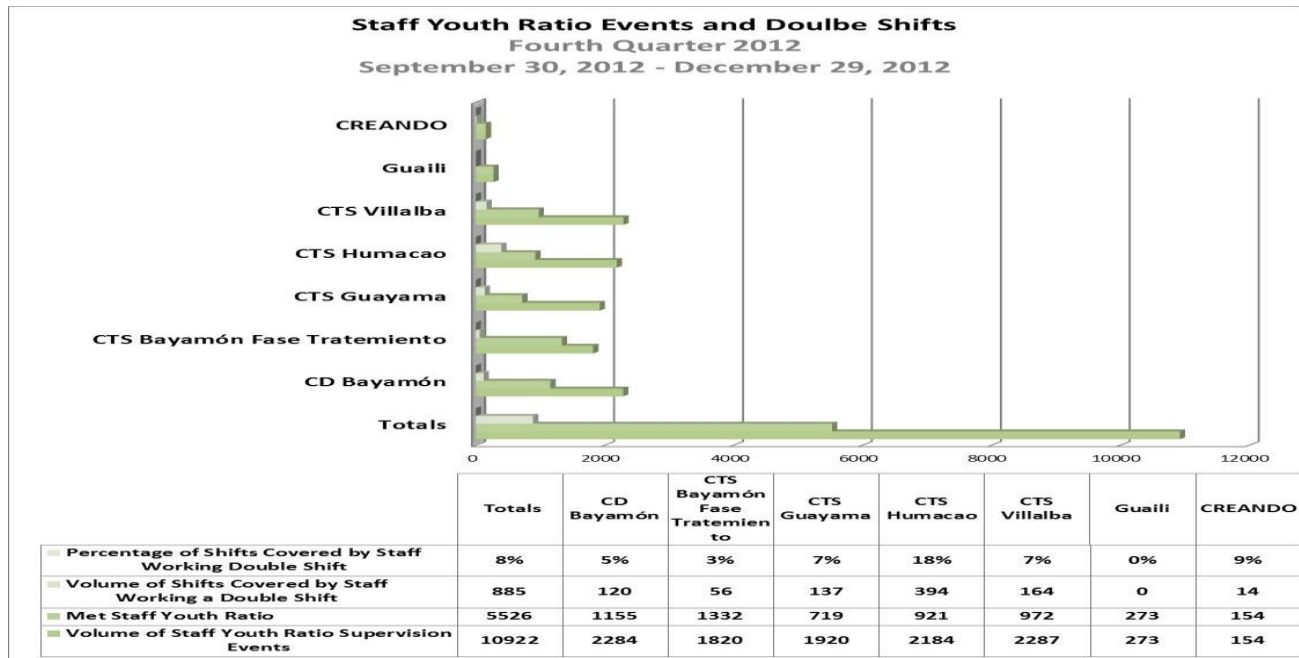
During the Fourth Quarter 2012 reporting period (September 30, 2012 thru December 29, 2012), DCR documented a total of 10,922 shift / unit events that required staff to youth supervision. This is a decrease of 79 staff youth supervision events since the Third Quarter of 2012 (11,001 events). Of the 10,922 shift / unit events, 5526 of the events (50.6%) were supervised with the required staff youth ratios, a 4.5 % increase from the Third Quarter of 2012.

This is the second consecutive Quarter that has not resulted in a decrease in the volume of events that met required staff youth ratio. Of the 5526 staffing events meeting the required staff youth ratio, 3578(64.7%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.

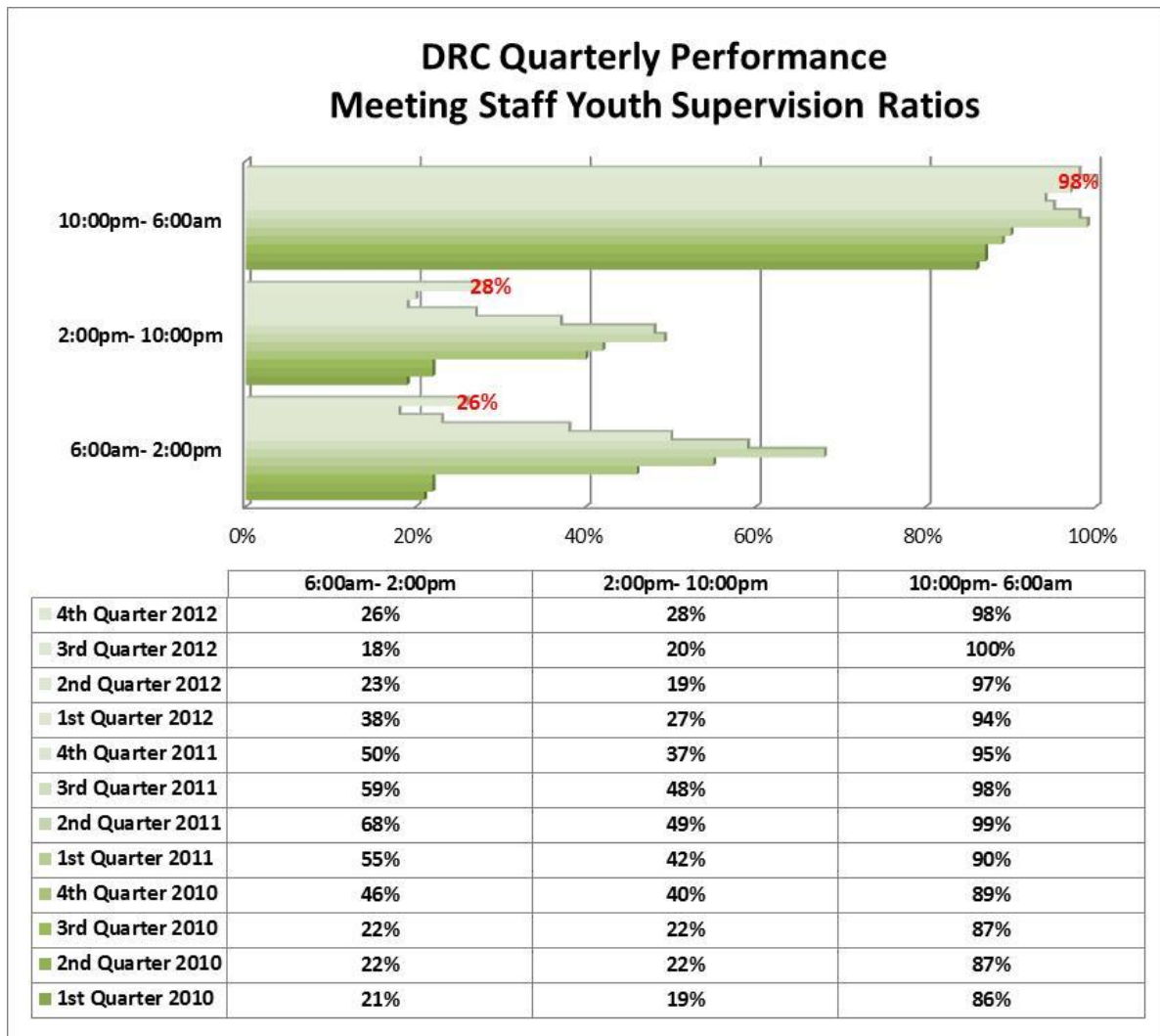
The Fourth Quarter Report provides additional data on the volume of staff that are working double shifts in order to meet the reported staff youth ratios. For the 2012 Fourth Quarter, 970 of the 10,922(9%) staff youth ratio



events were covered by staff working a double shift. This is a 3% reduction of volume of shifts requiring staff to work a double shift since the 2012 Third Quarter reporting period.



The following chart represents the DCR agency Staff Youth Ratio averages by shift for the last twelve quarters through December 29, 2012:



The Fourth Quarter of 2012 has resulted in following performance in meeting required Staff Youth Ratios during waking hours:

- 6:00 am- 2:00 pm shift: 26% of events, 8% increase
- 2:00 pm- 10:00 pm shift: 28% of events, 8% increase
- 10:00 pm- 2:00 am shift: 98% of events, 2% decrease

DCR Agency 1:1 Supervision Events:

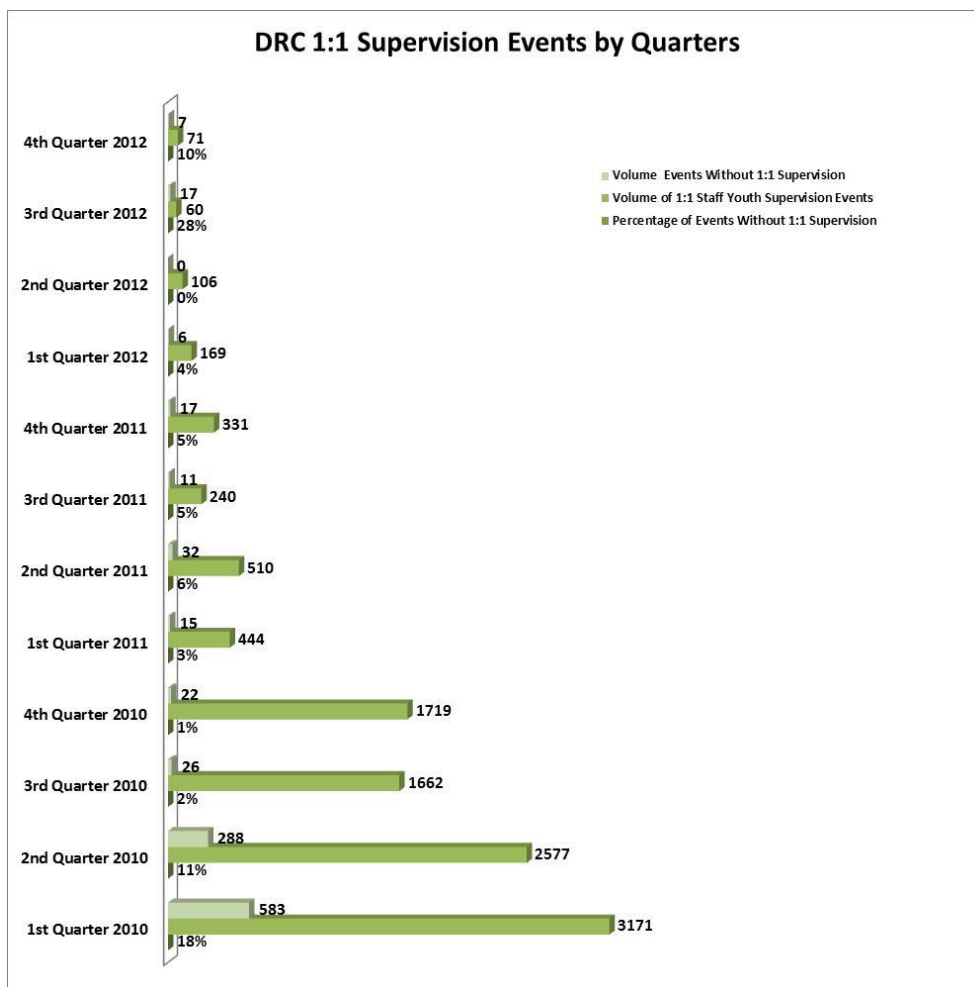
From the First Quarter of 2010 through the Third Quarter of 2011, there had been a remarkable reduction in the volume of youth designated for 1:1 supervision.

