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 Third Quarter Report for 2012. The report covers the months of July, August and September2012. 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 1st day of December, 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.
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Monitor's Quarterly Report
Third Quarter 2012

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

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

Document Attachment A:	Consultant Report on Facilities
Document Attachment B:	Consultant Report on Staffing Compliance
Document Attachment C:	Consultant Report on Operations Provisions
Document Attachment D:	Consultant Report on Disciplinary Hearings
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 report on staffing compliance shows that the percentage of compliance with staffing requirements on the 6:00 am – 2:00 pm shift was as follows: CD Bayamon – 20%, Humacao – 7% and Villalba 3%. For on the 2:00 pm to 10:00 pm shift, compliance was: CD Bayamon – 22%, Humacao – 7% and Villalba 2%.

Respectfully Submitted,

F. Warren Benton, Ph.D.
Monitor

Document Attachment A:
Consultant's Report on Facilities

United States of America v. Commonwealth of Puerto Rico
Quarterly Report
Prepared by Monitor's Consultant Curtiss Pulitzer
October, 2012

Site Visits to CTS Bayamon, CD Bayamon, Ponce Niñas (Guali) and Humacao

This report reflects my site visits, accompanied by Javier Burgos and Ricardo Blanco our Deputy Monitors, for the above referenced facilities on July 30th and 31st, 2012. On July 30th I toured Ponce Ninas to visit the Guaili unit and later in the day I toured Guayama. On the 31st I toured Humacao and CTS and CD Bayamon.

I had met with Esdras Velez during my May site visits and he had showed me the new table of organization for DCR and assured me that the new Juvenile Division will remain operationally autonomous from the adult system and that there will be a separate budget account for the maintenance and repair of the juvenile facilities. He also said that Pedro Santiago and Luis Ortiz would now be part of DCR's Facilities Maintenance and Operations (FMO) division. I had hoped to meet with the new the new FMO supervisors, but that unfortunately did not happen.

Below are a list of positive developments as well as persistent and new problems and maintenance issues that still remain to be addressed at CTS Bayamon and CD Bayamon. Unfortunately, at CTS Bayamon, there were many new air conditioning problems. While the sprinkler systems seem to be functioning at both facilities, the fire alarm systems are not working at CTS and are waiting certification at CD. On a positive note, the ceilings in the medical area had been repaired and both the clinic and infirmary were in very good shape and roof repairs in the kitchen have eliminated leaks in the kitchen.

CTS Bayamon

There were 80 juveniles in CTS Bayamon on the day of my site visit. I was accompanied on my tour by the two fire safety coordinators, Bentancour and Cancel and the physical plant manager Henrick Harbar. I also met with Adamar Rosado Chavez the new Acting Director.

Below are a list of positive developments as well as persistent and new problems and maintenance issues that still remain to be addressed at CTS Bayamon and CD Bayamon. Unfortunately, at CTS Bayamon, there were many new air conditioning problems. While the sprinkler systems seem to be functioning at both facilities, the fire alarm systems are not working at CTS and are waiting certification at CD. On a positive note, the ceilings in the medical area had been repaired and both the clinic and infirmary were in very good shape and roof repairs in the kitchen have eliminated leaks in the kitchen.

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

- The Blue Building repairs have been completed and overall the housing unit was in very good physical condition. There were only 13 juveniles housed there on the day of my visit. **I was concerned that there appeared to be one juvenile alone in Module 3 with no staff present**. I did not receive an explanation as to why.
- There were still some minor mold problems on the ceiling of the education module. I was informed that a contractor had sealed the roof and skylights and that the now ceiling just needed painting and the mold had stop spreading.
- The showers that have received the new special epoxy paint treatment that I had recommended seems to be holding up very well and there was still no mold developing in the showers as has historically happened when inferior epoxy products had been applied.
- There is still shower water that is escaping from the showers on to the mezzanine and I while I recommended last time that AIJ look at a product made by the Imperial Fastener Company (just one example) that provides a shower curtain system with no hooks, pins, or cords but it is attached with Velcro tabs, there was no movement yet on this recommendation. This product and others similar to it are designed for the correctional market.
- The A/C unit in housing unit control but was being repaired while on my site visit.
- On a *positive note*, two new basketball hoops were installed in the recreation yard and the exit door out of the education module was fixed with a new battery back-up placed in housing unit control.

