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 First Quarter Report for 2012. The report covers the months of January, February and March 2012. This report consists of an introductory statement by the Monitor, along with the compliance ratings tables and special reports by the Monitor's consultants.

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

Respectfully Submitted,

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

Certificate of Service

I HEREBY CERTIFY that this 21st day of May, 2012, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton
Monitor
Office of the Monitor, U.S. v. Commonwealth of Puerto Rico
USACPR Monitoring Inc.
Calle Mayaguez # 212, Esquina Nueva, San Juan, PR 00917
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Monitor's Quarterly Report
First Quarter 2012

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

The following is the Monitor's First Quarter Report for 2012. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision. The narrative supplements the tables, describing recent events and accomplishments, reviews the results of some of the on-site monitoring tours, and examining particular compliance problems and pending issues. The narrative section does not comment on every category of provisions in every quarterly report.

Document Attachment A:	Monitor's Letter Concerning Centralized Youth Facility
Document Attachment B:	Consultant Report on Staffing Compliance
Document Attachment C:	Consultant Report of Facility Provisions
Document Attachment D:	Consultant Report on Operations Provisions
Document Attachment E:	Report on Incidents and Understaffing
Document Attachment F:	Abuse Referrals Tracking Report
Document Attachment G:	Abuse Referral Case Assessment Report
Document Attachment H:	Chronology of Site Visits
Separate Attachment One:	Table of Compliance Ratings

The Monitor provides the following comments.

Centralized Youth Corrections Facility: The Puerto Rico Public-Private Partnerships Authority (PPP) is considering proposing that a single integrated youth correctional facility be developed by the Commonwealth through PPP. Responses to the Request for Qualifications "RFC" document were due Monday May 7th.

Appendix A contains a letter written by the Monitor to Commonwealth officials to summarize potential compliance risks that this project would engender for the Commonwealth. The following are additional concerns that have been identified since the letter was provided.

The site selected for the proposed project is Yauco, a municipality located in southwestern Puerto Rico approximately half-way between Ponce and Cabo Rojo. This location is likely to require more extensive transportation costs, in the aggregate, for youth to be detained at the center, compared to current costs for the Detention Center in Bayamon. This is because more arrests take place in the northeastern part of Puerto Rico than in the southwest part of Puerto Rico. Locating the detention center so far away from population centers may also result in longer periods of detention of youth in police holding facilities.

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

S.A. 48 Staffing Compliance: The report on staffing compliance shows that the percentage of compliance with staffing requirements on the day shifts was as follows: Bayamon – 12%, Humacao – 9% and Villalba 12%.

Respectfully Submitted,

F. Warren Benton

F. Warren Benton, Ph.D.
Monitor

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

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

December 20, 2011

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

Re: Potential New Consolidated Youth Correction Facility in Puerto Rico

Dear Counsel:

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

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

1. Settlement Agreement Provision 29: Compliance with ACA Standards

Settlement Agreement Paragraph 29 states: *"Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations."*

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

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

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

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

2. Settlement Agreement Provision 52: Classification and Placement

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

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

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

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

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

3. Maintenance

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

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

A compliance risk involves responsibility for maintenance problems that develop as a result of operationally non-compliant conditions, such as lack of staffing and supervision or improper classification assignments. It is my understanding that the Commonwealth will be required to compensate the private partner for maintenance services resulting from intentional damage to facilities by youth not supervised, at the time of the incident, in accord with the staffing plan, which assumes compliance with the Settlement Agreement staffing standards.

4. Settlement Agreement Paragraph 48: Required Staff

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

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

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

5. Funding for Compliance

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

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

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

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

6. Consultation with the United States

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

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

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

> *At this early stage of the project, the Commonwealth does not have any information to share with Counsel with regards to the impact of the project on future compliance with regards to "…staffing levels, classification system, protection of youth from harm and the provision of rehabilitative services."*
>
> *However we understand that until the project is built and is actually being operated to provide services to youth, our responsibility as to compliance and information is with regards to the AIJ's facilities that are currently functioning and providing services to youth.*

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

Sincerely,

F. Warren Benton

F. Warren Benton, Ph.D.
Monitor

cc: Counsel for the United States

Document Attachment B:
Consultant Robert Dugan Report on Staffing Compliance

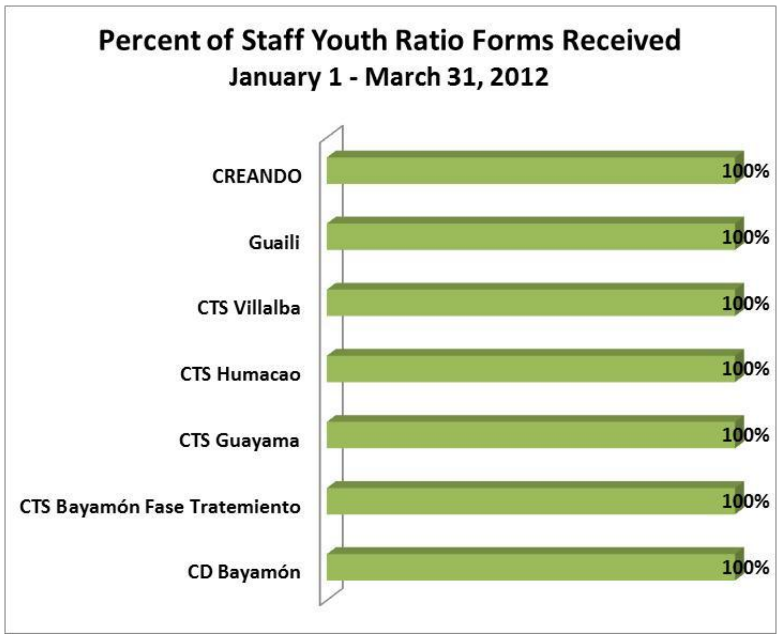
AIJ Staffing Quarterly Report: January 1, 2012 – March 31, 2012
Prepared by Bob Dugan: Office of the Monitor: April 18, 2012

Background:

The following report constructed on April 18, 2012 provides information on Staff Youth Ratio forms that were provided to the consultant for the period of January 1, 2012 thru March 31, 2012.

As of the Wednesday, April 18, 2012 the following forms have been submitted.

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	13	13
CTS Bayamón Fase Tratemiento	13	13
CTS Guayama	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Guaili	13	13
CREANDO	13	13
Totals	91	91



AIJ submitted a total of 91 facility staff youth ratio forms for the seven operational facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. AIJ has consistently been providing all requested Staff Youth Ratio forms used for monitoring and reporting.

CREANDO was operational for thirteen of the thirteen weeks of the first quarter reporting period.

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

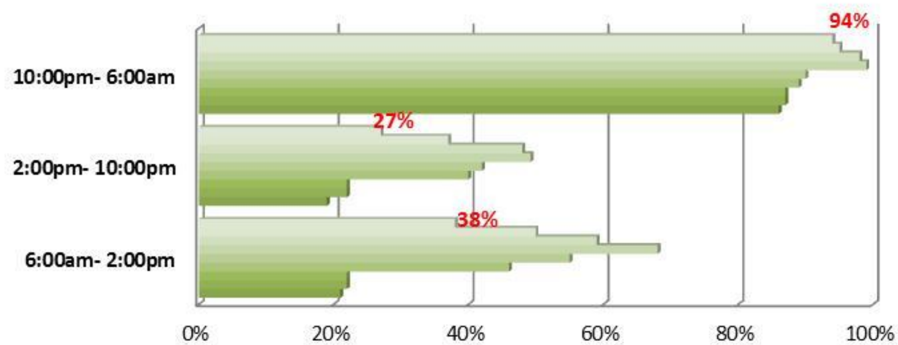
<u>AIJ Staff Youth Ratio Averages:</u>

During the First Quarter 2012 reporting period (January 1, 2012 thru March 31, 2012), AIJ documented a total of 10796 shift / unit events that required staff to youth supervision. This is an increase of 163 staff youth supervision events since the Fourth Quarter of 2011 (10633 events).

Of the 10796 shift / unit events, 5757 of the events (53.3%) were supervised with the required staff youth ratios, a 7.4 % reduction since the Fourth Quarter of 2011, which was preceded by a 7.7% reduction for the Third Quarter of 2011 reporting period.

The following chart represents the AIJ agency Staff Youth Ratio averages by shift for the last nine quarters through March 31, 2012:

AIJ Quarterly Performance
Meeting Staff Youth Supervision Ratios



	6:00am- 2:00pm	2:00pm- 10:00pm	10:00pm- 6:00am
1st Quarter 2012	38%	27%	94%
4th Quarter 2011	50%	37%	95%
3rd Quarter 2011	59%	48%	98%
2nd Quarter 2011	68%	49%	99%
1st Quarter 2011	55%	42%	90%
4th Quarter 2010	46%	40%	89%
3rd Quarter 2010	22%	22%	87%
2nd Quarter 2010	22%	22%	87%
1st Quarter 2010	21%	19%	86%

The First Quarter of 2012 has resulted in continuing reductions in meeting Staff Youth Ratios:

- 6:00 am- 2:00 pm shift: 38% of events, 12% reduction
- 2:00 pm- 10:00 pm shift: 27% of events, 10% reduction
- 10:00 pm- 2:00 am shift: 94% of events, 1% reduction

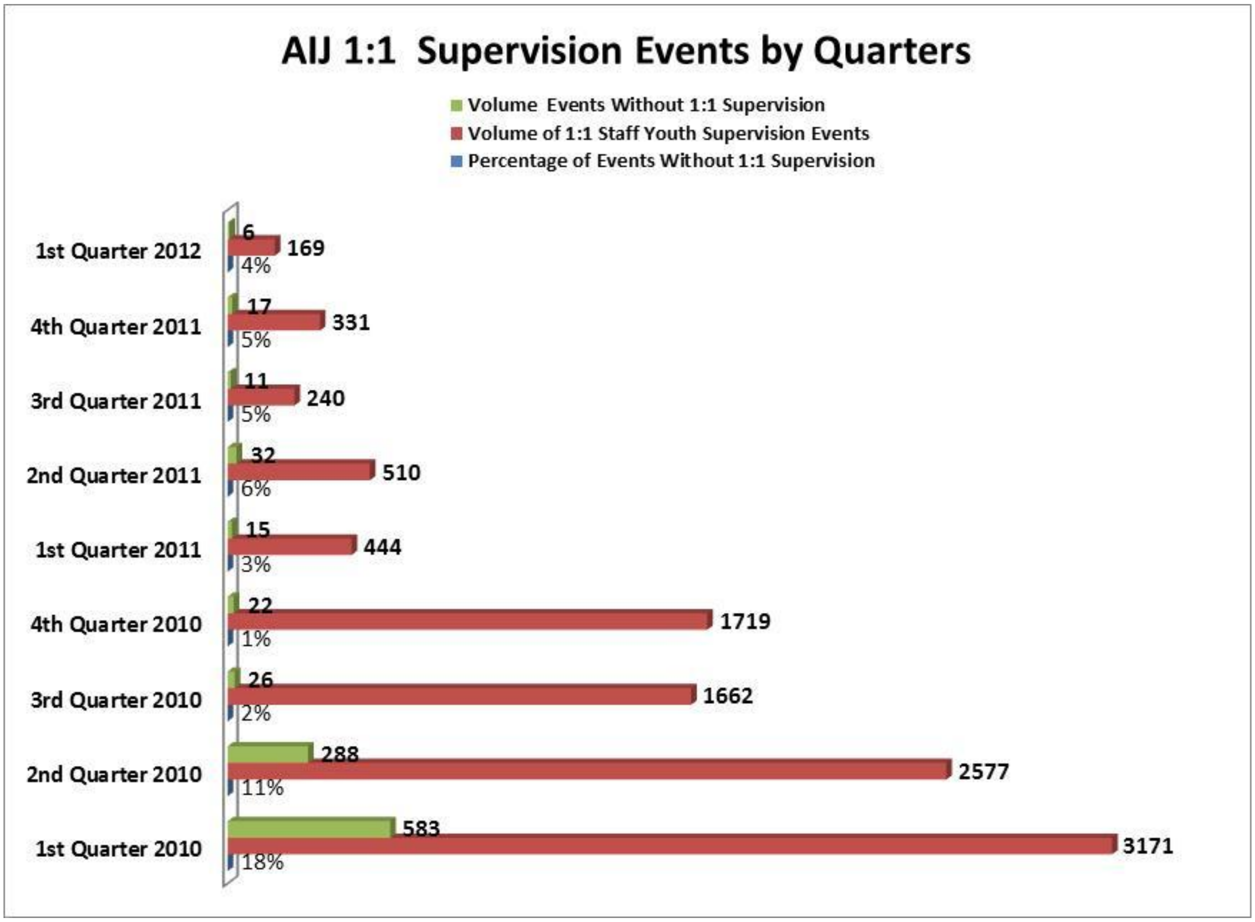
AIJ Agency 1:1 Supervision Events:

From the First Quarter of 2010 through the Third Quarter of 2011, there had been a remarkable reduction in the volume of youth designated for 1:1 supervision.
The First Quarter of 2012 reporting period is the lowest volume of 1:1 supervision events) reported:

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

Correspondingly, the First Quarter of 2012 has the fewest volume of these events: 6 events:

