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 2016. The report covers the months of October, November and December 2016. 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 14th day of March 2017, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton
F. Warren Benton
Monitor
Office of the Monitor, U.S. v. Commonwealth of Puerto Rico
USACPR Monitoring Inc.
Calle Mayaguez # 212, Esquina Nueva, San Juan, PR 00917
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Monitor's Quarterly Report
Fourth Quarter 2016

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

The following is the Monitor's Fourth Quarter Report for 2016. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision. The report covers the months of October, November and December 2016.

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:	Consultant Report on Classification
Document Attachment C:	Report on Incidents and Understaffing
Document Attachment D:	Transitional Measures and Protective Custody Reviews
Document Attachment E:	Abuse Referrals Tracking Statistics
Document Attachment F:	Case Assessment Table to Paragraph 78
Document Attachment G:	Consultant Report on Mental Health
Document Attachment H:	Consultant Report on Education
Document Attachment I:	Chronology of Site Visits
Attachment One:	Table of Compliance Ratings

In the compliance ratings table, several serious incidents are highlighted in the comments for Paragraph 77, and in the comments for Paragraph 79 a change in the Commonwealth's Transitional Measures and isolation practices is summarized.

The comments for Paragraph 50 report the need for updated documentation of inservice training.

With respect to Special Education, the Commonwealth has provided a list of 72 youth identified to receive such services. With the overall reductions in number of youth in the facilities, the number of youth with special education needs and service plans has also declined. The list provides information about their special education plans and services. The reduced number of cases should facilitate both general and individualized compliance monitoring.

Respectfully Submitted,

F. Warren Benton, Ph.D.
Monitor

Document Attachment A:
Consultant Robert Dugan Reports on Staffing

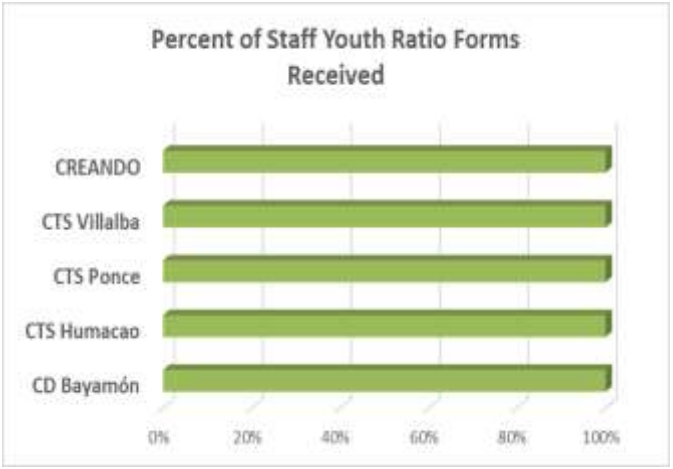
S.A. 48: NIJ Staff Youth Ratio 2016 Fourth Quarter Report

Prepared by Bob Dugan: Office of the Monitor

Background:

S.A. 48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using NIJ facility generated weekly staff youth ratio forms. These forms are submitted to the Monitor's Consultant throughout the reporting quarter. NIJ facilities daily shift by shift staffing and youth population for each operational housing module is reported, as well as any 1:1 supervision events, and volume of staff that are required to work a double shift. The report provides information from Staff Youth Ratio forms that were provided to the Monitor's Consultant for the period of September 25 through December 31, 2016. As of the Friday, January 13, 2017, the following forms were submitted:

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	14	14
CTS Ponce	14	14
CTS Humacao	14	14
CTS Villalba	14	14
CREANDO	5	5
Totals	61	61



NIJ submitted a total of 61 facility staff youth ratio forms for the five facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. NIJ has consistently provided all requested Staff Youth Ratio forms used for monitoring and reporting. The table displaying the dates that staff youth ratio forms were received is on page 13 of this report.

CREANDO:

NIJ reopened the CREANDO program on Monday, November 28, 2016. CREANDO was opened with a population of seventeen, placed in the program from the four NIJ facilities.

The criteria for youth placement in the program is the following: voluntary participation; males, between the ages of 16 to 20; Treatment Levels 2, 3, 4, and 5; completion of eighth grade; drug and

alcohol free; physically and mentally qualified to participate in the program as certified by a competent medical authority; youth's Court commitment period is from six to twenty-four months; the youth has family support; youth does not require special escort services.

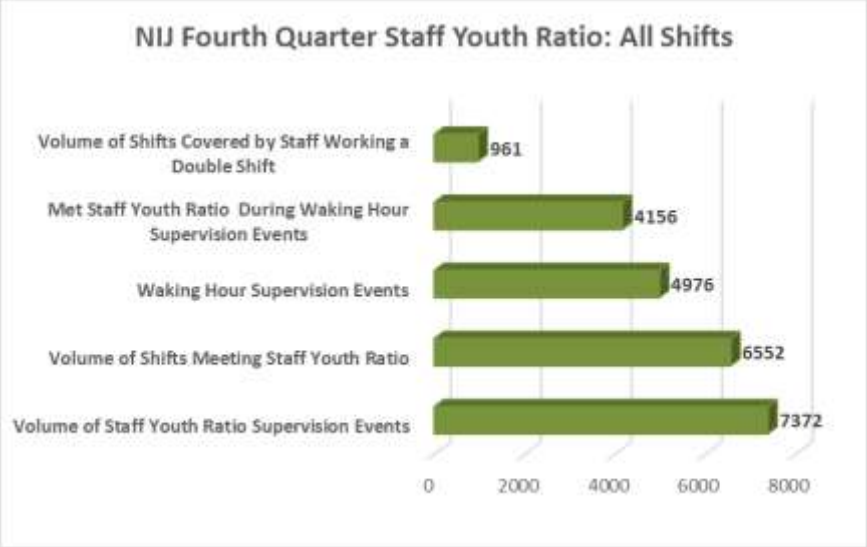
The program has been staffed with officers transferred from the following facilities: CD Bayamon (1); CTS Humacao (2); CTS Villalba (6); CTS Ponce (10). CREANDO is planned to be operational until scheduled graduation on May 30, 2017.

NIJ Staff Youth Ratio Performance:

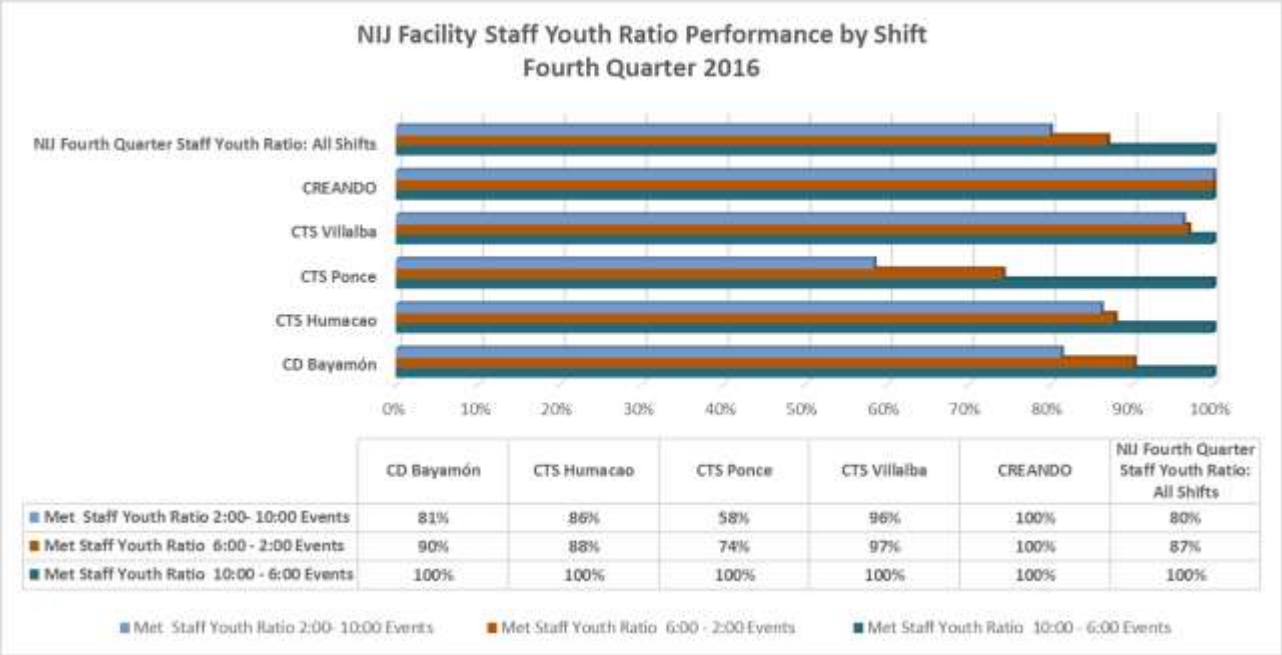
During the 2016 Fourth Quarter reporting period (September 25 – December 31, 2016), NIJ documented a total of 7372 shift / unit events that required staff to youth supervision. This is an increase of 754 staff youth supervision events from the Third Quarter of 2016 (6618 events).

Of the 7372 shift / unit events, 6552 of the events (89%) were supervised with the required staff youth ratios, a 2.1% increase from the 86.9% of events supervised with the required staff youth ratios from the Third Quarter of 2016.

Of the 6552 staffing events meeting the required staff youth ratio, 2396 (36.5%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.

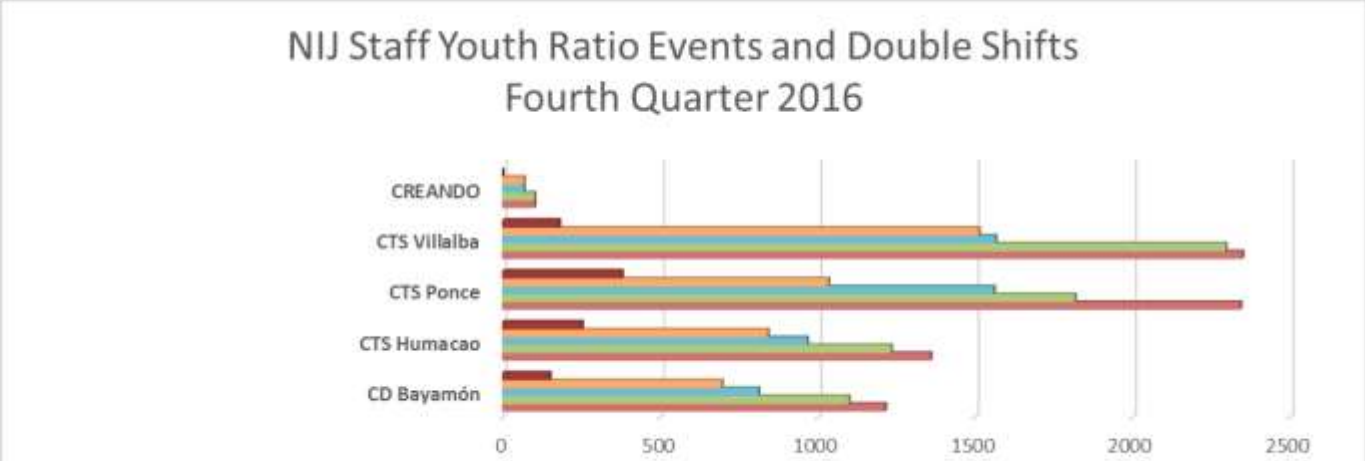


The staff youth ratio performance by shift chart and table analysis below represents the staffing information received for the period September 25 through December 31, 2016.



	CD Bayamón	CTS Humacao	CTS Ponce	CTS Villalba	CREANDO	NIJ Fourth Quarter Staff Youth Ratio: All Shifts
Met Staff Youth Ratio 2:00- 10:00 Events	81%	86%	58%	96%	100%	80%
Met Staff Youth Ratio 6:00 - 2:00 Events	90%	88%	74%	97%	100%	87%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%	100%	100%	100%	100%	100%

For the 2016 Fourth Quarter, 961 (13%) of the 7372 staff youth ratio events were covered by staff working a double shift. This is a 4% increase of volume of shifts requiring staff to work a double shift since the 2016 Third Quarter reporting period.



	CD Bayamón	CTS Humacao	CTS Ponce	CTS Villalba	CREANDO
Volume of Shifts Covered by Staff Working a Double Shift	150	252	379	180	0
Met Staff Youth Ratio During Waking Hour Supervision Events	697	843	1035	1513	68
Waking Hour Supervision Events	813	968	1561	1566	68
Volume of Shifts Meeting Staff Youth Ratio	1100	1235	1818	2297	102
Volume of Staff Youth Ratio Supervision Events	1216	1360	2344	2350	102

The following table provides data relating to staff youth ratio events during waking hours for the Fourth Quarter. Fourth Quarter waking hour staff youth ratio is 4% higher than the prior quarter. Although a relatively small increase from the Third Quarter, this continues a positive trend in staffing practices, especially in light of the volume of holidays that fall in the Fourth Quarter.

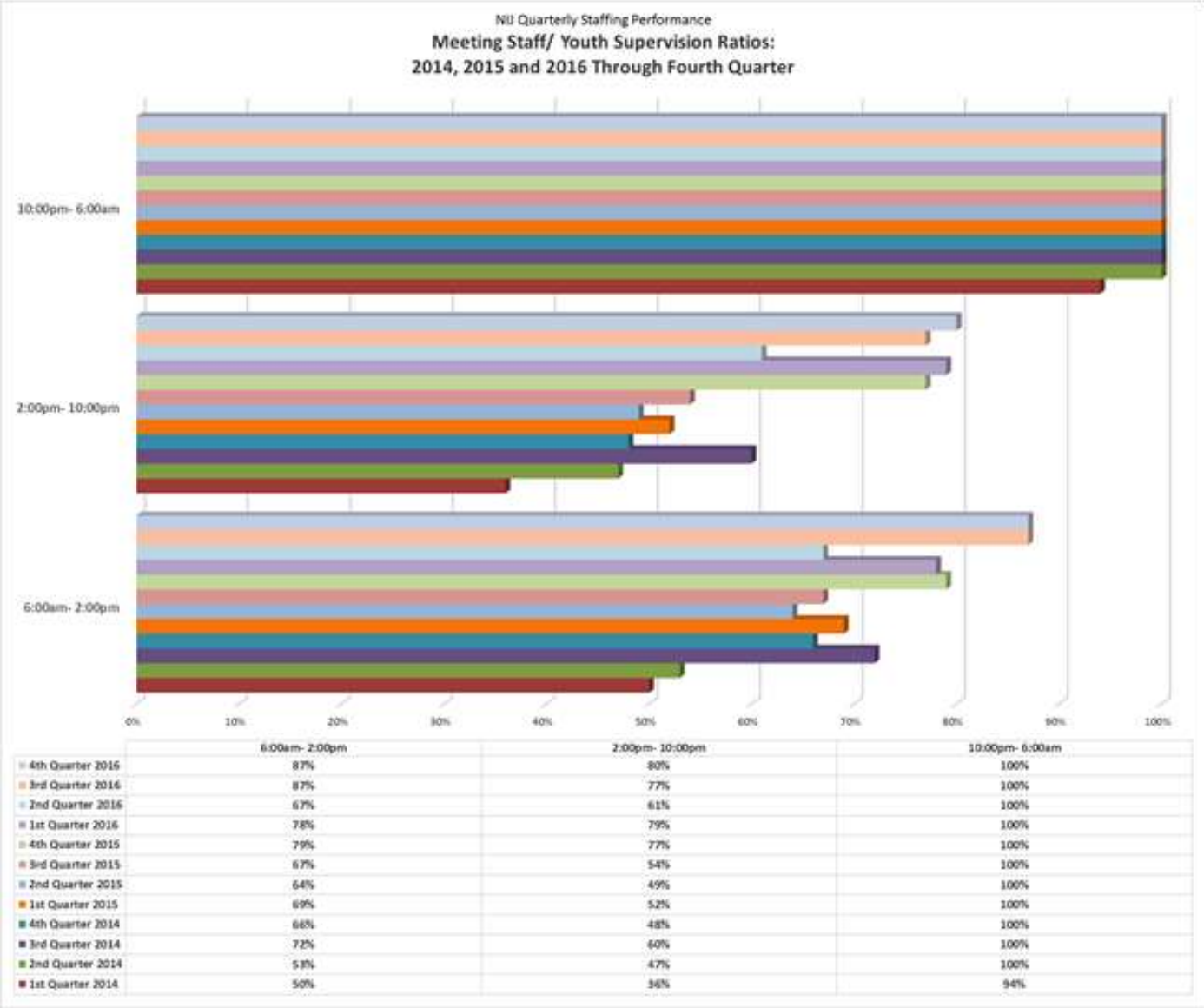
During the Fourth Quarter, CTS Villalba reported meeting the staff youth ratio in 97% of the waking hour staffing events. This rate is the highest amongst the four facilities in operation throughout the quarter.

During the Fourth Quarter, CTS Ponce had the fewest volume of events meeting the staff youth ratio requirements during waking hours (66%). CTS Ponce had the highest volume of waking hour shift events requiring double shifts (379/37%). It would appear that the reassignment of ten officers from CTS Ponce to staff CREANDO has contributed to a significant reduction in CTS Ponce meeting staff youth ratios, as well as increase of staff being required to work double shifts.

PUERTAS, housed in one of the housing modules within CTS Ponce, met the staff youth ratio for all shifts throughout the Fourth Quarter.