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

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

Correspondingly, the Fourth Quarter of 2012 has a decrease in the volume of these events without required 1:1 supervision, 7 events:

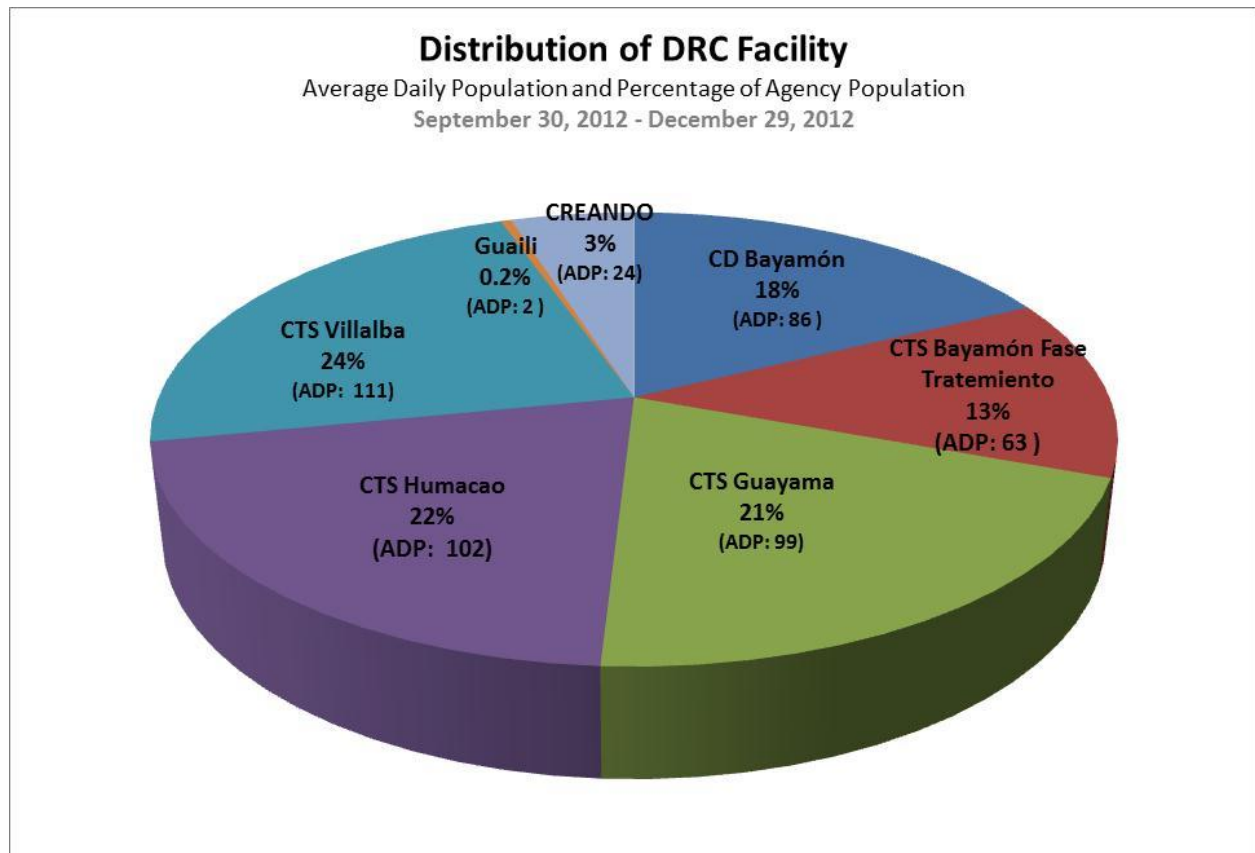
- 583 events 1st Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3rd Quarter 2010
- 22 events 4th Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4th Quarter 2011
- 6 events 1st Quarter 2012
- 0 events 2nd Quarter 2012
- 17 events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



DCR 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.

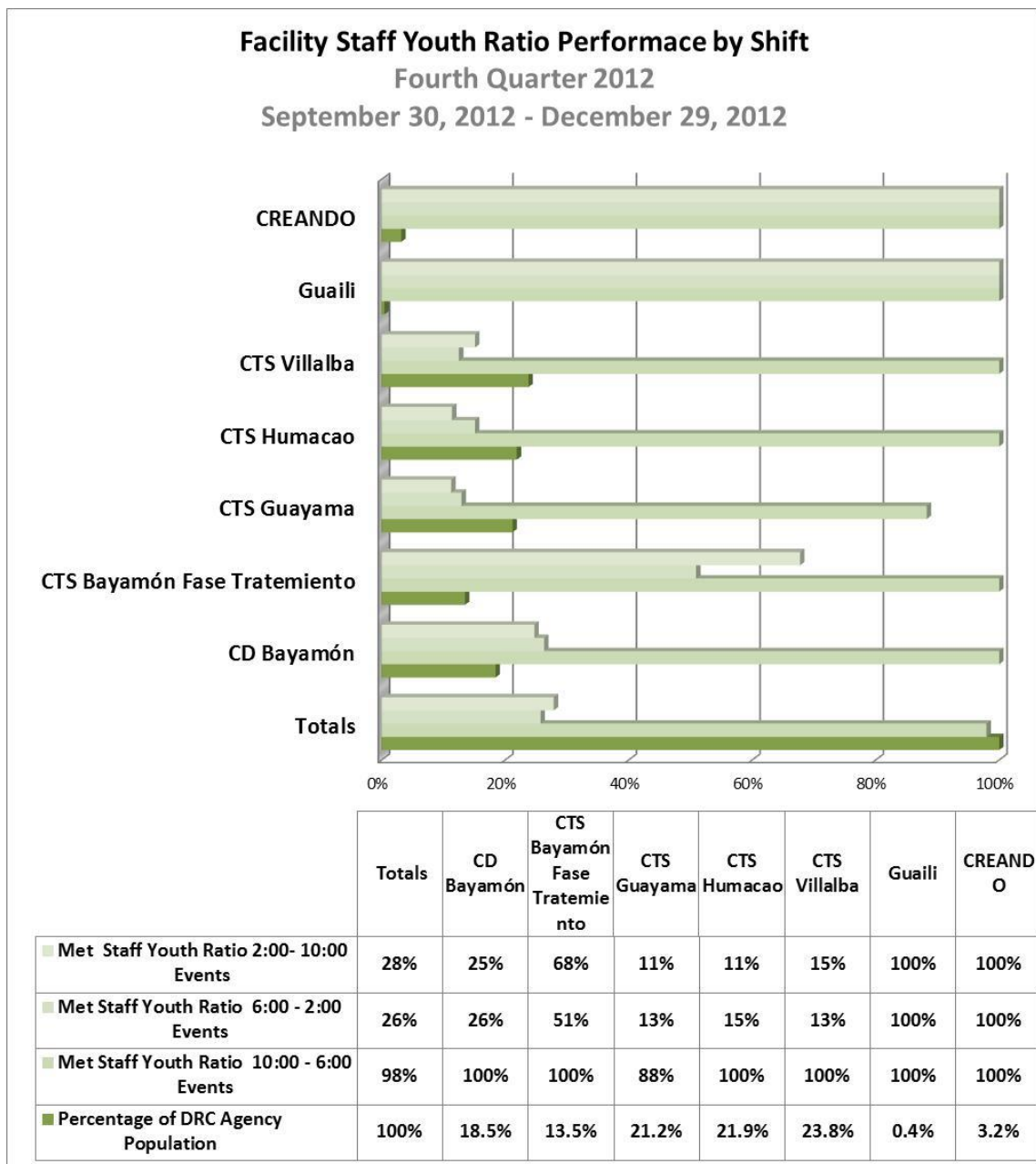
The table below displays each facility's average daily population for the reporting cycle (September 30, 2012 thru December 29, 2012) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



Facility Staff Youth Ratio Performance by Shift:

The staff youth ratio analysis below represents the staffing information received for the period from (September 30, 2012 thru December 29, 2012 (13 weeks). The dark green bar for each facility represents the proportionate average daily population that facility contributes to the DCR average daily population. The table of average daily population can be found on page 15 of this report.

During the Fourth Quarter reporting period (September 30, 2012 thru December 29, 2012), CTS Guayama, CTS Humacao and CTS Villalba have the largest volume of deficiencies meeting the staffing youth ratio, representing 67% of the DCR youth population.



CD Bayamón Staff Youth Ratio Analysis:

September 30, 2012 thru December 29, 2012

Level 5 Facility: DCR has CD Bayamon 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: 100%

Volume of Weeks Analyzed: 13 of 13 requested

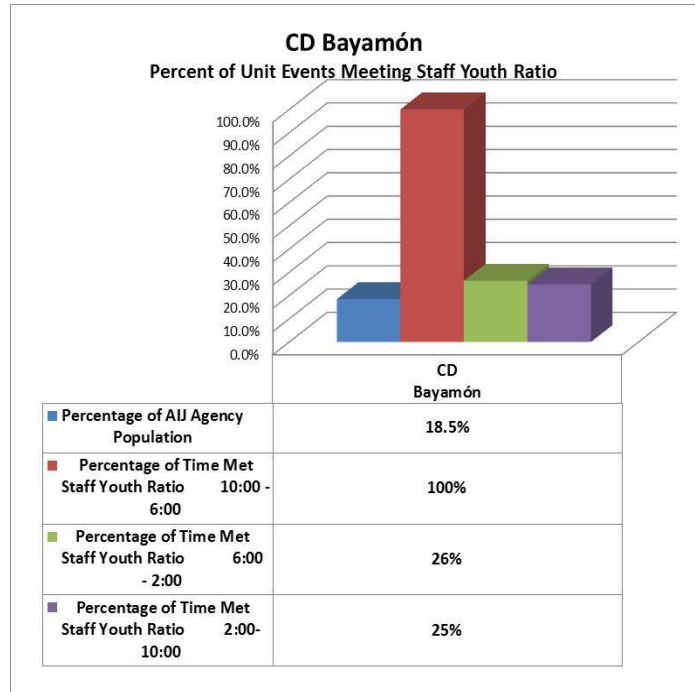
- **Volume of Staff Youth Ratio Events:** 2284
- **Volume of Staffing Events with Staff Working a Double Shift:** 120 (5%)

The Fourth Quarter of 2012 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm - 6:00am: 98% required staff youth ratio, a 2% reduction
- 6:00 am – 2:00 pm: a 6% increase since 2012 Third Quarter reporting
- 2:00 pm – 10:00 pm: a 6% increase since 2012 Third Quarter reporting

Volume of Weeks Analyzed: 13

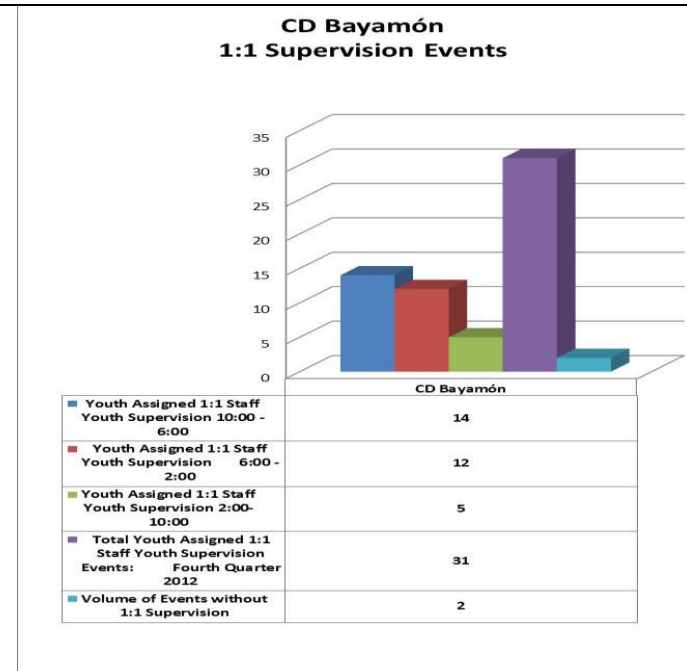
Volume of Days Analyzed: 91



****CD Bayamón contributed 31 of the 71 (44%) DCR 1:1 supervision events for the Fourth Quarter reporting period.**

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

Volume of 1:1 Events Without Required staffing during reporting period: **2**



CTS Bayamón Fase Tratamiento Staff Youth Ratio Analysis:

September 30, 2012 thru December 29, 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

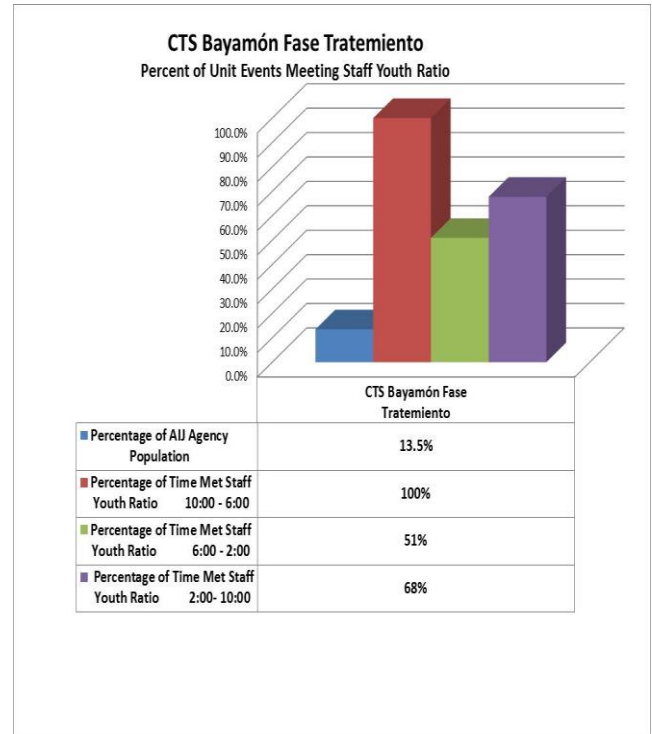
- **Volume of Staff Youth Ratio Events:** 1820
- **Volume of Staffing Events with Staff Working a Double Shift:** 56 (3%)

The Fourth Quarter of 2012 Staff Youth Ratio requirements display the following characteristics:

- **10:00pm- 6:00am:** maintained 100% required staff youth ratio
- **6:00 am – 2:00 pm:** a 25% increase in meeting staff youth ratio requirements since the Third Quarter reporting
- **2:00 pm – 10:00 pm:** a 32% increase in meeting staff youth ratio requirements since the Third Quarter reporting