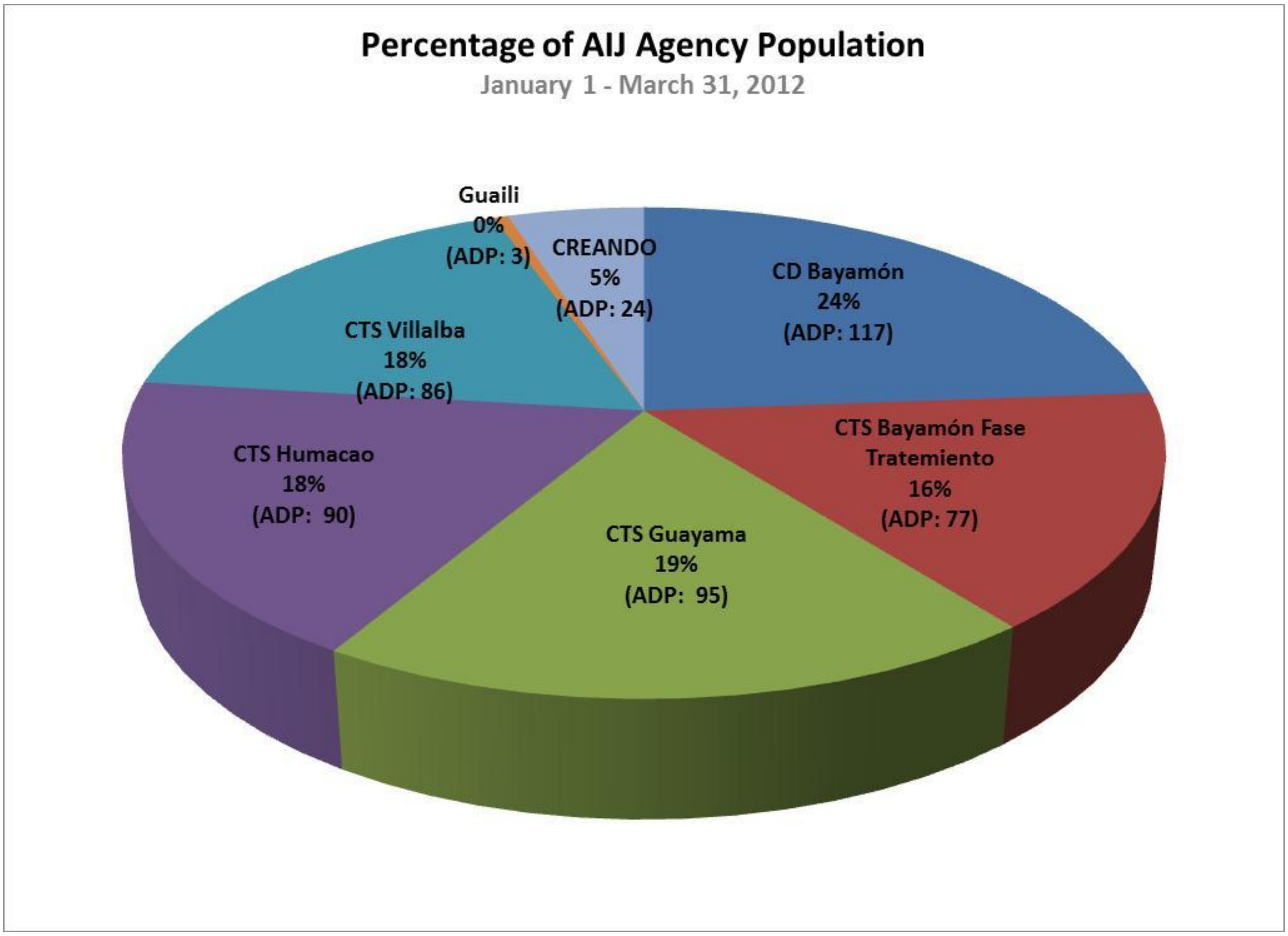
- 583 events 1st Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3rd Quarter 2010
- 22 events 4th Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4th Quarter 2011
- 6 events 1st Quarter 2012



<u>AIJ Average Daily Population:</u>

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

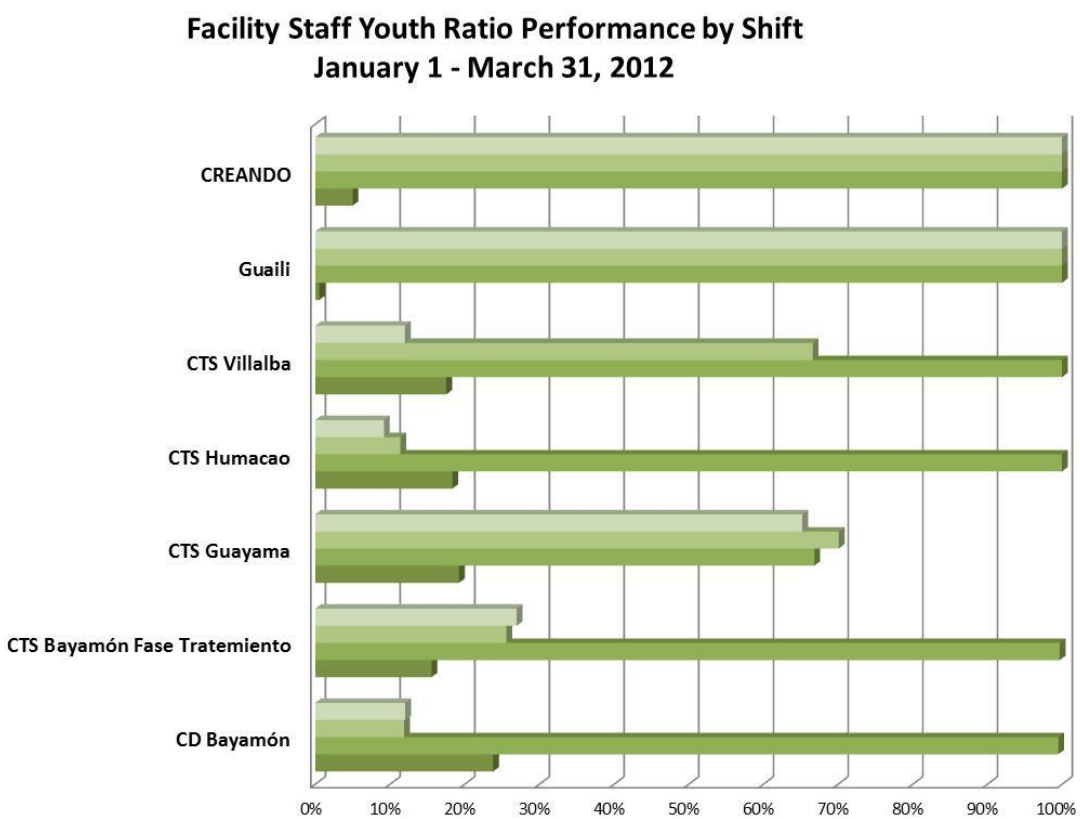
The table below displays each facilities average daily population for the reporting cycle (January 1, 2012 thru March 31, 2012) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.


Percentage of AIJ Agency Population
January 1 - March 31, 2012
Guaili
0%
(ADP: 3)
CREANDO
5%
(ADP: 24)
CD Bayamón
24%
(ADP: 117)
CTS Villalba
18%
(ADP: 86)
CTS Bayamón Fase
Tratemiento
16%
(ADP: 77)
CTS Humacao
18%
(ADP: 90)
CTS Guayama
19%
(ADP: 95)

<u>Facility Staff Youth Ratio Performance by Shift:</u>

The staff youth ratio analysis below represents the staffing information received for the period from January 1, 2012 thru March 31, 2012 (13 weeks). The purple bar for each facility represents the proportionate average daily population that facility contributes to the AIJ average daily population. The table of average daily population can be found on page 15 of this report.

During the First Quarter reporting period (January 1, 2012 thru March 31, 2012), CD Bayamon, CTS Humacao and CTS Bayamón Fase Tratemiento have the largest volume of staffing deficiencies, representing 58% of the AIJ youth population.



	CD Bayamón	CTS Bayamón Fase Tratemiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	CREANDO
Percentage of Time Met Staff Youth Ratio 2:00- 10:00	12%	27%	65%	9%	12%	100%	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	12%	26%	70%	11%	67%	100%	100%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%	100%	67%	100%	100%	100%	100%
Percentage of AIJ Agency Population	24%	16%	19%	18%	18%	1%	5%

CD Bayamón Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

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

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

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

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

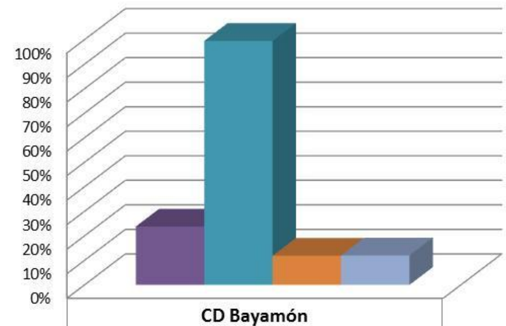
For the First Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:

- **10:00pm - 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: an 10% reduction since 2011 Fourth Quarter reporting**
- **2:00 pm – 10:00 pm: a 7% reduction since 2011 Fourth Quarter reporting**

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CD Bayamón
Percent of Unit Events Meeting Staff Youth Ratio



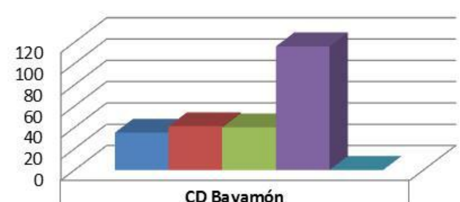
	CD Bayamón
Percentage of AIJ Agency Population	24%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	12%
Percentage of Time Met Staff Youth Ratio 2:00-10:00	12%

****CD Bayamón contributed 116 of the 169 (69%) AIJ 1:1 supervision events for the First Quarter reporting period.**

Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.42**

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

CD Bayamón
1:1 Supervision Events



	CD Bayamón
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	35
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	41
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	40
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2011	116
Volume of Events without 1:1 Supervision	0

CTS Bayamón Fase Tratemiento Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

Level 4 and 5 Facility:

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

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

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

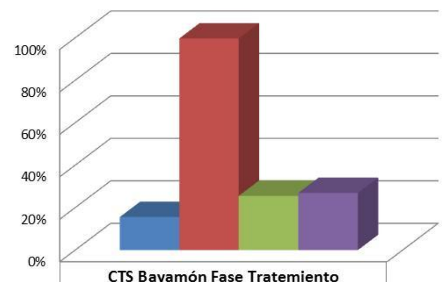
For the First Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:

- **10:00pm- 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: a 5% reduction since the 2011 Fourth Quarter reporting**
- **2:00 pm – 10:00 pm: a 6% reduction since the 2011 Fourth Quarter reporting**

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

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



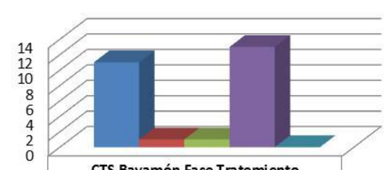
	CTS Bayamón Fase Tratemiento
Percentage of AIJ Agency Population	16%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	26%
Percentage of Time Met Staff Youth Ratio 2:00- 10:00	27%

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

13 youth supervision events for the Fourth Quarter of 2011

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

CTS Bayamón Fase Tratemiento
1:1 Supervision Events



	CTS Bayamón Fase Tratemiento
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	11
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	1
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	1
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2011	13
Volume of Events without 1:1 Supervision	0

CTS Guayama Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

Level 3 Facility:

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

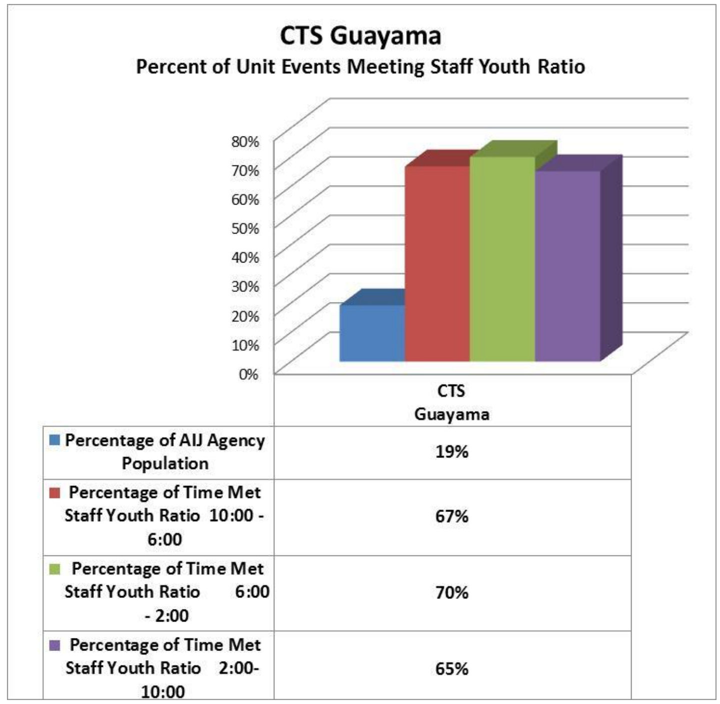
Percent of Forms Available: 100%
Volume of Weeks Analyzed: 13 of 13 requested

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

- **10:00pm- 6:00am: a 7% reduction since 2011 Fourth Quarter reporting**
- **6:00 am – 2:00 pm: a 7% reduction since 2011 Fourth Quarter reporting**
- **2:00 pm – 10:00 pm: a 12% reduction since 2011 Fourth Quarter reporting**

Volume of Weeks Analyzed: 13

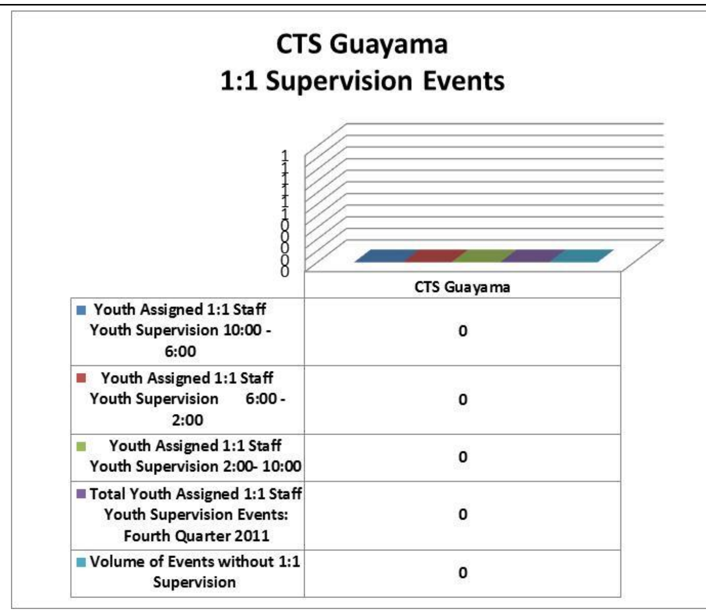
Volume of Days Analyzed: 91



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

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

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



CTS Humacao Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

Level 4 Facility:

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

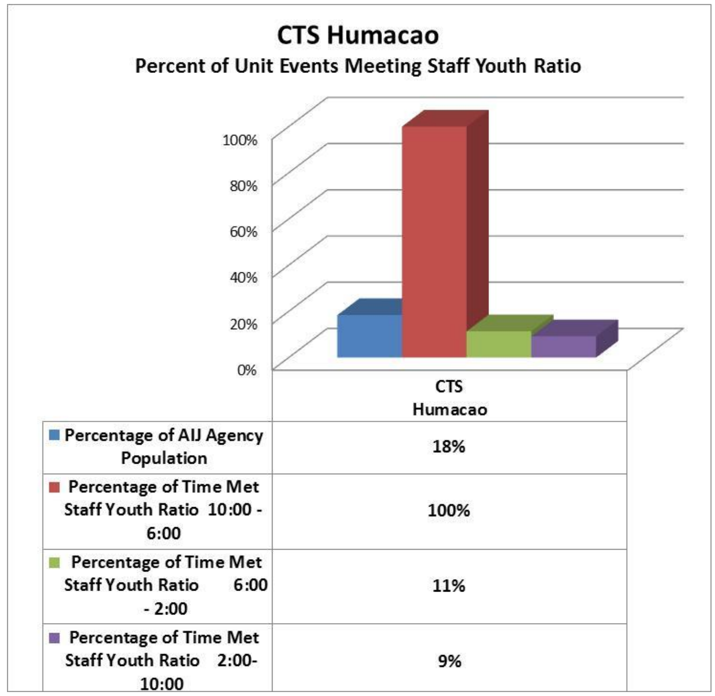
Percent of Forms Available: 100%
Volume of Weeks Analyzed: 13 of 13 requested

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

- **10:00pm- 6:00am: maintained at 100%**
- **6:00 am – 2:00 pm: a 21% reduction since 2011 Fourth Quarter reporting**
- **2:00 pm – 10:00 pm: a 8% reduction since 2011 Fourth Quarter reporting**

Volume of Weeks Analyzed: 13

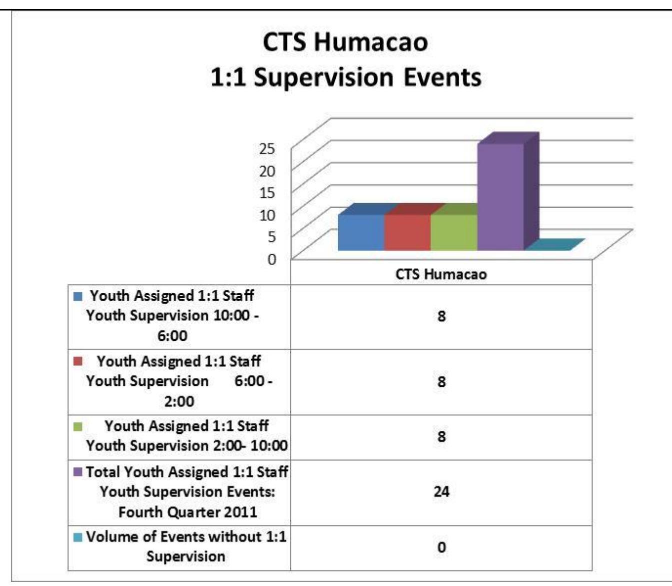
Volume of Days Analyzed: 91



Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.09**

24 youth supervision events for the First Quarter of 2012

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



CTS Villalba Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

Level 5 Facility:

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

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

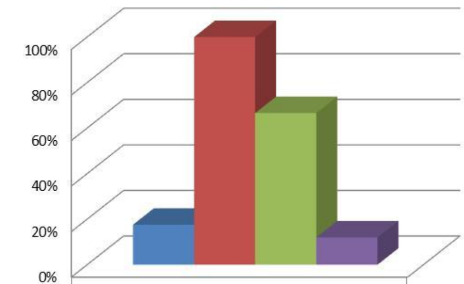
For the First Quarter of 2012 there has been the following reduction in meeting Staff Youth Ratio requirements:

- **10:00pm- 6:00am: maintained at 100%**
- **6:00 am – 2:00 pm: a 7% reduction since 2011 Fourth Quarter reporting**
- **2:00 pm – 10:00 pm: an 18% reduction since 2011 Fourth Quarter reporting**

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

CTS Villalba
Percent of Unit Events Meeting Staff Youth Ratio



	CTS Villalba
Percentage of AIJ Agency Population	18%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	67%
Percentage of Time Met Staff Youth Ratio 2:00- 10:00	12%

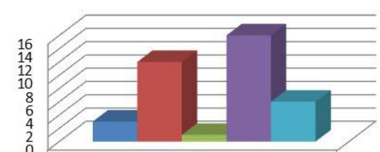
Average volume of youth assigned 1:1 staff youth supervision per reported day: **0.06**

16 youth supervision events for the First Quarter of 2012

Volume of 1:1 Events Without Required staffing during reporting period: **6**

This is one less of 1:1 events without required staffing as reported in the 2011 Fourth Quarter.

CTS Villalba
1:1 Supervision Events



	CTS Villalba
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	3
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	12
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	1
Total Youth Assigned 1:1 Staff Youth Supervision Events: Fourth Quarter 2011	16
Volume of Events without 1:1 Supervision	6

Guaili Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

Level 2 Facility:

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

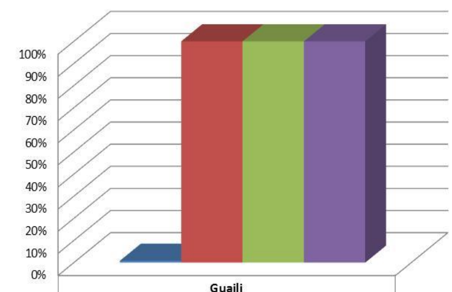
Percent of Forms Available: 100%
Volume of Weeks Analyzed: 13 of 13 requested

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

Guaili represents 1% of the AIJ institutional population.

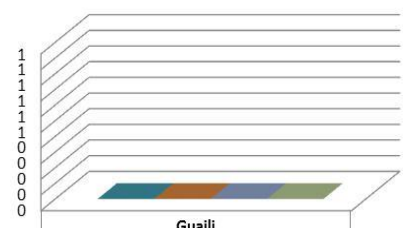
Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



	Guaili
Percentage of AIJ Agency Population	1%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	100%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	100%

Average volume of youth assigned 1:1 staff youth supervision per reported day:	**0**
Volume of 1:1 Events Without Required staffing during reporting period:	**0**



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

CREANDO Staff Youth Ratio Analysis:

January 1, 2012 thru March 31, 2012

Level 2 Facility:

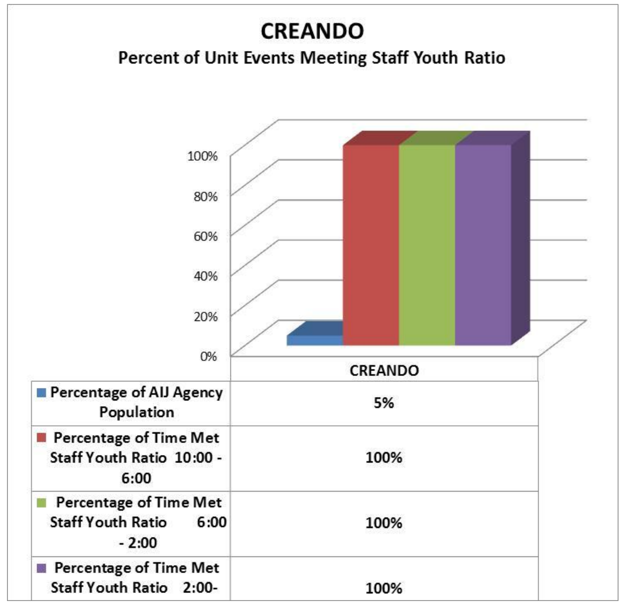
- **A Staff Youth Ratio of 1:16 during 6:00 AM -2:00 PM and 2:00 PM -10:00 PM**
- **A Staff Youth Ratio of 1:16 during 10:00 PM -6:00 AM**

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

For the First Quarter reporting period, CREANDO represents 5% of the AIJ institutional population.

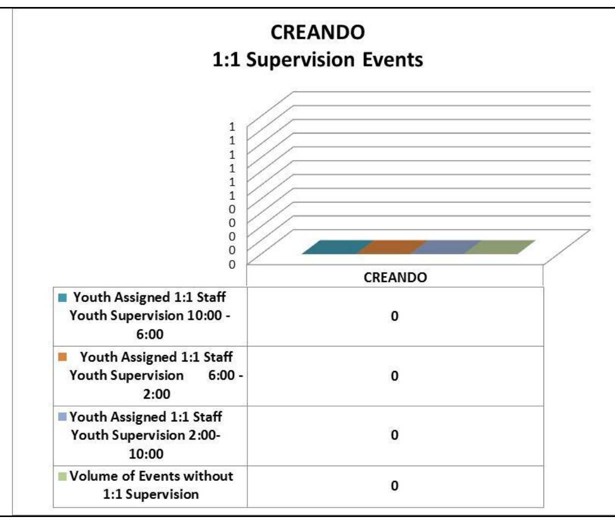
Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



Average volume of youth assigned 1:1 staff youth supervision per reported day: **0**

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



Facility Table of Shift Compliance with Staff Youth Ratio:

	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ Agency Population	Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	Percentage of Time Met Staff Youth Ratio 2:00- 10:00	Average Daily Population
CD Bayamón	100%	24%	100%	12%	12%	117
CTS Bayamón Fase Tratemiento	100%	16%	100%	26%	27%	77
CTS Guayama	100%	19%	67%	70%	65%	95
CTS Humacao	100%	18%	100%	11%	9%	90
CTS Villalba	100%	18%	100%	67%	12%	86
Guaili	100%	1%	100%	100%	100%	3
CREANDO	100%	5%	100%	100%	100%	24

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

	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ Agency Population	Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	Total Youth Assigned 1:1 Staff Youth Supervision Events: First Quarter 2012	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	100%	24%	35	41	40	116	0	91
CTS Bayamón Fase Tratemiento	100%	16%	11	1	1	13	0	91
CTS Guayama	100%	19%	0	0	0	0	0	91
CTS Humacao	100%	18%	8	8	8	24	0	91
CTS Villalba	100%	18%	3	12	1	16	6	91
Guaili	100%	1%	0	0	0	0	0	91
CREANDO	100%	5%	0	0	0	0	0	91
Totals	100%	100%	57	62	50	169	6	637

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

Date	CD Bayamon	CTS Bayamón Fase Tratamiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	Program CREANDO
January 1 - 7. 2012	1/17/2012	1/17/2012	1/17/2012	1/17/2012	1/17/2012	1/17/2012	2/9/2012
January 8 - 14, 2012	1/27/2012	1/27/2012	2/9/2012	1/27/2012	1/27/2012	2/9/2012	2/9/2012
January 15 - 21, 2012	1/27/2012	1/27/2012	3/2/2012	1/27/2012	1/27/2012	2/9/2012	1/27/2012
January 22- 28, 2012	2/9/2012	2/9/2012	3/2/2012	2/9/2012	2/9/2012	2/9/2012	2/9/2012
January 29 - February 4, 2012	2/24/2012	2/24/2012	4/4/2012	2/9/2012	2/9/2012	2/9/2012	2/9/2012
February 5 -11, 2012	2/24/2012	2/24/2012	3/2/2012	2/24/2012	2/24/2012	2/24/2012	2/24/2012
February 12-18, 2012	3/2/2012	4/4/2012	3/2/2012	2/24/2012	2/24/2012	2/24/2012	2/24/2012
February 19 -25, 2012	3/2/2012	4/4/2012	3/2/2012	3/2/2012	3/2/2012	3/2/2012	3/2/2012
February 26- March 3, 2012	3/20/2012	3/20/2012	4/4/2012	3/20/2012	3/20/2012	3/20/2012	3/20/2012
March 4- 10, 2012	3/20/2012	3/20/2012	4/4/2012	3/20/2012	4/4/2012	4/4/2012	3/20/2012
March 11 - 17, 2012	4/4/2012	4/4/2012	4/13/2012	4/4/2012	4/4/2012	4/4/2012	4/13/2012
March 18- 24, 2012	4/4/2012	4/4/2012	4/4/2012	4/4/2012	4/4/2012	4/4/2012	4/13/2012
March 25- March 31, 2012	4/13/2012	4/13/2012	4/13/2012	4/13/2012	4/13/2012	4/13/2012	4/13/2012
	100%	100%	100%	100%	100%	100%	100%

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

Dates of Reporting Period	CD Bayamon	CTS Bayamón Fase Tratamiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	Program CREANDO
Number of Units	8	9	6	8	8	1	
January 1 - 7. 2012	109	65	92	86	88	3	24
January 8 - 14, 2012	116	67	93	85	87	3	24
January 15 - 21, 2012	120	72	90	86	84	3	24
January 22- 28, 2012	114	75	90	90	83	3	24
January 29 - February 4, 2012	123	75	89	89	88	3	24
February 5 -11, 2012	116	72	92	90	84	4	24
February 12-18, 2012	122	77	92	91	83	3	24
February 19 -25, 2012	119	109	89	89	82	2	24
February 26- March 3, 2012	118	86	97	91	83	2	24
March 4- 10, 2012	126	77	100	90	84	2	24
March 11 - 17, 2012	122	76	103	93	87	2	24
March 18- 24, 2012	104	77	101	95	94	2	24
March 25- March 31, 2012	114	68	103	99	96	2	24
Totals	1523	996	1231	1174	1123	34	312
Percentage of AIJ Agency Population	25%	16%	20%	19%	18%	1%	5%
Average Daily Population	117	77	95	90	86	3	24

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

Site Visits to CTS and CD Bayamon and CTS Humacao

This report reflects my site visits for the above referenced facilities on February 7th and 8th, 2012. On February 7th, I held a pre-tour meeting at CTS Bayamon with Cyndia Irizarry (now the former AIJ Sub-Administrator), Raul Cepeda, the facility Director of CTS and CD Bayamon, Pedro Santiago, the fire safety officers from the two facilities, Ricardo Metancur and Javier Cancel, Luis Ortiz, Miguel Segura, the new Sub-Administrator on charge of Programs, Yovani Merced, the CTS Bayamon Compliance Officer, Taraneh Ferdman and the Deputy Court Monitors, Javier Burgos and Ricardo Blanco. We discussed some of the issues at both facilities in advance of the tour which was very helpful.

Ms. Irizarry was very impressive in her can do and hands on-approach to correcting many of the concerns I have voiced for such a long time. She informed me that $4 million was allocated in FY 2013 for repairs at the various facilities and that the Secretary of DCR has requested an additional $6 million for long overdue repairs. Shortly after my return to the mainland, I had heard that the Ms. Irizarry had left her position and that Esdras Velez was once again the Sub-Administrator. Accordingly, much of what was said and promised to me by Ms. Iriizarry during the course of my last site visit is no longer pertinent or relevant and my optimism has been dashed that there will be appropriate follow up on my long list of outstanding issues.