NIJ Fourth Quarter 2016 Staff Youth Ratio During Waking Hours Shifts (6:00 - 2:00 and 2:00 -10:00)	Waking Hour Supervision Events	Met Staff Youth Ratio During Waking Hour Supervision Events	Percentage of Events Meeting Staff Youth Ratio During Waking Hours	Volume of Shifts Covered by Staff Working a Double Shift During Waking Hours	Percentage of Waking Hours Shifts Requiring Double Shifts
CD Bayamón	813	697	86%	150	22%
CTS Humacao	968	843	87%	252	30%
CTS Ponce	1561	1035	66%	379	37%
CTS Villalba	1566	1513	97%	180	12%
CREANDO	68	68	100%	0	0%
NIJ Fourth Quarter Staff Youth Ratio: Waking Hours	4976	4156	84%	961	23%

The following chart represents the NIJ agency Staff Youth Ratio averages by shift for the last twelve quarters through December 31, 2016:



	6:00am- 2:00pm	2:00pm- 10:00pm	10:00pm- 6:00am
4th Quarter 2016	87%	80%	100%
3rd Quarter 2016	87%	77%	100%
2nd Quarter 2016	67%	61%	100%
1st Quarter 2016	78%	79%	100%
4th Quarter 2015	79%	77%	100%
3rd Quarter 2015	67%	54%	100%
2nd Quarter 2015	64%	49%	100%
1st Quarter 2015	69%	52%	100%
4th Quarter 2014	66%	48%	100%
3rd Quarter 2014	72%	60%	100%
2nd Quarter 2014	53%	47%	100%
1st Quarter 2014	50%	36%	94%

The NIJ 2016 Fourth Quarter performance in meeting Staff Youth Ratios during waking hours is as follows:

- 6:00 am – 2:00 pm shift: 87% of events, a 0% increase from the Third Quarter of 2016 (87%)
- 2:00 pm – 10:00 pm shift: 80% of events, a 3% increase from the Third Quarter of 2016 (77%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the Third Quarter of 2016

Of the 4976 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 4156 of the events (83.5%) met the shift staff youth ratio requirements. The NIJ 2016 Fourth Quarter Staff Youth Ratios compliance represents the highest aggregate percentage of staff youth ratio compliance in the twenty-eight quarters that have been documented in Staff Youth Ratio Quarterly Reports.

Fourth Quarter Staff Youth Ratio Rates:

NIJ has defined a practice with facility Supervisors III and Supervisor IV that the facility roster should be completed for each shift with a priority of staffing "from the inside (the modules) to the outside". This has resulted in significant improvement in staff youth ratio compliance. NIJ is working on agency staffing policy development to procedurally require staffing assignment and documentation to prioritize operational compliance with the required staff youth ratios. It is anticipated that the revised staffing policy will be approved and distributed in the first quarter of 2017.

Policy and Documentation Request to NIJ:

In order to support staff youth ratio compliance analysis the Monitor's Office has requested the following of NIJ:

In order for NIJ, as well as the Monitor's Office, to effectively assess staff youth ratio compliance that the NIJ Staffing policy identify that retrievable staff youth ratio documentation be maintained at each facility. The documentation should consist of the following:

- Daily youth population list, identify which youth are in which modules, designation of any youth on Protective Custody, Transitional Measures, Therapeutic Observation of Constant Watch. Additionally, daily trips and youth assigned to those trips should also be maintained in the daily population list.
- The facility staff roster, displaying which staff have been assigned to which modules. It is critical that the form allows for clear documentation of officers assigned to each module as well as mini control. This form should be uniform between all four facilities.
- In order to review staff and youth population materials in an efficient manner, it has been requested that staffing binders be put in place at each facility that allows for a review of daily staffing practices, which will allow for both NIJ and Monitor's Office analysis of policy and procedural compliance.

As of the Staffing Consultant December 13-15, 2016 site visits, NIJ has not been able to implement these staffing documentation requests. Sampling of facility daily youth population and facility staff rosters are reviewed during site visits for comparative analysis with submitted weekly Staff Youth Ratio forms.

NIJ Agency 1:1 Supervision Events:

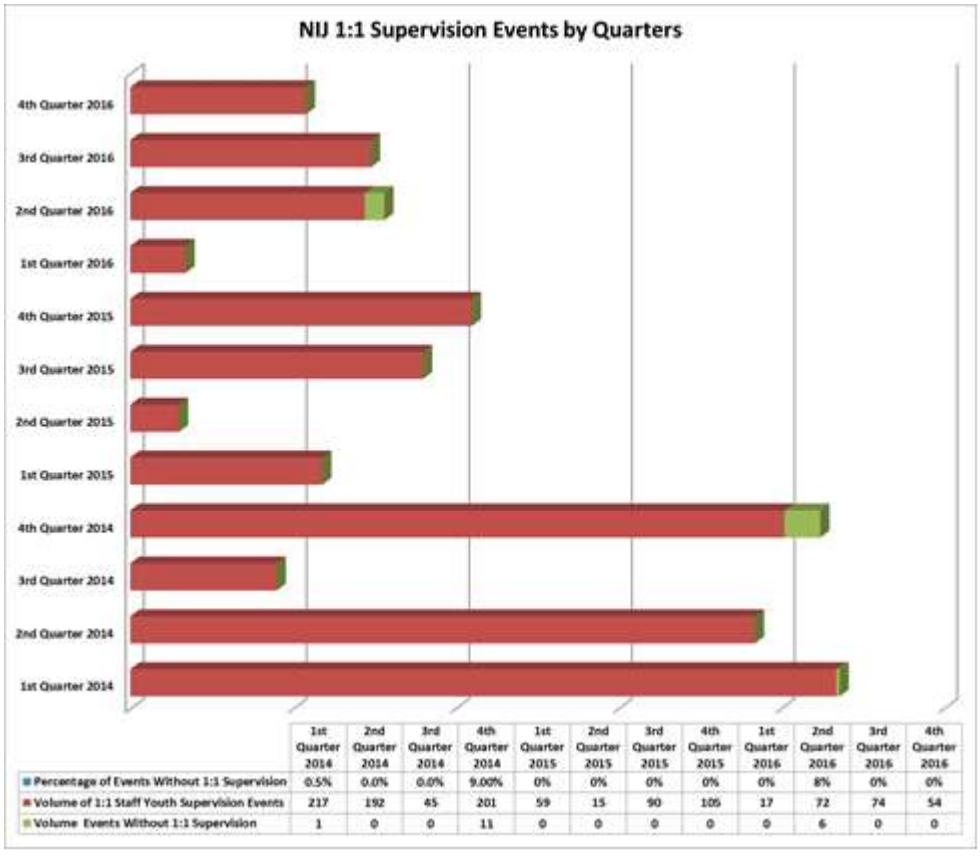
NIJ reported successfully staffing all 1:1 supervision events for the 2016 Fourth Quarter, continuing to resolve 1:1 staffing shortages identified in the Second Quarter report.

The Fourth Quarter of 2016 reporting period reflects the volume of 1:1 supervision events reported, 54 events:

- 217 events 1st Quarter 2014
- 192 events 2nd Quarter 2014
- 45 events 3rd Quarter 2014
- 201 events 4th Quarter 2014
- 59 events 1st Quarter 2015
- 15 events 2nd Quarter 2015
- 90 events 3rd Quarter 2015
- 105 events 4th Quarter 2015
- 17 events 1st Quarter 2016
- 72 events 2nd Quarter 2016
- 74 events 3rd Quarter 2016
- 54 events 4th Quarter 2016

Correspondingly, the Fourth Quarter of volume of these events without required 1:1 supervision, 0 events:

- 1 events 1st Quarter 2014
- 0 events 2nd Quarter 2014
- 0 events 3rd Quarter 2014
- 4 events 4th Quarter 2014
- 0 events 1st Quarter 2015
- 0 events 2nd Quarter 2015
- 0 events 3rd Quarter 2015
- 0 events 4th Quarter 2015
- 0 events 1st Quarter 2016
- 6 events 2nd Quarter 2016
- 0 events 3rd Quarter 2016
- 0 events 4th Quarter 2016

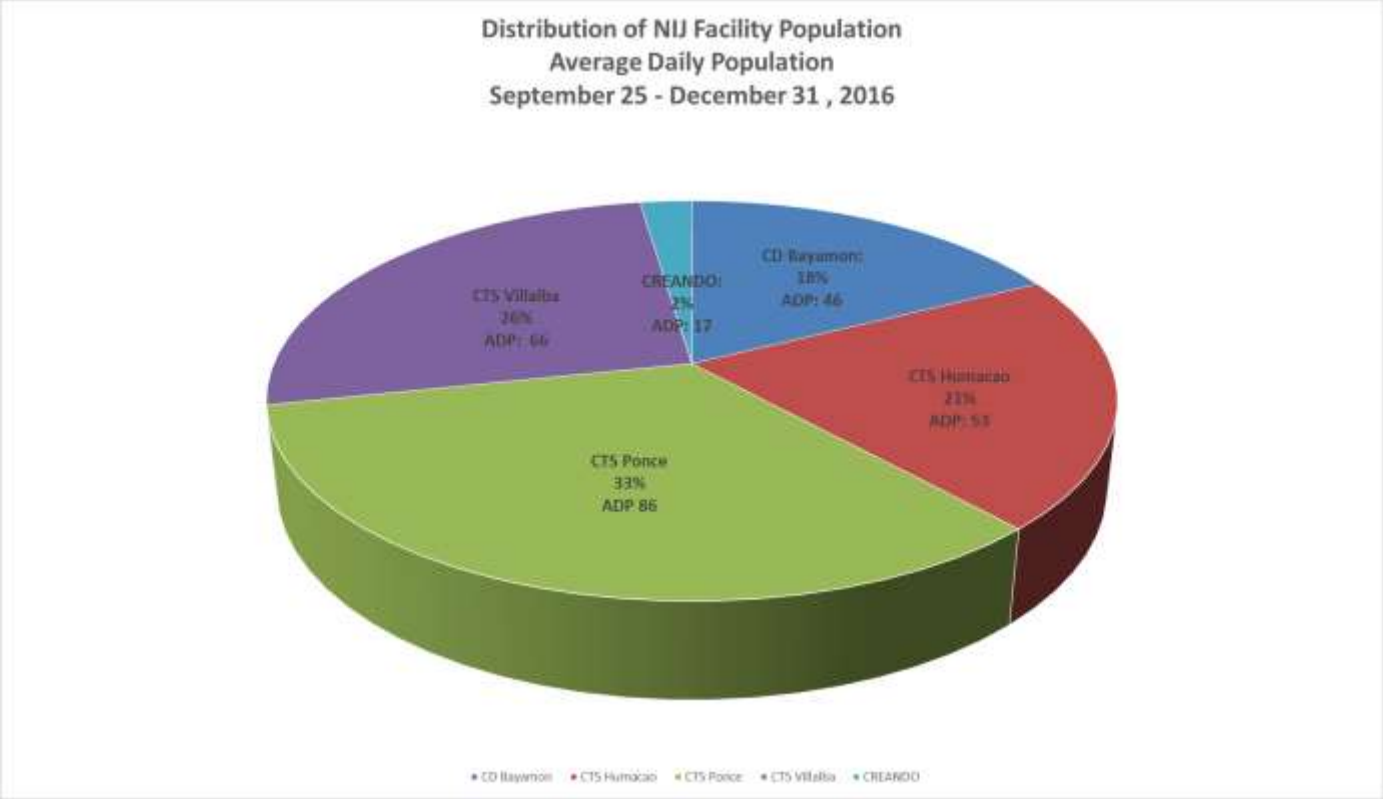


	1st Quarter 2014	2nd Quarter 2014	3rd Quarter 2014	4th Quarter 2014	1st Quarter 2015	2nd Quarter 2015	3rd Quarter 2015	4th Quarter 2015	1st Quarter 2016	2nd Quarter 2016	3rd Quarter 2016	4th Quarter 2016
Percentage of Events Without 1:1 Supervision	0.5%	0.0%	0.0%	9.00%	0%	0%	0%	0%	0%	8%	0%	0%
Volume of 1:1 Staff Youth Supervision Events	217	192	45	201	59	15	90	105	17	72	74	54
Volume Events Without 1:1 Supervision	1	0	0	11	0	0	0	0	0	6	0	0

NIJ 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 fourteen reporting weeks.

The table below displays each facility's average daily population for the reporting period (September 25 through December 31, 2016) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



The table of average daily populations can be found on page 13 of this report.

CD Bayamón Staff Youth Ratio Analysis:

September 25 through December 31, 2016

CD Bayamon operates as a detention center.

The CD Bayamon 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: 14 of 14 requested

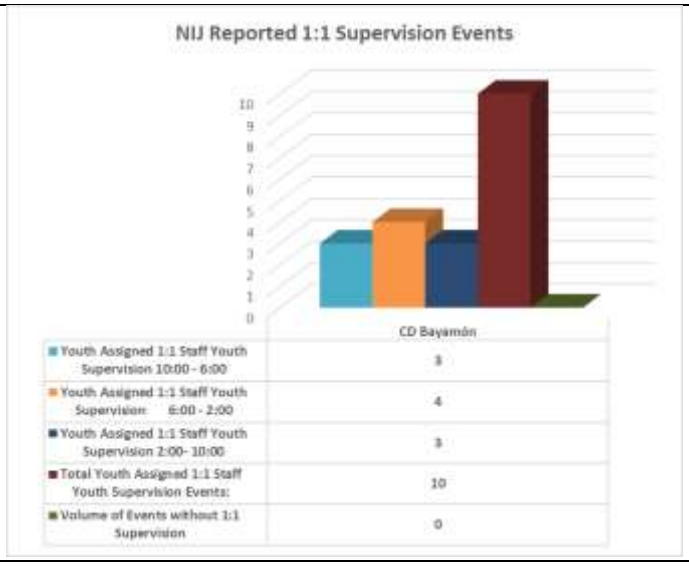
- **Volume of Staff Youth Ratio Events: 1216**
- **Volume of Staffing Events with Staff Working a Double Shift: 150 (12%)**

The Fourth Quarter of 2016 Staff Youth Ratio requirements display the following characteristics:

- **10:00 pm – 6:00 am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: 90%, an 0% increase since the Third Quarter reporting**
- **2:00 pm – 10:00 pm: 81%, an 1% increase since the Third Quarter reporting**
- **CD Bayamón represents 18% of the NIJ institutional population.**
- **A facility site visit was conducted on 10/19/2016. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.**

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 97

10 youth supervision 1:1 events for the Fourth Quarter of 2016	
Volume of 1:1 events without required staffing during reporting period: **0**	

CTS Humacao Staff Youth Ratio Analysis:

September 25 through December 31, 2016

Treatment Level 5 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: 14 of 14 requested

- **Volume of Staff Youth Ratio Events: 1360**
- **Volume of Staffing Events with Staff Working a Double Shift: 252 (19%)**

The Fourth Quarter of 2016 Staff Youth Ratio requirements display the following characteristics:

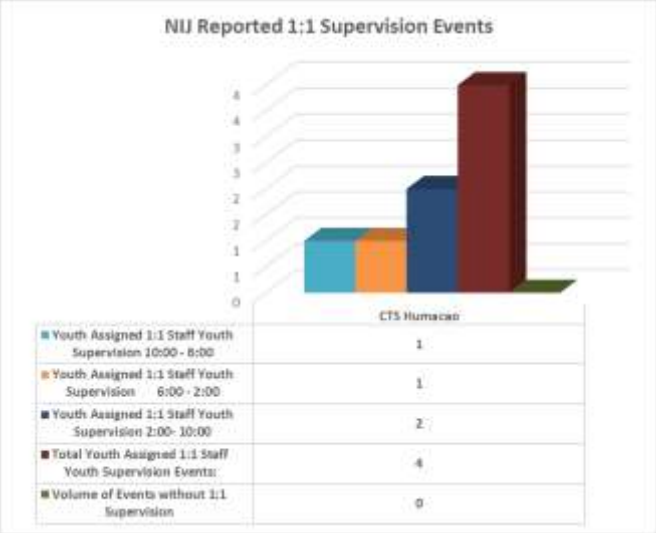
- **10:00pm- 6:00 am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: 88%, an 3% increase since the Third Quarter reporting**
- **2:00 pm – 10:00 pm: 86%, 5% decrease since the Third Quarter reporting**
- **CTS Humacao represents 21% of the NIJ institutional population.**
- **A facility site visit was conducted on 10/18/2016 and 12/14/2016. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.**

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 97

4 youth supervision events for the Fourth Quarter of 2016

Volume of 1:1 events without required staffing during reporting period: 0



CTS Ponce Staff Youth Ratio Analysis:

September 25 through December 31, 2016

Treatment Level 2 and 3 Facility:
CTS Ponce 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: 14 of 14 requested

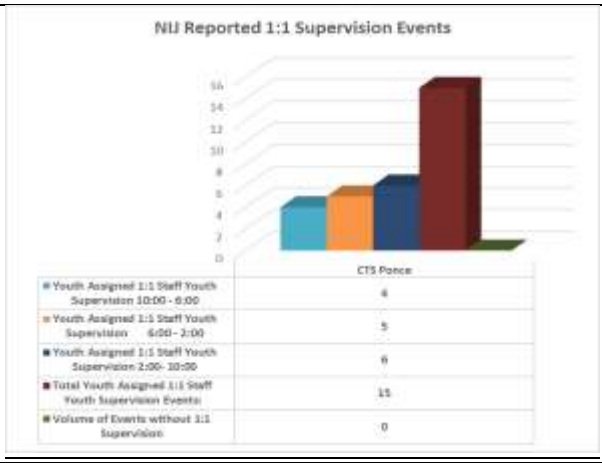
- **Volume of Staff Youth Ratio Events: 2344**
- **Volume of Staffing Events with Staff Working a Double Shift: 379 (16%)**

The Fourth Quarter of 2016 Staff Youth Ratio requirements display the following characteristics:

- **10:00 pm- 6:00 am: 100%, maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: 74%, a 16% decrease since Third Quarter reporting**
- **2:00 pm – 10:00 pm: 58%, a 5% decrease since the Third Quarter reporting**
- **CTS Ponce represents 33% of the NIJ**

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 97

institutional population. • **The PUERTAS module met the staff youth ratio 100% of the Fourth Quarter shifts.** • **A facility site visit was conducted on 12/13/2016. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.**	
15 youth 1:1 supervision events for the Fourth Quarter of 2016 _____ **Volume of 1:1 events without required staffing during reporting period: 0**	

CTS Villalba Staff Youth Ratio Analysis:

September 25 through December 31, 2016

Treatment Level 4 Facility: As of June 14, 2016 Villabla also maintains a detention population that had previously been at CTS Humacao.