2. Orange Building (population 42 youth – Modules 2 and3 are CER with 29 youth and 13 Level IV youth in Module 1)

- While the hot water had been repaired in Module 1 on my last site visit it was ***not*** working again.
- The A/C was not working in Module 2 although I was told that it was turned off due to maintenance work on the roof.
- The A/C was not working in Module 3. I was told a new unit is needed.
- 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 except for the air conditioning which has not been an issue until now.
- Repairs to the housing unit control were under way on the day of my visit.

3. Green Unit (population 0 youth)

- This Unit is closed and there was no apparent work occurring in this building. This building has been vacant due to the now repaired water pipe problems. However, the electronics were damaged due to damage from the broken water pipes adjacent to mini-control and now they all need to be repaired once again and were not yet repaired during my visit. This condition has persisted for many months. DCR stated they are waiting funds to make the repairs.
- DCR may want to use this unit to house juveniles now housed in the Orange building as swing space to allow repairs in the Orange building modules on a pod by pod basis. As the doors are manual due to the failed electronics here, DCR demonstrated to me in an earlier site visit that with two officers on the module could manually unlock all the door

locks in 69 seconds. While, I expressed reservations about this, I agreed that the DCR proposal was acceptable on a short-term basis provided there were two officers on the module at all times. Earlier in the year DCR did use the Green Unit on a short term basis and followed the procedures as agreed to.

- The air conditioning did not appear to be working in Module 3 or in the Program Module.

4. Yellow Building (population 25 youth in Modules 1 and 3; Module 2 was closed– all detention)

- All the showers were in need of treatment with the new product DCR is now using. One of the floor drains in the shower was still broken and the youth could hurt easily hurt themselves. DCR said they were working on fixing this.
- In Module 3, the A/C was not working well again. This has been an on-going problem for many months.
- The air conditioning in the Program Module is still not working in the common areas but is working in the offices.
- The YDO could not find the emergency key ring in the key cabinet in housing control.
- Cells 118 and 126 operate together when either electronic release button is pushed. Cell 126 has a loose strike as non-security screws were used to secure the strike in place.
- A hasp and padlock was placed on one of the classrooms in the Program Module which may compromise fire safety, however, there was no padlock in the hasp as had been the case on an earlier site visit.

5. Medical Area

- The ceilings in the common area of the clinic ***had been repaired again*** which is a major improvement.
- The registers that lead from the extended the ducts that were put in place last summer to provide some cooling and humidity control and avoid mold problems in the large volume adjacent to the clinic and infirmary volume were in place, and somewhat operational as the air conditioning was apparently only operating at 50%. Furthermore, the plastic sheeting to keep the cooled air from escaping from the screened window openings was installed several months ago but is ***still missing*** at the very top openings. The A/C company that does repairs in this area stated that the openings need to be left uncovered. DCR was to investigate this further.
- As stated in my earlier report the elevator in this building had been repaired and I used it to gain access to the second floor.
- The air conditioning in the infirmary was working but at a higher cooling threshold.
- While the infirmary remains empty, it has been cleaned and was ***spotless and in very good shape with no leaks***. As I have said many times before, a tremendous amount of money was spent here to create crisis and suicide watch beds to serve not only Bayamon but also other facilities. In addition, this is the only DCR facility with the ability to appropriately provide in-patient skilled nursing care to serve not only CTS and CD Bayamon but other facilities as well. I have been requesting that the agency provide the Monitor's Office with a medical and mental health operations plan. This request has been on-going for more than ***three years*** on how DCR plans to utilize this amazing yet unused resource.