The positive news was that ATC had been issued a purchase order to make repairs to the fire and smoke alarm systems at CD Bayamon and that work was nearly completed and will be certified as operational. progressing and would be finished in a few weeks. In addition an additional 25 sprinkler heads had been ordered as attic stock so that future sprinkler repairs, if needed, could be completed expeditiously. Also, I was informed that there is a new brigade of inmates from DCR that will be dedicated to repairing the perimeter lighting at Bayamon as well as the other AIJ institutions. Last, AIJ has begun implementing the first phases of automating the documentation of all life safety inspections as well as a process to track maintenance needs, work orders, status of repairs, etc.

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

CTS Bayamon

1. Blue Building (population 13 youth)
   - The Blue Building repairs have been completed and overall the housing unit was in very good physical condition. There were only 13 juveniles housed there on the day of my visit and Module 3 was nor being utilized
   - There were still some minor mold problems on the ceiling of the education module.

- The showers that have received the new special epoxy paint treatment that I had recommended seems to be holding up very well and for the first time, and there was still no mold developing in the showers as has historically happened when inferior epoxy products had been applied.
- There is still shower water that is escaping from the showers on to the mezzanine and I recommended that AIJ look at a product made by the Imperial Fastener Company that provides a shower curtain system with no hooks, pins, or cords but it is attached with Velcro tabs. This product and others similar to it are designed for the correctional market.

2. Orange Building (population 21 youth)
    - The hot water ***was*** repaired and working in Module 1 and was working in 2 and 3 as well. Module 1 housed 11 youth and there were 10 in Module 2. Module 3 was empty.
    - The dayroom floors, group showers and the cells with showers in them all need the new painting treatment. Hopefully, the new product being used by AIJ in the Blue Building and at Guayama can be applied in these locations.
    - In general, the building was in good condition and the air conditioning was working well
    - In my last report I reported that eleven (11) doors in this unit needed to be repaired as juveniles apparently are shimming open the doors. In reality only one door lock was broken (door 39) but the reality is doors are being shimmied open by juveniles extending their hands through the food pass or by juveniles who are working in the unit and not being supervised. In either case, this is primarily a management problem that must be addressed. A steel vertical bar welded to the door that covers access to the locks may be needed to prevent this vandalism in the future. A better solution would be better management by staff on the unit.

3. Green Unit
    - This Unit is closed and the cell door locks were being worked on and not completed. This building has been vacant due to the now repaired water pipe problems. However, the electronics were damaged due to damage from the broken water pipes adjacent to mini-control and now they all need to be repaired once again and were not yet repaired during my visit. This condition has persisted for several months. AIJ stated they are waiting funds to make the repairs.
    - AIJ wants to use this unit to house juveniles now housed in the Orange building as swing space to allow repairs in the Orange building modules on a pod by pod basis. As the doors are manual due to the failed electronics here, AIJ demonstrated to me that with two officers on the module all the door locks could be opened manually in 69 seconds. While, I expressed reservations about this, I agreed that the AIJ proposal was acceptable on a short-term basis provided there were two officers on the module at all times. The Sub-Administrator assured me that would be the case.
    - The air conditioning was not working in Module 3, but was being fixed while I was there. The air conditioning was not working in the program Module.

4. Yellow Building (population 37 youth)
   - All the showers were in need of treatment with the new product AIJ is now using. One of the floor drains in the shower was still broken and the youth could hurt easily hurt themselves. AIJ said they were working on fixing this.
   - In Module 3, the air conditioning compressor was still only working at 50% capacity. While it is under a service contract no repairs had been made for a while according to the youth. This problem has been on-going for many months. I was told that the air conditioning unit was being replaced.
   - The air conditioning ***was repaired*** in the Program Module.
   - The sprinklers ***were now working*** in Modules 2 and 3.

5. Medical Area
   - The ceilings in the clinic which were repaired due to the air conditioning on the roof, is unfortunately leaking again.
   - The registers that lead from the extended the ducts that were put in place last summer to provide some cooling and humidity control and avoid mold problems in the large volume adjacent to the clinic and infirmary volume were in place, and somewhat operational as the air conditioning was apparently only operating at 50%. Furthermore, the plastic sheeting to keep the cooled air from escaping from the screened window openings ***was finally installed*** but still needed to be installed at the very top.
   - There was still no movement to repair the elevator in this building. A contractor was finally hired but their technician left and the contract is in limbo.
   - The infirmary was staffed by a nurse and doctor who is there Monday, Wednesdays and Fridays. However, very juveniles come to the clinic and there have never been any juveniles housed in the infirmary. A tremendous amount of money was spent here to create crisis and suicide watch beds to serve not only Bayamon but also other facilities. In addition, this is the only AIJ facility with the ability to appropriately provide in-patient skilled nursing care to serve not only CTS and CD Bayamon but other facilities as well. I am still waiting to see the medical and mental health operations plan that I have requested for more than ***two years*** on how AIJ plans to utilize this amazing yet unused resource.
   - While at the clinic, Alberto Rivera who is AIJ's IT point person working with Smart Technology Consultants who are developing the new automation data base system, demonstrated the various modules relating to physical plant and fire safety. I made several suggestions to Mr. Rivera regarding functionality and setting priorities that he agreed with. Hopefully I will get to see the changes implemented in the months ahead.

5. Kitchen
   - Although the kitchen and dining room appear to be working well, water leaks continue to exist and the leaks over the cooking hoods in particular pose a major health problem.
   - The tray washing machine equipment was not being utilized except for lunch meals. AIJ stated that there was a staffing shortage in the kitchen to man the washing equipment so AIJ is therefore using Styrofoam compartmentalized disposable trays.

- A new problem appears to be that the air conditioning in the dining room was not functioning

6. Laundry
   - The laundry looked in very good condition and for the first time ***all the washers and dryers were functioning.***

7. Education
   - School was in session and everything appeared to be functioning normally.
   - Air conditioning units are not working in the Hair Care Vocational Classroom and still lacking in the Chapel

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

7. Overall Security and Site Issues
   - The air conditioning was still working again in Central Control and the condensation drain issue seems to have been fixed.
   - The fire and smoke alarms are still not working
   - The air conditioning was still not working in Intake
   - While some of the vines growing on and through the perimeter fences have been removed, many more plants still remain. The remaining vegetation between and around all the perimeter fences still need to be cleared and treated to remain clear of vegetation
   - Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
   - Perimeter security lights are still not working but as stated above a new brigade is supposed to be repairing these
   - While the sliders on the main walkways were functioning, I was told, I was told that a purchase order was being issued to have the motors replaced as they are old and originally from another DCR facility.
   - The CCTV system for the facility has never been completed
   - The service yard is still in a poor state of repair and must be repaved but much of the debris that had been stored there previously has been removed

CD Bayamon

The sprinkler systems are all working at CD Bayamon and ATC, the fire and smoke alarm vendor, has been issued a purchase order to make repairs to the fire and smoke alarm systems and work was progressing and I was told would be finished in a few weeks. Also, I was told several months ago that a purchase order was issued to purchase 80 new duplicate security keys to allow Pedro to begin the process of creating new emergency response key rings in Central Control, but have not seen progress yet in compliance with this provision of the SA.

Other issues observed included:

- Door 72 in Bravo -1 was not working

- The air conditioning was still not working in Charlie 1. This unit has been without air conditioning for at least four months! I recommended vacating this module until the air conditioning could be repaired. While the air conditioning in Alpha 2 was finally repaired, the air conditioning in Bravo 1 was now not working. Although there is a service contract to repair the air conditioning at CD Bayamon, the service provider is not performing the repairs as required per their contract, unfortunately.
- The bent metal panel in the shower in module Delta-1 that I reported on my last report ***has been repaired***.
- The exit doors have finger grips instead of real door pulls. AIJ informed me that they are to be replaced but gave me no schedule.
- There were many plumbing problems which are noted in my plumbing repair report below. Of particular concern was the fact that in Bravo 2, the urinals were covered in plastic. I discovered that these urinals were not broken but rather reserved for usage only by the juvenile “leaders” in that unit. This supports the observations in David Bogard’s report.
- In Delta 1 roof leaks due to backed up roof drains above the counselor’s officers have been repaired

CTS Humacao

The roof water leaks throughout the facility at Humacao continue to worsen and are a serious health concern and risk for the juveniles residing there. While walking through the facility with the former Sub-Administrator she was equally concerned about the deplorable conditions at the institution. The insulation hanging down from the Gym ceiling has worsened and could seriously hurt a juvenile or staff member should it fall to the floor. The Sub-Administrator directed staff to have it removed but I have received no reports whether that has occurred. In reality, there have been no improvements in any of the conditions observed in my earlier reports.

We did meet with the facility Director who informed of us of the following positive direction for several projects:

- A contractor has been hired to upgrade the sprinkler systems
- I received a copy of a purchase order for new hot water heaters. This hopefully will repair a serious problem of a lack of hot water for the showers in housing modules 2A, 2B, 3B and 4A.
- Funding requests have been made to fix the roofs and repair the damage form the water leaks
- DCR has a new roof brigade who may be able to make interim roof repairs if AIJ can purchase the materials for the repairs

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

Plumbing Report

The number of broken fixtures for the current quarter are summarized below. There has been a serious deterioration from the prior quarter. We found 50 fixtures out of service – up from 21 last quarter.

- CD Bayamon - 9
- CTS Bayamon - 2 (Blue, Orange and Yellow units)
- Guali - 1
- Guayama -16
- Humacao -16
- Villalba – 6
- Creando – 0

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

QUARTERLY PLUMBING REPORT

Facility	Modules	Toilets			Urinals			Showers			Sinks			Drink Water	Hot water available	General Comments	Summary of Broken Fixtures
	in use	# toilets	# broken	# available	# urinals	# broken	# available	# showers	# broken	# available	# sinks	# broken	# available		(yes/no)		
CTS Guayama	6 of 9	12	2	10	7	3	4	18	7	11	19	4	15	ok	yes	One module closed for repairs, 2 modules used for administrative purposes. Most of the broken showers need shower heads.	16
CTS Humacao	8 of 8	32	4	28	32	6	26	32	1	31	32	5	27	ok	yes (no constant)	Severe roof leaks were found in different areas, 2 emergency doors did not work electronically, air conditionig system did not work in some rooms.	16
CTS Villalba	8 of 8	32	4	28	32	0	32	32	0	32	32	2	32	ok	yes	Eight air conditioning units did not work in the modules. Nine room doors did work electronically. Modules roof liks.	6
CD Bayamon	8 of 8	32	1	31	32	4	28	32	1	31	32	3	29	ok	no hot water in some modules	Roof liks and rooms without air conditioning system were found. Some doors did not open electronically.	9
CTS Bayamon	8 of 11	133	1	132	0	0	0	24	1	15	135	0	135	ok	yes	Improved compliance, green unit closed	2
Guali	1	4	1	3	0	0	0	4	0	4	4	0	4	ok	yes	none	1
CREANDO	4	12	0	12	0	0	0	12	0	12	18	0	18	ok	yes	none	0
Totals	43 of 49	257	13	244	103	13	90	145	10	136	272	14	260	_	_	_	**50**

Document Attachment D:
Report on Operations Provisions

Prepared by Monitor's Consultant David M. Bogard

April 19 and May 18, 2012

During the dates January 24-26, 2012, I visited three AIJ facilities-CTS Villalba, CTS Humacao and Ponce Ninas. In addition, on January 24, I met with several AIJ officials including the then Sub-Administrator Lcda. Cyndia Irizarry, to discuss the status of my monitoring of the discipline provisions and to review the status of issues raised in my meeting notes from October 2011.

On February 28, 2012, I visited the remaining three AIJ facilities- CTS Guayama, CTS Bayamon and CD Bayamon. In addition, on February 27, I met with Dr. Benton, representatives of AIJ, and Commonwealth legal counsel at Humacao to review significant incidents that occurred at that facility during the month of January.

During the week of March 26-30, my associate Michael Gatling visited all facilities in order to make observations and review documentation concerning the disciplinary system (P-74).

Key findings and observations from the meetings with AIJ officials and site visits to six facilities were as follows:

Juvenile leaders:

1. I have previously documented my concerns about the severe problem of juveniles being informally and frequently formally being recognized as "leaders" of the modules at Humacao and Villalba. This subculture is also present and highly problematic at Guayama, CTS Bayamon and CD Bayamon.

   These youth are exerting their influence over other youth by direct or indirect violence and intimidation. The majority of requests for Transitional Measures stem directly from power plays over who will be the leaders or from youth who have been targeted by leaders for various reasons. A number of attacks involving five or more aggressors and one victim can reasonably be traced to the leaders prompting such attacks. Institutional directors are aware of this phenomenon, which needs to be addressed by implementing measures at each facility and systemwide by which juvenile detention officers are recognized as the only leaders of modules and where there are clear, consistent and rapid consequences for youth who attempt to assert their influence in such negative ways.

Use of Force

1. The table below shows the overall number of use of force instances as reported by each AIJ facility, with separate figures shown for use of OC, mechanical restraints and hands-on physical force:[1]

AIJ Facility / Type of Force	Restraints	OC Spray	Hands-on Force	Total
CD Bayamón	0	0	16	16
CTS Bayamón	0	0	11	11
CTS Guayama	0	0	3	3
CTS Humacao	1	52	6	59
CTS Villalba	0	0	0	0
Guaili	0	0	0	0
Program CREANDO	0	0	0	0
Ponce Ninas	13	0	0	13
AIJ First Quarter Totals	14	52	36	102

2. As I have previously documented, while the use of OC is the predominant form of force deployed at Humacao, it is infrequently or never used at other facilities. 88% (52 of 59) of the total use of force incidents at Humacao this quarter involved OC, while there were *no reported instances of OC at all of the other facilities*. This phenomenon may be a cultural one, a reflection of increased risk and violence at the Level 5 facility, or it may be because internal escort and movement officers carry OC, or it may be because of the greater presence of UOE officers assigned there (who also carry OC). It clearly deserves additional review and scrutiny to potentially isolate and determine the factors related to the prevalence of OC usage at Humacao.[2]
3. It is curious that there were no reported use of force incidents at CTS Villalba this quarter.[3] We understand that staffing levels have improved, difficult youth are being transferred to Humacao, and efforts are being made to control "leaders;" all of which may be impacting on the efforts to divert the need to use force in any form. That said, it is highly doubtful that there were no actions taken by staff during this quarter that would constitute use of force.
4. Documentation of use of force in incident reports continues to be confusing. I have previously identified a problem with the current incident report form as it relates to the practice by staff of placing checkmarks for all aspects of use of force; namely, that it is not apparent whether the reporting officer personally used force and took the alternative measures noted, whether that officer *observed* these actions and/or *ordered* them.