- **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: 14 of 14 requested

- **Volume of Staff Youth Ratio Events: 2350**
- **Volume of Staffing Events with Staff Working a Double Shift: 180 (8%)**

The Fourth Quarter of 2016 Staff Youth Ratio requirements display the following characteristics:

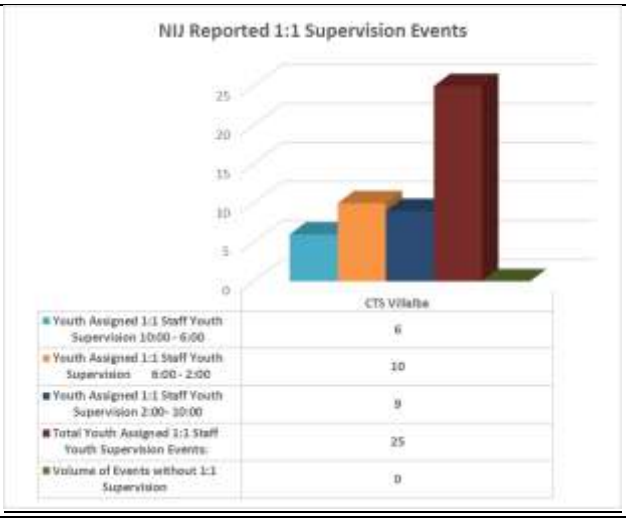
- **10:00pm- 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: 97%, a 14% increase since 2016 Third Quarter reporting**
- **2:00 pm – 10:00 pm: 96%, a 23% increase the 2016 Third Quarter reporting**
- **CTS Villalba represents 26% of the NIJ institutional population.**
- **There was no site visit to Villalba during the Fourth Quarter.**

Volume of Weeks Analyzed: 14

Volume of Days Analyzed: 97

25 youth 1:1 supervision events for the Fourth Quarter of 2016

Volume of 1:1 events without required staffing during reporting period: 0



CREANDO Staff Youth Ratio Analysis:

September 25 through December 31, 2016

CREANDO operates as a multi-level treatment 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: 5 of 5 requested

- **Volume of Staff Youth Ratio Events: 102**
- **Volume of Staffing Events with Staff Working a Double Shift: 0 (0%)**

CREANDO was in operation for thirteen weeks of the Fourth Quarter reporting period.

- **10:00pm- 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: maintained 100% required staff youth ratio**
- **2:00 pm – 10:00 pm: maintained 100% required staff youth ratio**
- **CREANDO represents 2% of the DCR institutional population.**
- **There was no site visit to CREANDO during the Fourth Quarter.**

Volume of Weeks Analyzed: 5

Volume of Days Analyzed: 33

CREANDO reported no youth on 1:1 supervision for the Fourth Quarter of 2016.

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

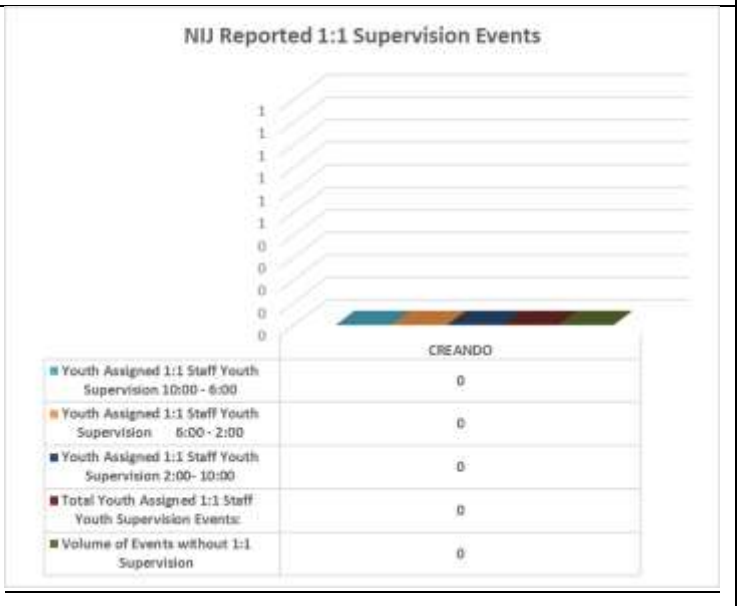


Table of Date of Receipt of Facility Staff Youth Ratio Form:

Date	CD Bayamon	CTS Humacao	CTS Ponce	CTS Villalba	Program CREANDO
September 25 - October 1, 2016	10/30/2016	10/30/2016	11/30/2016	10/30/2016	NA
October 2 - October 8, 2016	10/30/2016	10/30/2016	10/30/2016	10/30/2016	NA
October 9 - October 15, 2016	10/30/2016	11/28/2016	11/30/2016	10/30/2016	NA
October 16 - October 22, 2016	11/28/2016	11/28/2016	11/30/2016	11/28/2016	NA
October 23 - October 29, 2016	11/28/2016	11/28/2016	11/30/2016	11/28/2016	NA
October 30 -November 5, 2016	11/28/2016	11/28/2016	12/14/2016	11/28/2016	NA
November 6 - November 12, 2016	11/28/2016	11/28/2016	11/30/2016	11/28/2016	NA
November 13 -November 19, 2016	12/9/2016	12/9/2016	12/9/2016	12/9/2016	NA
November 20- November 26, 2016	12/9/2016	12/9/2016	12/9/2016	12/9/2016	NA
November 27 -December 3, 2016	12/9/2016	12/9/2016	12/9/2016	12/9/2016	12/30/2016
December 4 -December 10, 2016	12/27/2016	12/27/2016	12/27/2016	12/23/2016	12/30/2016
December 11 - December 17, 2016	12/23/2016	12/23/2016	12/23/2016	12/23/2016	12/30/2016
December 18 - December 25, 2016	1/5/2017	1/5/2017	1/5/2017	1/5/2017	12/30/2016
December 26 - December 31, 2016	1/5/2017	1/5/2017	1/5/2017	1/5/2017	1/5/2017
	14	14	14	14	5
Volume of Forms Submitted	100.00%	100.00%	100.00%	100.00%	100.00%

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

Dates of Reporting Period	CD Bayamon	CTS Humacao	CTS Ponce	CTS Villalba	Program CREANDO	Totals
September 25 - October 1, 2016	51	50	87	72	NA	260
October 2 - October 8, 2016	53	50	85	61	NA	249
October 9 - October 15, 2016	55	52	88	54	NA	249
October 16 - October 22, 2016	50	53	89	60	NA	252
October 23 - October 29, 2016	48	51	88	63	NA	250
October 30 -November 5, 2016	38	54	89	67	NA	248
November 6 - November 12, 2016	47	56	86	62	NA	251
November 13 -November 19, 2016	38	54	90	64	NA	246
November 20- November 26, 2016	48	54	90	70	NA	262
November 27 -December 3, 2016	35	54	89	72	16	266
December 4 -December 10, 2016	39	52	78	70	17	256
December 11 - December 17, 2016	46	52	76	68	17	259
December 18 - December 25, 2016	44	51	78	72	17	262
December 26 - December 31, 2016	36	51	79	69	17	252
Totals	628	734	1192	924	84	3562
Percentage of AIJ Agency Population	18%	21%	33%	26%	2%	100%
Average Daily Population	45	52	85	66	17	254

Document Attachment B:
Consultant Robert Dugan Reports on Classification

S.A. 52: NIJ Classification 2016 Fourth Quarter Report:

Prepared by Bob Dugan: Office of the Monitor: January 2017

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

Background:

NIJ has demonstrated significant commitment to progressing toward compliance on S.A. 52 over the last several years. NIJ contracted with the Center for Research, Evaluation and Human Development, Inc. (CINED: Dr. Jorge Benítez Nazario and Professor Cynthia Rodríguez-Parés) for the validation of the *Instruments for Youth in Custody (ICI) and the Instrument Risk Index (ICR)*. The validation study resulted in a revision of both the detention and custody classification instruments, addressing contemporary research and classification criteria. In addition to the validation study, the contract also required that CINED provide a period for pilot testing, development of a operational manual and initial training of staff.

Training and Staff Development:

On April 9, 2015, forty NIJ staff participated in a three hour training session on the Orientation of the Classification Instruments. Supplemental training sessions have also been provided on both the ICC and ICD.

Training session sign in sheets and presentation slides have been provided to the Monitor's Consultant.

Classification Implementation Study: NIJ assessed operational implications of the new classification instrument developed in the CINED study during a pilot process of the detention and committed classification instrument. The Classification Implementation Study was conducted methodically considering four classification implementation scenarios:

1. Full Implementation, with the classification instrument is applied to all detention and committed youth in NIJ custody.
2. Implementation with only newly committed youth.
3. Implementation with all newly committed youth and reclassifying youth at CTS Humacao.
4. Stratified Implementation, classification of all newly committed youth and classification of youth based upon projected length of stay.

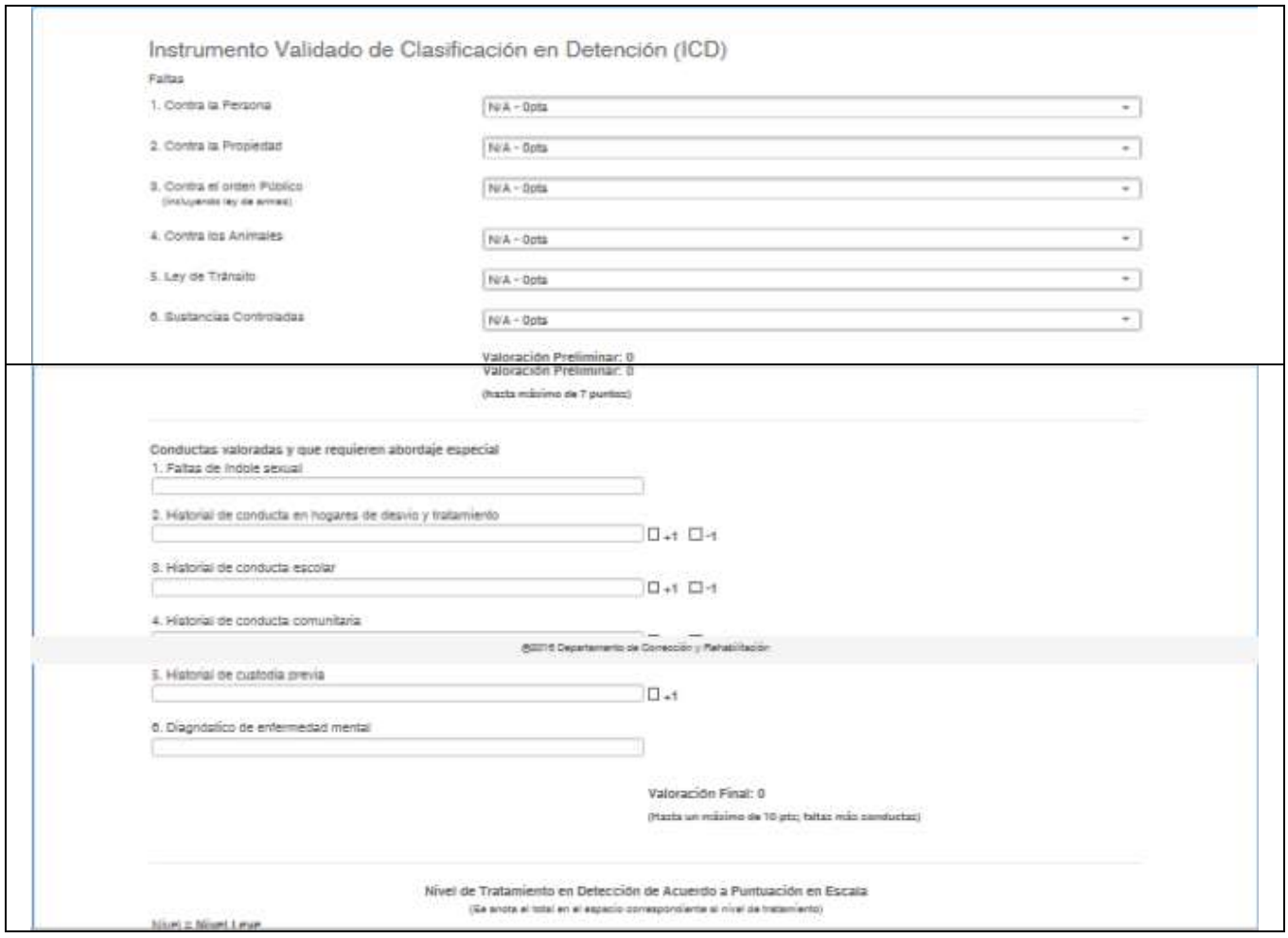
After considering the various implementation scenarios, NIJ chose to proceed with full implementation, and a corresponding analysis of the impact to facility populations, youth reassignment and staffing implications. The pilot implementation resulted in a transition process allowing NIJ to plan and implement facility assignments of the classification instrument for existing as well as new detention and custody youth. During this time, the CTS Bayamon facility closed which provided another variable in the reconfiguration of facilities and populations.

NIJ Electronic Records: Classification Instruments:
NIJ has enhanced the agency electronic records system with a classification module to allow for the electronic administration, documentation and scoring of the classification instrument of detention (ICD) and the classification instrument for custody (ICC).

Detention Classification: The classification instrument for detention (ICD) phase assesses the following:

- Assesses issues of behavioral, school, social, legal and mental health history at community
- History of leadership at the institutional and community level
- Identification of Sex Offenders and Victims
- Prior classification information

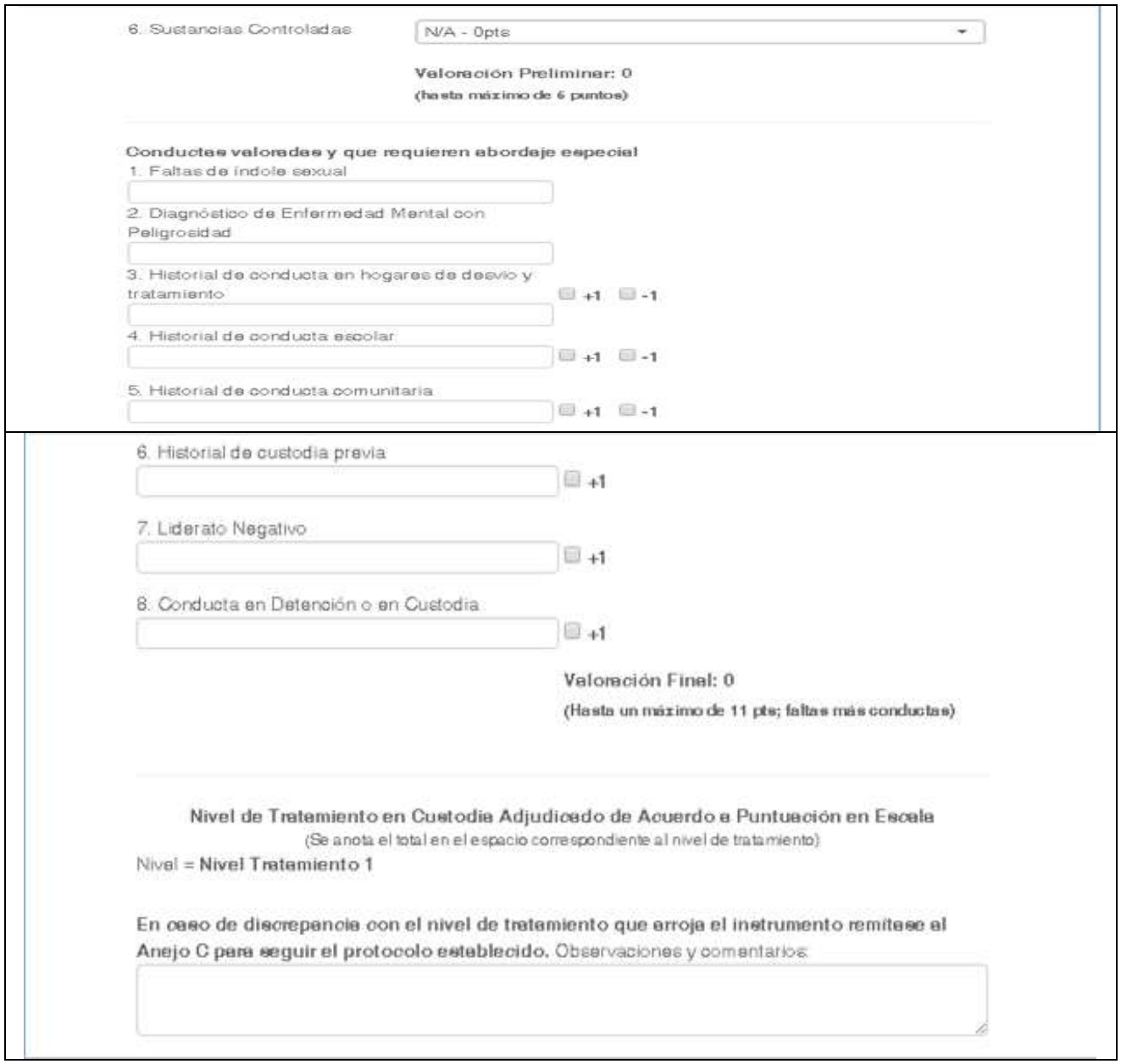
Below are screenshots of the ICD:



Custody Classification: The Classification instrument for Custody (ICC) phase assesses the following:

- Internal classification during the detention phase of custody
- Weighted values based on the adjudicated charges based on the Puerto Rico Minors Act and the Puerto Rico Penal Code
- Agency standards, policies and procedures for custody classification
- Documentation of the classification process and placement of the youth
- Assesses issues of behavioral, school, social, legal and mental health history in the community.
- History of leadership at the institutional level
- Identification of sex offenders and sexual victimization characteristics
- Considers placement criteria for specialized NIJ mental health program
- Prior custody classification information

Below are screenshots of the IC:



NIJ Classification Policy:

On October 20, 2016 an Administrative Order DCR-2016-10, the "Designation of the Facilities of the Regional Office of Institutions Youth (ORIJ) by Treatment Levels" was signed by Secretary Einar Ramos López. The Administrative Order addressed the ICD and ICC processes, definitions, scoring and the various treatment levels assigned to various facilities.