6. Kitchen

- The air conditioning in the dining room was **repaired and working well**.
- The roof in the kitchen and warehouse had been repaired and the roof sealed so that **water leaks in the kitchen have finally stopped**.
- I was very pleases to see that the tray washing machine equipment ***was being utilized*** for juveniles eating their meals in the dining room. DCR is using Styrofoam compartmentalized disposable trays for the juveniles housed in CD Bayamon.

7. Laundry

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

8. Education

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

9. Gymnasium

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

10. Overall Security and Site Issues

- The air conditioning was working well in Central Control and the condensation drain issue has not recurred. The door into Central Control was secured as it should be.
- The security monitoring lights on the consoles were not working for the first time in a long time. This is of ***great concern***.
- The fire and smoke alarms are still not working which are waiting a new contractor (as described above)
- The air conditioning in Intake which had been repaired was still working well.
- The Overhead door into the Intake garage had been damaged and ***was repaired***.
- The air conditioning in the security office was also ***repaired***.
- There was continuing improvement in removal of vines from the perimeter fences but more clean-up is required. Much of the vegetation inside and in front of the perimeter fences ***has been*** cleared.
- Hasps on the inner perimeter fence need to be repaired and all gates leading out from the inner perimeter need to be secured
- Perimeter security lights were repaired and I presumed were still working.
- While the sliders on the main walkways were functioning, I was told, a purchase order was issued to have the motors replaced as they are old and originally from another DCR facility.
- The CCTV system for the facility has never been completed
- The service yard is still in a poor state of repair and must be repaved but most of the debris that had been stored there previously has been removed greatly improving its functionality.

CD Bayamon

There were 79 juveniles in CD Bayamon on the day of my site visit. This number is greatly reduced form near capacity figures a year ago. In fact Charlie Unit was closed! I was accompanied on my tour by the two fire safety coordinators, Bentancour and Cancel and the physical plant manager Henrick Harbar. I also met with Adamar Rosado Chavez the new Acting Director.

The main problems at CD Bayamon are air conditioning problems, broken plumbing fixtures, several broken door locks and housing unit control panel lights not reporting accurate status conditions in all three active housing unit control rooms. A major source of the air conditioning problems is the poor service being provided by the air conditioning vendor who has the maintenance contract for Bayamon. Key problems I observed include the following:

- The air conditioning was barely working in unit B-1.
- There was no hot water in the showers on the upper level of B-2.
- The air conditioning was not working in unit D-1.
- The air conditioning was not working in unit D-2 and several lights in juvenile rooms were not working and were not repaired as the electrician at the facility retired.

Ponce Niñas, Guali

I toured the housing unit where the Guali juveniles are housed. O the day of my visit there was only one youth there who was in detention status. The housing unit in Vivienda D, Module 2 was in fair condition. The air conditioning in rooms 201-203 and 208-211 were not working due to a failed compressor. This is a pervasive problem throughout the juvenile facilities now under DCR control. The air conditioning in the dayroom was working. All the plumbing fixtures were in good condition, but the hot water in the showers took several minutes before it got warm enough to shower in. I tested the fire exit doors and they were opened electronically from the housing unit control within a range of 10 to 30 seconds. All the cell room doors are welded open so that there are no door control issues and juveniles have free access to all the hygiene facilities. I was escorted by Domingo Garcia and Corlus Quinonez, the two Fire Safety Coordinators. I met briefly with the Director, Eddie Martinez.

Guayama

On the day of my site visit the population at Guayama was only 87, down considerably over the past 12 months. I toured the facility with Jose Rivera, the Fire Safety Coordinator and Felipe Garcia, the Chief Supervisor and Mildred Perez, the Compliance Coordinator. The facility was generally in good physical condition and all the exterior of all the housing units had been painted. The hot water was working in all the units as was the air conditioning. There were minor plumbing issues and the special paint application that I had recommended last year and used in the bathroom areas was holding up extremely well.