[1] This data was provided to Monitor's Consultant Bob Dugan by AIJ. However, this process of data reporting was only initiated this quarter and is currently being subjected to a quality assurance process to verify its accuracy, compare it to source documents such as use of force logs, restraint logs and incident reports.
[2] The quality assurance process has so far revealed that the reported number of OC incidents may be an overstatement of its actual frequency. This issue is being reviewed.
[3] Although none were reported, the quality assurance effort did reveal that one hands-on use of force did occur during the quarter and was documented in the use of force log. Additional efforts are underway to determine the accuracy of the reporting, which may include definitional problems, i.e., what constitutes a use of force.

Moreover, reports are also completed by supervisors who were not present at the incident and they are relying on review of others' reports or hearsay. And, in some cases the reporting officer may have taken some actions (e.g., issued orders to the juvenile to stop the prohibited behavior) but was not the one who actually used force. In many cases, if the officer was not the one who used force, there are no checkmarks for the type of force used, while in other cases the officer does check the boxes to signify what was observed. These examples reflect some of the systemic inconsistencies pertaining to how the form is completed, which affect the value of the data that is collected.

This flaw in the current form can be corrected, perhaps by requiring that all persons completing the check boxes place an "x" if they personally took the action; or a "t" (un testigo) if they witnessed the action, "d" (dirija) or "o" (orden) if they directed or ordered the action; or an "s" (supervisor) if they are basing their documentation on review of other reports or conversation with participants. In addition, it is recommended that a cover sheet be developed for supervisors to prepare with all of the pertinent facts of an incident included.

Protective Custody and Transitional Measures

1. As the table below illustrates, Transitional Measures is being used with great frequency at CTS Humacao. CTS Villalba is second in frequency of use, followed by CD Bayamon and Ponce Ninas.[4]

Facility / Separation Status → ↓	Protective Custody	Transitional Measures
CD Bayamón	0	0
CTS Bayamón	0	18
CTS Guayama	2	7
CTS Humacao	0	117
CTS Villalba	2	32
Guaili	0	0
Program CREANDO	0	0
Ponce Ninas	12	11
AIJ First Quarter Totals	16	185

2. While protective custody is being used at a far greater rate at Ponce Ninas than any other facility, this may be a reflection of the fact that there are no other female facilities to which youth can be transferred.
3. At each facility I requested information concerning the number and location of youth on Transitional Measures and Protective Custody statuses. When a facility had juveniles on one or both of those statuses, Monitor's office staff and I interviewed the youth in their housing locations and reviewed living unit individual logs to ascertain what services were being provided and whether checks are being made every 15 minutes.

[4] This data was provided to Monitor's Consultant Bob Dugan by AIJ.

4. There continues to be significant confusion between Protective Custody and Transitional Measures and, in many cases, they are difficult to distinguish. That said, the protections afforded youth in Paragraph 80 for protective custody have been incorporated into AIJ policy and practice for transitional measures. (See Policy 17.19 Custodia Protectiva and Policy 17.20 TEMA: Medida Transicional)
5. Many of the youth who are placing themselves on Transitional Measures are doing so because of fear of confrontation or conflict with youth "leaders" in the modules.
6. Access to education for youth on both of these statuses seems to be improving.
7. Documentation of safety checks has improved, although it remains inconsistent since AIJ adopted a new form of documentation.
8. Considerable work remains to be done to fully and properly implement and stabilize the Transitional Measures status. AIJ has made progress in terms of providing services and attempting to re-integrate youth into the general population modules where appropriate. The status is needed to provide a measure of stability and safety for youth who have had trouble adapting to placements in a variety of otherwise appropriate modules or who insist on remaining separate from the general institutional movement patterns and norms because they want to "stay out of trouble." The fact that there are so many juvenile "leaders" and that this dynamic is acknowledged (and even tacitly accepted or encouraged) by the administration at some facilities, makes it likely that youth will continue to request placement on Transitional Measures status. These are disturbing trends and patterns, which are indicative of a lack of control by staff, compounded by staffing deficiencies, and appear to be contrary to the safety needs of youth.

Discipline

Current AIJ policy does not provide for sanctions that are sufficiently severe to deter or correct serious infractions. For example, the disciplinary committee at Humacao recently imposed a 7-day loss of evening dayroom privileges as the sanction for a youth who used a razor blade to cut the neck of another youth, sending the victim to the hospital to receive 15 stitches.[5] In addition, we have determined that when youth commit multiple rule infractions during the course of a single incident, they are only being charged with one rule violation (arbitrarily selected based on perceived level of seriousness by staff). Not only do these factors result in insufficient accountability for youth, but they also mean that other youth are at increased risk because they continue to be exposed to serious predators. The very high number of disciplinary reports, use of force incidents and Transitional Measures cases at Humacao and Protective Custody cases at Ponce Ninas may reflect these concerns, although it is clear that Ponce Ninas as the only girls' facility and Humacao as the highest custody boys' facility are also important factors that must be considered.

Monitor's Consultant Bob Dugan and I have suggested that AIJ consider a *classification based approach* to addressing the small percentage of youth who are most predatory or are dangerously influential "leaders." The recommendation is that AIJ *carefully and deliberately* plan and implement a specialized unit for these youth, with a multi-disciplinary approach involving tight security, limited privileges, behavior modification techniques, adequate and accessible services and mental health support (although the unit would not be for youth identified as being mentally ill). We explained that a measure such as this would serve to

[5] This incident occurred on December 20, 2011. I was informed that the aggressor was criminally charged for this violent assault.

protect other youth who want to be in general population and participate in rehabilitative activities, but who are fearful of their safety. Additionally, it offers the potential to direct appropriate levels of programs and services to incentivize change in the behavior of those who are predatory. AIJ officials committed that this concern and recommendation would be carefully reviewed.[6]

We recently performed a comprehensive review of compliance with the terms of P 74, to include a review of disciplinary records at each facility, review of current disciplinary policies and procedures, and attempts to examine the training curriculum designed for implementation of the disciplinary system. In addition, while we attempted to observe a sampling of formal disciplinary hearings at each facility, this actually occurred at only one facility (Humacao) and only one hearing was observed.[7] Key findings from this review are as follows:

Observations and Data

1. The disciplinary hearing officer performs a large number of duties related to each potential and actual disciplinary action. We have repeatedly requested information about the training curriculum used for disciplinary officers <u>and</u> committee members. It is essential that a consistent and comprehensive training program be implemented to insure that staff tasked with this important function are fully aware of all of their duties, how to best fulfill them, and that there is consistency in terms of how the disciplinary process and hearings are conducted across all facilities.[8]
2. Our review of files determined that disciplinary committees are impartial as required by P-74, as they did not include members who were involved in the underlying incident.
3. Each facility has a designated disciplinary hearing officer. Because of staff shortages, these officers must frequently work posts that may affect their availability for disciplinary responsibilities. However, we found no evidence of hearings not being completed within the policy driven seven days.
4. Each facility maintains a logbook for recording disciplinary data related to specific disciplinary reports in accordance with the minimum requirements outlined 15.5.V.12.(a-l) *Sistema Disciplinaria*. Inconsistencies were evident as it related to the final determination. In these instances, some disciplinary hearing officers did not include the disposition of minor and moderate offenses (or those not subject to disciplinary hearings) in this column. While we were informed and reviewed that most of these cases involved an 'orientation' and/or an 'improvement plan', it became confusing when those corrective actions are also included with those recommended or imposed for more serious charges. As previously mentioned, when the rule violations are not listed exactly as they appear in 15.8 or the Youth Handbook, they are listed erroneously in the

[6] This recommendation has been made numerous times over many years, but most recently in October 2011.
[7] Associate Monitor Ricardo Blanco contacted each facility one-two weeks in advance of the site visits to attempt to arrange for hearings to be scheduled in concert with the site visit schedule. Despite these efforts and the large number of hearings that occur at several of the facilities, there were none available to observe each day except for one at Humacao.
[8] We have also been informed that training was provided to disciplinary officers on April 13. We are awaiting translations of the training materials to determine whether they are sufficiently comprehensive to provide a systemic approach to training staff involved in the disciplinary process.

disciplinary logbook as well. Notwithstanding these caveats, the logbooks were up-to-date, legible and understandable for the period reviewed (i.e., December 1, 2011 through March 26-30, 2012.

5. All facilities have interpreted 15.5.V1-5 in terms of how they have adopted measures for taking actions to address lower level infractions (falta leve, moderada). Sanctions for these violations are handled by the social worker and/or treatment committee under the behavior modification system rather than formally via the disciplinary hearing committee process. More serious charges (grave y extrema) are automatically referred to, heard and addressed by disciplinary committee as per 15.5V.4-11. . It is imperative that the disciplinary officer coordinate discipline for all levels of offenses to ensure the system is not bifurcated, particularly where due process events must occur and documentation is required. Where there is a lack of clarity in Policy 15.5 to ensure this unequivocally happens, the policy should be updated.
6. Our review determined that youth are permitted to call witnesses in person or have their witness' written testimony presented to the Board.

7. Youth are advised or their right to appeal disciplinary determinations to the facility director, as per policy and the Handbook. Youth rarely, if ever, avail themselves of this right.
8. With the exception of group rule violation and sanctions, all rule violations and sanctions listed in policy 15.8 correspond to those included in the Youth Handbook.
9. The table below shows the total number of disciplinary reports and hearings at each facility from December 1, 2011 and March 26-28, 2012. For the period examined, Humacao had more than double the number of disciplinary charges of any other facility, followed by Ponce Ninas and CTS Villalba. Ponce Ninas also heard a much higher percentage of cases before disciplinary hearing committees (55%) than the other facilities (19%-38%).[9]

AIJ Facility / Discipline Steps → ↓	Disciplinary Reports	Hearings	% of cases heard at hearing
CD Bayamón	97	19	20
CTS Bayamón	66	25	38
CTS Guayama	76	21	27
CTS Humacao	383	81	21
CTS Villalba	160	31	19
Guaili	6	0	0
Ponce Ninas	162	90	55
AIJ First Quarter Totals	**950**	**267**	**28%**

[9] This data was gleaned by Michael Gatling through review of disciplinary logs at each facility.

10. There are cases in which youth are found not guilty of the charges by the disciplinary committee. This occurred in 47% of hearings at CD Bayamon, 37% at Humacao, and 1-6% of the time at the other facilities. However, when there is a not guilty finding, the disciplinary report and package are not removed from the youth's file (Policy does not require this), which could have a negative impact on future classification decisions.
11. According to staff interviewed at each facility and based on a translation of Policy 17.20 *Medida Transicional*, youth are not assigned to transitional measures status (and are not treated in accordance with such measures) for disciplinary reasons. Additional verification of this is required.
12. Policy 15.6 *Separacion Pre-Disciplinaria* addresses the policy, procedures, conditions and practices for pre-hearing detention. Even more restrictive than P-74, the use of pre-hearing detention may not exceed 24 hours prior to the disciplinary hearing. According to staff at each facility, pre-hearing detention is never used. Additional verification of this is required.

Compliance Concerns

13. We found instances of Disciplinary Boards meting out sanctions that are not approved sanctions pursuant to Policy and the Handbook. One example is taking away weekend visit privileges, which can be done as part of the Behavior Modification process, but is not an approved disciplinary sanction.
14. Disciplinary reports frequently do not list an actual violation. For example, rather than listing possession of contraband as the disciplinary infraction, the DR may simply list the charge as "razor blades." It is important that Disciplinary Reports list the specific rule violation(s) with which the youth is being charged so that the youth can appropriately present a defense and anticipate the range of sanctions that could be imposed if found guilty.
15. Neither Policy 15.8 nor the Youth Handbook delineates specific and explicit rule violations and sanctions for sexual assault/sexual battery[10], bullying, obtaining body piercings while incarcerated in AIJ facilities, or participating in gang activities. While there are other listed charges that can be and are applied to cover these activities, these specific charges should be added to the list of rule violations and adequately defined and described.
16. According to staff and based on a (sampling) review of the disciplinary report packages at each facility, youth are only charged with one rule violation and typically receive one sanction, regardless of whether they committed multiple violations stemming from the same incident. This practice that is not supported by Policy 15.5.V.4 Sistema Disciplinaria, the Youth Handbook nor any training that we are aware of reflect this procedure. Other rule violations, including ones that can be very serious, are not documented, not counted, not subject to the disciplinary system and, as a result, the youth is not held accountable for serious violations (criminal charges may be filed, but the disciplinary system itself is not holding the youth sufficiently accountable or necessarily protecting other youth).

[10] Youth do receive an orientation and written notice which they must sign (*Certificacion De Orientation Sobre Cero Tolerancia Al Abuso Sexual Y Conductas Sexuales Inadecuadas*) indicating that they are aware of and understand AIJ's zero tolerance policy pertaining to sexual abuse and assaults in its many forms and their responsibility for reporting such incidents if it affects them or someone they know. The Handbook and 15.8 should reflect this as well.

17. Although AIJ policies governing discipline (i.e., 15.5 [Sistema Disciplinaria], 15.6 [Separacion Pre-Disciplinaria], 15.7 [Apelacion De Medidas Correctiva] and 15.8 [Listado De Faltas Y Acciones Correctivas]) do not allow for group discipline, we were informed that Central Office issued a policy update to all facilities as well as a *Sistema Disciplinario Modificacion de Horario Grupal* to explain and cover this issue. This document permits the use of limited dayroom access (LDA) for all occupants in one or more of a facility's living units for certain types of misconduct that cannot be attributed to specific individuals. While we have no objection to short-term security related measures involving lockdowns or restricted movement to allow for investigations and calming as a result of large group incidents, these measures should not be considered part of the disciplinary system and should not be considered "sanctions." Discipline and its due process requirements must be individualized. Management staff and disciplinary officials at the facilities indicated that this group sanction has never been used because it is too cumbersome to implement effectively.[11]
18. With the exception of CTS Guayama, facility directors are not signing the *Vista Disciplinaria Resolucion* form to indicate that they have reviewed the disciplinary hearing. This should be occurring on an ongoing basis as per the form, although policy 15.5 does not state that this review and sign-off should occur.

19. Youth are generally receiving and being permitted to retain a copy of disciplinary reports that include the charges and notifications of due process rights.[12] This does not occur, however, when photocopiers are broken, which seems to be a more pervasive problem at some facilities. Although youth in are permitted to access the original disciplinary charge sheet from their social worker, this practice does not satisfy the requirements of Paragraph 74 in terms of fully providing an opportunity for the youth to prepare a defense in advance of the hearing.