The Administrative Order designates the following facilities will provide services to the corresponding levels of treatment, behavioral and safety characteristics, demographic characteristics, criminogenic characteristics:

- CD Bayamon: Detention populations classified as low, moderate or intensive
- CTS Humacao: Treatment Level 5
- CTS Villalba: Treatment Level 4
- CTS Ponce: Treatment Level 3 and 2

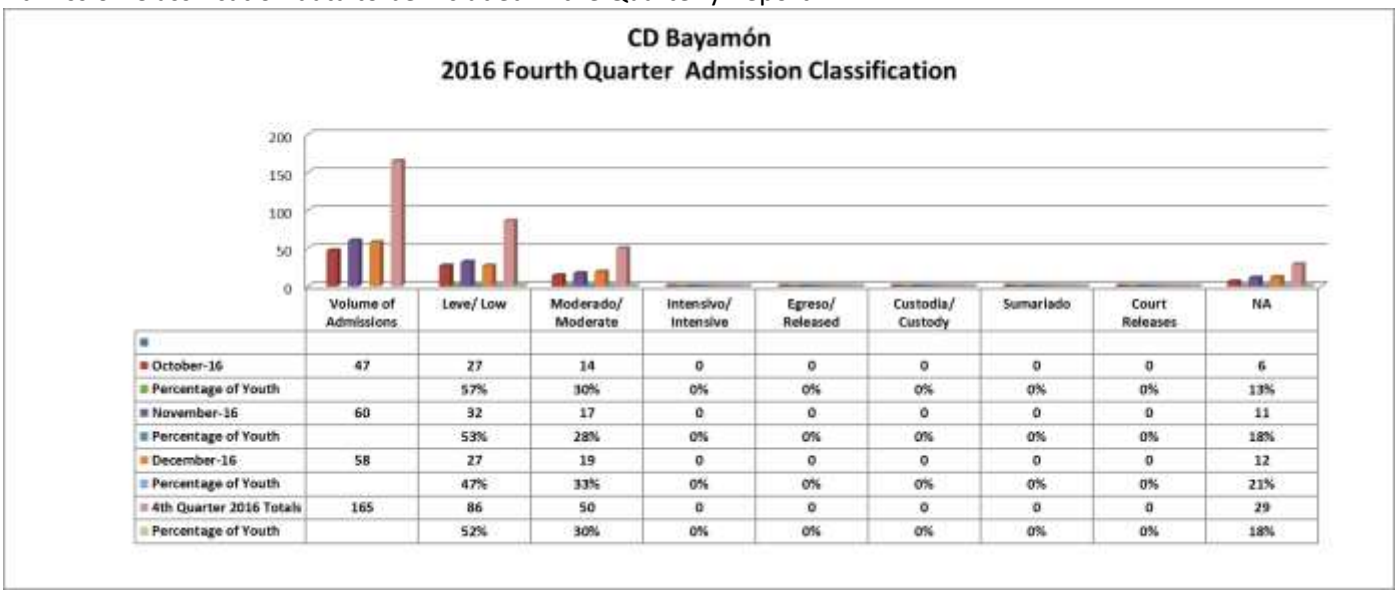
CREANDO:

As documented in the 2016 Fourth Quarter S.A 48 report, NIJ reopened CREANDO on November 28, 2016 with a youth population of seventeen. As in previous CREANDO classes, youth that met the program placement criteria were placed in the program representing three of the four levels of treatment. The CREANDO youth population has the following distribution of levels of treatment and the number of youth : Treatment Level 2: two youth; Treatment Level 3: ten youth; and Treatment Level 4: five youth.

THE CREANDO population will not have any additional admissions and is scheduled for program graduation on May 30, 2017.

Fourth Quarter: October 1, 2016 – December 31, 2016 CD Bayamón Admission Classification:

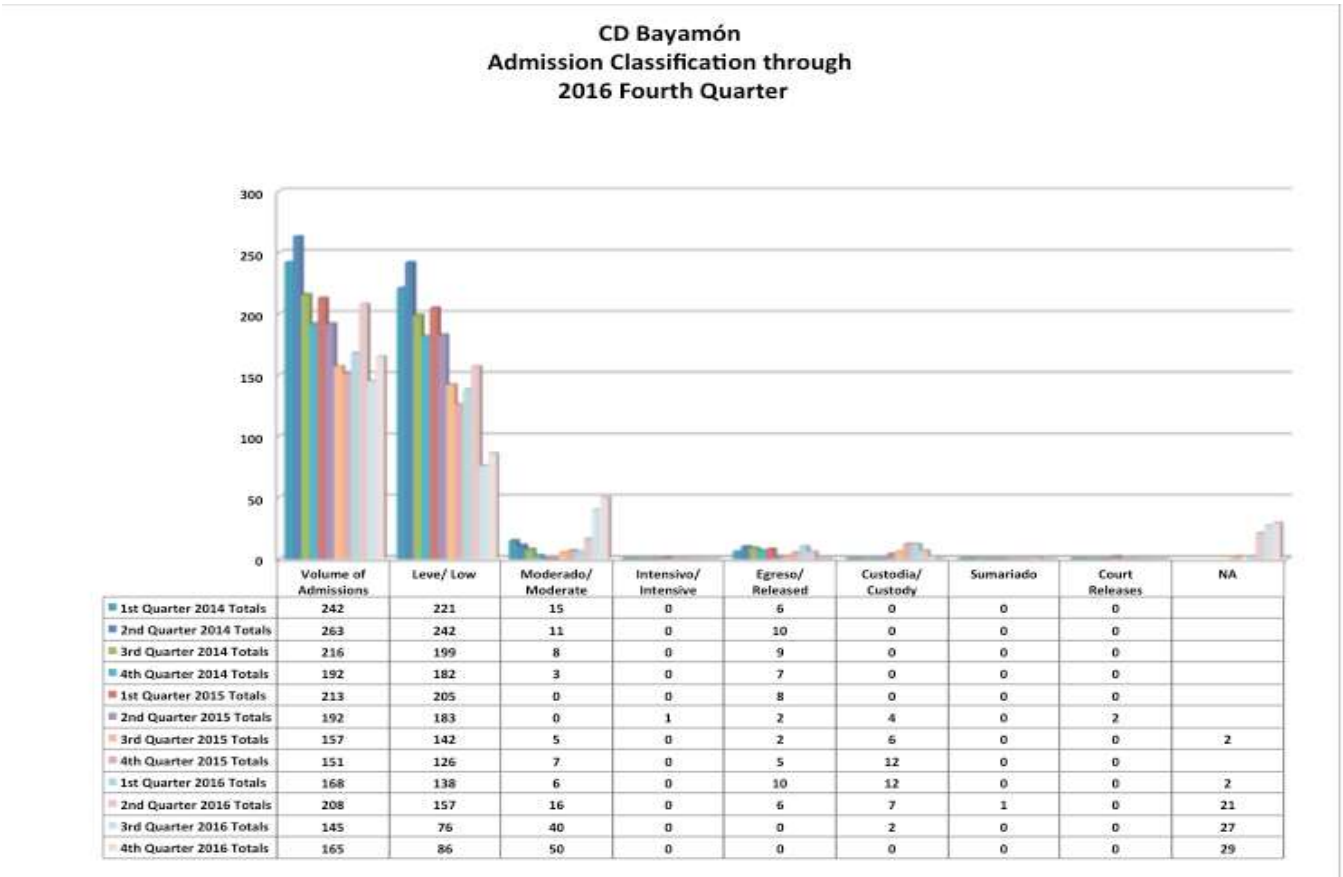
The 2016 Fourth Quarter of 2016 is the eighteenth quarter that NIJ has produced CD Bayamón Admission Classification data to be included in the Quarterly Report.



	Volume of Admissions	Leve/ Low	Moderado/ Moderate	Intensivo/ Intensive	Egreso/ Released	Custodia/ Custody	Sumariado	Court Releases	NA
October-16	47	27	14	0	0	0	0	0	6
Percentage of Youth		57%	30%	0%	0%	0%	0%	0%	13%
November-16	60	32	17	0	0	0	0	0	11
Percentage of Youth		53%	28%	0%	0%	0%	0%	0%	18%
December-16	58	27	19	0	0	0	0	0	12
Percentage of Youth		47%	33%	0%	0%	0%	0%	0%	21%
4th Quarter 2016 Totals	165	86	50	0	0	0	0	0	29
Percentage of Youth		52%	30%	0%	0%	0%	0%	0%	18%

For the fourth quarter, there were 165 admissions of which 52% (86) were classified as low; 30% (50) were classified as moderate; 0% (0) was classified as intensive 0% (0) Released, and 18% (29) as NA.

NA status is assigned to youth for any of the following exceptions to having a detention admission classification administered: 1) released by the Court prior to admission classification (2 in 4th Quarter).; 2) assigned to site visit trips and then released (2 in 4th Quarter).; 3) admitted to detention under a commitment status and placed in committed classification housing module C2 (20 in 4th Quarter); 4) released to the public (2 for the 4th Quarter). Three youth were categorized as NA in the 2016 Fourth Quarter with no specific explanation. With the exception of youth categorized as NA, youth have been consistently classified and assigned to a housing module that corresponds to detention classification level.



	Volume of Admissions	Leve/ Low	Moderado/ Moderate	Intensivo/ Intensive	Egreso/ Released	Custodia/ Custody	Sumariado	Court Releases	NA
1st Quarter 2014 Totals	242	221	15	0	6	0	0	0	
2nd Quarter 2014 Totals	263	242	11	0	10	0	0	0	
3rd Quarter 2014 Totals	216	199	8	0	9	0	0	0	
4th Quarter 2014 Totals	192	182	3	0	7	0	0	0	
1st Quarter 2015 Totals	213	205	0	0	8	0	0	0	
2nd Quarter 2015 Totals	192	183	0	1	2	4	0	2	
3rd Quarter 2015 Totals	157	142	5	0	2	6	0	0	2
4th Quarter 2015 Totals	151	126	7	0	5	12	0	0	
1st Quarter 2016 Totals	168	138	6	0	10	12	0	0	2
2nd Quarter 2016 Totals	208	157	16	0	6	7	1	0	21
3rd Quarter 2016 Totals	145	76	40	0	0	2	0	0	27
4th Quarter 2016 Totals	165	86	50	0	0	0	0	0	29

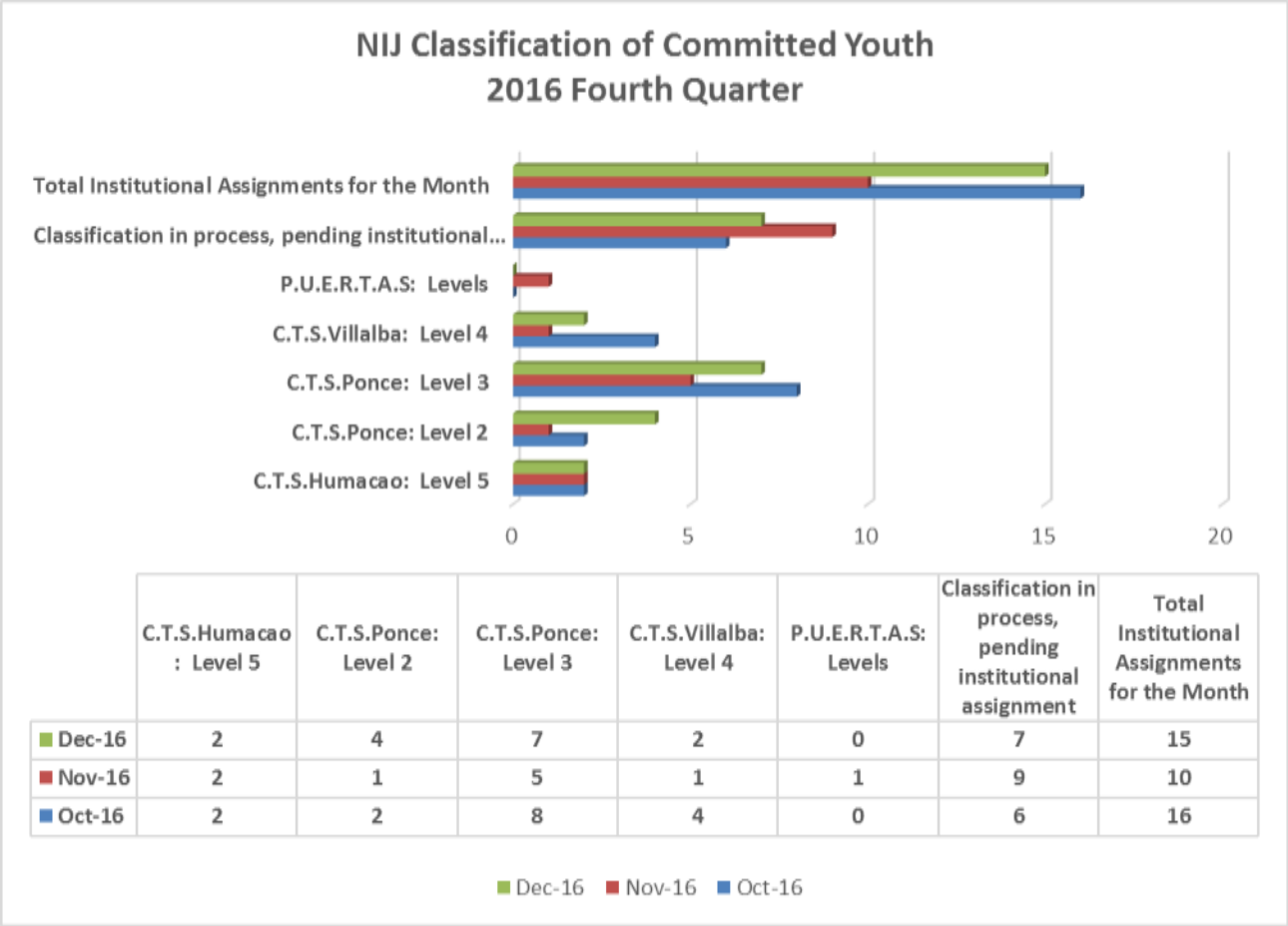
Fourth Quarter: October 1, 2016 – December 31, 2016 Committed Classification:

NIJ has provided committed classification documentation for since January 2014. A mutual decision on the part of the NIJ Classification Functional Team and the Monitor's Consultant was not to analyze this data for the Quarterly Reports in the recognition of the absence of a validated committed classification instrument. With the implementation of the Instrumento de Clasificación en Custodia (ICC), is being reported on as of the 2016 Fourth Quarter.

Each month, NIJ provides to the Monitor's Consultant a classification workbook that provides data for analysis of the monthly committed classification process. The workbook provides data under the following columns:

PROCESO DE CLASIFICACIÓN DE JÓVENES CON CUSTODIA ENTREGADA										
Nombre del Menor	# Exp. DEC	Fecha Entrega de Custodia	Fecha Ingreso al Módulo de Evaluación	Fecha Discusión Caso	Nivel de Tx. Adjudicado de acuerdo a Puntuación en Escala	Institución Asignada	Fecha Autorización Traslado	Fecha Admisión Institución Asignada	Observaciones	*Dias trans-currid os

The youth's institutional assignment is reviewed to assess if it corresponds to the level of treatment score. For the Fourth Quarter, all of the institutional assignments are consistent with the level of treatment scores.



	C.T.S.Humacao : Level 5	C.T.S.Ponce: Level 2	C.T.S.Ponce: Level 3	C.T.S.Villalba: Level 4	P.U.E.R.T.A.S: Levels	Classification in process, pending institutional assignment	Total Institutional Assignments for the Month
Dec-16	2	4	7	2	0	7	15
Nov-16	2	1	5	1	1	9	10
Oct-16	2	2	8	4	0	6	16

Youth who are committed to the custody of NIJ are placed in the Residential Evaluation Module (MER) for evaluation, classification and ultimately placement in the facility with the corresponding treatment level as determined by the Division of Evaluation and Classification Team. For the quarter, the average duration of placement in the MER is twenty-eight days. A number of the longer duration events in the MER were the result of delay in delivery from the Courts of proper documentation.

In future quarters, NIJ will produce a monthly facility population and levels of treatment verification report that will document each facility youth population and corresponding youth level of treatment.

Document Attachment C:
Report on Incidents and Understaffing
October-December 2016

Oct. 9	CTS Humacao	16-099	Morning	Allegedly, a youth was sprayed with OC by a youth officer that was assigned to the mini control (the youth officer assigned to the module was out of it). Apparently, the youth threw a cup of milk to the mini Control Officer. The officer responded using OC against the youth. The victim was sent to infirmary for decontamination and their notes confirmed the use of the chemical agent. The case was investigated by OISC and referred to DCR Disciplinary Division to determine if there were base to sanction the officer. After an administrative hearing a determination of no sanctions against the officer was taken. Apparently, victim's and officer's versions were different and the Administrative Officer evaluated credibility.	1 officer, 15 juveniles
Nov. ?	CD/CTS Bayamon	16-103	?	Allegedly, the girl (WP) mentioned to a chaplain that had sexual relations with a youth officer during a weekend pass out of the facility. The girl also said she had a delay in her menstrual cycle. At that moment the youth officer name was not revealed. The girl was taken to an emergency room where a vaginal sonogram was conducted confirming she was pregnant (5 weeks). Eventually the girl mentioned the name of the officer. The case was investigated by OISC and referred to DCR Disciplinary	N/A

				Division. A final determination is still pending.	
Nov. 9	CTS Humacao	16-105	Afternoon	Allegedly, a youth was beaten in different parts of his body by other juveniles. Infirmary notes and photos show hematomas in both sides of his back and contusions in his head. The victim said the incident had occurred in a previous date. OISC investigation concluded that the officer assigned to the module went out of it to the bathroom in different times. An administrative hearing was conducted against the officer for negligence. The determination was that there was no evidence connecting officer need to use the bathroom with the contusions suffered by the victim.	1 officer, 11 juveniles
Nov. 14	CTS Ponce	16-106	Afternoon	Allegedly, a youth was hit by other juveniles in Module II, room 204. Initially the victim said he slipped down the module's stairs but an evaluation of what the cameras filmed showed the moment when a group of juveniles enter room 204 and minutes later the youth was observed limping. The youth was taken to infirmary alleging pain in one of his legs.	1 officer, 13 juveniles
Nov. 26	CD/CTS Bayamon	16-107	Morning	Allegedly, the youth (YRD) was cut in his face, left side, by the youth (LRR) with a sharp object. The victim was taken to an emergency room for stitches. The incident occurred in the living unit.	1 officer, 11 juveniles

Document Attachment D:
Transitional Measures and Protective Custody Reviews
CTS Ponce Site Visit

The CTS Ponce facility population was 77 at 10:45 AM EDT.
The Facility Director reported all housing modules were staffed to maintain a staff youth ratio of 1:8.
CTS Ponce documents for Protective Custody and Transitional Measures are in folder format.
The Protective Custody and Transitional Measures folders consist of the following sections:

- **Individual Register**
- **Information of Social Work**
  - **Formal Notification**
  - **Copy of Digital System Notification**
  - **Provisional Program of Classes**
- **Incident Information**
- **Hours of Observation**
- **Documentation of Presentation of Services**
- **Hours of Mental Health Observation**

Requested folders/records were available upon coming on site.