Volume of Weeks Analyzed: 13

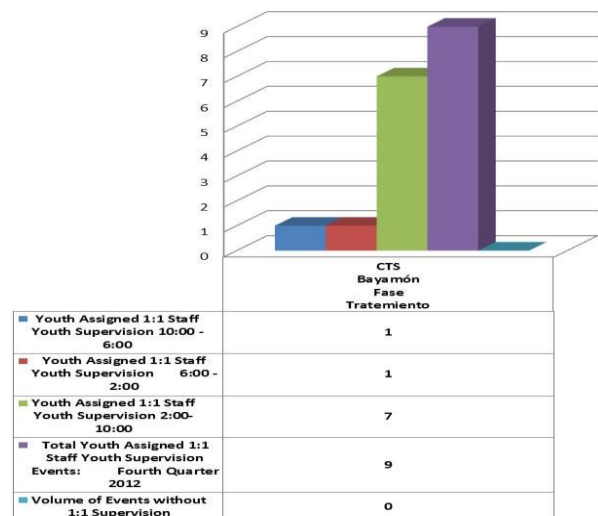
Volume of Days Analyzed: 91



Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.03**

9 youth supervision events for the Fourth Quarter of 2012

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

CTS Bayamón Fase Tratamiento 1:1 Supervision Events

CTS Guayama Staff Youth Ratio Analysis:

September 30, 2012 thru December 29, 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

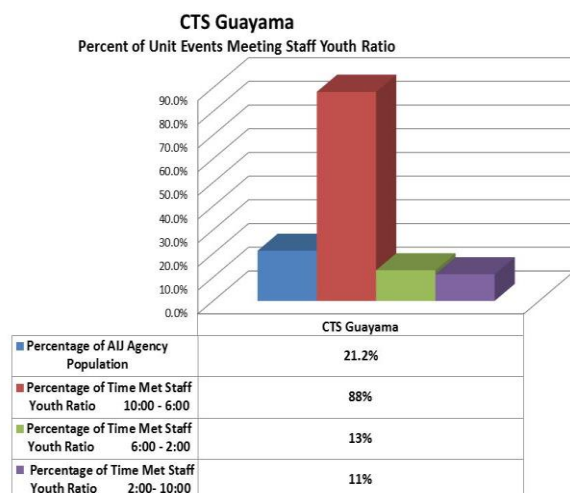
Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

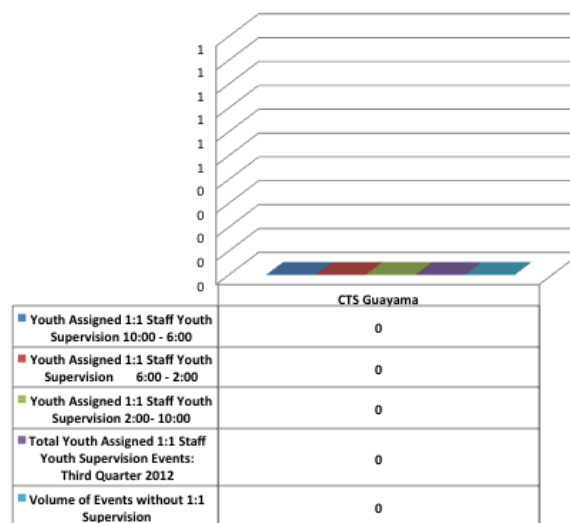
- Volume of Staff Youth Ratio Events: 1920
- Volume of Staffing Events with Staff Working a Double Shift: 137 (7%)

The Fourth Quarter of 2012 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% since 2012 Third Quarter reporting period
- 6:00 am – 2:00 pm: a 4% reduction since 2012 Third Quarter reporting
- 2:00 pm – 10:00 pm: a 4% reduction since 2012 Third Quarter reporting

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

CTS Guayama reported no youth on 1:1 supervision for the Fourth 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:

September 30, 2012 thru December 29, 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: 394 (18%)**

The Fourth Quarter of 2012 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: a 8% increase since 2012 Third Quarter reporting
- 2:00 pm – 10:00 pm: a 4% increase since 2012 Third Quarter reporting

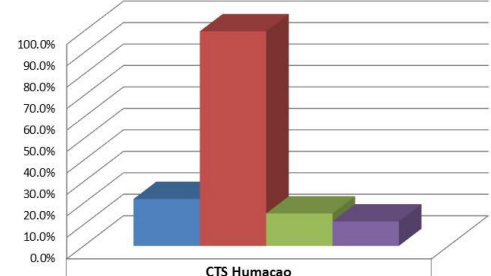
Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.10**

26 youth supervision events for the Fourth Quarter of 2012

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

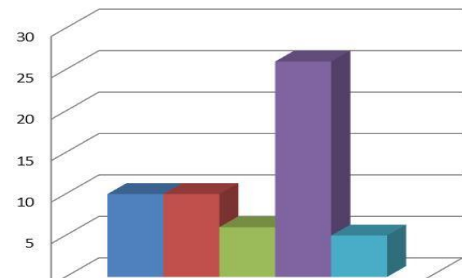
5**Volume of Weeks Analyzed: 13****Volume of Days Analyzed: 91**

CTS Humacao
Percent of Unit Events Meeting Staff Youth Ratio



Percentage of All Agency Population	21.9%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	15%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	11%

CTS Humacao
1:1 Supervision Events



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	10
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	10
Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	6
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2012	26
Volume of Events without 1:1 Supervision	5

CTS Villalba Staff Youth Ratio Analysis:

September 30, 2012 thru December 29, 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

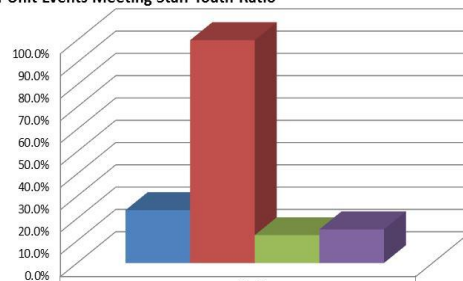
- Volume of Staff Youth Ratio Events: 2287
- Volume of Staffing Events with Staff Working a Double Shift: 164 (7%)

The Fourth Quarter of 2012 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained at 100%
- 6:00 am – 2:00 pm: a 10% increase since 2012 Third Quarter reporting
- 2:00 pm – 10:00 pm: a 13% increase since 2012 Third Quarter reporting

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

CTS Villalba
Percent of Unit Events Meeting Staff Youth Ratio



CTS Villalba	
■ Percentage of All Agency Population	23.8%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	13%
■ Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	15%

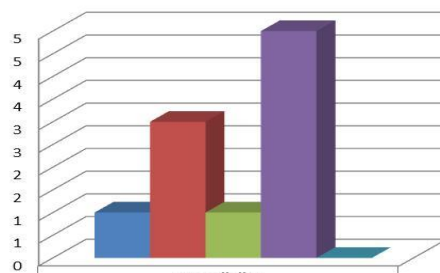
Average volume of youth assigned 1:1 staff youth supervision per reported day: 0.02

5 youth supervision events for the Fourth Quarter of 2012

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

0

CTS Villalba
1:1 Supervision Events



CTS Villalba	
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	1
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	3
■ Youth Assigned 1:1 Staff Youth Supervision 2:00 - 10:00	1
■ Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2012	5
■ Volume of Events without 1:1 Supervision	0

Guaili Staff Youth Ratio Analysis:

September 30, 2012 thru December 29, 2012

Level 2 Facility:

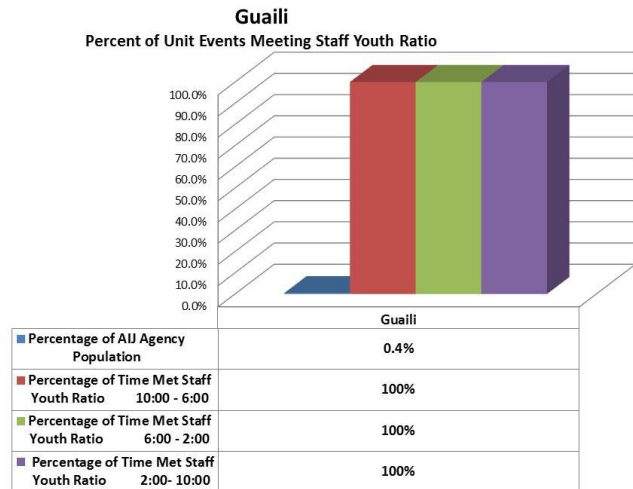
- A Staff Youth Ratio of 1:8 during 6:00 AM - 2:00 PM and 2:00 PM -10:00 PM
- A Staff Youth Ratio of 1:16 during 10:00 PM -6:00 AM

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

- **Volume of Staff Youth Ratio Events:** 273
- **Volume of Staffing Events with Staff Working a Double Shift:** 0

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

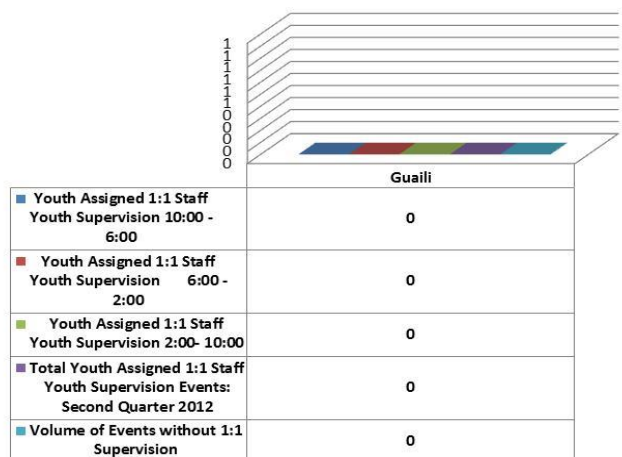
Guaili represents 0.4% of the DCR institutional population.

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

Guaili reported no youth on 1:1 supervision for the Fourth 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**

**Guaili
1:1 Supervision Events**

CREANDO Staff Youth Ratio Analysis:

September 30, 2012 thru November 20, 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: 154
- Volume of Staffing Events with Staff Working a Double Shift: 14 (9%)

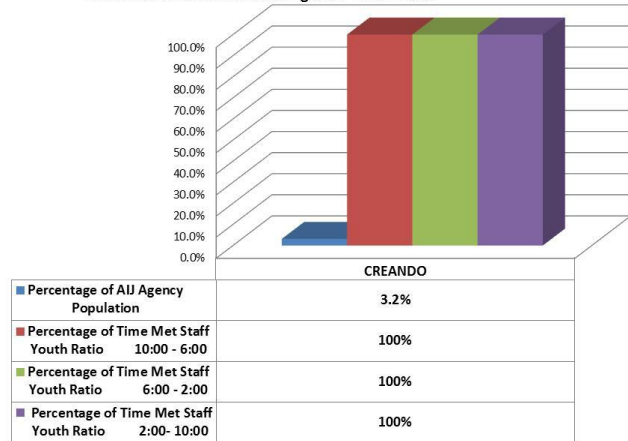
For the Fourth Quarter reporting period, CREANDO was in operation for 52 days of the reporting period.

CREANDO represents 3.2% of the DCR institutional population.

Volume of Weeks Analyzed: 8

Volume of Days Analyzed: 52

CREANDO
Percent of Unit Events Meeting Staff Youth Ratio

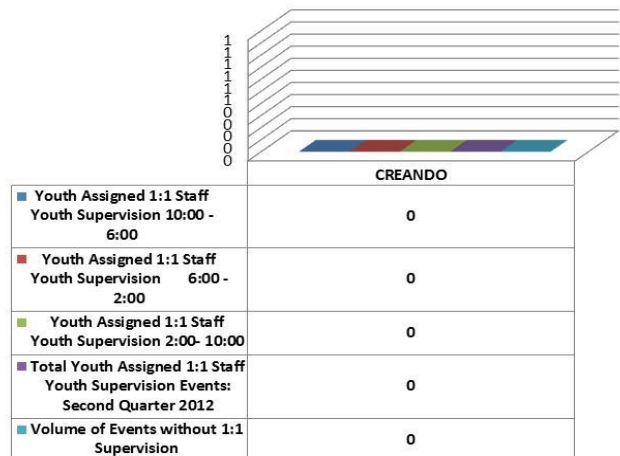


CREANDO reported no youth on 1:1 supervision for the Fourth Quarter.