[11] To date, we have not received a copy of AIJ's group discipline policy. However, we were informed that the group LDA sanction requires the involvement of medical staff to take the blood pressure of each youth every hour, includes an evaluation of each youth by mental health staff, has provisions for 15-minute safety and well-being checks using log documentation, and requires the completion of the *Registro de Modificacion de Horario Grupal* form, which must be submitted to Central Office in any case where it is imposed. With the exception of CD and CTS Bayamon, all other facilities had never reproduced copies from the compact disc sent to them from Central Office that contain the group sanction procedures. Additionally, youth have not been informed in writing (via Handbook) or verbally that this sanction exists, since staff allege they do not intend to use it unless directed to do so by Central Office.

[12] This issue was raised by the Monitor's Consultant last year and in recent reports since then.

Document Attachment E:
Report on Incidents and Understaffing
January-March 2012

The following is a table of incidents that took place at times and in locations where the required levels of staffing coverage, as specified by Paragraph 48, were not in place.

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

Jan. 1,2	CD Bayamón	12-001	Morning	Allegedly, a group of juvenile assaulted (punched and kicked) other juvenile in the living unit. Apparently, the reason was an internal sanction between juveniles.	1 officer, 16 juveniles
Jan. 9	CTS Villalba	12-005	Afternoon	Allegedly, a youth went to the unit's bathroom and once there was cut with a piece of metal in his tide and low back area by a group of juveniles. After that the victim was forced to swallow the piece of metal.	1 officer, 13 juveniles
Jan. 19	CTS Humacao	12-020	Afternoon	Allegedly, two youth officers hit a juvenile after an incident between juveniles. The incident occurred in the living unit.	1 officer, 12 juveniles
Jan. 20	CTS Guayama	12-012	Afternoon	Allegedly, there was a discussion between two juveniles and one of them hit a third juvenile that wasn't part of the discussion. This one was hit in his right eye and was taken to the hospital. The incident occurred in the living unit.	1 officer, 15 juveniles
Jan. 27	CTS Villalba	12-019	Morning	Allegedly, a group of juveniles hit other juvenile with a pillow case or a sox containing bar soaps. There was no evidence of this in the juvenile's medical record.	1 officer, 13 juveniles
Feb. ?	CTS Bayamón	12-026	Afternoon	Allegedly, a juvenile was hit in his back and ribs by a group of juveniles as an internal sanction between juveniles. The incident occurred in the unit's bathroom.	1 officer, 15 juveniles
Feb. 24	CTS Humacao	12-049	Afternoon	A juvenile that was under Transitional Measure was cut by other juveniles in the living unit. The victim was sent to the medical area and 6 stitches were taken in his face. Apparently, a piece of razor blade was the object used.	1 officer, 11 juveniles

Feb. 28	CTS Guayama	12-057	Morning	Allegedly, a juvenile was hit in his arms by a youth officer due to an incident where the juvenile was spying an officer's document.	1 officer, 16 juveniles
Feb. 29	CD Bayamón	12-061	Night	Allegedly, a juvenile was hit by a group of youths in the living unit. The victim did not point out the aggressors.	1 officer, 13 juveniles
Feb. 29	CTS Bayamón	12-065	Afternoon	Allegedly, a group of juveniles hit other juvenile as an internal sanction because the victim left a cop of water on the table. This action was against the youth's internal norms.	1 officer, 13 juveniles
Mar. 11	CTS Bayamón	12-074	Afternoon	Allegedly, while the youth officer was looking for a broom a group of juveniles hit other juvenile with a mop stick. The incident occurred in the living unit during the cleaning process.	1 officer, 13 juveniles
Mar. 15	CTS Humacao	12-078	Afternoon	A juvenile was hit and cut in his hand by a group of juveniles in the living unit. Four stitches were taken in the wound.	1 officer, 12 juveniles
Mar. 28	CTS Guayama	12-086	Afternoon	A juvenile was hit in the living unit by a group of 5 youths. The incident occurred in the bathroom area.	1 officer, 20 juveniles
Mar. 31	CD Bayamón	12-085	Morning	A juvenile was punched in his head by other juvenile as internal sanction between juveniles. The incident occurred in the bathroom area.	1 officer, 15 juveniles

Document Attachment F:
Abuse Referrals Tracking Report

The following tables summarize statistics about case management for three quarters of 2011 and the first quarter of 2012. The underlying source of the information is the tracking database maintained by AIJ along with other records.

The first table summarizes overall incident statistics, and then describes the incidents suicide and self-mutilation incidents known to mental health staff. Many of these do not warrant abuse allegations.

Statistics for 2011-2012		2011-2nd	2011-3rd	2011-4th	2012-1st
Incidents		196	240	217	161
	Suicidal Incidents	23	20	26	50
	Self-Mutilation Incidents	59	73	53	49
Suicidal Incidents (From M/H Records)		20	26	50	34
	Youth Involved	20	25	43	27
	Cases involving ideation only	15	26	38	30
	Cases involving suicide intention	1	0	1	0
	Cases w/ ambulatory treatment	19	16	47	33
	Cases with hospitalization	1	0	3	1
	Cases leading to death	0	0	0	0
	Cases with 284a report filed	0	1	0	0
Self-Mutilations Incidents (MH records)		73	53	49	32
	Youth Involved	65	47	43	28
	Cases requiring sutures	1	2	0	0
	Cases requiring hospitalization	0	0	0	0
	Cases leading to death	0	0	0	0
	Cases with a 284a report filed	8	5	2	2

The above cases come from mental health records. AIG has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a recently developed mental health process. Of the 161 suicide and self-mutilation incidents for the third quarter, only 2 resulted in a Paragraph 78a abuse referral. The remaining cases were to be referred to the mental health process.

The second table concerns incidents that warranted abuse referrals.

Statistics for 2011-2012		2011-2nd	2011-3rd	2011-4th	2012-1st
284 A Incidents		83	88	66	88
	Level Two Incidents	51	73	52	76
	Referrals to SAISC	51	73	52	76
	Suicide Ideation/Attempt	0	1	0	0
	Self-Mutilation Idea/Attempt	8	5	2	2
	Youth-to-Youth Incidents	64	51	41	16
	Youth-to-Youth Injuries	48	30	14	26
	Youth-to-Youth with External Care	15	10	8	9
	Youth-to-Youth Sexual	5	1	2	8
	Youth-to-Youth Sexual w/ Injury	0	0	0	1
	Staff-to-Youth Incidents	19	36	25	17
	Staff-to-Youth Injuries	6	19	4	17
	Staff-to-Youth with External Care	2	2	1	2
	Staff-to-Youth Sexual	1	1	0	3
	Staff-to-Youth Sexual with Injury	0	0	0	0
	SOU 284A Interventions	4	6	1	2
	284A with Item 5 completed	71	71	49	67
	284A with Staffing Compliance	51	50	28	41

The next table summarizes initial case management.

Statistics for 2011-2012		2011-2nd	2011-3rd	2011-4th	2012-1st
Initial Case Management					
	284A percent with admin actions	96%	99%	98%	86%
	284A Within 24 hours	90%	73%	88%	97%
	284A Within 72 hours	98%	90%	98%	2%
	284B or Local Report Within 5 days	N/A	N/A	N/A	N/A
	284B or Local Report Within 15 days	N/A	N/A	N/A	N/A
	284B or Local Report Within 20 days	53%	47%	78%	50%

The 20-day completion rate for local investigations remains low. The low level of compliance continues to take place even though the number of cases being deferred for local 284a investigation is declining due to the mental health referral process.

The following table concerns referrals and investigations of cases to and by OISC, which is the new title for the investigation unit previously referred to as "SAISC."

Statistics for 2011-2012		2011-2nd	2011-3rd	2011-4th	2012-1st
OISC					
	Cases Referred from this quarter	51	73	44	76
	Referred Within 1 day	30	45	20	29
	Referred Within 3 days	21	28	9	27
	Referred Within 10 Days	0	0	15	15
	Referred Within 20 Days	0	0		0

Paragraph 78.c requires that cases are to be provided to the OISC investigator responsible for the facility involved within 24 hours of knowledge of the incident. There appears to be a persistent decline in the timely referral of cases to OISC – 28 of 73 cases were referred late in the third quarter, 21 out of 44 (almost half of the cases) were referred late in the 4th quarter, and 42 of 76 (55%) during the first quarter of 2012. At the start of 2011, all cases were being referred on time.

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

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

Paragraph 78.e requires that OISC complete investigations within 30 days. For the fourth quarter of 2011 and for the first quester of 2012, there were 44 and 76 cases referred to OISC, and in each quarter <u>one </u>was completed within the 30-day limit specified in Paragraph 78.e.

Seven cases initially completed by OISC were returned by the Commonwealth Department of Justice for further investigation. This suggests that the prosecutors found the investigations to be incomplete or inadequate in some respect. These statistics are hard to interpret because they appear to involve cases from a previous quarter.

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

Statistics for 2011-2012	2011-2nd	2011-3rd	2011-4th	2012-1st
Administrative Determinations				
Cases with youth discipline referrals	70	54	39	60
Cases with youth discipline actions	43	60	32	45
Cases with youth no discipline actions	27	8	5	13
Cases staff/youth with determinations	0	0	18	0
Cases recommending personnel actions	3	6	9	0
Prior stf/yth Cases w/ Determinations	0	0	2	7
Prior Cases – Recmd Personnel Action	16	7	3	8

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

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

Statistics for 2011-2012	2011-2nd	2011-3rd	2011-4th	2012-1st
Prosecutorial Determinations	2	0	0	1
Cases with no determinations	0	0	0	0
Cases with decision not to prosecute	1	13	5	4
Cases with referral for prosecution	7	1	1	1
Total cases documented	10	14	6	6

Of 6 cases documented, 1 was referred for prosecution.

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

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

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

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

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

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

The first table relates to initial incident reporting.

Case Assessment Instrument – Section A – Initial Reporting		
Assessment Criterion	**Status Y/N/NA**	**Comment**
A.1 Was the incident promptly reported?	Y-31, N-3	The percentage for this report is 91%. The percentage in the last Quarterly Report was 94%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-34	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-34	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.4 Was evidence preserved?	Y-19, N/A-15	The percentage for this report is 56%. The percentage in the last Quarterly Report was 34% In this question 14 of 34 represent level I cases.
A.5 Was investigation initiated promptly?	Y-28 , N/A-6	The percentage for this report is 82%. The percentage in the last Quarterly Report was 88%.
A.6 Was the 284-A filed within 24 hours?	Y-31, N-3	The percentage for this report is 91%. The percentage in the last Quarterly Report was 94%.
A.7 Did the reporting official file an incident report before the end of shift?	Y-34	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-34	The percentage for this report is 100%. The percentage in the last Quarterly Report was 97%.
A.9 Was the AIJ preliminary investigation reported within 24 hours to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration.	Y-34	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-18, N-14, N-2	The percentage for this report is 53%. The percentage in the last Quarterly Report was 31%.
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-33, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 97%
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-23, N/A-11	The percentage for this report is 68%. The percentage for the last Quarterly Report was 86%.
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-32, N/A-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 100%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-5, N-7, N/A-22	The percentage for this report is 15%. A low percentage is a positive fact.
A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-21, N-6, N/A-3, Blank-4	The percentage for this report is 62%. The percentage in the last Quarterly Report was 48%

Case Assessment Instrument – Section B – Police and Prosecutorial Investigation		
Assessment Criterion	**Status Y/N/NA**	**Comment**
B.1 Was the incident report received from the facility within 24 hours of the time recorded as the point of knowledge of the incident?		For this reporting period the PRDOJ sent a table with information related to 9 Level II cases. It contains the following: case number, and case disposition. Eight of nine cases were dismissed administratively by the police agent or investigator. In the ninth case the complaint number was not included in the referral and wasn't evaluated by the PRDOJ.
B.2 If the case was considered serious by the facility where the incident took place, were the police contacted within 24 hours?		
B3. Were PRPD expectations met for promptly initiating an investigation?		
B.4 Did PRPD investigators determine that evidence was appropriately preserved?		
B.5 If prosecutors communicated an intent to proceed criminally, was AIJ informed to delay any compelled interview of the subject until the criminal investigation was completed?		
B.6 Were PRPD expectations met for timeliness in completing the investigation?		
B.7 Was completion of the investigation documented?		
B.8 If there was timeliness non-compliance, was related to shortage of staffing?		

Case Assessment Instrument – Section C – Facility Investigation		
Assessment Criterion	**Status Y/N/NA**	**Comment**
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	Y- 28, N–5, N/A – 1	The percentage for this report is 82%. The percentage in the last Quarterly Report was 67%.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-7, N-7, N/A-20	The percentage for this report is 20%. The percentage in the last Quarterly Report was 31%. For this question 14 cases were classified as level I.
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-8, N-6, N/A-20,	The percentage for this report is less than 23%. The percentage in the last Quarterly Report was 31%.
C.4 Was physical evidence preserved and documented?	Y-1, N-3, N/A-24, Blank-8	The percentage for this report is less than 1%. The percentage in the last Quarterly Report was 0%.
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-3, N-11, N/A-20	The percentage for this report is less than 1%. The percentage in the last Quarterly Report was 29%. In the sample only 14 cases were classified as Level I.
C.6 Was the completion of the investigation documented in the tracking database?	Y-34	The percentage for this report is 100%. During the last 4 years the data base was operated manually.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-28, Blank –6	The answers do not represent the facilities real situation.

Case Assessment Instrument – Section D – SAISC Investigation		
NOTE: Completed only for Level II cases.		
Assessment Criterion	**Status Y/N/NA**	**Comment**
D.1 If the case was a Level II case, was the referral received by SAISC within 24 hours?	Y-6, N-12, Blank-1	The percentage for this report is 31%. The information in the last Quarterly Report was 60%. **Reduced Compliance**
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	N-16, Y-3	The percentage for this report is 19%. The information in the last Quarterly Report was 0%. **Improved Compliance**
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-17, Blank-2	The percentage for this report is 89%. The information in the last Quarterly Report was 75%. **Improved Compliance**
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-17, Blank-2	The percentage for this report is 89%. The information in the last Quarterly Report was 75%. **Improved Compliance**
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-17, Blank-2	The percentage for this report is 89%. The information in the last Quarterly Report was 75%. **Reduced Compliance**
D.6 Did the investigation provide proposed findings?	Y-1, N-1 Blank-17	The percentage for this report is less than 1%. The information in the last Quarterly Report was 1%.
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-20	According to the information provided 0% of the cases were completed on time due to lack of staff. In the last Quarterly Report the percentage was less than 0%.
D.8 Did SAISC completed the investigation within 30 days of receipt of the referral?		The information was not provided.