The following Protective Custody and Transitional Measures records were reviewed during the December 13, 2016 site visit.		
Initials of Youth on Protective Custody	**Housing Module**	**Starting Date of Protective Custody**
M. C. O.	**8**	**8/24/2016**
K. C.	**8**	**10/10/2016**
M. A. C. R.	**8**	**10/14/2016**
Initials of Youth on Transitional Measures	**Housing Module**	**Starting Date of Transitional Measures**
L. A. R. C.	**2**	**10/18/2016**
J. C. S. O.	**8**	**11/28/2016**

Protective Custody Events: CTS Ponce	Date of Site Visit: 12/13/2016		
Initials of Resident on Protective Custody	**Housing Module**	**Starting Date**	**Ending Date**
M. C. O.	8	8/24/2016	11/22/16

Duration of Protective Custody: 91 days;

Reason on Protective Custody: Youth alleged that another youth touched his "private parts" specifically his penis. Both youth were housed in PUERTAS. Central Office recommended that the youth (M. C. O.) be placed in Protective Custody with open door. This was discussed with Treatment Committee and was approved by the Treatment Team and Facility Director as suggested by Central Office.

New Note on Form: Every workday the supervisor in charge is to visit the youth and verify the youth has received all services. The Supervisor is to sign the log book in the living unit. This requirement was documented as occurring during all days of Protective Custody.

Signature of Facility Director on Protective Custody: The Facility Director participated and signed the order for Protective Custody on 8/24/2016.

Treatment Team Meeting Notes: Documentation of all disciplines in Treatment Team Meeting on the following dates: 8/24; 8/26; 8/31; 9/7; 9/14; 9/21; 9/27; 10/5; 10/12; 10/19; 10/26; 11/2; 11/9; 11/15; 11/22.

Analysis of Observation Forms: The "Hoja Diaria Observacion" documents time of observations, code of observations of resident conduct, comments and signature of individual performing services.
Youth was on mental health continuous supervision for various times throughout the period of Protective Custody status. Continuous supervision requires five-minute interval observation times documented on a preprinted form. Additionally, the youth was on preventative supervision with observations documented every 15 minutes on pre-printed forms for various times throughout the Protective Custody period. The Diary of Observation form document observation times not exceeding 15 minutes and a variety in the intervals between observation events.

Analysis of Services Form:
The Services Form is generated by the Facility Grievance Officer, documenting services as recorded on the Diary of Observation form. The youth on PC status documents with signature that he has received or not received the designated services.
Services form documented services throughout 91 days of the duration of Protective Custody.

- **Education:** Documentation of educational services during the duration of Protective Custody of which there was 50 of the 65 days of expected education. On the majority of the days of educational services the duration of education was often documented for 5 to 6 hours, even though the education subject form indicated six subjects for 20-minutes duration. In this Protective Custody event, the documentation on the Services Form indicates the youth received educational programming to a significantly larger degree than was documented on the educational subjects form.
- **Recreation:** Recreational services were consistently offered for a 60-minute period each day of the Protective Custody period with the exception of the following dates:10/31; 11/7 youth refused; and 11/17.
- **Medical:** Medical offered and accepted services on 91 of 91 days.
- **Mental Health:** USMIC Services were offered and accepted services in 56 days, with services typically not offered on weekends.

- **Social Work: SW service visits were documented as occurring 58 days of the Protective Custody period, with social work services not offered on weekends.**

Initials of Resident on Protective Custody	Housing Module	Starting Date	Ending Date
K. C.	8	10/10/2016	11/30/16

Duration of Protective Custody: 52 days
Protective Custody folder indicates that the period of Protective Custody commenced on 10/10, confirmed by Treatment Team on 10/10 and terminated on 11/30.

Reason on Protective Custody: Event on Module 8 where resident K. C., sexually threatened another resident. Treatment Committee had meeting about incidents in Module 8 about this youth. Youth was placed on Protective Custody on Module 4. Youth was provided opportunity to explain his version of the incident, at which time the youth stated that what the accuser has stated is not true.

New Note on Form: Every workday the supervisor in charge is to visit the youth and verify the youth has received all services. The Supervisor is to sign the log book in the living unit. This requirement was documented as occurring during all days of Protective Custody.

Signature of Facility Director on Protective Custody: The Facility Director participated and signed the order for Protective Custody.

Treatment Team Meeting Notes: Documentation of all disciplines in Treatment Team Meeting on a weekly basis (eight consecutive weeks), both in the Protective Custody folder as well as in the Treatment Team log.

Analysis of Observation Forms: The "Hoja Diaria Observacion" documents time of observations, code of observations of resident conduct, comments and signature of individual performing services.

Youth was on mental health continuous supervision from 10/10-10/11 with five minute interval observation times documented on a preprinted form. On 10/11 through 10/18 youth was on preventative supervision, with observations documented every 15 minutes on a preprinted form. Commencing on 10/18, Diary of Observation form document observation times not exceeding 15 minutes and a variety in the intervals between observation events.

Analysis of Services Form:
The Services Form is generated by the Facility Grievance Officer, documenting services as recorded on the Diary of Observation form. The youth on PC status documents with signature that he has received or not received the designated services.
Services form only documented two days of services, at which time the documentation of services were no longer documented in the Transitional Measures folder.

- **Education: Youth has received degree, (fourth year) so no educational services were received.**
- **Recreation: Recreation services documented on 47 of 52 days ranging in duration from 3 hours and 17 minutes to 15 minutes.**
- **Medical: Medical offered and accepted services on all days of Protective Custody.**
- **Mental Health: USMIC services documented offered and accepted services in 36 of 52 days. Days when there were no Mental Health services were typically on Saturday and Sundays.**
- **Social Work: SW visits only documented for 6/22/16.**

Initials of Resident on Protective Custody	Housing Module	Starting Date	Ending Date
M. A. C. R.	8	10/14/2016	11/2/16

Duration of Protective Custody: 20 days;
Protective Custody indicates that the period of Protective Custody commenced on 10/14/2016, confirmed by Treatment Team on 10/14/2016 and terminated on 11/2/2016. Resident was on Continuous Supervision from 10/18/2016 to 11/2/2016.

Reason on Protective Custody: The facility Treatment Committee met about incidents occurring in Module 8 involving M. A. C. R. and another youth. The Director participated in the Treatment Team Meeting. M. A. C. R. alleged he was threatened by another youth to perform oral sex. The Treatment Committee, under the direction of the Facility Director assigned M. A. C. R. to Protective Custody in Module 2 in Room 207 with an officer assigned to supervise the youth on Protective Custody status.

New Note on Form: Every workday the supervisor in charge is to visit the youth and verify the youth has received all services. The Supervisor is to sign the log book in the living unit. This requirement was documented as occurring during all days of Protective Custody.

Signature of Facility Director on Protective Custody: Director's signature on form authorizing Protective Custody on 10/14/2016.

Treatment Team Meeting Notes: Documentation of all disciplines in Treatment Team Meeting with the exception of the Chaplain on 10/14/2016. The psychiatrist ordered the youth to be on Continuous Supervision from 10/14/2016 through 10/18/2016. Documentation of Treatment Team meetings on a weekly basis, which was also documented in the Treatment Team logs.

Analysis of Observation Forms: The "Hoja Diaria Observacion" documents time of observations, code of observations of resident conduct, comments and signature of individual performing services. Volume of Days: 20 days documentation of Diary of Observation on 10/14/2016 until 11/2/2016. At various times during the Protective Custody period the Diary of Observation is supplemented by Mental Health Observation form reflecting times the youth was on Therapeutic Supervision. Therapeutic Supervision requires documentation of observation every 5 minutes. This is documented on a preprinted form,

While on Protective Custody, documentation on observation form shows variety in observation times, consistently not exceeding 15 minutes.

Analysis of Services Form: The Services Form is generated by the Facility Grievance Officer, documenting services as recorded on the Diary of Observation form. The youth on PC status documents with signature that he has received or not received the designated services.

- **Education: Documentation of six twenty minute classes for Special Education, History, Mathematics, Science, English, and Spanish that occurred during the weekdays during the duration of the Protective Custody.**
- **Recreation: While the youth was on Continuous Supervision (10/14-18) the youth was not offered, nor received recreation. The agency policy states if the youth is in continuous supervision he is not to receive recreation.**
- **Medical: Medical offered and accepted services on all days of Protective Custody.**
- **Mental Health: USMIC offered and accepted on all days of Protective Custody except for two Sundays, 10/16 and 10/30.**

- **Social Work:** SW visits documented for all weekdays during period of Protective Custody.

Transitional Measure Events: CTS Ponce	Date of Site Visit: 12/13/16		
Initials of Resident on Transitional Measure	Housing Module	Starting Date	Ending Date
L. R. C.	2	10/18/2016	10/26/16

Duration of Transitional Measure: 9 days;
Transitional Measure folder indicates that the period of Transitional Measures commenced on 10/18 through 10/26/2016.

Reason on Transitional Measure: Youth stated he was uncomfortable in Module 2 and had been threatened by other youth. Based on this, the Treatment Committee recommended Transitional Measure for the youth.

New Note on Form: Every workday the supervisor in charge is to visit the youth and verify the youth has received all services. The Supervisor is to sign the log book in the living unit. This requirement was documented as occurring during all days of Transitional Measures.

Signature of Facility Director on Transitional Measure: The Facility Director signature appears in the Transitional Measure folder authorizing the assignment of Transitional Measures, dated 10/19/2016.

Treatment Team Meeting Notes: Documentation of all disciplines participating in Treatment Team Meeting on October 19 and October 26.

Analysis of Observation Forms: The "Hoja Diaria Observacion" documents time of observations, code of observations of resident conduct, comments and signature of individual performing services.
Nine days of Observation forms documented observation, codes of observations with comments and signatures of individuals who provided services. Observation forms showed variance in time between observations with documented observations occurring in fifteen minute intervals or less. Supervisory signatures, with times and dates were documented on all forms.

Analysis of Services Form:
The Services Form is generated by the Facility Grievance Officer, documenting services as recorded on the Diary of Observation form. The youth on TM status documents with signature that he has received or not received the designated services.

Services form were expected on the days of Transitional Measures, October 10 through October 26, 2016.

- **Education:** Documentation of six twenty minute classes for History, Mathematics, Science, English, and Spanish. Education services documented for five of the days of Transitional Measures: October 20 for 80 minutes; October 21 for 80 minutes; October 24 for 100 minutes; October 25 for 100 minutes; and October 26 for 60 minutes.

- **Recreation:** Recreation services were documented for 6 of the days, October 20 through October 26 with durations of 60, 45, 80, 23, 71 and 38 minutes.

- **Medical:** Medical services documented as offered and accepted services on all the days of Transitional Measures.

- **Mental Health:** USMIC services documented as offered and accepted services on 7 days.

- **Social Work:** Social Work services documented as offered and accepted on 6 days.

Transitional Measure Events: CTS Ponce	Date of Site Visit: 12/13/16		
Initials of Resident on Transitional Measure	Housing Module	Starting Date	Ending Date
J. C. S. O.	8	11/28/2016	12/7/2016

Duration of Transitional Measure: 9 days
Transitional Measure folder indicates that the period of Transitional Measures commenced on

Reason on Transitional Measure: On 11/28 another resident stated in Court that JCSO threatened a youth. The Court ordered the youths be separated. The situation was reviewed with Central Office and the decision was made to place JCSO on Transitional Measures.

On 12/7/16Treatment Committee evaluated the youth taking into consideration the court order requesting that the victim and the aggressor be separated. The Treatment Committee recommended changing from Transitional Measures to Protective Custody as of 12/7/2016 on Module 1 but receiving services from PUERTAS.

New Note on Form: Every workday the supervisor in charge is to visit the youth and verify the youth has received all services. The Supervisor is to sign the log book in the living unit. This requirement was documented as occurring during all days of TM.

Signature of Facility Director on Transitional Measure: The Facility Director signature appears in the Transitional Measure folder authorizing the assignment of Transitional Measures, dated 11/29/2016.

Treatment Team Meeting Notes: Documentation of all disciplines in Treatment Team Meeting on November 28, 30 and December 7, 2016.

Analysis of Observation Forms: The "Hoja Diaria Observacion" documents time of observations, code of observations of resident conduct, comments and signature of individual performing services.
Volume of Days: Documentation of 100 days of Diary of Observation on 11/28/2016 until 12/7/2016. At various times during the Transitional Measure period the Diary of Observation is supplemented by Mental Health Observation forms reflecting times (11/29-30) the youth was on Continual Supervision. Continual Supervision requires documentation of observation every 5 minutes. This is documented on a preprinted form. From 11/30 until 12/1 the youth was on Preventive Supervision, which has 15 minute observations preprinted on a form.
Diary of Observation forms showed variance in time between observations with documented observations occurring in fifteen minute intervals or less. Supervisory signatures, with times and dates were documented on all forms.

Analysis of Services Form: The Services Form is generated by the Facility Grievance Officer, documenting services as recorded on the Diary of Observation form. The youth on PC status documents with signature that he has received or not received the designated services.

Services form were expected on the days of 11/28 – 12/72016:

- **Education: Documentation of six twenty minute classes for History, Mathematics, Science, English, and Spanish. Education services documented for six of the days of Transitional Measures. The youth refused to participate in education on six days, which has been documented by Educational staff with incident reports explaining the events.**

- **Recreation: Recreation services documented as offered and received on the living unit on all 9 days, with the majority of the recreational services having a duration of sixty-minutes.**

- **Medical: Medical offered and accepted services on 2 of 2 days.**

- **Mental Health: USMIC services documented as offered and accepted services in 6 of 9 days.**
- **Social Work: Social Work services documented as offered and accepted on 8 days.**

Document Attachment E:
Abuse Referrals Tracking Report

The following tables summarize statistics about case management for the past four quarters. The underlying source of the information is the case tracking records maintained by NIJ along with other records.

This table has been revised to along the measures that are presented with the updated procedures for the management of these cases. There are empty cells for earlier quarters that are to be updated by NIJ. The table is subject to further revision for the upcoming quarter based on the experience of the parties and the Monitor's Office.

The first table summarizes general information about incidents events. An incident event may generate many incident reports, but this table counts a multiple-report incident as a single event.

A. General Measures	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
A.1 Average Monday 1st Shift count of youth	290	289	271	259
A.2 Number of incident events	93	87	67	53
A.3 Number of youth-to-youth incident events	62	51	34	23
A.4 Incident events involving use of force by staff	26	30	18	23
A.5 Incident events with suicide act, ideation, or gesture	5	9	9	9
A.6 Incident events w/ self-mutil. act, ideation, or gesture	4	14	11	3

The next table summarizes suicide and self-mutilation incidents known to mental health staff. Many of these do not warrant abuse allegations.

B. Mental Health Record Information	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
B.1 Suicidal incidents, ideation or gestures	5	9	9	9
B.2 Number of individual youth referenced	5	9	8	9
B.3 Cases involving ideation only	4	6	8	6
B.4 Cases involving suicide gesture	1	3	1	3
B.5 Cases involving suicide intention	0	0	0	0
B.6 Cases w/ ambulatory treatment	5	9	9	9
B.7 Cases with hospitalization	0	0	0	0
B.8 Cases leading to death	0	0	0	0
B.9 Suicide Cases with 284 report filed	0	0	0	0
B.10 Self-mutilations incidents, ideation or gestures	4	14	11	3
B.11 Number of individual youth referenced	4	13	9	3
B.12 Cases requiring sutures	1	0	0	0
B.13 Cases requiring hospitalization	0	0	0	0
B.14 Cases leading to death	0	0	0	0
B.15 Self-Mutilation Cases with a 284 report filed	0	4	0	0

The above cases come from mental health records. NIJ 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 67 (A.2) incident events in most recent quarter, 20 (compared to 23 and 9 in the previous two quarters) (B.1 plus B.10) involved suicide and self-mutilation incidents.

Four of the above incidents resulted in a Paragraph 78a abuse referral. The remaining cases were to be referred to the mental health process.

The Mental Health Consultant will be assessing the cases of suicide and self-mutilation incidents, ideation or gestures.

The next table summarizes abuse referrals and the initial responses to such referrals.

C. 284 Incidents	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
C.1 284 Incident Events	37	30	30	21
C.2 Level One Incident Events	5	8	3	2
C.3 Level Two Incident Events	32	22	27	19
C.4 Referrals to OISC	32	22	27	19
C.5 Youth-to-Youth Incidents	7	15	11	5
C.6 Youth-to-Youth Injuries	3	9	3	2
C.7 Youth-to-Youth with External Care	0	3	1	2
C.8 Youth-to-Youth Sexual	3	1	0	1
C.9 Youth-to-Youth Sexual w/ Injury	0	0	0	0
C.10 Staff-to-Youth Incidents	30	15	19	16
C.11 Staff-to-Youth Injuries	10	7	7	3
C.12 Staff-to-Youth with External Care	1	0	0	1
C.13 Staff-to-Youth Sexual	1	1	3	1
C.14 Staff-to-Youth Sexual with Injury	0	0	0	0
C.15 284 Incident Events with administrative actions	37	30	30	21
C.16 284 Incident Events with report by end of shift	36	29	30	21
C.17 Level 1 Investigations complete within 20 days	35	8	3	2
C.18 SOU (Special Operations) interventions	3	0	2	1
C.19 SOU events with 284 reports	2	0	2	1
C.20 284 with Item 5 completed	37	30	30	21
C.21 284 with Staffing Compliance	21	20	19	17
C.22 Percent 284 cases with staffing compliance	*57%*	*67%*	*63%*	*81%*

Level One incidents are investigated locally at the institution. Level Two incidents are investigated by OISC.

Of the 30 housing unit events with item 5 checked in the report (C.20), 63% (C.22) took place when there was compliance with staffing provisions.

D. Initial Case Management Measures	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
D.1 284 percent with admin actions	100%	100%	100%	100%
D.2 284 per cent completed by end of shift	95%	97%	100%	100%
D.3 284 Level 1 Investigation Complete Within 20 days	100%	100%	100%	100%

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."