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
1:1 Supervision Events



Facility Table of Shift Compliance with Staff Youth Ratio:

Fourth Quarter 2012 Staff Youth Ratio Performance by Shift	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ Agency Population	Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	Percentage of Time Met Staff Youth Ratio 2:00- 10:00	Average Daily Population
CD Bayamón	100%	18.5%	100%	26%	25%	86
CTS Bayamón Fase Tratamiento	100%	13.5%	100%	51%	68%	63
CTS Guayama	100%	21.2%	88%	13%	11%	99
CTS Humacao	100%	21.9%	100%	15%	11%	102
CTS Villalba	100%	23.8%	100%	13%	15%	111
Guaili	100%	0.4%	100%	100%	100%	2
CREANDO	100%	3.2%	100%	100%	100%	24

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

Fourth Quarter 2012 Youth Assigned 1:1 Supervision	Percent of Staff Youth Ratio Forms Received	Percentage of DRC 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: Fourth Quarter 2012	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	100%	18.5%	14	12	5	31	2	91
CTS Bayamón Fase Tratamiento	100%	13.5%	1	1	7	9	0	91
CTS Guayama	100%	21.2%	0	0	0	0	0	91
CTS Humacao	100%	21.9%	10	10	6	26	5	91
CTS Villalba	100%	23.8%	1	3	1	5	0	91
Guaili	100%	0.4%	0	0	0	0	0	91
CREANDO	100%	3.2%	0	0	0	0	0	58
Totals	100%	100.0%	26	26	19	71	7	604

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>
September 30 - October 6, 2012	10/19/2012	10/19/2012	10/19/2012	10/19/2012	10/19/2012	10/20/2012	11/15/2012
October 7 - October 13, 2012	10/19/2012	10/19/2012	10/19/2012	11/1/2012	11/30/2012	10/20/2012	11/15/2012
October 14 - October 20, 2012	12/7/2012	11/30/2012	11/1/2012	11/1/2012	11/30/2012	11/1/2012	11/15/2012
October 21 - October 27, 2012	12/7/2012	11/30/2012	11/1/2012	11/15/2012	11/30/2012	11/1/2012	12/3/2012
October 28 - November 3, 2012	12/7/2012	11/30/2012	11/15/2012	11/15/2012	11/30/2012	12/3/2012	12/3/2012
November 4 -November 10, 2012	12/3/2012	12/7/2012	11/15/2012	12/3/2012	12/3/2012	11/15/2012	12/3/2012
November 11 - November 17, 2012	12/7/2012	12/7/2012	12/3/2012	12/3/2012	12/3/2012	12/3/2012	12/3/2012
November 18 -November 24, 2012	12/3/2012	12/7/2012	12/3/2012	12/3/2012	12/3/2012	12/3/2012	12/3/2012
November 25- December 1, 2012	12/7/2012	12/7/2012	12/21/2012	12/7/2012	12/7/2012	12/7/2012	NA
December 2 -December 8, 2012	1/5/2013	1/5/2013	12/21/2012	12/21/2012	1/5/2013	12/21/2012	NA
December 9 -December 15, 2012	1/5/2013	1/5/2013	12/21/2012	12/21/2012	12/21/2012	12/21/2012	NA
December 16 - December 22, 2012	1/5/2013	1/5/2013	1/10/2013	1/5/2013	1/5/2013	1/5/2013	NA
December 23 - December 29, 2012	1/10/2013	1/5/2013	1/10/2013	1/5/2013	1/5/2013	1/10/2013	NA
	13	13	13	13	13	13	8
Volume of Forms Submitted	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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

Dates of Reporting Period	CD	CTS Bayamón	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	Program CREANDO
	Bayamon	Fase Tratamiento					
September 30 - October 6, 2012	87	61	85	99	113	1	24
October 7 - October 13, 2012	93	62	84	101	113	2	24
October 14 - October 20, 2012	91	62	90	101	112	2	24
October 21 - October 27, 2012	85	66	91	105	113	2	24
October 28 - November 3, 2012	90	61	92	107	111	1	24
November 4 -November 10, 2012	98	60	96	105	113	1	24
November 11 - November 17, 2012	85	71	95	103	110	2	24
November 18 -November 24, 2012	89	66	96	104	112	2	24
November 25- December 1, 2012	74	65	108	105	113	2	NA
December 2 -December 8, 2012	69	60	114	98	108	2	NA
December 9 -December 15, 2012	98	67	113	99	101	2	NA
December 16 - December 22, 2012	70	63	111	99	112	4	NA
December 23 - December 29, 2012	90	54	110	101	110	3	NA
Totals	1119	818	1285	1327	1441	26	192
Percentage of AIJ Agency Population	18%	13%	21%	22%	24%	0.4%	3%

Document Attachment B: Report on Incidents and Understaffing July – September 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.

Oct. 1	CTS Guayama	12-258	Afternoon	Allegedly, a juvenile was hit by other youth in his head while they were waiting in a line. Allegedly, after the aggression the victim was threatened with a blade.	1 officer, 15 juveniles
Oct. 9	CTS Humacao	12-259	Afternoon	Allegedly, a group of 6 juveniles were kicked and sprayed with "pepper spray" by a youth officer named Rafael. The incident occurred in the module's bathroom.	1 officer, 13 juveniles
Oct. 9	CD Bayamón	12-260	Afternoon	Allegedly, a juvenile was pushed against a wall by a youth officer because the juvenile was laughing. The juvenile responded the aggression punching the officer in his face. The officer requested support and, allegedly hit the juvenile. The incident occurred in the living unit.	1 officer, 12 juveniles
Oct. 9	CTS Bayamón	12-265	Afternoon	Allegedly, a juvenile was hit and threatened with a blade by other juvenile. The incident occurred in the aggressor's room after a discussion in the basketball court. The officer assigned to the module was playing cards with other juvenile.	1 officer, 10 juveniles
Oct. 10	CTS Bayamón	12-254	Morning	Allegedly, a juvenile was hit by other in his module. The youth officer assigned to the module saw the incident and did not act.	1 officer, 13 juveniles
Oct. 10	CD Bayamón	12-264	Afternoon	Allegedly, a bunch of youth officers went to the juvenile JVA room and hit him without any reason.	1 officer, 13 juveniles
Oct. 14	CTS Villalba	12-267	Afternoon	Allegedly, a juvenile was kicked in his head by other juvenile. The incident occurred in Living Unit C-1.	1 officer, 14 juveniles

Oct. 21	CTS Guayama	12-276	Afternoon	A juvenile was hit by other juveniles in Living Unit VII, room 4.	1 officer, 12 juveniles
Oct. 22	CTS Humacao	12-271	Afternoon	Allegedly, a juvenile was cut in his back with a blade. The incident occurred in Living Unit IV-A.	1 officer, 14 juveniles
Oct. 24	CTS Humacao	12-279	Night	Allegedly, a juvenile was hit by a group of juveniles in the medical area. The victim was referred to an emergency room.	information not available
Oct. 28	CTS Humacao	12-278	Morning	Allegedly, a juvenile was hit by a group of juveniles while they were in the module.	1 officer, 15 juveniles
Oct. 28	CTS Villalba	12-284	Morning	Allegedly, a juvenile was hit in the living unit by other juveniles. Apparently, the youth officer assigned was out of the module.	0 officer, 5 juveniles
Nov. 4	CTS Guayama	12-289	Afternoon	Allegedly, a juvenile was hit in the back part of his head with a bar of soap. The incident occurred in the living unit bathroom.	1 officer, 15 juveniles
Nov. 4	CTS Bayamón	12-290	Night	Allegedly, a juvenile was hit by other juveniles after cover his face with a shirt. The incident occurred in Living Unit IV.	1 officer, 13 juveniles
Nov. 7	CTS Humacao	12- 292	Morning	Allegedly, a juvenile was punched in his face by a youth officer. The juvenile was bleeding through his nose and was taken to the medical area. The incident occurred in the school area.	1 officer, 20 juveniles.
Nov. 7	CTS Humacao	12-293	Morning	Allegedly, a juvenile was hit and sprayed with "pepper spray" by a youth officer. The juvenile also mentioned that the officer step on him while he was on the floor. The incident occurred in the school area.	1 officer, 20 juveniles
Nov. 7	CTS Humacao	12-295	Morning	Allegedly, a juvenile was hit and sprayed with "pepper spray" by two youth officers. The incident occurred in the school area.	1 officer, 20 juveniles
Nov. 7	CTS Humacao	12-296	Afternoon	Allegedly, a juvenile was hit in his mouth and sprayed with "pepper spray" by a youth officer named Castillo.	1 officer, 13 juveniles
Nov. 12	CTS Guayama	12-298	Night	Allegedly, the juvenile was hit in his face by other juvenile during a fight. The incident occurred in the living unit bathroom.	1 officer, 14 juveniles

Nov. 20	CTS Guayama	12-301	Morning	Allegedly, a juvenile was threatened by other juveniles with a piece of a blade. The incident occurred in the living unit laundry area.	1 officer, 15 juveniles
Nov. 30	CTS Bayamón	12-309	Afternoon	Allegedly, a juvenile was assaulted by other juveniles in a module's room. The juvenile was referred to the facility medical unit for evaluation.	1 officer, 11 juveniles
Dec. 3	CTS Humacao	12-307	Morning	Allegedly, a juvenile was punched in his right ear by other youth. After the incident the victim was evaluated by the facility's physician and was referred to an emergency room.	1 officer, 12 juveniles
Dec. 14	CD Bayamón	12-332	Morning	Allegedly, a juvenile was hit by other youths in the living unit with the cooperation of the youth officer assigned to the module.	1 officer, 15 juveniles
Dec. 19	CTS Humacao	12-326	Afternoon	Allegedly, a juvenile was sprayed with "pepper spray" and hit with the chemical can by a youth officer. Apparently, the incident was observed by the shift supervisor and an officer.	1 officer, 14 juveniles
Dec. 23	CTS Guayama	12-330	Afternoon	Allegedly, a juvenile was hit by two youths in a living unit room. Apparently, the victim was sanctioned by other juveniles due to the cleaning process.	1 officer, 15 juveniles
Dec.31	CTS Guayama	12-333	Afternoon	Allegedly, a juvenile was hit in his head by other youths. The victim was referred to the medical area and moved to other living unit.	1 officer, 19 juveniles

Document Attachment C: Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the four 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 2012		2012-1st	2012-2nd	2012-3rd	2012-4th
Incidents		161	188	158	187
	Suicidal Incidents	34	25	13	14
	Self-Mutilation Incidents	32	46	26	28
Suicidal Incidents (From M/H Records)		34	25	13	14
	Youth Involved	27	24	13	11
	Cases involving ideation only	30	23	12	13
	Cases involving suicide intention	0	1	0	0
	Cases w/ ambulatory treatment	33	23	13	12
	Cases with hospitalization	1	2	0	2
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	0	0	0	1
Self-Mutilations Incidents (MH records)		32	46	26	28
	Youth Involved	28	39	21	25
	Cases requiring sutures	0	1	0	0
	Cases requiring hospitalization	0	2	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	2	7	2	3

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 187 suicide and self-mutilation incidents for the fourth quarter, one 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 2012		2012-1st	2012-2nd	2012-3rd	2012-4th
284 A Incidents		88	85	81	81
	Level Two Incidents	76	68	61	69
	Referrals to SAISC	76	68	61	69
	Suicide Ideation/Attempt	0	0	0	1
	Self-Mutilation Idea/Attempt	2	7	4	3
	Youth-to-Youth Incidents	16	55	53	42
	Youth-to-Youth Injuries	26	26	18	37
	Youth-to-Youth with External Care	9	14	12	10
	Youth-to-Youth Sexual	8	5	5	3
	Youth-to-Youth Sexual w/ Injury	1	0	0	0
	Staff-to-Youth Incidents	17	30	28	38
	Staff-to-Youth Injuries	17	10	13	16
	Staff-to-Youth with External Care	2	1	5	1
	Staff-to-Youth Sexual	3	0	2	1
	Staff-to-Youth Sexual with Injury	0	0	0	0
	SOU 284A Interventions	2	3	1	4
	284A with Item 5 completed	67	75	70	65
	284A with Staffing Compliance	41	41	56	42

The next table summarizes initial case management.

Statistics for 2012		2012-1st	2012-2nd	2012-3rd	2012-4th
Initial Case Management					
	284A percent with admin actions	86%	88%	86%	90%
	284A Within 24 hours	97%	86%	95%	99%
	284A Within 72 hours	2%	8%	5%	1%
	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	50%	44%	66%	83%

The 20-day completion rate for local investigations is gradually improving.

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 2012		2012-1st	2012-2nd	2012-3rd	2012-4th
OISC					
	Cases Referred from this quarter	76	57	63	69
	Referred Within 1 day	29	26	30	41
	Referred Within 3 days	27	20	9	15
	Referred Within 10 Days	15	11	24	13
	Referred Within 20 Days	0	0	0	0

Paragraph 78.c requires that cases are to be provided to the OISC investigator responsible for the facility involved within 24 hours of knowledge of the incident. There appears to be a decline in the timely referral of cases to OISC. 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 2012		2012-1st	2012-2nd	2012-3rd	2012-4th
OISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	0
	Completed in 11-20 workdays	1	1	2	13
	Completed in 21-30 workdays	1	0	6	10
	Completed in 31-45 workdays	2	7	1	0
	Completed in more than 45 workdays	7	0	0	22
	Completed in a subsequent quarter	54	44	60	70
	Not completed yet.	65	43	54	11
	Returned for Further investigation	7	2	1	0
	Further Investigation Completed	3	4	0	0

Paragraph 78.e requires that OISC complete investigations within 30 days. For the fourth quarter of 2012, there were 69 cases referred to OISC, and 23 were completed within the 30-day limit specified in Paragraph 78.e. OISC reports that another 22 were completed within more than 45 work days and another 70 were completed in a subsequent quarter. These answers misunderstand the table, since there were only 69 referrals for the quarter, so the Monitor’s Office will be conferring with the Commonwealth counsel and with OCIS to clarify the reporting expectations.