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

Case Assessment Instrument – Section F – Monitor's Office Assessment		
Assessment Criterion	**Status Y/N/NA**	**Comment**
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-25, N-5	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 85% of the cases. The percentage in the last Quarterly Report was 88%.
F.2 Does the Monitor's Office confirms the timeliness facts as asserted in Page B?		Some information was sent, but not in the form required.
F.3 Does the Monitor's Office confirms the timeliness facts as asserted in Page C?	N/A -32, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 88%.
F.4 Does the Monitor's Office confirms the timeliness facts as asserted in Page D?	Y-17, N-3	The percentage for this report is 85%. The percentage for the last Quarterly Report was 100%.
F.5 Does the Monitor's Office confirms the timeliness facts as asserted in Page E?		The Information was not provided.
F.6 Does the Monitor's Office confirms the investigation quality as asserted in page B?		Some information was provided, but not in the form required.
F.7 Does the Monitor's Office confirms the investigation quality as asserted in page C?	Y-32, N-2	The percentage for this report is 85 %. This percentage only means that the Monitor's Office confirms the information provided by the facilities not a percentage of compliance.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	Y-17, N-3	The percentage for this report is 85 %. This percentage only means that the Monitor's Office confirms the information provided by OISC not a percentage of compliance.

Document Attachment H: Site Visit Chronology

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

January 24, 2012:	Consultants David Bogard and Robert Dugan and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
January 25, 2012:	Consultants David Bogard and Robert Dugan and Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
January 25, 2012:	Consultants David Bogard and Robert Dugan and Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CDT Ponce "Girls".
January 26, 2012:	Consultant Robert Dugan and Associate Monitor site visit to CD Bayamon.
February 2, 2012:	Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CTS Guayama.
February 7, 2012:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos, Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
February 7, 2012:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos, Associate Monitor Ricardo Blanco site visit to CD Bayamon.
February 8, 2012:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos, Associate Monitor Ricardo Blanco site visit to CTS Humacao.
February 27, 2012:	Federal Monitor F. Warren Benton, Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
February 27, 2012:	Consultant David Bogard and Associate Monitor Ricardo Blanco site visit to CTS Guayama.
February 28, 2012:	Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit CTS Bayamon.
February 28, 2012:	Consultant David Bogard, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit CD Bayamon.
March 12, 2012:	Consultants Thomas Kucharski, Victor Herbert, Peter Leone, Barbara Quiñones and Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CTS Bayamon.
March 13, 2012:	Consultants Thomas Kucharski, Victor Herbert, Peter Leone, Barbara Quiñones and Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site

	Visit to CTS Villalba.
March 20, 2012:	Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.
March 21, 2012:	Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.
March 21, 2012:	Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.
March 22, 2012:	Consultant Robert Dugan and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
March 26, 2012:	Consultant Michael Gatling and Deputy Monitor Javier Burgos CD Bayamon.
March 26, 2012:	Consultant Michael Gatling and Deputy Monitor Javier Burgos CD Bayamon.
March 27, 2012:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco CTs Villalba.
March 28, 2012:	Consultant Michael Gatling and Deputy Monitor site visit to CTS Humacao.
March 29, 2012:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to CDT Ponce “Girls”.
March 29, 2012:	Consultant Michael Gatling and Associate Monitor Ricardo Blanco site visit to “Guaili”.
March 30, 2012:	Consultant Michael Gatling and Deputy Monitor Javier Burgos and Associate Ricardo Blanco site visit to CTS Guayama.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
First Quarter 2012

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.	N	N	N	#	#	N	Compliance with this provision will be impossible to achieve under the current AIJ operating procedures and policies as it pertains to maintenance. Key issues are a lack of sufficient numbers of maintenance personnel coupled with an arcane procurement process for parts. The defendants concur with this assessment through numerous conversations with the monitor's office but to date no viable plan has been created to address plumbing and maintenance repairs in a timely manner. The number of broken fixtures for the current quarter are summarized below. There has been a serious deterioration from the prior quarter. We found 50 fixtures out of service – up from 21 last quarter.: • CD Bayamon - 9 • CTS Bayamon - 2 (Blue, Orange and Yellow units) • Guali - 1 • Guayama -16 • Humacao -16 • Villaba – 6 • Creando - 0 See my primary compliance report for the details on plumbing repairs.
C.O. 29. Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	N	Y	N	#	The defendants have closed several older facilities that had serious fire and life safety code violations as well as non-compliance with ACA standards and ADA regulations. Accordingly, AIJ is close to compliance with this provision pending the availability of additional resources to both document compliance as well complete necessary repairs and/or renovations to allow full compliance with this provision. It is recommended that an audit be conducted to determine how ADA compliance can be achieved.
S.A.31. Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	In light of the recent evaluation of the currently operating AIJ facilities by the Court Monitor's code and fire safety consultant, it is apparent that numerous life and fire safety violations still exist and have not been remedied to date. In addition, the staff responsible for maintaining code and fire safety for AIJ have certified compliance with this provision in their recent PLRA motion indicating a lack of training and understanding of the requirements of this provision. Furthermore, the Commonwealth has not allocated sufficient resources to allow compliance of this provision.

Provision	P	S	R	T	D	G	Comment
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	N	#	While all facilities have emergency keys that are readily available for use in an emergency, the monitor's office has found that in many instances the keys are not properly color coded or notched. Also, there is no systematic approach to storing or issuing the correct keys in an emergency. The AIJ Fire Safety Officer has been working on a plan to rectify this. W hen that plan is completed, the monitor's office will review it and oversee its proper implementation. The electrification of the cell doors at CD Bayamon and Ponce Ninas, and hopefully Humacao, will help achieve compliance with this provision by reducing the number of keys needed for emergency exiting. AIJ needs to ensure sufficent staff, with proper communication to staff in the living units, are working in the Housing Control stations on all shifts to operate the contol panels to remotely unlock all doors.
S.A. 35. Defendants agree that designated exit doors in all facilities will be maintained in operable condition and shall be readily unlocked in case of an emergency.	Y	#	N	#	Y	#	Non-compliance with the resource designation in this provision relates to the lack of staff and funds in regards to maintenance and repair of all exit doors as well as current maintenance procedures and procurement policies. There are sufficient resources to conduct regular checks and monthly reports by each facility's fire safety coordinators and that is being performed and documented. The monitor's office is waiting to see the monthly automated results from the fire safety officer as the exit door checks are supposed to be documented in AIJ's new data and tracking system.
S.A. 37. AIJ policy shall ensure safety for juveniles and staff by requiring compliance with fire safety code requirements. Specific emergency plans shall be developed and copies made available to staff members. There shall be ongoing training programs and emergency procedures shall be reviewed and updated annually.	Y	Y	Y	N	#	N	Pedro Santiago the AIJ Fire Safety Officer has been providing regular training in all emergency procedures to the fire safety coordinators and appropriate A IJ staff. The adequacy of the training will need to be reviewed by Victor Herbert. However, it appears that current training needs to be improved in witnessing erratic performance of several of the Fire Safety Coordinators at each facility over the past 12 months.

Provision	**P**	**S**	**R**	**T**	**D**	**G**	**Comment**
S.A. 38. A person having knowledge of the NFPA Life Safety Code and of the requirements of the specific building and fire codes for Puerto Rico will be designated as the Fire and Safety Officer. This Fire Safety Officer will have the authority to conduct monthly inspections of each facility for compliance with safety and fire prevention requirements. The Fire and Safety Officer shall prepare a monthly report of his findings and submit the report to the Monitor. Defendants shall correct in a timely manner any fire safety deficiency noted in the reports of the Fire and Safety Officer. A staff member in each facility who has received training in and is familiar with weekly inspection procedures, including the use of checklists and methods of documentation, will be appointed to work with the Fire and Safety Officer.	#	#	N	#	D	N	Historically, reports have been prepared weekly and monthly by the various institutional fire safety coordinators. These in turn were reviewed by the AIJ Fire Safety Officer, and then submitted to the monitor's office. For quite some time, the monitor's office did not receive these reports. In addition, the Fire and Safety Officer has often not verbally informed the monitor's office of fire and life safety systems failures or of other serious fire safety concerns. In the past 12 months during my field observations, I have also noticed a complacency of the fire safety coordinators in carrying out their responsibilities in several of the facilities. Since my last quarterly report, and during my last site visit, I did see some improvement with compliance of this provision. The proposed automation of these reports for review may allow AIJ to achieve compliance with the documentation aspects of this provision. While I believe the above lapses can be remedied with improved management practices and enhanced training, the key obstacle to full compliance with this provision is "Defendants shall correct in a timely manner any fire safety deficiency noted in the reports of the Fire and Safety Officer." Resources to achieve this have not been allocated nor have adequate maintenance procedures and procurement policies been put in place to allow for deficiencies to be corrected in a timely manner.

Provision	P	S	R	T	D	G	Comment
Policies and Procedures							
S.A. 45. Within one year of the approval of this agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement by the Court, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.	N					N	In the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case.
Staffing							
S.A. 48. Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.	N	N	N	N	Y	N	For the 1st quarter of 2012, all of the facilities submitted the staffing compliance reports. Program . Agency meeting staffing ratio requirements: 6:00 am- 2:00 pm shift: 38% of events,12% reduction 2:00 pm- 10:00 pm shift: 27% of events, 10% reduction 10:00 pm- 2:00 am shift: 94% of events, 1% reduction Guaili has met 100% staff youth ratio requirements for nine consecutive quarters. There has been a continual reduction in Staff Youth Ratio compliance during the last two 2011 and 1st reporting quarter of 2012. See the 2012 1st QR narrative for more information about staffing compliance.
January 2009 Stipulation Paragraph 1: All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.	Y	N	N	N	N	N	Reported 169 youth requiring 1:1 supervision, reduction of 162 youth from 4th QR 2011. 6 reported instances of youth not receiving 1:1 supervision in 1st quarter 2012.
January 2009 Stipulation Paragraph 2: All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48, as amended by Court Order dated M ay 15, 2007 (Dkt. #719), by hiring qualified direct care staff, beginning with fifty (50) direct care staff within thirty (30) days of this Order, and fifty (50) additional direct care staff every thirty (30) days, until Defendants achieve the goal to provide adequate supervision of youth in all facilities.	N	N	N	N	N	N	The January 2010 academy yielded 43 YSOs. The May 2010 academy yielded 52 YSOs. A third academy scheduled for August 2010 is expected to yield 50 YSOs.

Provision	P	S	R	T	D	G	Comment
January 2009 Stipulation Paragraph 3: Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre-service training, pursuant to Paragraph 49 of the Consent Decree. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.	#	#	#	#	#	#	The Commonwealth has decided not to employ this provision to enhance coverage.
January 2009 Stipulation Paragraph 4: All persons hired to comply with Paragraph 48 shall be sufficiently trained, pursuant to Paragraph 49 of the Consent Decree, before being deployed. Defendants shall deploy all duly trained direct care staff, pursuant to Paragraph 49, to juvenile facilities in a timely manner.	Y	N	N	#	N	N	The new YSOs have been deployed to youth corrections facilities.
January 2009 Stipulation Paragraph 5: On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staf f in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.	Y	Y	Y	Y	Y	Y	The reports are being provided. However, they are not reporting compliance with the other parts of the stipulation.

Provision	P	S	R	T	D	G	Comment
Training							
S.A. 50. Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.	Y	N	N	I	Y	N	The most recent annual report for the calendar year 2011 indicated 78% compliance with this provision across AIJ. The lowest level of compliance is a Villalba (59%) and Guayama (58%). While compliance has not yet been achieved, this is an improvement over the report for the Fiscal Year ending June 2011.
Classification							
S.A. 52. At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.	N	#	#	#	#	N	The detention classification system is not yet fully defined and implemented. A pilot program is being evaluated. Staff have been trained. Documentation is incomplete as of this report to analyze the results of the pilot of the classification implementation.

Provision	P	S	R	T	D	G	Comment
Mental Health and Substance Abuse Treatment							
S.A. 59. Defendants, specifically the Department of Health (ASSMCA), shall provide an individualized treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers, for each juvenile with a substance abuse problem.	N	N	Y	#	N	N	Review of the medical records and observation of a treatment team meeting revealed that the treatment planning process is markedly deficient. The team meeting was not attended by the psychiatrist, no treatment needs were identified, the youths were all reported to be "stable". The types and frequency of substance abuse difficulties were noted but the treatable psychological deficits that lead to and support substance abuse were not identified or discussed.
C.O. 29: Defendants shall maintain an adequate 48 bed residential mental health treatment program which provides services in accordance with accepted professional standards, for juveniles confined in the facilities in this case in need of such services as determined by a qualified child and adolescent psychiatrist as part of a qualified interdisciplinary mental health team.	N	N	N	#	N	N	Currently there are no special residential placements for youth in detention. Detention youth released from suicide watch or returning from inpatient psychiatric hospitalization are placed back in general population as there is no specialized residential placement in detention. The mission of the PUERTAS program at CTS Bayamon (which has replaced an earlier program at Rio Grande) remains unclear. At the last site there were less than 20 youth at the CTS Bayamon residential facility. Interviews with youth at other facilities identified several youth who could benefit from residential treatment who were not being considered for CTS Bayamon M ental Health Unit
C.O. 30: Defendants provide adequate qualified staff members for the residential treatment program, which include a child psychiatrist, psychologist, occupational therapist, social workers and nurses.		N					Psychologist hours had been cut from 35 to 30 hours in general. Some psychologists work only 28 hours. While this is not per se a violation of the Consent Order, the Monitor's consultant believes that the number of hours is insufficient.
C.O. 34. Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self-mutilating behaviors.							• Not yet rated.