E. OISC	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
E.1 Cases Referred from this quarter	32	22	27	19
E.2 Received by OISC Within 24 hours	31	21	26	19
E.3 Completed by OISC Within 30 workdays	31	20	26	18
E.4 Complete during the next quarter, but within 30 days	0	1	0	0
E.5 Cases Not Completed by OISC Within 30 days.	1	1	1	1
E.6 Percent of OISC cases completed within 30 days	*97%*	*95%*	*95%*	*95%*
E.7 Completed Cases Returned for Further investigation	0	0	2	1
E.8 Percent of cases returned for further investigation	0%	0%	8%	6%
E.9 Further Investigation Completed	0	0	0	2
E.10 Cases this quarter incomplete, including further investigation	0	0	3	2
E.11 Percent of cases from this quarter not yet completed	0%	0%	11%	11%

The one case that took more than 30 days (E.5) was prolonged due to FBI inquiries about the case.

The quality of investigations is assessed in the Case Assessment Table that follows in the next Appendix section.

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

F. Administrative Determinations for 284 Cases	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
F.1 Cases with youth discipline referrals	20	16	16	14
F.2 Cases with youth discipline actions	18	13	13	11
F.3 Cases with youth no discipline actions	2	3	3	3
F.4 Cases Staff/youth with determinations	27	21	22	5
F.5 Cases recommending personnel actions	1	4	5	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.

Of the 30 cases (C.1) with referrals as 284-cases, 16 (F.2) were referred for disciplinary actions and 13 (F.3) were the subject to discipline actions for youth involved.

G. Prosecutorial Determinations for 284 Cases	**16-1st**	**16-2nd**	**16-3th**	**16-4th**
G.1 Cases received by PRDOJ	20	16	16	14
G.2 Cases with decision not to prosecute	18	13	13	11
G.3 Cases with referral for prosecution	2	3	3	3
G.4 Cases pending determinations	27	21	22	5

The Monitor has posed questions about these statistics.

Document Attachment F: Case Assessment Table April-June 2016

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 contents of the table were updated based on discussions following the May 2014 Monitor's Conference. The table is subject to further revision based on the experience of the parties and the Monitor's Office. It may also be adapted based on development of the road map for the Paragraph 78 provisions.

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 reported to the appropriate supervisor or designated person by the end of the shift during which the reporter became aware of the incident?	Y-30	The percentage for this report is 100%. The percentage in the last report was 100%. In this reporting period 30 cases were evaluated to complete Section A.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-30	The percentage for this report is 100%. The percentage in the last report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-30	The percentage for this report is 100%. The percentage in the last report was 100%.
A.4 If there was physical evidence, was the evidence documented and preserved?	Y-3, *N-1, N/A-26	The percentage for this report is 75%. The percentage in the last report was 100%. *The case in noncompliance was 16-093.
A.5: Was the incident correctly classified?	Y-29, *N-1	The percentage for this report is 97%. The percentage in the last report was 100%. *The case in noncompliance was 16-090.
A.6 Was the 284 report forwarded to the Police Department, the Department of Family Services, and the Department of Corrections Administration within 24 hours?	Y-30	The percentage for this report is %. The percentage in the last report was 97%. In this reporting period the information provided does not answer correctly this question, 27 cases were classified as Level II.
A.7 If it was classified as a level 2 incident, was OISC notified within 24 hours?	Y-27, N/A-3	In this reporting period the information provided does not answer correctly this question, 27 cases were classified as Level II.
A.8 Were youths suspected as perpetrators separated from the victim(s)?	Y-12, N/A-18	The percentage for this report is 100%. The percentage in the last report was 100%.
A.9 Did the 284 accurately list all youth and staff witnesses?	Y-15, N-3, N/A-12	The percentage for this report is 83%. The percentage in the last report was 94%.
A.10 Did all staff witnesses complete an incident report before the end of shift?	Y-28, N/A-2	The percentage for this report is 100%. The percentage in the last report was 100%. The Y responses include Level I cases.
A.11 If there was timeliness non-compliance, was related to shortage of investigative or supervisory staffing?	N-18, N/A-12	The percentage for this report is 100%. The percentage in the last report was 100%.
A.12 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-29, *N-1	The percentage in this report is 97 %. The percentage in the last report was 90%. *Case 16-083.

Case Assessment Instrument – Section B – Police and Prosecutorial Investigation		
Assessment Criterion	**Status Y/N/NA**	**Comment**
B.1 Was the 284 report received by the PRDP within 24 hours of the time recorded as the point of knowledge of the incident?	Y-26	The percentage for this report is 100%. The percentage in the last report was 100%.
B.2 Did PRPD investigators determine that physical evidence, if any was appropriately preserved?	N-26	The percentage in the last report was 100%. NIJ facilities' staff is trained to preserve evidence if necessary but some cases do not require preserving evidence.
B.3 If prosecutors communicated an intent to proceed criminally, and if NIJ was informed to delay any compelled interview of the subject until the criminal investigation was completed, did NIJ comply with the instruction?	N/A-26	No cases were found in this reporting period.
B.4 Were PRPD expectations met for timeliness in completing the investigation?	Y-5, *Blank-21	The percentage in the last report was 100%. * The Blank answers do not represent the investigations were not finished in a predetermined period of time.
B.5 Was completion of the PRPD investigation documented?	Y-15, *Blank-11	The percentage for this report is 100%. The percentage in the last report was 100%. The percentages are according to information provided by NIJ. * The Blank answers do not represent the investigations were not finished in a predetermined period of time.

Case Assessment Instrument – Section C – Facility Level I Investigation		
Assessment Criterion	**Status Y/N/NA**	**Comment**
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y-3	The percentage for this report is 100%. The percentage in the last report was 100%. In this reporting period 3 Level I cases were received and evaluated.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-3	The percentage for this report is 100%. The percentage in the last report was 100%.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-3	The percentage for this report is 100%. The percentage in the last report was 100%.
C.4 Was physical evidence, if any, preserved and documented?	N/A-3	The percentage in the last report was 60%.
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-3	The percentage for this report is 100%. The percentage in the last report was 100%.
C.6 Was the completion of the investigation documented in the tracking database?	Y-3	The percentage for this report is 100%. The percentage in the last report was 100%. NIJ already has an electronic database.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-3	Because there were no such non-compliances there is no appropriate rating percentage.

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 OISC within 24 hours?	Y-27	The percentage for this report is 100 %. The percentage in the last report was 95%.
D.2 Did OISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by OISC?	Y-26, N-1	The percentage for this report is 96%. The percentage in the last report was 91%. Case 16-069 was delayed as requested by OISC Director for additional investigation. A referral to FBI was possible in this case.
D.3 Did the investigation meet OISC's standards for investigation quality?	Y-27	The percentage for this report is 100%. The percentage in the last report was 100%. OISC has been using an investigation format developed by the Monitor's Office to uniform their investigations. This format was updated in October 2016.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-27	The percentage for this report is 100%. The percentage in the last report was 100%.
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-27	The percentage for this report is 100%. The percentage in the last report was 100%.
D.6 Did the investigation provide proposed findings of fact?	Y-27	The percentage for this report is 100%. The percentage in the last report was 100%.
D.7 If there was timeliness non-compliance, was it related to shortage of OISC staffing?	N-27	The percentage for this report is 100%.
D.8 DELETED		

Case Assessment Instrument – Section E – Case Tracking and Outcomes		
Note: This section is to be completed by the official responsible for the Tracking Records required by Paragraph 78.h. The underlying facts may come from other offices and agencies, and the questions concern what is known and documented in the tracking records.		
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?	Y-30	The percentage for this report is 100%. The percentage in the last report was 100%. NIJ already has an electronic data base.
E.2 Was the initial investigation (284) received at NIJ within 24 hours?	Y-26	The percentage for this report is100 %. The percentage in the last report was 100%. Only 4 cases were not provided, all of them from CTS Villalba.
E.3 Was the Level 1 facility investigation completed within 20 days?	Y-3	The percentage for this report is 100%. The percentage in the last report was 100%.
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) do the tracking records document that OISC was notified and the case referred within 24 hours?	Y-30	The percentage for this report is 100%. The percentage in the last report was 100%. In this reporting period 27 Level II cases were received for evaluation.
E.5 DELETED		
E.6 Did NIJ reached an administrative determination concerning the case which is documented in the tracking records?	Y-27, N/A-3	The percentage for this report is 100%. The percentage in the last report was 100%. Administrative determinations are taken through the process at facility level and at DCR central offices if applicable. The data base system only documents Level II cases however all incidents are investigated and documented.
E.7 If the case was a Level 2 case, do the tracking records document review by PRDOJ prosecutors leading to a prosecutorial determination as to whether to prosecute or not?	N-27, N/A-3	Prosecutors use to base their determination on the investigations conducted by the PRPD not on OISC or NIJ investigations. However, DCR investigations are always available and in some cases also considered by the prosecutors.
E.8 If there was timeliness non-compliance, was it related to shortage of staffing?	N-27, N/A-3	The percentage for this report is 100%.

Case Assessment Instrument – Section F – Monitor's Office Assessment		
Assessment Criterion	**Status Y/N/NA**	**Comment**
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-30	The percentage in this report is 100%. The percentage in the last report was 100%. In this reporting period 30 cases in section A were received and evaluated.
F.2 Does the Monitor's Office confirms the timeliness facts as asserted in Page B?	Y-26	The percentage in this report is 100%. The percentage in the last report was 100%.
F.3 Does the Monitor's Office confirms the timeliness facts as asserted in Page C?	Y-7	The percentage in this report is 100%. The percentage in the last report was 100%. Every incident is investigated but Level I cases are investigated at facility level. In this reporting period 7 Level I cases were evaluated.
F.4 Does the Monitor's Office confirms the timeliness facts as asserted in Page D?	Y-27	The percentage in this reporting period is 96%. The percentage in the last report was 100%. In this period 27 Level II cases were evaluated.
F.5 Does the Monitor's Office confirms the timeliness facts as asserted in Page E?	Y-30	The percentage in this report is 100% and confirms timeless facts in section E. The percentage in the last report was 100%.
F.6 Does the Monitor's Office confirms the investigation quality as asserted in page B?	_	The Monitor Office cannot evaluate the quality of PRPD investigations without additional information.
F.7 Does the Monitor's Office confirms the investigation quality as asserted in page C?	_	The Monitor Office cannot evaluate the quality of facilities' investigations without additional information.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	_	The Monitor Office cannot evaluate the quality of OISC investigations without additional information. Monitor office has received a couple of investigations completed following new guidelines suggested by consultant David Bogard.

Document Attachment G: Consultant Report on Mental Health

Office of the Monitor Mental Health Quarterly Report
Fourth Quarter 2016
Miriam Martinez, PhD
Mental Health Consultant
USA CPR Monitoring Inc.

Site visits for this quarter were completed by Dr. Martinez who visited Humacao and Bayamon on November 14, 2016. She also visited Ponce on November 15, 2016. On November 15 having requested a visit with the NIJ Functional Team, Dr. Martinez met with Maria del Carmen Torres Melendez, Dr. Wilfredo Colon and Taraneh Ferdman. Javier Burgos was also present.

During the debriefing meeting with Maria del Carmen, Wilfredo Colon and Taraneh Ferman, Dr. Martinez noted her observations, concerns and recommendations.

Significant observations from each site and recommendations made are reported below.

HUMACAO – November 14, 2016

During visit in Humacao Dr. Martinez interviewed 9 youth that were in Transitional measures. Two were in regular TM and 7 were in the pilot program that was just started.

Of concern was Minor **#3998** who was in regular TM (not in the pilot). He volunteered to show Dr. Martinez bruising on the side of his torso. Minor states that the youth that attacked him waited for the guard to leave the unit and proceeded to beat him up and threaten him with weapons. At the time of the interview, this young man's mother had just died 2 months ago. He reported spending over 20 hours a day locked in his room. He stated he has to sleep on the floor due to the ceiling leaks which Dr. Colon and I witnessed. His cell was freezing cold and he complained that he needed something warm to wear. He was only in a t-shirt as his sweatshirt was in the laundry. During the debriefing we were informed that all is being investigated. Dr. Martinez wrote in her summary to NIJ on 12/4/2016 all recommendations regarding this minor including that Minor **#3998** should be moved to pilot ASAP to avoid psychological consequences of being in isolation especially following the loss of his mother not two months ago. If minor is not moved to the pilot then he should spend a minimum of 5 hours per day outside of his cell. This minor should be housed in a cell that conforms to expected temperatures for an NIJ facility.

Also of concern was Minor **#2077** who also reported that on Nov 8th, he was physically abused by the security officers in his module. He showed Drs. Martinez and Colon as well as Javier Burgos stiches on the top of his head. When asked how he was sleeping he stated he wasn't. He reported hypervigilance and fear that the security officer would come in at night and beat him again. When asked how he was eating, he stated that if he sees the security officers that were present during the altercation, he doesn't eat as he fears they have poisoned the food. He was able to name two security officers. Mental health providers should treat him for trauma and psychiatrist should be made aware of his hypervigilance and fear of being poisoned/harmed by the security officers. He should be able to place call to his attorney as he has requested. Other recommendations have been made and all is being investigated per leadership at NIJ.

Minor **#4026** reported trouble breathing from his nose due to the injury he received reportedly by the security officers on Tuesday, Nov 8th. He does not think that an x-ray was taken. He stated that he did not file an abuse charge. Dr. Martinez requested that minor have his nose x-rayed if it had not been already. This minor's allegations, Dr. Martinez was informed, are also being investigated.

The minors that were in the pilot TM program all reported being content with the program including that they received mental health services regularly, that they received behavior modification incentives (providing examples) and that the pilot was a tremendous improvement to what they endured before being in TM stuck in their rooms 22 to 23 hours a day.
Overall if the minors were on medications they could state the medication and who the doctor was that was providing the care. This was in stark contrast to the reports from the PUERTAS youth reported below.

BAYAMON- November 14, 2016

Dr. Martinez met with Dr. Sumpter who reported use of the MAYSI-2 is going well and demonstrated to Dr. Martinez how the instrument is administered to the youth. She stated she found the tool useful to hone in on psychological symptoms needing to be targeted in the plan. She also stated that the tool was useful to identify trauma and was able to discuss how she follows up on what is suspected to be false positives. She reported no concerns with the wording or the implementation and recommended that all youth be given the MAYSI-2 at the one year renewal of their Plan.

Minor **#5176** is a 14 yo male who is in court ordered PC since November 3rd. He stated he spends about 22 hours a day locked in his cell receiving only 1 hour of rec time and time to go to the bathroom. He denied seeing a psychologist or psychiatrist. Dr. Martinez recommended that minor **#5176** receive no less than 5 hours a day out of his cell, ensuring that he is receiving all mental health services and schooling. Dr. Martinez reviewed his medical record and found only two initial evaluation notes by Dr. Sumpter and one from Dr. Santos. Minor must be seen by mental health professional regularly, especially due to his reported 22 hours a day in his cell. NIJ staff should refer to articles and materials previously sent by Dr. Martinez on the psychological dangers of isolation.

PONCE – November 15, 2016

The Site Director reported that there were two investigations related to the two minors in Protective Custody (PC).
#5014 is reportedly a victim of sexual abuse and **#4762** reportedly was an aggressor of sexual abuse (asked minor(s) to perform sexual act. These allegations are being investigated.

The psychologist on the PUERTAS unit, Arcangel Rodriguez Muniz reported that the minors were receiving the mental health services, however that participation in committees, crisis services and planning for services/programming by the mental health staff was severely limited due to a lack of staff time. He and Director reiterated that both felt the minors were receiving the mental health services that were stipulated in their plan of care.

Interviews of all 7 minors were conducted. Of concern was that all seven stated they disliked PUERTAS, that there were no programs, groups, mental health services although some could say that they saw Dr. Rodriguez Muniz. All stated they had access to the Social Worker on the unit. All complained of a lack of activities reporting just being able to watch television for a specified amount of time or that they were given cards to play with which all reported being tired of. All reported only one hour of recreation time. Minor **#4729** stated he needed and wanted anger management groups and help to control poor impulses. He stated he would rather be in Villalba where at least they had programing.

Minor **#5014** stated he would like to be in another unit, that the other minors are loud and bother him. Due to his presentation during the clinical interview, his past suicidal ideation upon entering Bayamon due to the fact that he feared"he might be raped" and due to his current allegation, Dr. Martinez believes he should be further evaluated for past traumas and history of sexual abuse. He will need to build trust with his clinician to discuss these sensitive matters.

Dr. Martinez spoke to the Psychiatrist, Dr. Caballero as she was concerned about two minors. **#4762** was reporting "seeing demons and hearing voices calling him by name." The Minor #4762 requested that Dr. Martinez review his notebook and as she did he explained what his writings were about the devil, Lucifer and chants to bring demons and Lucifer to him. Dr. Martinez requested that Dr. Caballero review medications for adjustment. Dr. Caballero is aware and reported that he may increase medications slowly.

Dr. Martinez also spoke with Dr. Caballero about **#3884** who was extremely concerning during the clinical interview. The minor had reported that he was not on medications yet was smiling and laughing inappropriately and at times seemed to simply not respond "check out" of the interview but able to reconnect when prompted. He appeared anxious and unable to sit still. Dr. Caballero reported that minor is refusing medications and showed Dr. Martinez results of his IQ testing completed by NIJ staff psychologist, Dr. Martinez (no relation to MH Monitor) indicating an IQ of 54. Dr. Martinez strongly asked that NIJ leadership consider that this minor, **#3884** should not be in an NIJ facility due to his low IQ. Dr. Colon will follow up on the placement of this minor and possible need to make Judge aware of his very to extremely low IQ. The restrictive and higher level of care of PUERTAS could be contributing to his anxiety and to the group's tension as his lack of understanding of some basic verbal communication is at best confusing and at worst frustrating for the rest of the PUERTAS population.

In addition to the action items listed above:

Review intent and goals of TM Pilot due to the lack of TM Pilot running during the weekend apparently due to a lack of staffing.