None of the cases initially completed by OISC were returned by the Commonwealth Department of Justice for further investigation.

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

Statistics for 2012	2012-1st	2012-2nd	2012-3rd	2012-4th
Administrative Determinations				
Cases with youth discipline referrals	60	90	74	46
Cases with youth discipline actions	45	67	41	37
Cases with youth no discipline actions	13	23	29	9
Cases staff/youth with determinations	0	2	0	0
Cases recommending personnel actions	0	5	0	0
Prior stf/yth Cases w/ Determinations	7	13	0	0
Prior Cases – Recmd Personnel Action	8	5	0	0

Because the some cases are still in process, administrative determinations and actions may be taken in the future. The table will be updated for each quarter in future Quarterly Reports.

The following table concerns prosecutorial determinations. Because cases are still in process, it can take several quarters for the final determinations to be made.

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

Of 2 cases documented, neither was referred for prosecution.

Document Attachment D: Abuse Referral Case Assessment Report October-December 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.

Case Assessment Instrument – Section A – Initial Reporting		
Assessment Criterion	Status Y/N/NA	Comment
A.1 Was the incident promptly reported?	Y-35, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 88%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-34, N-2	The percentage for this report is 97%. The percentage in the last Quarterly Report was 97%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-35, 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-10, N-1, N/A-25	The percentage for this report is 27%. The percentage in the last Quarterly Report was 42% In this reporting period 16 Level II cases were selected. Reduced Compliance
A.5 Was investigation initiated promptly?	Y-36	The percentage for this report is 100%. The percentage in the last Quarterly Report was 88%. Reduced Compliance
A.6 Was the 284-A filed within 24 hours?	Y-33, N-3	The percentage for this report is 92%. The percentage in the last Quarterly Report was 94%.
A.7 Did the reporting official file an incident report before the end of shift?	Y-36	The percentage for this report is 100%. The percentage in the last Quarterly Report was 91%.
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-35, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 94%.
A.9 Was the AIJ preliminary investigation reported within 24 hours to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration.	Y-34, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-23, N-2, N/A-11	The percentage for this report is 64%. The percentage in the last Quarterly Report was 97% Reduced Compliance
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-35, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 85%
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-25, N-4, N/A-7	The percentage for this report is 70%. The percentage for the last Quarterly Report was 100%. Reduced Compliance
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-36	The percentage for this report is 100%. The percentage in the last Quarterly Report was 85%. Reduced Compliance

A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-10, N-11, N/A-15	The percentage for this report is 28%. The percentage in the last report was 1%. A low percentage is a positive fact. Reduced Compliance
A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-12, N-19, N/A-1, Blank-4	The percentage for this report is 33%. The percentage in the last Quarterly Report was 56% Reduced Compliance

Case Assessment Instrument – Section B – Police and Prosecutorial Investigation		
Assessment Criterion	Status Y/N/NA	Comment
B.1 Was the incident report received from the facility within 24 hours of the time recorded as the point of knowledge of the incident?		For this reporting period the PRDOJ sent a table with information related to 10 Level II cases. It contained the following: case number, facility, incident date, youth names, and case disposition. All cases were dismissed administratively by the PRPD and the PRDOJ.
B.2 If the case was considered serious by the facility where the incident took place, were the police contacted within 24 hours?		
B3. Were PRPD expectations met for promptly initiating an investigation?		For the first time the Puerto Rico Police Department (PRPD) and the Department of Correction (DC) sent additional tables including information related to the status of 109 mistreatment allegation cases. From that amount 48 have data from the PRPD but only one case matches with the cases selected for this reporting period, case # 228. An analysis of the 48 cases reflect that most of the cases were divided in three classification groups, waiting for a prosecutor action, still under investigation and closed administratively. In case number 228 the police agent went to the facility to investigate the incident and interviewed the juvenile but there is no evidence of further action taken by the PRPD or the PRDOJ.
B.4 Did PRPD investigators determine that evidence was appropriately preserved?		
B.5 If prosecutors communicated an intent to proceed criminally, was AIJ informed to delay any compelled interview of the subject until the criminal investigation was completed?		
B.6 Were PRPD expectations met for timeliness in completing the investigation?		
B.7 Was completion of the investigation documented?		
B.8 If there was timeliness non-compliance, was related to shortage of staffing?		

Case Assessment Instrument – Section C – Facility Investigation		
Assessment Criterion	Status Y/N/NA	Comment
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y- 29, N-6, N/A-1	The percentage for this report is 80%. The percentage in the last Quarterly Report was 91%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-19, N-10, N/A-7	The percentage for this report is 53%. The percentage in the last Quarterly Report was 53%.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-18, N-10, N/A-8	The percentage for this report is less than 50%. The percentage in the last Quarterly Report was 73%. Reduced Compliance
C.4 Was physical evidence preserved and documented?	Y-1, N-4, N/A-30, Blank-1	The percentage for this report is less than 1%. The percentage in the last Quarterly Report was than 29%. Reduced Compliance
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-8, N-10, N/A-18	The percentage for this report is 44%. The percentage in the last report was 38%. Sixteen cases were classified as Level II.
C.6 Was the completion of the investigation documented in the tracking database?	Y-36	The percentage for this report is 100%. The percentage in the last report was 100% The agency has a manual database.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-26, Blank-10	The answers do not represent the facilities real situation.

Case Assessment Instrument – Section D – OISC Investigation		
NOTE: Completed only for Level II cases.		
Assessment Criterion	Status Y/N/NA	Comment
D.1 If the case was a Level II case, was the referral received by SAISC within 24 hours?	Y-15, Blank-1	The percentage for this report is 98%. The information in the last Quarterly Report was 40%. Improved Compliance
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	Y-2, N-14	The percentage for this report is 1 %. The information in the last Quarterly Report less than 1%.
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-15, Blank-1	The percentage for this report is 98%. The information in the last Quarterly Report was 97%.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-15, Blank-1	The percentage for this report is 98%. The information in the last Quarterly Report was 65%. Improved Compliance
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-15, Blank-1	The percentage for this report is 98%. The information in the last Quarterly Report was 65%. Improved Compliance
D.6 Did the investigation provide proposed findings?	Y-14, Blank-2	The percentage for this report is less than 87%. The information in the last Quarterly Report was 0%. Improved Compliance
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-13, N-1, Blank-2	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?	—	Not provided

Case Assessment Instrument – Section E – Case Tracking and Outcomes		
Assessment Criterion	Status Y/N/NA	Comment
E.1 At the time of the assessment of this case with this instrument, was the tracking database complete for this case?	N	The tracking database was not updated during this quarter. A manual version was maintained that provides for very limited analysis and reporting.
E.2 Was the initial investigation (284-A) faxed within 24 hour?		
E.3 Was the facility investigation completed within 20 days?		
E.4 If the incident was serious (involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile) was SAISC notified and the case referred within 24 hours?		
E.5 If applicable, was a SAISC investigation completed and transmitted to PRDOJ within 30 days of receipt by SAISC?		
E.6 Did AIJ reach an administrative determination concerning the case which is documented in the tracking database?		
E.7 Is there a document demonstrating review, by PRDOJ prosecutors of the PRPD investigation, which documents a prosecutorial determination as to whether to prosecute or not?		
E.8 If there was timeliness non-compliance, was is related to shortage of staffing?		

Case Assessment Instrument – Section F – Monitor's Office Assessment		
Assessment Criterion	Status Y/N/NA	Comment
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-31, 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 91%.
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-33, N-3	The percentage for this report is 92%. 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-16	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-33, N-3	The percentage for this report is 92 %. 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-16	The percentage for this report is 100%. This percentage only means that the Monitor's Office confirms the information provided by OISC not a percentage of compliance.

Document Attachment E: Consultant Report on Facilities

United States of America v. Commonwealth of Puerto Rico

Quarterly Report

Prepared by Monitor's Consultant Curtiss Pulitzer

January, 2013

Site Visits to CTS Bayamon, CD Bayamon, CTS Villalba, CTS Humacao and Meetings with DCR

This report reflects my site visits, accompanied by Javier Burgos and Ricardo Blanco our Deputy Monitors, for the above referenced facilities on October 15th (CTS Bayamon), October 16th (CTS Villalba), December 12th (CTS Humacao and CD Bayamon). I also was introduced to my new functional team in October by Esdras Velez, the former Sub-administrator at DCS, and Taraneh Ferdman. The division within DCR that I will now be meeting with is referred to as FMO, the Facilities Maintenance and Operations (FMO) division which deals with all aspects of facility maintenance for both the juvenile and adult facilities. Luis Ortiz and Pedro Santiago are now part of the FMO unit of DCR. I was introduced to Gineima Ojeda, who is an administrative manager (similar to what Rosa Fernandez did at AIJ), Miguel Alvarado, the director of FMO, and Pedro Ostolaza, the manager of maintenance for the western region which includes Ponce and Villalba. Luis Ortiz is now the manager of the eastern region, including Bayamon, Guayama and Humacao. At our December 13th meeting, I again met with my functional team but there were some different representatives there. In addition to Luis Ortiz, Pedro Santiago and Pedro Ostolaza, I was introduced to Damaris Pantoja, the sub-director of FMO and Carlos Cabelleros, an executive office administrator. Later that day, I also toured the FMO Eastern Division offices and warehouse at the adult complex in Bayamon where Luis Ortiz is based. At that facility I met with Miguel Ortiz, who was retiring. In addition, as there is now a new Director of DCR following the elections, it is unclear what personnel changes have been made since my December visit.

Below are a list of positive developments as well as persistent and new problems and maintenance issues that still remain to be addressed at many of the facilities. Unfortunately, at CTS Bayamon, there were many new air conditioning problems (**25 air conditioning units were broken**). On a positive note, many of the roof leaks at Humacao have been repaired due to a roof repair project underway at Humacao.

CTS Bayamon

1. Blue Building (population 10 youth – Mental Health; module 2 only)
 - The Blue Building repairs have been completed and overall the housing unit was in very good physical condition.

- There were still some minor mold problems on the ceiling of the education module. There was some water leaking from the ceiling, but is being repaired as part of the A/C warranty.
- The showers that have received the new special epoxy paint treatment that I had recommended is 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. I did notice some new pitting which could compromise ceiling and wall finishes.
- There is still shower water that is escaping from the showers on to the mezzanine. I have recommended several times that AIJ look at a Velcro shower curtain 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 32 youth – Modules 2 and 3 are CER with 18 youth and 14 Level IV youth were in Module 1)

- While the hot water had been repaired in Module 1, the control panel for a permanent fix was still not there.
- Security break-away shower curtains are still needed in the shower area
- The A/C was fixed in Module 2 but was not operating at full strength.
- The A/C **was fixed working in Module 3** after a new unit was installed.
- A new problem surfaced with the A/C not working in the program module.
- 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.
- Cell 239 (the ADA cell with a shower) had a missing shower drain. Also, the floor in the shower area was deplorable. In addition the sinks need security screws as similar to other cells.
- In general, the building was in good condition except for the air conditioning which has not been an issue until now.

3. Green Unit (population 0 youth)

- This Unit remains closed. However, the wiring damaged from the broken water pipes adjacent to mini-control **is now fixed**. The electronic panel boards are still being worked on.
- There appeared to be new problems with leaks in Module 3.
- The air conditioning was now working in Module 3 but was still not working in the Program Module.

4. Yellow Building (population 23 youth – 7 in Module 1; 10 in Module 3; 6 in Module 2)

- 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 hurt easily hurt themselves. DCR said they were working on fixing this.
- In Module 3, the A/C **was working** well again. This had been an on-going problem for many months.
- The air conditioning in the Program Module **was fixed and also working**.
- Cells 118 and 126 operate together when either electronic release button is pushed. Cell 126 has a loose strike as non-security screws were used to secure the strike in place. WCS is supposed to have these fixed.
- A hasp and padlock was placed on one of the classrooms in the Program Module which may compromise fire safety. I had asked the hasp to be removed but wasn't and on this visit there was a padlock once again on the door. I immediately requested that the padlock be removed, which did occur.

5. Medical Area

- The ceilings in the common area of the clinic were still in good condition with no leaks.
- A new problem surfaced and there **was no A/C in the clinic**.
- 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, although the A/C was not working. There is still a dispute as to whether plastic sheeting to keep the cooled air from escaping from the screened window openings should be installed. The A/C company that does repairs in this area stated that the openings need to be left uncovered. DCR was to investigate this further.
- As stated in my earlier report the elevator in this building had been repaired and I used it to gain access to the second floor.
- The air conditioning in the infirmary was also **not working**.
- While the infirmary remains empty, it has been cleaned and was **spotless and in very good shape with no leaks**. 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 **four years** on how DCR plans to utilize this amazing yet unused resource.

6. Kitchen

- The air conditioning in the dining room **was broken again!** It had been repaired and was working well on my prior visit.
- The roof in the kitchen and warehouse had been repaired and the roof sealed so that water leaks in the kitchen have finally stopped. I observed no new leaks.