Provision	P	S	R	T	D	G	Comment
C.O. 36. Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	N	N	#	N	N	N	• Psychologist hours had been cut from 35 to 30 hours. Youth are not adequately assessed. • Treatment plans are not individualized and treatment progress not assessed and documented. • Policy is deficient in terms of the procedures for documenting progress. Given the deficient assessment practices policies will need to be developed that include enhanced assessment. • Assessment is seriously deficient with many youth being diagnosed as free of mental health concerns. • Because the evaluation of youth is so deficient, appropriate treatment services are not being provided.
S.A .62. In addition to the mental health staff required by ¶ 36 of the Consent Order approved by the Court in this case in October 1994, Defendants shall provide ambulatory psychiatric services by a team. This team shall be composed of a child psychiatrist, a child psychologist and a social work counselor. All mental health care personnel shall have written job descriptions and meet applicable Commonwealth licensure and/or certification requirements. Defendants, specifically AIJ, will provide for residential treatment and, if needed, in-patient hospitalization for those cases where such service is needed.	N	N	#	#	N	N	• Currently there are no special residential placements for youth in detention. Detention youth released from suicide watch or returning from inpatient psychiatric hospitalization are placed back in general population as there is no specialized residential placement in detention. • Although the services are provided by a team, the absence of a single master treatment plan demonstrates one aspect of the fragmentation of service delivery. The serious deficiencies in assessment of youth make the current provision of ambulatory mental health services inadequate. M any mental health difficulties of youth go undetected, youth who repeatedly self mutilate, or aggressive are viewed not as in need of mental health services but as manipulative. • Documentation does not reflect the efficacy of treatment or lack thereof so that adjustments can be made. M any youth have been taken off psychotropic medications including medications to treat ADHD without adequate assessments to determine the need for these medications. M ost youth referred for psychiatric hospitalization are not admitted either due to inappropriate referral, inappropriate admission standards or refusal by the hospital.

Provision	P	S	R	T	D	G	Comment
S.A. 63. For each juvenile who expresses suicidal or self-mutilating ideation or intent while incarcerated, staff shall immediately inform a member of the health care staff. Health care staff shall immediately complete a mental health screening to include suicide or self-mutilation ideation for the juvenile. For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist shall immediately examine the juvenile. The juvenile, if ever isolated, shall be under constant watch. Defendants shall develop written policies and procedures to reduce the risk of suicidal behavior by providing screening for all juveniles at all points of entry or re-entry to AIJ's facilities and/or programs and by providing mechanisms for the assessment, monitoring, intervention and referral of juveniles who have been identified as representing a potential risk of severe harm to themselves. Treatment will be provided consistent with accepted professional standards.	Y	#	N	N	N	N	• The current staffing for mental health professionals does not make it possible for a psychiatrist to "immediately evaluate" the youth. This is an overly stringent requirement. Youth should be evaluated immediately by n medical staff and placed on Therapeutic observation and seen by the psychiatrist or psychologist within 8 hours. This generally occurs. However, recent site visits revealed numerous youth isolated reportedly for reasons other than MH concerns. Many of these youth had serious MH concerns with automutilation being common. Minimal MH treatment is being provided these youth. Because youth with MH difficulties are poorly assesses and not identified treatment is not provided in accordance with accepted professional standards.
S.A. 66. An AIJ child and/or adolescent psychiatrist shall develop a protocol for the use of psychotropic medication by other physicians. A training program will complement this protocol. A child and/or adolescent psychiatrist will be available on an on-call basis at all times.	Y	N	Y	#	N	N	• The primary purpose of that paragraph was to deal with the problems associated with treatment by psychiatrists who are not specialists in child and adolescent psychiatry. The paragraph implied supervision by means of the protocol and the on-call consultation. • The Monitor's consultant believes that there should be central oversight of psychiatric services by a psychiatrist.
S.A. 67. Defendants shall obtain specific informed consent from a juvenile's parent or legal guardian or from the state court for the use of psychotropic medication for each juvenile on such medication. All psychotropic medications will be prescribed by a licensed psychiatrist and/or physician. All psychotropic medication will be reviewed and approved by an AIJ child psychiatrist. In all cases, the family of any juvenile taking psychotropic medication will be informed in writing by the family's case manager.	#	N	Y	#	#	N	• The current informed consent process in seriously deficient. During recent site visits consent forms that were reviewed often did not list any risks, treatment rationale was listed in the risk section. In many instances serious risks such as liver failure for drugs like Depakote were not listed at all. The current process does not provide for "informed" consent as it is typically understood in clinical practice. AIJ continues to have the proposed treatments and their risks explained to parents by social workers who are not qualified to answer questions regarding treatment options and medical risks. Thus the process does not represent informed consent as it is generally conceived in clinical practice.

Provision	P	S	R	T	D	G	Comment
S.A. 71. Stimulants, tranquilizers, and psychopharmacological drugs shall only be used as deemed medically necessary and shall not be administered for punishment.	#	N	Y	#	#	N	The Monitor's consultant and Plaintiff's consultant identified during recent reviews instances where medication would appear to be unnecessary. Most noteworthy were cases where emergency medications were administered after the emergency was over and the need to medicate had passed. Emergency medication in all case involved Haldol a powerful antipsychotic in cases where psychosis is not the issue. Use of less powerful and safer yet equally effective medications such as Ativan is nonexistent.
S.A. 72. All juveniles receiving emergency psychotropic medication shall be seen at least once during each of the next three shifts by a nurse and within twenty-four (24) hours by a physician to reassess their mental status and medication side effects. Nurses and doctors shall document their findings regarding adverse side effects in the juvenile's medical record. If the juvenile's condition is deteriorating, a psychiatrist shall be immediately notified.	Y	Y	Y	Y	N	N	In instances where emergency medication was used adequate follow-up of the youth and documentation of the youth's response to the medication is lacking.
S.A. 73. Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.	N	N	N	N	N	N	The AIJ Behavior Management program is seriously deficient. Currently youth receive points on a daily basis for prosocial behavior. However, the reward schedule is so poor that youth need to save up points for an entire month in order to get the Nintendo for the weekend. Youth report that frequently when they try to exchange points for items like pizza or a movie that these are not available due to budget limitations. This undermines the entire rationale for a BM program where rewards in reasonable frequency and quantity are needed to promote positive behavior.

Provision	P	S	R	T	D	G	Comment
Discipline							
S.A. 74. Defendants shall specify the rules of the facilities with a complete list of possible punishments for violations of such rules in the handbook described in ¶ 47 above. Written notice of any rule violation, a hearing before a facility staff person not involved in the investigation of the violation, and an appeal to the facility director shall be provided to a juvenile prior to any punishment being imposed, except that Defendants may administratively segregate a juvenile in emergency or life-threatening situations. In the event of an emergency, when circumstances make it inappropriate to hold a hearing prior to segregation, a hearing shall take place within forty-eight (48) hours from the time of segregation.	N	Y	N	N	Y	N	• All rules are specified in handbook. • Monitor's Consultant maintains that "Written notice" requires that juvenile retain a copy of rule violation. • Concerns about group punishment now being supported by AIJ policy. • See the extended discussion of this issue in the QR narrative report.
S.A. 77. No corporal punishment shall be imposed on any juvenile. The use of physical force by staff shall be limited to instances of justifiable self-defense, protection of others, and prevention of escapes. Defendants agree that under no circumstances shall restraints be used as a form of punishment. In cases where restraints are necessary to prevent a juvenile from causing serious bodily harm to himself or to another, the facility director or his/her designee must approve the use of restraints before they are applied.	N	#	I	N	N	N	• AIJ policy and training and associated practice does not currently comport with the language of this provision. The Monitor has urged the parties to resolve this issue for two years. • Concerted efforts will be required to fully determine compliance levels once there is resolution of the wording of this provision. A new incident report is being used although some practical flaws have been identified. • Continued concerns about high frequency of use of OC at Humacao • See the discussion of this issue in the QR narrative report.

Provision	P	S	R	T	D	G	Comment
Abuse and Maltreatment Investigation and Management							
S.A. 78.a Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.	Y	N	N	#	N	N	Policies have been updated to comply with this provision. The Quarterly Case Assessments in the main part of the report consistently reveal the following problem areas: • Evidence is rarely preserved. • Suspected youth are separated from their victim(s) less than half of the time.
S.A. 78.b All Defendants' staff or contractors who are involved in, witness, or discover an incident (or evidence of abuse or mistreatment, in the case of a health care worker) shall document the incident or evidence in writing in a standardized incident report. The report shall be submitted to the reporter's supervisor or other designated staff person before the reporter leaves the facility following shift change. The report shall include all relevant details regarding the incident, including a description of the events leading to and immediately following the incident; date, time, and place; all persons involved, including alleged victim(s) and all witnesses; how the incident was detected; reporter's name and signature; and date and time the report form was completed.	Y	Y	Y	#	N	N	The timeliness of initial reporting appears to have improved, but statistics are not yet available to assess whether compliance has been achieved. In the future, a compliance review will be necessary to determine whether they are completed with consistent timeliness and quality.
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	The timeliness of initial reporting by AIJ, based on AIJ records, has been high. The Commonwealth Police do not respond to the Monitor's information requests for case analysis information. Cases are promptly referred to SAISC.

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	• Documentation is insufficient concerning the implementation of investigations by the Commonwealth Police. The Commonwealth Police do not respond to the Monitor's information requests. See the Attachment to the QR concerning Abuse Referral Case Assessments. The Monitor infers that the Commonwealth Police lack a procedure or policy to comply.
S.A. 78.e Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC's receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.	Y	#	#	#	N	N	• For the entire year 2010, there were 208 cases referred to OISC, and only 10 were completed within the 30-day limit specified in Paragraph 78.e. • For the 3rd quarter of 2011, no cases were completed within 30 days. • It appears from the tracking statistics that the substantial majority of serious cases referred to SAISC are not investigated on a timely basis.
S.A. 78.f Defendants shall implement investigation standards in conformance with applicable law, including, at a minimum: photographing visible injuries; preserving and analyzing evidence; conducting separate, face-to-face, private interviews of the alleged victim, perpetrator, and all possible witnesses, with a record of the questions and answers. Whenever there is reason to believe that a juvenile may have been subjected to physical sexual abuse, the juvenile shall be examined promptly by outside health care personnel with special training and experience in conducting such assessments.	N	N	Y	#	N	N	• No process is in place to assess whether compliance is achieved with respect to investigation quality. • No standards have been formally adopted.

Provision	P	S	R	T	D	G	Comment
S.A. 78.g Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.	N	N	Y	#	N	N	• No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.
S.A. 78.h AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ's quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.	N	N	Y	#	N	N	• Case tracking is inconsistent and incomplete. • The case tracking information system has not been updated at all during 2008. • AIJ lacks staffing and resources to do meaningful analysis of cases
S.A. 78.i Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.	Y	Y	Y	Y	N	N	• AIJ policies comply with this provision. • Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision. • It appears that criminal charges had been filed against three AIJ employees in relation to an alleged assault on a youth on September 10, 2009. The fact of the charges was not reported and compliance with the separation requirements of the December 2006 order has also not been established.
Separation Order, of December 4, 2006: Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.	N	Y	Y	N	N	N	It appears that criminal charges had been filed against three AIJ employees in relation to an alleged assault on a youth on September 10, 2009. The fact of the charges was not reported and compliance with the separation requirements of the December 2006 order has also not been established. Apparently the charges were dismissed following a preliminary hearing on December 18, 2009 due to insufficient evidence, but the authorities are seeking review of the dismissal.

Provision	P	S	R	T	D	G	Comment
Protection and Isolation							
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.	#	#	#	#	#	#	• This provision is related to both Discipline and Mental Health. The meaning and application of the provision continues to be unresolved. • There is no evidence to suggest that mental health isolation is being used for disciplinary purposes and AIJ policy prohibits this. • See the discussion of this issue in the QR narrative report.
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.	Y	N	#	#	N	N	• Confusion between transitional measures and PC • Problems getting access to education • See the discussion of this issue in the QR narrative report.

Provision	P	S	R	T	D	G	Comment
Education and Vocational Services							
S.A. 81. Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juveniles would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. AIJ shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.	Y	N	R	I	Y	N	The AIJ facilities began the school year in August more fully staffed than in recent years. By the end of September, AIJ had only three teacher vacancies in the system. One of the three vacancies was due to the death of one of the teachers.
S.A. 86a. Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 et seq. Defendants shall screen juveniles for physical and learning disabilities.	Y	Y	Y	I	Y	#	AIJ was fully staffed for special education services during this reporting period. The Department of Education has provided two facilitators to Bayamon CD to screen students and procure students' records. The Monitor's Office has not yet conducted a systematic assessment to determine whether the screenings are adequate. Compliance with 86a requires compliance with 86b.
S.A. 86b. The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.							This provision has been separated out to identify the requirements for adequate screenings.

Provision	P	S	R	T	D	G	Comment
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	Y	I	#	#	With the addition of a facilitator from the Department of Education, AIJ has improved its ability to obtain students' prior school records. Document reviews during site visits indicate that teachers meet, assess students prior IEPs and modify them as necessary. However, a systematic review of the records has not been completed by the Monitor's Office.
S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	Y	Y	I	Y	N	• There has been a marked improvement in the delivery of special education services during the past quarter associated with increased staffing. • Because of Hurricane Irene, Consultant Leone was not able to visit all facilities to review the adequacy of services. • Record reviews during visits to Bayamon CTS and Humacao CTS indicated that with the exception of students in transition or protective custody, students were receiving the services specified in their IEPs. • A comprehensive assessment of the IEPs has not yet been conducted to determine whether the IEPs are recommending the services necessary to meet the "unique needs each juvenile. • Observations and discussion with staff indicated that instruction for special education students included both small group activities as well as instruction in regular education classes.
S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	Y	Y	I	#	#	• Certified special education teachers, many of them new to the profession, provide education services to youth. All vocational education positions were filled during this reporting period. • Special education students were enrolled in vocational courses consistent with their IEP recommendations. • All AIJ teachers, including special educators, were scheduled to receive training designed to integrate technology into their teaching. • A systematic review of special education plans has not yet been conducted to determine whether the IEPs recommend appropriate services for each youth.
S.A. 93. Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.	#	N	N	I	#	#	There are unresolved differences between plaintiffs and defendants about the meaning of year round services. Students eligible for special education services, like other students in AIJ, do not receive services from the end of May to the beginning of August.

Provision	P	S	R	T	D	G	Comment
S.A. 94. Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.	N	N	N	I	N	N	• There is no policy in place to implement this provision. • A recent examination of services for youth in isolation indicates that for the most part, all youth in isolation receive 20-30 minutes maximum each day. • This true for students eligible for special education services as well as other youth. • This level of service is an improvement over previous efforts but is still short of providing adequate services to youth in protective custody and those on transition.
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	Y	Y	I	#	#	• All special education positions are filled. • Visits to Humacao and Bayamon CTS indicated that teachers were periodically reviewing students' IEP. • A systematic assessment has not yet been conducted to determine whether the Monitor's Office concurs with the determinations about the effectiveness of IEP implementations. • Additional visits will be conducted during subsequent quarters to document the occurrence of this practice in all facilities.
Funding and Implementation							
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 requirement sums of money will be established so as to implement this Consent order.	Y	Y	N		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. • Since the budget is insufficient to implement the requirements of the decree, the Monitor infers that the request was also insufficient.