PUERTAS needs to immediately increase therapeutic group activities and consider increasing recreational time that is safe for all PUERTAS participants. Hiring an occupational therapist is highly recommended for this group of youth and for others in Ponce that could benefit from this intervention. NIJ leadership needs to review the staffing for PUERTAS, however with a full time social worker, access to substance abuse counselors and to mental health staff, it has been

recommended that the program be more intensive and tailored to this populations. Dr. Martinez references recommendations written in March of 2016 and follow –ups in June and July of 2016 (phone call including discussion of PUERTAS). Dr. Martinez reminded NIJ leadership of resources sent in March 2016 and also sent SAMSHA resource – Anger Management for Substance Abuse and Mental Health Clients (Spanish version). It is recommended that the youth receive 3 groups per day rotating through the following:

Substance Abuse groups – minimum 2 times per week
Increase the groups and incentives for behavior modification
Anger management – minimum 1 time per week
Art activities –(expressive group art activities)
Medication group
Community check in/group
Health and Wellness topics – 1 time per week (video, didactics, activities)
Mindfulness meditation 2 times per week (1/2 per session)
Educational activities for those who have completed high school (i.e. financial literacy, job seeking skills, home finding and making skills, cooking classes if possible, etc.)

Highly recommend more recreation time for youth, especially on the weekends.

For all youth, increase incentives for participating in programming/behavior modification and decrease time in TM and PC. See:
http://www.safealternativestosegregation.org/resources/view/webinar-youth-alternative-management-tools

Also view webinar we viewed in June of 2016 from CJCA: Reducing Isolation in Youth Facilities Alternative Behavior Management Tools
https://www.youtube.com/watch?v=4mjhlObE6fw&feature=youtu.be"

Document Attachment H: Site Visit Report of Education Consultant

1. **Education Site Visits:** The second semester began in the third week of the month following the holiday recess.

   1.1Ponce CTS: The school is fully staffed and follows the full-day academic schedule. The only significant change is that the education director assigned to Villalba in August is now back at Ponce. A tour of the classes in session revealed an orderly instructional day with no notable distractions or interruptions. There was a dispute reported earlier between two students but staff assured that the issue was resolved. The student identified in the earlier visit from the Puertas program, 17 years old, continues to refuse to attend school. He was evaluated by the staff psychiatrist who determined that he was not able to function in the school setting. A report was submitted to the court to explain the situation. In a meeting with the student, he responded with courtesy and humor to questions about his education and future but he was adamant that he was not going to class. He did participate in the barber shop briefly but did not continue to attend. There are 12 students currently in special education and all but one have an IEP and file. As of the moment more than half of the 83 residents have completed their 4th year and are no longer required to attend school. Some take shop classes but have few other educational opportunities available to them. There are three vocational programs available: barbering, pastry cooking and office science.

   1.2 Villalba: There are still two teacher vacancies to date: Spanish and history. The school director did not have information as to when the positions might be filled. As a consequence, the modified school day continues with classes from 8AM to 12PM. Teachers are required to remain until 4:30 PM but do not engage in classroom instruction There were no students in either TM or PC. If one or more is identified later, the school director indicated that the NIJ/DOC form requiring 20 minutes of individual instruction for each student would be followed. Since teachers are currently spending more hours out of the classroom than in, it seemed that there might be way to provide Spanish and history instruction and return to a full day. However the director felt they needed to complete administrative and class preparation from noon until 4:30. The detention students from Humacao are still housed here and instruction is provided to these students along the lines of the modified schedule at Bayamon CD. CTS students in the mainstream participate in one of the five vocational shops. Those in detention do not receive vocational education but are offered a civics course. There are 31 students with 4th year completion out of 66 total residents. Some take part in the vocational programs on a part time basis but there are no other academic opportunities available. NIJ believes that they are not included in the consent decree but would welcome additional assistance from other agencies or colleges. There are 7 special education students with IEPs save one. His educational files have been requested as required by the stipulation.
   1.3 Humacao: Instruction had not started but was scheduled to begin on the following day. Not all staff were present due to the MLK holiday but a meeting with security personnel and the recently appointed institution director addressed

concerns for the new semester. The school is fully staffed having recruited a mathematics teacher in October and follows a full day schedule. A permanent education director is not assigned but the teacher in charge is managing both her pedagogic responsibility and the typical management tasks of a director. It is unlikely that this will change for the remainder of the school year. The current institution population is 52, lower than past years. There is only one student currently listed as in need of transitional measures. Since teachers are now required to work a longer day, he is able to receive instruction in the school area after the day schedule is over. The pilot program for transitional students that began in October has effectively ended although Director Malave stated that it may turn out to be a pause rather than a termination once the second school semester begins on January 17. At the moment, staff believes that the pilot is not necessary since there are few eligible for it and that students, the treatment committee and the security guards all agreed that it should be discontinued on December 28, 2016. Nevertheless, there was consensus that if the need arose it could be reinstated. Without the pilot program and the lower number of youths, only four units, 2A, 2B, 3A and 3B are occupied. Both units 1 and 4 are empty. There were no new education service reports for transition youth since the second semester had not started. The compliance officer stated that a report of those services was submitted to the monitor's consultants in December. The number of 4th year completer is lower than in other institutions but there are no plans for academic activity for the 8 youths.

1.4 Bayamon: The English teacher vacancy could not be filled but staff identified an elementary teacher and nominated her for a provisional license thereby enabling the schedule to run for a full day. With that adjustment all students now receive the entire academic program including the detention males, the detention females and the CTS females. There are 27 detention males, no detention females and 10 CTS females but only 5 attend classes with 5 having completed their 4th year and do not attend academic classes although they do attend the vocational program. There are 4 male students with their 4th year completed. Combined, there are 8 special education students, 6 among the males and 2 among the females. All special education students receive vocational education by participating in the one available shop, Cosmetology. The school program for the day was an intensive review of conduct and behavior focused on issues of bullying. The male student watched and discussed a video on appropriate conduct according to a set of prescribed rules contained in the video. As the students observed the items, a teacher read the various rules to further enhance their learning experience. In a separate location, the young women watched a video on cyber bullying. It was in English but contained Spanish sub-titles. Occasionally, strong language was heard from the actors but the student did not react as they seemed to be deeply engrossed in the story line. The education director, Edwin Jimenez, noted that in his one and a half years in the post, the number of students overall has decreased and especially the female students. He attributed it to several factors including judicial options not available earlier, the migration of families to the mainline and a less strict drug arrest policy on the Island. As in the other institutions the teacher day extends to 4:30 allowing an hour and a half for

training and other administrative tasks. Director Jimenez indicated that he was in the process of analyzing the management text, Getting Things Done, and offering a lecture series by translating the principal points into Spanish. Since there were large group activities scheduled rather than daily classes, teachers met in small groups to address pertinent issues dealing with the new semester.

2. SA 50 Training

2.1 Training Update: With the return of CPR training, the percentage of direct contact officials approaching compliance with stipulation 50 has increased significantly. The IDECAHR Director indicated that the tally for the previous year is near completion and will be delivered to the monitor's office shortly. Further, the number of direct contact officials advancing toward CPR certification has increased as well. Although the stipulation reflects the standard that was in place when the language was written several years ago, it was noted that the more recent CPR standard requires a two year certification as opposed to the earlier one year certification renewal. NIJ stated that this change will not cause any obstacles to compliance.

2.2 The January 2017 training calendar was not available due to the abbreviated schedule following the year-end holidays and the ongoing departmental transition typical in an election year. Monthly calendars will be forwarded to the monitor's consultant beginning in February and if the schedule permits, site observations of the training will occur.

3. Other Education Issues:

3.1 Vacancy Resolution: The NIJ announced that a plan will initiate shortly allowing teachers from the detention side to cover the Villalba vacancies until additional teachers can be processed. This could lead to a full day of instruction there.

3.2 Vocational Opportunities for CD/SE Students: In both Bayamon and Villalba, special education students will have access to the vocational programs in addition to the civics class offered previously in lieu of vocational instruction. This will bring NIJ/DOC closer to compliance for these students with IEPs requiring vocational opportunities.

3.3 TM/CP Students: As noted above, the pilot program for TM/PC students at Humacao has ended for now. If the need arises there is the possibility that it might be re-instituted.

3.4 Education PC/TM Monitoring Form: The current form used by educators to demonstrate how instruction is provided to TM/PC students remains in place even though there were none yet available as the new semester just started and the number of eligible students is greatly reduced across the system.

3.5 The total population of special education throughout the system is currently 65. The NIJ will forward to the monitor's office a list of all with prescribed education and other related service needs.

3.6 it NIJ found a funding source to restore the Creando program for 17 youths. There was not enough time to visit and evaluate the endeavor but as noted above, a set of training observations tentatively planned for February could also include a site visit to Creando facility. If that turns out to be impractical, the program should be in session during the next quarter.

4. **Functional Team Meeting: January 8, 2017, Monitor's Office:** The information and items above were discussed. The next meeting will take place in the second quarter of 2017 or as needed.

Victor Herbert
Monitor's Consultant for Education and Training

Document Attachment I: 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 continues 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.

Oct. 18, 2016:	Consultants Bob Dugan, David Bogard and Deputy Monitor Javier Burgos visited CTS Humacao.
Oct. 19, 2016:	Consultants Bob Dugan, David Bogard and Deputy Monitor Javier Burgos visited CD/CTS Bayamon.
Oct. 25, 2016:	Deputy Monitor Javier Burgos, DCR staff, PRDOJ staff and USDOJ staff visited CTS Ponce.
Nov. 14, 2016:	Consultant Miriam Martinez and Deputy Monitor Javier Burgos visited CTS Humacao.
Nov. 14, 2016:	Consultant Miriam Martinez and Deputy Monitor Javier Burgos visited CD Bayamón.
Nov. 15, 2016:	Consultant Miriam Martinez and Deputy Monitor Javier Burgos visited CTS Ponce.
Nov. 21, 2016:	Deputy Monitor Javier Burgos visited CTS Humacao.
Dec. 7, 2016:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Ponce.
Dec. 7, 2016:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Villalba.
Dec. 8, 2016:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Humacao.
Dec. 9, 2016:	Consultant Curtiss Pulitzer and Deputy Monitor visited CD Bayamón.
Dec. 13, 2016:	Consultants Bob Dugan, David Bogard and Deputy Monitor Javier Burgos visited CTS Ponce.
Dec. 14, 2016:	Consultants Bob Dugan, David Bogard and Deputy Monitor Javier Burgos visited CTS Humacao.

THE UNITED STATES OF AMERICA

Plaintiff,

v. CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Fourth Quarter 2016

Provision	P	S	R	T	D	G	Comment
Compliance Category and Rating Definitions							
Compliance Category P	This category concerns Policy Compliance 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 Staffing Compliance 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 Resource Compliance 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 Training Compliance 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 Documentation Compliance 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 General Compliance - 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.	Y	Y	Y	I	Y	Y	A final approved Roadmap was developed for this provision. Based on observations over the course of the past two years, and recently received updated documentation from NIJ for the period January 2013through August 2015, substantial progress has been made in both documenting and addressing plumbing repairs in a timely manner. The Monitor's Office filed a compliance memorandum for this provision as part of the 2015 Q-3 Quarterly Report. USA has responded that "The comments raise no concerns for the United States only insofar as they apply to CD Bayamon, CTS Ponce, CTS Villalba, and CTS Humacao. The parties have held discussions on the developments concerning Consent Order paragraph 41 and Settlement Agreement paragraph 29."
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	I	I	Y	Y	A final approved Roadmap was developed for this provision and NIJ has submitted all the documentation required for compliance with this provision. The monitor is satisfied that the evidence submitted by NIJ meets the requirements of the roadmap and supports compliance. The Monitor's consultant has transmitted to USDOJ all the evidence on which he has relied, discussed same in two conversations, and obtained answers to questions posed by USDOJ and provided those clarifications to USDOJ. The Monitor's Office filed a compliance memorandum for this provision as part of the 2015 Q-3 Quarterly Report. USA has responded that "The comments raise no concerns for the United States only insofar as they apply to CD Bayamon, CTS Ponce, CTS Villalba, and CTS Humacao. The parties have held discussions on the developments concerning Consent Order paragraph 41 and Settlement Agreement paragraph 29."

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.	Y	N	N	N	N	N	There are still life and fire safety code and ADA violations that have not been remedied to date. NIJ has not allocated sufficient resources to support compliance with this provision nor is there documentation at this juncture to support a pathway to compliance. The Monitor's office and the functional team have, however, discussed a potential Roadmap for compliance with this provision, including utilizing the checklists developed for SA 29 as a foundation for further evaluation. We also met in March with a new team of engineers who are consultants to DCR who are to develop a strategy that may pave the way for a roadmap for eventual compliance with this provision. They were planning to review existing drawings and the documentation developed for SA 29 as well as tour the existing facilities prior to the next functional team meeting. The Monitor's Consultant met with a representative from the Commonwealth's engineering consulting firm during his most recent site visit in December. The meeting was very productive and a schedule and process was discussed for the documentation effort to determine code compliance at the four juvenile facilities potentially by the end of April.

Provision	P	S	R	T	D	G	Comment
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	N	#	#	#	#	N	The NIJ Fire Safety Officer has revised the procedures for emergency key control based on the review by the monitor's office. Future on-site visits will determine if further revisions are necessary. Presently, Humacao is still testing if current staffing are sufficient to manually unlock housing room doors in compliance with current life safety codes. The Monitor's Consultant has reviewed the weekly documentation and evacuation simulation data which indicates that housing units can be safely evacuated in less than two minutes per the life safety code. In addition, NIJ is developing new documentation that shows sufficient staff with proper communication capabilities are always working in the Mini Housing Control stations on all shifts to operate the control panels to remotely unlock all exit doors in Humacao, Villalba, Ponce and CD Bayamon. Furthermore, sufficient staff must be documented to ensure swift evacuation from all occupied spaces within each facility. NIJ has completed the initial process to properly color code and notch emergency keys and also to store them in accessible secure locations for staff access on all shifts. Monitor's consultants continue to work with the parties to identify necessary compliance d for a compliance memorandum.. The Monitor's Consultants submitted a report in the third quarter based on the tours completed earlier in 2016. Since the time of the tours that generated the report, NIJ has been very responsive in correcting many of the issues noted in the report. The Monitor's Consultant has spot checked some of the corrections on subsequent site visits and has seen improvements. NIJ is preparing a document that describes all these corrections as well as a few final updates of the emergency key procedures and we are waiting for that documentation to be submitted . The Monitor's Consultant will review those and will plan another tour to determine full compliance once all the other documents required for compliance for this provision, such as training of staff, are submitted to the Monitor's Consultant. The current relevant policies are conceptually acceptable, but need operational specifics to assure compliant implementation.

Provision	P	S	R	T	D	G	Comment
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.	N	#	#	#	#	N	NIJ has improved its ability to maintain operable exit doors from living units that can be readily unlocked in emergency situations. The Monitor's consultants will work with the parties to identify necessary compliance documentation expectations for a Roadmap to identify and define compliance. NIJ is now documenting on a weekly basis its monitoring and inspections made by the fire safety officers at each facility documenting that all exit doors are maintained in operable condition and can be readily unlocked. The process for documentation has been agreed to with the Monitor and Functional team and documentation began in August 2014. The Monitor's office has observed this documentation being utilized at all the facilities and in practice and is satisfied with the progress of compliance. The monitor is also waiting for additional training curriculum documentation. A draft Roadmap for this provision was completed in consultation with the Functional Team and was presented to USA for comments. The Monitor's Office received those comments and also shared them with the functional team members. As noted in the emergency key report related to S.A. 34, the Monitor's Consultant did observe some issues relating to emergency exits. In the subsequent site visits to the same facilities, there were no apparent issues observed in spot checking emergency exit doors in the housing units. In addition to all the weekly reports, DCR is currently developing summary spread sheets of all the exit door tests showing the data in summary form for the period September 2015 through December 2016. The current relevant policies are conceptually acceptable, but need operational specifics to assure compliant implementation; this will be determined as part of the roadmap process.

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	N	Y	#	#	N	NIJ's Fire Safety Officer has verbally reported that he had been providing ongoing training in all emergency procedures to the fire safety coordinators in 2011,2012 and 2013, although there is incomplete documentation to substantiate this. NIJ has submitted some of the necessary documentation indicating that ongoing training for all staff was performed in 2011 and 2012 as well as the lesson plans and training compliance for 2014. The Monitor and Functional Team have agreed to focus primarily on the training curriculum and number of staff trained in 2015 and 2016 as those time frames are more pertinent to determine compliance with this provision. NIJ has supplied documentation that emergency procedures are reviewed and updated annually. Documentation has also been provided showing that copies of the emergency plans are available to staff at all facilities. A Final Roadmap for this provision has been agreed to by NIJ and USA. The Monitor's consultants continue to work with the parties to assemble the necessary compliance documentation expectations for the Roadmap. The Monitor's Office is waiting for the updated training data to support compliance with this provision.

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.	Y	I	I	#	#	N	The Monitor agrees that the agency maintains a policy and procedure manual as required by this provision, although whether it governs all aspects of running the facilities as required has not yet been confirmed. Moreover, in the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case. See the compliance rating in Column T, which identifies when a training deficiency is a factor in compliance. While having developed and routinely updated a manual is a factor in compliance, the provision also clearly requires that the facilities be strictly operated within these policies and this implementation requirement's scope and accuracy have not yet been established.

Provision	P	S	R	T	D	G	Comment
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. 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 assignment necessary to implement the terms of this agreement, taking into consideration the physical configuration and function of spaces, the classification 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 number 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."	N	N	N	N	Y	N	The Commonwealth has the choice to demonstrate compliance according to method 48.a or 48.b. They have informed the Monitor that they do not intend to select method 48.b and that their legal position is that this language should be struck from the Settlement Agreement as superfluous. The Monitor agrees. For the Fourth Quarter of 2016, all of the facilities submitted the staffing youth ratio reports requested. 6:00 am- 2:00 pm shift: 87% of events, a 0% increase since Third Quarter reporting period 2:00 pm- 10:00 pm shift: 80% of events, a 6% increase since Third Quarter reporting period 10:00 pm- 6:00 am shift: 100% of events, a 0% increase since Third Quarter reporting period This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. While compliance with the terms of this provision is not likely for some time, Monitor's consultants are working with the parties to identify necessary compliance documentation expectations for compliance.
January 2009 Stipulation Paragraph 1: All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.	Y	N	N	N	N	N	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. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.

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.	N	N	N	N	N	N	The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991) No new YSOs were hired during the Fourth Quarter of 2016.
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. However, the provision remains as a future option. Unless and until the Commonwealth determines that they want to apply this provision, the Monitor's Office will not Monitor the provision. The choice to not implement this provision is not non-compliance. The ~~struck~~ part of the provision references a provision that has been terminated.
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.	#	#	#	#	#	#	The phrases in this provision that refer to Paragraph 49 are struck because that provision has been terminated.
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.	N	N	N	N	N	N	The ~~struck~~ part of the provision references a provision that has been terminated. The report was not provided during the Fourth Quarter of 2016.