- I was very pleased to see that the tray washing machine equipment **was still 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.

7. Laundry

- The laundry looked in very good condition and all the washers and dryers continued to be working.
- The storage areas remain cleared of all flammable material which is critical in maintaining life safety in this area.

8. Education

- School was in session.
- There were a number of new A/C problems. The air conditioning was not working in the counseling area. On the 2nd floor the office next to the classroom has a hose leak and is causing much condensation. The A/C in the small classroom/office is actually too strong. The same condition exists in the English classroom.
- Air conditioning is still lacking in the Chapel.
- The Hair Care Vocational Classroom is now being used for storage.
- A new problem surfaced in that in two of the classrooms the air conditioning was not working

9. Gymnasium

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

10. Overall Security and Site Issues

- The air conditioning was working well in Central Control and the condensation drain issue has not recurred. The door into Central Control was secured as it should be.
- The security monitoring lights on the consoles were still not working. This is of **great concern**.
- The fire and smoke alarms **are working**
- The air conditioning in Intake which had been repaired was still working well.
- The Overhead door into the Intake garage had been damaged and was still working. The intercom from the exterior to central control **does not work**.
- The air conditioning in the security office was still working well.
- There was continuing improvement in removal of vines from the perimeter fences but more clean-up is required. While much of the vegetation inside and in front of the perimeter fences has been cleared, there was new vegetation growing in the egress paths which is **life safety concern**.
- 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 were repaired and I presumed were still working.

- While the sliders on the main walkways were functioning, I was told, a purchase order was 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 most of the debris that had been stored there previously has been removed greatly improving its functionality. I had requested that the remaining debris be removed.

CTS Villalba

I toured the facility with Jose Alvarado, the Fire Safety Coordinator and Alberto Collazo, the Physical Plant manager. The physical plant at Villalba appeared to be in generally good condition and all the housing units had been painted and all were clean from a housekeeping perspective. While roof leaks had never been a serious issue here, as in Humacao, they are proliferating and could be very problematic if not fixed quickly. Broken air conditioning units are still a major problem and non-functioning electronic locks were another 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 vent of a fire.

Of greater concern are the security systems not working properly including the CCTV systems. This helped contribute to a major escape which occurred two months after my visit. In addition, I recommended again to staff that all the non-security screws in faucets heads be changed to security screws. The issues observed are described below for each of the Housing units in the order they were toured.

Vivienda D1:

- Due to roof leaks, the mold that had been reported in my May report and that was developing in the corner of the dayroom ceilings has gotten considerably worse.
- The A/C was off but I was told that Quintana A/C, the maintenance contractor, was working on the units while I was there. Therefore, I could not tell whether the A/C was fixed in cells F131-134 and F218-221.
- 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 that was broken was **now fixed**.
- The A/C was working well.

Vivienda C1:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings. The mold in this pod was similar to what I observed in Housing Unit C.

Vivienda C2:

- Due to roof leaks mold was developing in the corner of the dayroom ceilings
- While the A/C was fixed in rooms F139-142 and F 222-225, the air conditioning was not working in the dayroom and in cells F145 – F147 and F225 – F232

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 than in C and D.
- The air conditioning was still not working well in the dayroom and in particular room C-147 was very warm. The juvenile rooms also have a lot of paper stuffed into their supply grills contributing to the problem. This is a major maintenance and air flow problem.
- The electronic locks were not working in rooms E 231 and 224. E 229 **was fixed**.
- I tested both fire exit doors in this pod and door 149A could still **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 **still broken** on one side of the pod affecting rooms 157-159 and 233-236. Supposedly this was a thermostat problem that was being addressed.
- I tested fire exit door 167 and it was opened quickly and the vegetation in the fire exit path had been cleared.

Vivienda A1:

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

Vivienda A2:

- Due to roof leaks some mold was developing in the corner of the dayroom ceilings. This unit had the least mold of all the housing areas that I toured.
- Room E 218 had water leaking into the room as did rooms E221. In the latter case, the water leaks were coming from the A/C units on the roof

- I spot checked fire exit door 125A 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. I had asked Pedro to verify the validity of this observation several months ago, 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. This is fixable as was done in Humacao. Also, there was water on the floor from the roof leaking over the bleacher area. While the leak was fixed in November 2011, apparently the roof repair has not held.

In addition, the air conditioning in the admission, central control and the social work area **were now working**. I did not check the social work or admissions area where the A/C had been broken. One positive area was the functioning fire alarm systems which we recertified in in 2012. While there may be problems with the security panels in the housing areas, the ones in Central Control do appear to be working.

I recommend that a complete security system audit be conducted in conjunction with an operational security audit to determine how security can be improved at Villalba.

Humacao

On the day of my site visit the population at Humacao was 98. I toured the facility with Gloria Sepulveda, the Fire Safety Coordinator and Modesto Moldini, the physical plant manager. I was pleased to see some improvements at the facility from my last visit, especially as it relates to roof leak repairs and air conditioning repairs. The major problems at Humacao still are the severe roof leaks and bad mold in the living units along with air conditioning issues. While I was there, roof repairs were occurring over the cell areas in Housing Unit 3. The infirmary, admissions and administration areas of the facility and the cell areas of housing Units 1 and 2 are completed. Funds to repair the leaks in the day areas have not yet been allocated, but need to be to provide a healthful environment for the juveniles and staff.

In addition, Humacao still has no electronic individual door release and intercoms to each cell as do the other DCR juvenile facilities. In addition, there has been no movement on adding closed circuit TV cameras to allow improved surveillance in the corridors connecting the housing units and allow juveniles to walk the corridors escorted but not shackled. This is a long standing life safety issue. While I was pleased to see some movement in this long-standing environmental problem, no repairs had occurred yet in the living areas.

Other issues and improvements observed included:

- The entry lobby A/C is still set at a very low temperature contributing to the creation of severe condensation forming and the development of mold.
- The air conditioning in the visiting room is still working properly after many months.
- In living Unit 2 the sprinkler system had been shut off for 3 days due to needed repairs to sprinkler heads.
- In Unit 2B the dayroom air conditioning was not working and exit door 4D had no door handle.
- In Unit 3 I observed the process of the officer opening the keywatcher box in mini-control to obtain the key to operate the electronic release for the exit door. That process was completed within 30 seconds.
- There was a major leak behind the mini-control in Unit 3 with a large amount of pooling water on the floor.
- In Unit 4 a broken sprinkler head which had required the sprinkler system to be been shut off, **has been repaired.**
- The air conditioning in module 3A **has been fixed.**
- The air conditioning in module 2B was working better but there still appears to be a compressor problem.
- The air conditioning in module 1B and in cells 1-4 and 12-15 **has been fixed.**
- There was still no air conditioning in cells 4 - 7 and 12 -15 in module 4B.
- In Unit 4A there was no air conditioning in cells 1 – 3 and 8-12.
- The exit pathways leading out from Unit 4 were clear of vegetation as was the fence.
- I randomly tested fire exit doors leading from the dayroom. Most doors were opened from the housing unit control in less than 60 seconds. I retested door 035C in module1A which had taken took 2.5 minutes to open on my last visit, but took only 60 seconds during my most recent test.
- While the insulation has been removed in the gym, there are still roof leaks over the bleachers.
- The air conditioning in Central Control **has been fixed.**
- The fire alarms in Central Control continue to be broken.
- The exit pathways leading out of the housing units are overgrown with vegetation, which is a life safety concern, and the perimeter fences are covered in vines which are a security threat.

CD Bayamon

There were 91 juveniles in CD Bayamon on the day of my site visit. In addition there were 15 juveniles in the yellow housing unit and 18 in the orange housing unit in CTS Bayamon. I was accompanied on my tour by one of the the two fire safety coordinators, Betancourt and the physical plant manager Henrick Harbar as well as Gonzalo Ruiz. I also briefly met with Adamar Rosado Chavez the new Acting Director.

The main problems at CD Bayamon are air conditioning problems (6 units were broken), broken plumbing fixtures, several broken door locks and housing unit control

panel lights not reporting accurate status conditions in all three active housing unit control rooms. A major source of the air conditioning problems is the poor service being provided by the air conditioning vendor who has the maintenance contract for Bayamon. The facility recently purchased clear storage bags from Pacific Concepts for the juveniles to use for personal belongings. There was no information to determine if they are successfully being used. Sadly, I noticed that there was much graffiti on the cell walls which indicates poor management. I discussed this with the Acting Director and she seemed ambivalent about the issue. In addition, while many of the bathrooms were painted in the past 3 months they were already in poor condition. As I have recommended in the past, the special epoxy paint that is being used in showers and bathrooms in the Blue building at CTS Bayamon and in Guayama need to be used in CD Bayamon and the other facilities. I was told that exterior painting was commencing in February 2013.

Key problems and improvements that I observed include the following:

- The A/C was not working in cells 118-121 and 110-113.
- The air conditioning that was barely working in unit B-1 during my last visit **has been repaired.**
- The door handle was missing to the pod door entering into C1.
- The A/C was not working in the dayroom or in cells 05-07 and 012-014 in C1.
- There was no hot water in the showers on the upper level of B-2.
- The air conditioning was working in the dayroom of unit D-1 but in the cells the air circulation was poor.
- The air conditioning **was fixed** in unit D-2.
- The hot water in the showers was working except in D2.
- Several lights in juvenile rooms were not working and were not repaired as the electrician at the facility retired.
- The intercoms from the cells to the mini-control are working, which is a very positive development.
- In Central Control the fire alarm was blinking signaling it was working but it need to be reset which lead me to believe the staff were not trained properly on how to reset the fire alarms.

Humacao

On the day of my site visit the population at Humacao was 93. I toured the facility with Gloria Sepulveda, the Fire Safety Coordinator and Nelson Echeveria. I also met with Director Luis Rodriguez Perez. I was pleased to see some improvements at the facility from my last visit. The insulation in the gym ceiling that had posed a hazard of falling down had been removed and parts of the institution had been painted and the grassy yard areas had been mowed by the adult inmate brigades. The major problems at Humacao still are the severe roof leaks and bad mold in the living units along with air conditioning issues. While I was there, roof repairs were occurring in the infirmary, admissions and administration areas of the facility. In addition, Humacao still has no

electronic individual door release and intercoms to each cell as do the other DCR juvenile facilities. This is a long standing life safety issue. While I was pleased to see some movement in this long-standing environmental problem, no repairs had occurred yet in the living areas.

Other issues observed included:

- In Unit 4 a broken sprinkler head had not been fixed for 10 days and accordingly the sprinkler system had been shut off.
- There was no air conditioning in the cells in module 4B.
- There has been no air conditioning in module 3A in all the lower cells, 1-3 and 8-10A. This condition was already six weeks old on the day of my visit.
- The air conditioning in module 2B was barely working most likely a compressor problem.
- There was no air conditioning in module 1B in cells 1-4 and 12-15.
- I randomly tested fire exit doors leading from the dayroom. While most doors were opened from the housing unit control in less than 60 seconds door 035C in module 1A took 2.5 minutes.
- While the insulation has been removed in the gym, there are still roof leaks over the bleachers.
- There was no air conditioning in Central Control as the compressor was broken.
- The fire alarms in Central Control continue to be broken.

Systemwide Plumbing Report

There has been positive improvement from the last quarter with 29 observed broken fixtures versus 58 last quarter. The number of broken fixtures in the last quarter of 2011 was 21 which rose to 50 in the first quarter of 2012, and then jumped greatly to 81 in the second quarter and back to 58 last quarter. The current figure is half of last quarter's. Guayama went from 14 broken fixtures to zero last quarter but is back up to 9 this quarter. The greatest improvements were in Bayamon, with CTS dropping from 21 to only 1 broken fixture and CD dropping from 22 to 5 broken fixtures. Humacao increased from 9 to 1 broken fixture. Below are the figures gathered for this quarter. The data was collected in late December and early January.

- CD Bayamon - 5
- CTS Bayamon -1 (Blue, Orange and Yellow units)
- Guaili - 0
- Guayama -9
- Humacao - 11
- Villalba - 3
- 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 to capture the plumbing statistics.