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	N	N	N	Compliance tables documenting training within the agency as required in this stipulation have not been submitted to the Monitor since 2011, despite repeated requests. During the 4th quarter NIJ FT meeting copies of monthly training calendars demonstrated that training sessions identified in the stipulation including CPR were ongoing. Compliance tables were not available. Nevertheless, IDECAHR indicated they would be delivered to the monitor's office in the next quarter. During the 3rd quarter of 2016, IDECAHR reported that 99% of the 601 security officers had received training. Those in compliance with the 40- hour requirement were only 5% of that total but NIJ anticipated that the number would increase significantly in the coming year thereby enabling the delivery of annual training compliance reports in the first quarter of 2017. As in the previous quarter, IDECAHR submitted training calendars with specific dates for the CPR and other life safety training The curriculum employed was developed and approved by the Red Cross and was delivered by certified instructors assigned from the adult correction academy. In the monitor's consultant 3rd quarter site visit it was noted that the curriculum employed included theory and practice with CPR protocol, the use of defibrillators and other first responses. Each of the three instructors was both a DOC official and certified as EMTs or paramedics. Instruction was offered over 8 hours. The monitor's consultant did not observe additional CPR training sessions as they were not scheduled during the visit. This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. A review of the training sessions during the quarter revealed that PREA training is being offered within the institutions.
Classification							

Provision	P	S	R	T	D	G	Comment
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.	Y	Y	#	Y	N	N	NIJ, with the support of consultants, has conducted a validation study of the classification process for detention and committed and detention youth. Documentation has been provided for the classification of youth for detention, as well as for committed youth, for the months of the Fourth Quarter 2016. For the Fourth Quarter, there were 165 detention admissions of which 52% (86) were classified as low; 30% (50) were classified as moderate; 0% (0) was classified as severe, and 18% (29) as NA.. For the Fourth Quarter, there were 41 committed youth institutional assignments based on the Instruments of Classification in Custody: CTS Humacao (Treatment Level 5: 6); CTS Villalba (Treatment Level 4: 7); CTS Ponce (Treatment Level 2: 7) CTS Ponce (Treatment Level 3: 20); CTS Ponce, PUERTAS; 1). NIJ has conducted a classification validation study on committed and detention youth. The validation study was assessed for agency impact, piloted and was implemented in June 2016. An Administrative Order describing implementation of the Instruments of Classification in Custody and Instruments of Classification in Detention has been trained and operationalized. Monitor's consultants are continuing to work with the parties to identify necessary compliance documentation expectations.

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.	Y	N	N	#	#	N	Chart reviews indicate that CPR has been adhering to Policies and Procedures for the delivery of mental health and behavioral modification services – including clinical intervention for those youth in mental health crisis and in need of substance abuse services. Site interviews conducted this quarter however indicated that (1) staffing levels may not allow for participation of mental health staff in case conferencing, committee meetings where treatment decisions are made and (2) During this quarter and in striking contrast to previous site visits, youth in PUERTAS stated that they were not receiving services nor therapeutic groups.
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	As mentioned previously it is the understanding of the Mental Health Monitor that the 48 bed residential mental health treatment program provision was originally developed, and then reaffirmed by joint stipulation of the parties in 2007, when the overall NIJ youth census was substantially higher. The Mental Health Monitor recommends a review of this provision for possible revision (i.e. decrease from the 48 bed requirement) given the significant decrease in census (less than 275).
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.	Y	Y	Y	Y	Y	Y	The Monitor's Office filed a compliance memorandum for this provision as part of the 2015 Q-3 Quarterly Report. A motion for termination is pending before the Court.

Provision	P	S	R	T	D	G	Comment
C.O. 36. Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	Y	N	N	#	#	#	As per above, chart reviews indicate that youth are receiving mental health services per their plan of care. However, during the site visit for this quarter, it was reported that staffing does not allow for mental health staff to attend multidisciplinary case conferences, treatment reviews, committees where decisions are made (i.e. regarding entrance to PUERTAS) nor important school meetings. The Mental Health Monitor implores that all mental health, substance abuse and social work staff be retained and that there is consideration for increasing Psychiatric coverage especially for CTS Ponce where the PUERTAS program is located. This consideration is for the plan for continuous coverage should a vacancy occur. In addition, increasing staffing, especially adding an occupational therapist would allow for participation in multidisciplinary meetings, which is standard and good practice.
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	Y	Y	#	#	#	There is evidence of mental health staff being immediately informed and of mental health screenings being immediately completed. Mental Health intervention for those youth reviewed indicated treatment consistent with standard practice for at risk youth per chart reviews. More time is needed to review more records to indicate consistency in this practice.
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.	#	#	#	#	N	N	Thus far, the Mental Health Monitor notes that emergency psychotropic medications seem to be rarely utilized by the psychiatrists. The Mental Health Monitor requires more time to adequately assess full compliance with this provision.

Provision	P	S	R	T	D	G	Comment
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.	Y	Y	Y	#	N	N	See also previous reports. The overall rating is not being determined to be in full compliance as a determination needs to be made regarding youth in detention vs. custody and the interpretation of this into the existing policies and procedures. The Mental Health Monitor has requested more refinement in the Behavior Modification Plans to ensure each youth has individual interventions listed in the Plan of Care vs. general interventions by the entire mental health, social work, education and behavior modification teams. Thus, the Training is not listed as "Y" in compliance and will remain # until mental health monitor can review enough records to determine compliance. Policies, Staffing numbers and resources are adequate to comply with this provision. However, more time is needed over a longer period of time to assess overall compliance as noted above.

Provision	P	S	R	T	D	G	Comment
Discipline							
S.A. 74. Defendants shall specify the rules of the facilities with a complete list of possible punishments for violations of such rules in the handbook described in ¶ 47 above. Written notice of any rule violation, a hearing before a facility staff person not involved in the investigation of the violation, and an appeal to the facility director shall be provided to a juvenile prior to any punishment being imposed, except that Defendants may administratively segregate a juvenile in emergency or life-threatening situations. In the event of an emergency, when circumstances make it inappropriate to hold a hearing prior to segregation, a hearing shall take place within forty-eight (48) hours from the time of segregation.	Y	Y	I	Y	Y	Y	This provision was terminated by the Court on December 10, 2014 after the parties filed a joint motion to terminate this provision on July 11, 2014.

Provision	P	S	R	T	D	G	Comment
S.A. 77. In no event is physical force justifiable as punishment on any juvenile. The use of physical force by staff, including the use of restraints, shall be limited to instances of justifiable self-defense, protection of self and others, to maintain or regain control of an area of the facility, including the justifiable protection of significant property from damage; and prevention of escapes; and then only when other less severe alternatives are insufficient. A written report is prepared following all uses of force and is submitted to administrative staff for review. When force, including restraint, is used to protect a youth from self, this must be immediately referred to the medical area for medical and mental health evaluation and any necessary treatment.	N	N	I	#	N	N	This quarter once again revealed several positive trends concerning the volume of use of force. There were no large scale incidents again for the third consecutive quarter (an indicator of "leader in-fighting."). The overall volume of use of force incidents remained consistently low compared to the 3rd Quarter: 25 use of force incidents involving 32 youth this quarter compared with 17 incidents involving 30 youth in Q-3. Incidents occurred as follows: Bayamon (1); Humacao (3); Villalba (0); Ponce (21). However, 17 of 25 (68%) incidents involved one troubled youth J.S.O) in the Puertas program at Ponce (he remains in Puertas on PC status). In this 4th quarter, OC was used only twice in the system-- in 2 of three incidents at Humacao representing a decrease from 5 of 7 force incidents at Humacao the previous quarter. There was a very troublesome incident at Humacao on November 8 in which two youths (M.M.A. and D.P.R.) were seriously injured as a direct result of apparently unauthorized and excessive applications of force by an officer. Four monitor's staff and consultants have interviewed the youths involved, the OISC investigation is completed and criminal investigations by the police and PRDOJ are pending against several officers. The Monitor's consultant reviewed the majority of use of force incident report packages (including Cernimiento review forms and all incident reports) as well as 7 incident videos from Ponce. The volume of force incidents has decreased substantially and there are many instances in which staff employ de-escalation tools and use force reasonably and appropriately consistent, with the terms of this provision. That said, there are still too many instances of force used in violation of P77 criteria, and I cannot conclude that force is used in all or most instances in a manner consistent with the four primary criteria set forth in this provision. Revised policies and procedures, current training materials and evidence of training completion are the first steps toward DCR demonstrating compliance with this provision. Training officers in de-escalation, particularly those who work in Puertas and with certain classifications of youth at Humacao, would seem to be a necessity.

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, and 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	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. Policies have been updated to comply with this provision. Evidence was preserved in 100% of applicable cases sampled. Suspected youth were separated from their victim(s) in 100% of the cases assessed. Additional information about compliance can be found in the case assessment tables in the main report.
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	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. The timeliness of initial reporting to PRPD by AIJ, based on AIJ records assessed in the case assessment process (Attachment F Section B of the main QR report) , is 100% The Commonwealth Police do not fully respond to the Monitor's information requests for case analysis information. There are reports provided for about half of the cases, and much information is missing. Cases were promptly referred to OISC in 100% of sampled cases based on OISC records. (The conducting and completion of the investigations is assessed in P78.e below.)

Provision	P	S	R	T	D	G	Comment
S.A.78.d Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.	N	#	#	#	N	N	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.
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	For the most recent quarter, 97% of OISC case investigations were completed within 30 days and one took longer because it involved an escape. 100% of Level One case investigations were completed within 20 days at the facilities.

Provision	P	S	R	T	D	G	Comment
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	N	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. There is an internal process to review investigation quality. No formally-adopted standards have been submitted to the Monitor's Office. Training may be insufficient if the policies are not in place which would be the topic of the training. NIJ has recently adopted a very structured investigation report template for use of force cases addressing standards set forth in this provision and in others. It is considering revising and adapting the template for non-use of force investigations. The Monitor supports this concept.
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	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. For the most recent quarter, 18 of 19 OISC case investigations were completed within 30 days, and one took longer because it involved an escape. There is an internal process to review investigation quality and the Monitor and Deputy Monitor are reviewing the instrument that was developed and is used. No formally-adopted standards have been submitted to the Monitor's Office. Training may be insufficient if the policies are not in place which would be the topic of the training. OISC cases have been identified that do not contain "proposed findings."

Provision	P	S	R	T	D	G	Comment
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.	Y	Y	Y	#	N	N	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. The rating for Staffing and Policy Compliance is "Y" because staffing and policy is sufficient for the Commonwealth to produce this report. The Monitor believes that the remaining area where additional monitoring and documentation is needed is the quality assurance assessment described in the third sentence.
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	Y	Y	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. A Compliance Memorandum for this provision was submitted to the Court with the 2015 Third Quarterly Report. USA has filed objections to the compliance memorandum.

Provision	P	S	R	T	D	G	Comment
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. For any criminal proceeding that is filed in the future, the same information shall be provided to the Monitor and the United States within fifteen (15) days after its filing. The order also required two reports to be filed by December 19, 2006. These were filed at the time.	Y	Y	Y	Y	Y	Y	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. It is the view of the Monitor that if compliance is achieved for S.A. 78(i),that the underlying evidence might also support compliance with this order.

Provision	P	S	R	T	D	G	Comment
Protection and Isolation							
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.	#	#	#	#	#	#	In early October, DCR implemented a pilot program at CTS Humacao designed to significantly reduce the incidences of room confinement for youths on Transitional Measures status that could be considered covered under this provision. Two program modules were instituted and TM youths were assigned to spend all waking hours in the program module while only sleeping in their "home modules." There was no routine room confinement for these youth. Youths received many services in the dayroom, while generally receiving education in the school area and, on December 13, the DCR Secretary issued a directive reinforcing the operations of the program. The program showed great promise as a way to avoid the use of room confinement, particularly for long-term TM youth. However, purportedly due to staffing shortages, the program did not operate approximately 1/3 of the time, meaning that the assigned youth remained in their home modules on TM status, with most waking hours being on room confinement. On December 28, DCR terminated the pilot program, discontinued the TM status of the approximately 12 youths who had been designated as such and were in the Pilot, and consolidated them into one module operated as a general population module with the youth out of their room most waking hours (thus removing them from the isolation status covered by this provision). As of the beginning of January, the number of TM youth at Humacao has dropped from around 12 to only 1-2 at Humacao, with one more at Ponce There are currently very few youth designated as TM and, as a result, there are very few youth potentially subject to room confinement pursuant to this provision. The Monitor's consultants continue to have unresolved questions about the intent of this provision as a mental health one or otherwise. Nevertheless, the Monitor's view is that the frequency, conditions and duration of room confinement is a valid and important consideration and these issues have been the focus of monitoring.

Provision	P	S	R	T	D	G	Comment
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.	N	N	#	#	#	N	During this 4th quarter, the Monitor's operations consultants modified their long-standing practices of assessing compliance with the service/access requirements for youth on TM/PC status. In light of the inception of the Pilot Program for long-term TM youth at Humacao, the number of youth on TM status with any associated room confinement dropped significantly, along with concerns about most aspects of this provision. As such, P 80 Monitoring attention shifted from P-80 compliance for long-term TM youth at Humacao to others on TM and PC status at Ponce. Documentation reviews were conducted for five such youths to include logs of activities and services provided, out of room opportunities and other conditions of confinement to assess the degree to which TM/PC status youth are receiving services comparable to all other youth. Summary tables for these five reviews are included in Attachment E to this Report. Of the services listed in this provision, limits on the quantity of education services remains the primary area of deficit. TM Policies 17.19 (PC) and17.20 (TM) currently establish 20 minutes per subject as the standard for education for these youth; while this amount of one-on-one education *may* be the equivalent of that offered to other youth in classroom settings, this equivalence has not been formally accepted by the parties. Aside from the education equivalency, current policy does conceptually address the specific terms of this provision for both TM and PC statuses, although it was under review and was to be revised until the abrupt termination of the Pilot Program at Humacao on December 28, 2016.

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.	#	N	N	I	N	N	The school year was delayed a week until August 18. Because of teacher vacancies, a modified schedule was implemented in each institution except for the young women in CD Bayamon. Vocational opportunities are available in the CTS institutions for all students but there continues to be a deficiency in the CD institutions. NIJ revised the vocational programs during the previous school year, adding a civics/ethics course for the Bayamon and Villalba detention students since the agency believes it is a valid substitution for traditional vocational education. The Monitor's educational consultant maintains that in both locations civics/ethics cannot be reasonably considered vocational education. The number of vocational shops at Ponce was reduced from four to two but NIJ added a barbershop. Adult education is not considered adequate for the educational needs of the of NIJ youth by the monitor's consultant.
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 et seq. Defendants shall screen juveniles for physical and learning disabilities.	#	Y	Y	I	N	N	The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision. 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	I	N	N	The Monitor's assessment of special education and mental health services for the 2013 3rd quarter revealed that when a special education student drops out of the community public school before confinement in the agency institutions, he is not always re-evaluated for those services in the institution but is listed as "inactive." The NIJ education director said he would look into this practice and adjust as necessary. The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision. 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	I	N	N	Compliance with the first part of the stipulation remains high in that the agency institutions request IEPs and special education files from the community public schools. The request is frequently ignored or results in late delivery preventing compliance with the second part requiring assessment of the documents' adequacy. This is particularly the case in the detention institutions. NIJ's response to this issue is that they have no authority over the community schools and that is a concern of the Department of Education for the Commonwealth. The monitor and consultants are working with NIJ officials to develop an acceptable mental health/special education assessment instrument for periodic case reviews to more fully document the level of compliance with this provision and other special education and mental health provisions
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	I	N	N	Since all special education students are mainstreamed with those not certified, they receive the equivalent adult education as the others except for those in protective custody or in transition. The monitor's consultant does not acknowledge adult education as delivered in the institutions adequate to the needs of the NIJ youth. See note to S.A. 81 as to the appropriateness of adult education. See note to S.A. 94 about protective custody and transitional compliance. See note to S.A. 87 about the development of a mental health/special education assessment. There are no educational services offered to special education or other students who have completed the 4th year, as NIJ does not consider them part of the agreement. The NIJ education director agreed that this policy should be re-examined and indicated he would prepare some recommendation for 4th year completers in the next quarter. He noted that some participate in vocational shops with instructor permission and some others could be eligible now that the Creando Program has returned.

Provision	P	S	R	T	D	G	Comment
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	I	N	N	Certified special education teachers provide education services to youth. Vocational opportunities are available in each institution with the exception noted above where a civics/ethics course was offered in lieu of tradition career and technical education courses. The monitor's educational consultant maintains that in both locations civics/ethics cannot be reasonably be considered vocational education. As demonstrated in the Monitor's 2013 3rd quarter assessment of special education and mental health services, there continues to be a system wide gap in communication between education and mental health staff. Prescriptions written into the IEP fall into a "one size fits all" admittedly written by educators with scant consultation with mental health staff. It should be noted that in the pilot assessment staff stated that consultation increased significantly. Nevertheless, mental health personnel rarely participate in the COMPU which prepares and recommends implementation of the IEP. Road map development activity has diminished in favor of a combined effort to achieve stipulation compliance. See note in reference to related services such as mental health and substance abuse in SA 87.
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 did not receive services from the end of May to the beginning of August. Nevertheless, as part of the June camping program, credit-bearing courses were offered in science and English. Contingent upon funding, NIJ intends to continue credit-bearing opportunities during the June "campamento." Although this does extends the school year for some, NIJ does not believe there are students who meet the prerequisites for year round education. The monitor's office disagrees that there are no such students. The Monitor and consultants are working with NIJ officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.
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	I	N	N	A recent review of services provided for youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. (See also comments for S.A. 90 and SA 80).

Provision	P	S	R	T	D	G	Comment
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	#	Y	Y	I	N	N	All special education positions are filled. The modified school program this school year negatively affects all students, including those in special education. 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 if fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the required sums of money will be established so as to implement this Consent order.	I	I	N	I	N	N	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. It is also not established that the budget identifies the "required sums of money" to "implement the order." The budget has been, in fact, insufficient to implement the requirements of the decree. There are many provisions in non-compliance with category "R" specified as one of the factors. These are provisions where lack of resources is a factor in non-compliance. Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a Roadmap.