PLUMBING CONDITIONS SUMMARY Fourth Quarter, 2012

Plumbing Conditions Summary																	
October - December 2012																	
Facility	Modules in use	Toilets			Urinals			Showers			Sinks			Drink Water	Hot water available	Comments	Summary of Broken Fixtures
		# toilets	# broken	# available	# urinals	# broken	# available	# showers	# broken	# available	# sinks	# broken	# available		(yes/no)		
CTS Guayama	7 of 9	14	0	14	8	1	7	21	5	16	21	3	18	ok	yes	Two modules used for administrative purposes. Facility clean, new fire alarms switches, some ripped mattresses, 1 A/C out of serv.	9
CTS Humacao	8 of 8	32	4	28	32	2	30	32	2	30	32	3	29	ok	partial	Roof leaks, in living units, 1 emergency door works manually, 3 A/C out of serv. water drain blockage in module IV-A.	11
CTS Villalba	8 of 8	32	1	31	32	0	32	32	2	30	32	0	32	ok	yes	Some doors only work electronically. Roof leaks. 5 A/C out of service.	3
CD Bayamon	8 of 8	34	1	33	24	1	23	24	1	23	33	2	31	ok	no hot water in Charlie 1	Roof leaks, A/C in rooms working lack of cleaning, no security screws. Delta module: sprinkle syst. Broken	5
CTS Bayamon	7 of 11	133	0	133	0	0	0	15	0	15	135	1	134	ok	yes	No security screws. No A/C in medical area, gates in working cond. Fac. Clean.	1
Guali	1	4	0	4	0	0	0	4	0	4	4	0	4	ok	yes	none	0
CREANDO	4	12	0	12	0	0	0	12	0	12	18	0	18	ok	yes	none	0

Document Attachment F: Site Visit Chronology

The Monitor's Office has conducted site visits to several facilities in order to assess conditions and operations, and to inform the process of developing monitoring protocols and in developing recommendations for improvements where needed. In addition, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco continue to make site visits to follow up the joint monitoring process and to assess conditions that may formally or informally come to their attention. The following is a list of the site visits conducted with participation by officials of the Monitor's Office.

- October 4, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to CTS Villalba.
- October 4, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to CDT Ponce.
- October 4, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to "Guaili".
- October 10, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to CTS Guayama.
- October 10, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to CTS Humacao.
- October 15, 2012: Consultant Curtiss Pulitzer meeting at PR Department of Corrections
Maintenance division.
- October 15, 2012: Consultant Curtiss Pulitzer site visit to CTS Bayamon.
- October 16, 2012: Consultant Curtiss Pulitzer and Associate Monitor Ricardo Blanco Site
visit to CTS Villalba.
- October 17, 2012: Consultant David Bogard, Consultant Robert Dugan and Associate
Monitor Ricardo Blanco site visit to CTS Villalba.
- October 17, 2012: Consultant David Bogard, Consultant Robert Dugan and Associate
Monitor Ricardo Blanco site visit to CTS Guayama.
- November 14, 2012: Federal Monitor F. Warren Benton, Consultant Thomas Kucharski,
Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to CTS Bayamon.
- November 14, 2012: Federal Monitor F. Warren Benton, Consultant Thomas Kucharski,
Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco
Site visit to CD Bayamon.

- November 15, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Bayamon.
- November 16, 2012: Federal Monitor F. Warren Benton, Consultant Thomas Kucharski, Consultant Barbara Quiñones, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Bayamon.
- December 10, 2012: Associate Monitor Ricardo Blanco site visit to CD Bayamon.
- December 11, 2012: Consultant David Bogard and Consultant Robert Dugan training at PR Department of Corrections Head Quarters.
- December 12, 2012: Consultant Victor Herbert and Consultant Peter Leone site visits to CTS Humacao.
- December 12, 2012: Consultant Curtiss Pulitzer site visit to CTS Bayamon.
- December 12, 2012: Consultant David Bogard, Consultant Curtiss Pulitzer, Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
- December 13, 2012: Consultant Victor Herbert and Consultant Peter Leone meeting at PR Department of Corrections (AIJ).
- December 13, 2012: Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco meeting at Adult institution Bayamon 308 Maintenance division.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Fourth Quarter 2012

Provision	P	S	R	T	D	G	Comment
Compliance Category and Rating Definitions							
Compliance Category P	This category concerns <u>Policy Compliance</u> as required by Settlement Agreement paragraph 45. "Y" means that there are sufficient written policies and procedures in place so that, if they were implemented, compliance would be achieved. A "Y" also means that there are no policies and procedures in place that are inconsistent with the provision.						
Compliance Category S	This category concerns <u>Staffing Compliance</u> as required by Settlement Agreement paragraph 48. "Y" means that there are sufficient authorized and filled positions so that compliance could be achieved. Temporary vacancies are acceptable, provided that functional coverage is provided while the position is vacant, and the process of replacing the employee proceeds promptly.						
Compliance Category R	This category concerns <u>Resource Compliance</u> as required by Consent Order paragraph 44. "Y" means that there are sufficient funds, equipment and supplies and space that compliance can be achieved.						
Compliance Category T	This category concerns <u>Training Compliance</u> as required by Settlement Agreement paragraph 45. "Y" means that the necessary training has been provided, and that the training informs the employees as to how to implement the provision involved.						
Compliance Category D	This category concerns <u>Documentation Compliance</u> as required by Settlement Agreement paragraph 101. "Y" means that there is procedures and forms in place and in use to document whether compliance is being achieved or not. A "Y" can be assigned when the documentation accurately shows non-compliance.						
Compliance Category G	This category concerns <u>General Compliance</u> - the overall achievement of compliance with the provision involved.						
Compliance Rating Definitions	"Y" means that compliance is achieved. "N" means that compliance is not yet achieved. "#" means that the Monitor has not determined whether compliance has been achieved or not. "I" means that the category is inapplicable to the provision involved.						

Provision	P	S	R	T	D	G	Comment
Facility Provisions							
C.O. 41: Within ninety (90) days of the filing of this Consent Order, Defendants shall repair all defective plumbing in the facilities in this case. The defective plumbing shall be repaired first at Mayaguez, Ponce Industrial, Ponce Detention and Humacao.	N	N	N	#	#	N	<p>Compliance with this provision will be impossible to achieve under the current AIJ operating procedures and policies as it pertains to maintenance. Key issues are a lack of sufficient numbers of maintenance personnel coupled with an arcane procurement process for parts. The defendants concur with this assessment through numerous conversations with the monitor's office but to date no viable plan has been created to address plumbing and maintenance repairs in a timely manner. The number of broken fixtures 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"> • CD Bayamon - 21 • CTS Bayamon - 21 (Blue, Orange and Yellow units) • Guali - 1 • Guayama - 14 • Humacao - 18 • Villalba – 6 • Creando - 0 <p>See my primary compliance report for the details on plumbing repairs.</p>
S.A. 29. Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	N	Y	N	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>

Provision	P	S	R	T	D	G	Comment
S.A.31. Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	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.
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	N	N	While all facilities have emergency keys that are readily available for use in an emergency, the monitor's office has found that in many instances the keys are not properly color coded or notched. Also, there is no systematic approach to storing or issuing the correct keys in an emergency. The AIJ Fire Safety Officer has been working on a plan to rectify this. When that plan is completed, the monitor's office will review it and oversee its proper implementation. The electrification of the cell doors at CD Bayamon and Ponce Ninas, and hopefully Humacao, will help achieve compliance with this provision by reducing the number of keys needed for emergency exiting. AIJ needs to ensure sufficient staff, with proper communication to staff in the living units, are working in the Housing Control stations on all shifts to operate the control panels to remotely unlock all doors.
S.A. 35. Defendants agree that designated exit doors in all facilities will be maintained in operable condition and shall be readily unlocked in case of an emergency.	Y	#	N	#	Y	N	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
S.A. 37. AIJ policy shall ensure safety for juveniles and staff by requiring compliance with fire safety code requirements. Specific emergency plans shall be developed and copies made available to staff members. There shall be ongoing training programs and emergency procedures shall be reviewed and updated annually.	Y	Y	Y	N	#	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>

Provision	P	S	R	T	D	G	Comment
Policies and Procedures							
S.A. 45. Within one year of the approval of this agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement by the Court, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.	N					N	In the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case.
Staffing							
S.A. 48. Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.	N	N	N	N	Y	N	<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: 18% of events, 5% reduction 2:00 pm- 10:00 pm shift: 20% of events, 1% increase 10:00 pm- 2:00 am shift: 100% 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 1st and 2nd reporting quarter of 2012 .</p> <p>See the 2012 2nd 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>

Provision	P	S	R	T	D	G	Comment
January 2009 Stipulation Paragraph 1: All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.	Y	N	N	N	N	N	Reported 106 youth requiring 1:1 supervision, reduction of 56 youth from 1st QR 2012. 0 reported instances of youth not receiving 1:1 supervision in 2 nd quarter 2012. 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
January 2009 Stipulation Paragraph 2: All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48, as amended by Court Order dated May 15, 2007 (Dkt. #719), by hiring qualified direct care staff, beginning with fifty (50) direct care staff within thirty (30) days of this Order, and fifty (50) additional direct care staff every thirty (30) days, until Defendants achieve the goal to provide adequate supervision of youth in all facilities.	N	N	N	N	N	N	The January 2010 academy yielded 43 YSOs. The May 2010 academy yielded 52 YSOs. A third academy scheduled for August 2010 is expected to yield 50 YSOs.
January 2009 Stipulation Paragraph 3: Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre-service training, pursuant to Paragraph 49 of the Consent Decree. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.	#	#	#	#	#	#	The Commonwealth has decided not to employ this provision to enhance coverage.
January 2009 Stipulation Paragraph 4: All persons hired to comply with Paragraph 48 shall be sufficiently trained, pursuant to Paragraph 49 of the Consent Decree, before being deployed. Defendants shall deploy all duly trained direct care staff, pursuant to Paragraph 49, to juvenile facilities in a timely manner.	Y	N	N	#	N	N	The new YSOs have been deployed to youth corrections facilities.
January 2009 Stipulation Paragraph 5: On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.	Y	Y	Y	Y	Y	Y	The reports are being provided. However, they are not reporting compliance with the other parts of the stipulation.

Provision	P	S	R	T	D	G	Comment
Training							
S.A. 50. Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.	Y	N	N	I	Y	N	<ul style="list-style-type: none"> 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. 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.
Classification							
S.A. 52. At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.	N	#	#	#	#	N	<ul style="list-style-type: none"> 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. 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 2nd quarter. 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.

Provision	P	S	R	T	D	G	Comment
Mental Health and Substance Abuse Treatment							
S.A. 59. Defendants, specifically the Department of Health (ASSMCA), shall provide an individualized treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers, for each juvenile with a substance abuse problem.	N	N	Y	#	N	N	Review of the medical records and observation of a treatment team meeting revealed that the treatment planning process is markedly deficient. The team meeting was not attended by the psychiatrist, no treatment needs were identified, the youths were all reported to be “stable”. The types and frequency of substance abuse difficulties were noted but the treatable psychological deficits that lead to and support substance abuse were not identified or discussed.
C.O. 29: Defendants shall maintain an adequate 48 bed residential mental health treatment program which provides services in accordance with accepted professional standards, for juveniles confined in the facilities in this case in need of such services as determined by a qualified child and adolescent psychiatrist as part of a qualified interdisciplinary mental health team.	N	N	N	#	N	N	Defendants moved on December 17 th for this provision to be dismissed. See the Monitor’s upcoming PLRA Report for information about compliance with this provision.
C.O. 30: Defendants provide adequate qualified staff members for the residential treatment program, which include a child psychiatrist, psychologist, occupational therapist, social workers and nurses.							<ul style="list-style-type: none"> Defendants moved on October 5th for this provision to be dismissed. See the Monitor’s upcoming PLRA Report for information about compliance with this provision.
C.O. 34. Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self-mutilating behaviors.							<ul style="list-style-type: none"> 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..
C.O. 36. Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	N	N	#	N	N	N	<ul style="list-style-type: none"> Psychologist hours had been cut from 35 to 30 hours. Youth are not adequately assessed. Treatment plans are not individualized and treatment progress not assessed and documented. Policy is deficient in terms of the procedures for documenting progress. Given the deficient assessment practices policies will need to be developed that include enhanced assessment. Assessment is seriously deficient with many youth being diagnosed as free of mental health concerns. Because the evaluation of youth is so deficient, appropriate treatment services are not being provided.

Provision	P	S	R	T	D	G	Comment
S.A. 62. In addition to the mental health staff required by ¶ 36 of the Consent Order approved by the Court in this case in October 1994, Defendants shall provide ambulatory psychiatric services by a team. This team shall be composed of a child psychiatrist, a child psychologist and a social work counselor. All mental health care personnel shall have written job descriptions and meet applicable Commonwealth licensure and/or certification requirements. Defendants, specifically AIJ, will provide for residential treatment and, if needed, in-patient hospitalization for those cases where such service is needed.							<ul style="list-style-type: none"> Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
S.A. 63. For each juvenile who expresses suicidal or self-mutilating ideation or intent while incarcerated, staff shall immediately inform a member of the health care staff. Health care staff shall immediately complete a mental health screening to include suicide or self-mutilation ideation for the juvenile. For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist shall immediately examine the juvenile. The juvenile, if ever isolated, shall be under constant watch. Defendants shall develop written policies and procedures to reduce the risk of suicidal behavior by providing screening for all juveniles at all points of entry or re-entry to AIJ's facilities and/or programs and by providing mechanisms for the assessment, monitoring, intervention and referral of juveniles who have been identified as representing a potential risk of severe harm to themselves. Treatment will be provided consistent with accepted professional standards.	Y	#	N	N	N	N	<ul style="list-style-type: none"> The current staffing for mental health professionals does not make it possible for a psychiatrist to "immediately evaluate" the youth. This is an overly stringent requirement. Youth should be evaluated immediately by n medical staff and placed on Therapeutic observation and seen by the psychiatrist or psychologist within 8 hours. This generally occurs. However, recent site visits revealed numerous youth isolated reportedly for reasons other than MH concerns. Many of these youth had serious MH concerns with automutilation being common. Minimal MH treatment is being provided these youth. Because youth with MH difficulties are poorly assesses and not identified treatment is not provided in accordance with accepted professional standards.
S.A. 66. An AIJ child and/or adolescent psychiatrist shall develop a protocol for the use of psychotropic medication by other physicians. A training program will complement this protocol. A child and/or adolescent psychiatrist will be available on an on-call basis at all times.							<ul style="list-style-type: none"> Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
S.A. 67. Defendants shall obtain specific informed consent from a juvenile's parent or legal guardian or from the state court for the use of psychotropic medication for each juvenile on such medication. All psychotropic medications will be prescribed by a licensed psychiatrist and/or physician. All psychotropic medication will be reviewed and approved by an AIJ child psychiatrist. In all cases, the family of any juvenile taking psychotropic medication will be informed in writing by the family's case manager.							<ul style="list-style-type: none"> Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
S.A. 71. Stimulants, tranquilizers, and psychopharmacological drugs shall only be used as deemed medically necessary and shall not be administered for punishment.	#	N	Y	#	#	N	<ul style="list-style-type: none"> Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.

Provision	P	S	R	T	D	G	Comment
S.A. 72. All juveniles receiving emergency psychotropic medication shall be seen at least once during each of the next three shifts by a nurse and within twenty-four (24) hours by a physician to reassess their mental status and medication side effects. Nurses and doctors shall document their findings regarding adverse side effects in the juvenile's medical record. If the juvenile's condition is deteriorating, a psychiatrist shall be immediately notified.	Y	Y	Y	Y	N	N	In instances where emergency medication was used adequate follow-up of the youth and documentation of the youth's response to the medication is lacking.
S.A. 73. Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.	N	N	N	N	N	N	The AIJ Behavior Management program is seriously deficient. Currently youth receive points on a daily basis for prosocial behavior. However, the reward schedule is so poor that youth need to save up points for an entire month in order to get the Nintendo for the weekend. Youth report that frequently when they try to exchange points for items like pizza or a movie that these are not available due to budget limitations. This undermines the entire rationale for a BM program where rewards in reasonable frequency and quantity are needed to promote positive behavior.

Provision	P	S	R	T	D	G	Comment
Discipline							
S.A. 74. Defendants shall specify the rules of the facilities with a complete list of possible punishments for violations of such rules in the handbook described in ¶ 47 above. Written notice of any rule violation, a hearing before a facility staff person not involved in the investigation of the violation, and an appeal to the facility director shall be provided to a juvenile prior to any punishment being imposed, except that Defendants may administratively segregate a juvenile in emergency or life-threatening situations. In the event of an emergency, when circumstances make it inappropriate to hold a hearing prior to segregation, a hearing shall take place within forty-eight (48) hours from the time of segregation.	N	N	N	N	Y	N	<ul style="list-style-type: none"> Monitor's consultant observed few, if any, youth with handbooks and rules are not typically posted in modules Monitor's consultant is not aware of any change to the unacceptable practice of transferring youth who have assaulted others to a higher custody facility with no disciplinary hearing and no accountability. I previously recommended that the expedited hearing option set forth in P74 be used as the basis to address these circumstances, with proper policy and procedures. Dr. Benton transmitted to the parties a report that I prepared concerning the disciplinary board element of Stipulation. I am unaware of any follow-up that might have occurred relative to non-compliance findings contained in that report.

Provision	P	S	R	T	D	G	Comment
<p>S.A. 77. No corporal punishment shall be imposed on any juvenile. The use of physical force by staff shall be limited to instances of justifiable self-defense, protection of others, and prevention of escapes. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing serious bodily harm to himself or to another, the facility director or his/her designee must approve the use of restraints before they are applied.</p>	N	N	N	N	N	N	<ul style="list-style-type: none"> While there have been improvements at some facilities (e.g., Villalba), quarterly reporting of use of force data continues to need improvements in consistency and reliability. Incident reports are not distinguishing between victims and aggressors and use of force is frequently being <u>over</u>-reported (especially when large numbers of youth were involved or present). In October 2012 Monitor's consultant discussed with DCR staff (and documented in my Q3 report) the need for four revisions to Policy 9.18. I am not aware as to whether these have been made. Monitor's consultant has continued concerns about high frequency of use of OC at Humacao Leg restraints are once again being routinely used at Humacao for movement after 2 pm due to no cameras and insufficient staff, especially after the receipt of Villalba escapees There is much confusion concerning the new Post-use of force Infirmary log. This log must be completed by infirmary staff as an independent source of documentation. There was no Incident Report documentation or Use of Force log entries in place at Humacao concerning use of force during capture of the Villalba escapees. Some facilities (e.g., Humacao) have started differentiating in Incident Reports between staff who use force (check marks) and those who witness it (T). This needs to be addressed in policy or administrative order and adopted system wide

Provision	P	S	R	T	D	G	Comment
Abuse and Maltreatment Investigation and Management							
S.A. 78.a Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.	Y	N	N	#	N	N	<p>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"> Evidence is rarely preserved. Suspected youth are separated from their victim(s) less than half of the time.
S.A. 78.b All Defendants' staff or contractors who are involved in, witness, or discover an incident (or evidence of abuse or mistreatment, in the case of a health care worker) shall document the incident or evidence in writing in a standardized incident report. The report shall be submitted to the reporter's supervisor or other designated staff person before the reporter leaves the facility following shift change. The report shall include all relevant details regarding the incident, including a description of the events leading to and immediately following the incident; date, time, and place; all persons involved, including alleged victim(s) and all witnesses; how the incident was detected; reporter's name and signature; and date and time the report form was completed.	Y	Y	Y	#	N	N	<p>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
S.A. 78.c Within 24 hours of knowledge of a potential abuse incident, the report shall be transmitted to the Commonwealth Police for investigation, the Department of Family Services for statistical reporting, the Department of Corrections, and the AIJ administration. For serious incidents involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile, the AIJ administration shall also notify SAISC within 24 hours of knowledge of the potential incident, and 1 hour for any juvenile death, and SAISC shall conduct an administrative investigation.	Y	Y	Y	#	N	N	<ul style="list-style-type: none"> 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. The timeliness of initial reporting by AIJ, based on AIJ records, has been high. The Commonwealth Police do not respond to the Monitor's information requests for case analysis information. Cases are promptly referred to SAISC.
S.A.78.d Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.	N	#	#	#	N	N	<ul style="list-style-type: none"> 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. 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.

Provision	P	S	R	T	D	G	Comment
S.A. 78.e Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC's receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.	Y	#	#	#	N	N	<ul style="list-style-type: none"> For the entire year 2010, there were 208 cases referred to OISC, and only 10 were completed within the 30-day limit specified in Paragraph 78.e. For the 3rd quarter of 2011, no cases were completed within 30 days. It appears from the tracking statistics that the substantial majority of serious cases referred to SAISC are not investigated on a timely basis.
S.A. 78.f Defendants shall implement investigation standards in conformance with applicable law, including, at a minimum: photographing visible injuries; preserving and analyzing evidence; conducting separate, face-to-face, private interviews of the alleged victim, perpetrator, and all possible witnesses, with a record of the questions and answers. Whenever there is reason to believe that a juvenile may have been subjected to physical sexual abuse, the juvenile shall be examined promptly by outside health care personnel with special training and experience in conducting such assessments.	N	N	Y	#	N	N	<ul style="list-style-type: none"> 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. No process is in place to assess whether compliance is achieved with respect to investigation quality. No standards have been formally adopted.
S.A. 78.g Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.	N	N	Y	#	N	N	<ul style="list-style-type: none"> 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. No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.
S.A. 78.h AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ's quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.	N	N	Y	#	N	N	<ul style="list-style-type: none"> 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. Case tracking is inconsistent and incomplete. The case tracking information system has not been updated at all during 2008. AIJ lacks staffing and resources to do meaningful analysis of cases

Provision	P	S	R	T	D	G	Comment
S.A. 78.i Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.	Y	Y	Y	Y	N	N	<ul style="list-style-type: none"> 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. AIJ policies comply with this provision. Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision. It appears that criminal charges had been filed against three AIJ employees in relation to an alleged assault on a youth on September 10, 2009. The fact of the charges was not reported and compliance with the separation requirements of the December 2006 order has also not been established.
Separation Order, of December 4, 2006: Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.	N	Y	Y	N	N	N	<ul style="list-style-type: none"> 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.

Provision	P	S	R	T	D	G	Comment
Protection and Isolation							
<p>S.A. 79. Juveniles shall be placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others and only after less restrictive methods of restraint have failed. Isolation cells shall be suicide resistant. Isolation may be imposed only with the approval of the facility director or acting facility director. Any juvenile placed in isolation shall be afforded living conditions approximating those available to the general juvenile population. Except as provided in ¶ 91 of this agreement, juveniles in isolation shall be visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time. Juveniles in isolation shall be seen by a masters level social worker within three (3) hours of being placed in isolation. Juveniles in isolation shall be seen by a psychologist within eight (8) hours of being placed in isolation and every twenty-four (24) hours thereafter to assess the further need of isolation. Juveniles in isolation shall be seen by his/her case manager as soon as possible and at least once every twenty-four (24) hours thereafter. A log shall be kept which contains daily entries on each juvenile in isolation, including the date and time of placement in isolation, who authorized the isolation, the name of the person(s) visiting the juvenile, the frequency of the checks by all staff, the juvenile's behavior at the time of the check, the person authorizing the release from isolation, and the time and date of the release. Juveniles shall be released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others.</p>	N	#	#	#	N	N	<ul style="list-style-type: none"> This provision is related to both Discipline and Mental Health. The meaning and application of the provision continues to be unresolved. There is no evidence to suggest that mental health isolation is being used for disciplinary purposes and AIJ policy prohibits this. <p>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>
<p>S.A. 80. The terms of this agreement relating to safety, crowding, health, hygiene, food, education, recreation and access to courts shall not be revoked or limited for any juvenile in protective custody.</p>	#	N	#	#	N	N	<ul style="list-style-type: none"> Room check logs used to document 15 minute safety rounds, are not being completed accurately or consistently. Bob Dugan and David Bogard have made a number of recommendations to improve the design and utilization of these logs, including redefining 15 minute checks, proper documentation of missed checks, adding observation codes, and placement of logs on or next to room doors. Nelson Echevarria at Humacao is currently working to design a new version of this critical form. Once a new form is accepted, the entire process of 15 minute checks needs to be incorporated into an administrative directive or policy. Long-term PC housing continues to be a problem at Ponce Girls, with youth typically housed in admissions Very few instances of PC at male facilities There continues to be some confusion between PC and Transitional Measures.

Provision	P	S	R	T	D	G	Comment
Education and Vocational Services							
S.A. 81. Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juveniles would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. AIJ shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.	Y	N	R	I	Y	N	The AIJ facilities began the school year in August 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.
S.A. 86a. Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 <u>et seq.</u> Defendants shall screen juveniles for physical and learning disabilities.	Y	Y	Y	I	N	N	The Commonwealth does not maintain a systematic audit of this provision. The Monitor's Office will review such documentation when it is provided. Compliance with 86a requires compliance with 86b.
S.A. 86b. The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.	Y	Y	Y	I	N	N	The Commonwealth does not maintain a systematic audit of this provision. The Monitor's Office will review such documentation when it is provided. Compliance with 86b requires compliance with 86a.

Provision	P	S	R	T	D	G	Comment
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	Y	I	N	N	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 provided by the Commonwealth to the Monitor's Office.
S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	Y	Y	I	Y	N	<ul style="list-style-type: none"> 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.
S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	Y	Y	I	N	N	<ul style="list-style-type: none"> Certified special education teachers, many of them new to the profession, provide education services to youth. All vocational education positions were filled during this reporting period. Special education students were enrolled in vocational courses consistent with their IEP recommendations. In the July review of IEPs at Bayamon,, in the majority of cases reviewed, the IEP recommendations for mental health services were not being implemented.
S.A. 93. Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.	#	N	N	I	N	N	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.
S.A. 94. Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.	N	N	N	I	N	N	<ul style="list-style-type: none"> 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). 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.

Provision	P	S	R	T	D	G	Comment
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	Y	Y	I	N	N	<ul style="list-style-type: none"> All special education positions are filled. Visits to Humacao and Bayamon CTS indicated that teachers were periodically reviewing students' IEP. A systematic assessment has not yet been completed by the Commonwealth and provided to the Monitor's Office for review.
Funding and Implementation							
C.O. 43 Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the requirement sums of money will be established so as to implement this Consent order.	Y	Y	N		N	N	<ul style="list-style-type: none"> The Commonwealth legal position is that the required report is the agency budget request. The budget request is not routinely provided to the Monitor or the United States. Since the budget is insufficient to implement the requirements of the decree, the Monitor infers that the request was also insufficient.