As this facility experienced an attack on an officer by a juvenile using a fire extinguisher, the facility has relocated the fire extinguishers into the secure fire hose cabinets on the exterior of

the housing units adjacent to the unit entrance. I verified that all the fire cabinets had extinguishers and the officers working in the units had the keys to the cabinets and demonstrated to me their quick ability to open them in case of an emergency. The one unit that still had an extinguisher within the living area was the Step Down Unit. The fire safety coordinator could not answer why this was the case.
The major area of concern that I observed on my site visit was that fire alarms in units 1,3 and 4 were not working. Apparently, they needed to be reset to function properly and had not been reset by the officers or by the fire safety coordinator, which is of great concern in the event of smoke and/or fire, especially as there is no sprinkler system at Guayama. In fact the fire safety coordinator was unaware they were not functioning. The worst condition existed in Unit 7, where the fire alarm panel is located within the social worker's office and the office is locked when not occupied, as it was on the day of my visit. I asked the housing unit officer to open the office to access the fire alarm panel but he did not have the key, further compounding a dangerous fire safety situation. I requested that the room be opened but it took nearly 20 minutes to find the key at Central Control. The key should have been on the emergency key ring kept at Central Control, but it wasn't. This is another example of a failure to comply with the emergency key provisions of S.A. 34,that I have cited occurring at the other DCR juvenile institutions.

Other issues observed included:

- A leak in the ceiling in the dayroom in the step down unit. In addition, this unit has not been renovated. Floor tiles are missing and/or broken in many of the juvenile rooms and the lighting has not been upgraded. The missing and/or broken floor tiles are a concern as the remaining tiles can be easily lifted up and turned into knives that can be used either as a weapon and/or for self-mutilation.
- There was no television in the majority of the housing units as the Direct TV system had been broken for at least a month.
- Unit 1 is a larger housing unit and had three fire extinguishers before they were removed. Now there is only one in the exterior fire hose cabinet. **DCR's Fire Safety Officer Pedro Santiago needs to confirm the adequacy of just one extinguisher with the fire department.**
- In several of the units the shower heads were missing and the shower "head" consisted of a bare pipe extending out from the wall.
- In Unit 5, many of the floor tiles in Room 3 were broken and/or missing creating a condition similar to the one I described in the step down unit above.

Humacao

On the day of my site visit the population at Humacao was 93. I toured the facility with Gloria Sepulveda, the Fire Safety Coordinator and Nelson Echeveria. I also met with Director Luis Rodriguez Perez. I was pleased to see some improvements at the facility from my last visit. The insulation in the gym ceiling that had posed a hazard of falling down had been removed and parts of the institution had been painted and the grassy yard areas had been mowed by the adult inmate brigades. The major problems at Humacao still are the severe roof leaks and bad mold in the living units along with air conditioning issues. While I was there, roof repairs were occurring in the infirmary, admissions and administration areas of the facility. In addition, Humacao still has no electronic individual door release and intercoms to each cell as do the other DCR juvenile facilities. This is a long standing life safety issue. While I was pleased to see some movement in this long-standing environmental problem, no repairs had occurred yet in the living areas.

Other issues observed included:

- In Unit 4 a broken sprinkler head had not been fixed for 10 days and accordingly the sprinkler system had been shut off.
- There was no air conditioning in the cells in module 4B.
- There has been no air conditioning in module 3A in all the lower cells, 1-3 and 8-10A. This condition was already six weeks old on the day of my visit.
- The air conditioning in module 2B was barley working most likely a compressor problem.
- There was no air conditioning in module 1B in cells 1-4 and 12-15.
- I randomly tested fire exit doors leading from the dayroom. While most doors were opened from the housing unit control in less than 60 seconds door 035C in module1A took 2.5 minutes.
- While the insulation has been removed in the gym, there are still roof leaks over the bleachers.
- There was no air conditioning in Central Control as the compressor was broken.
- The fire alarms in Central Control continue to be broken.

Systemwide Plumbing Report

There has been some improvement from the last quarter when there were 81 broken fixtures. There were 21 broken fixtures in the last quarter of 2011 which rose to 50 in the first quarter of 2012, and then jumped greatly to 81 in the last quarter and now back to 58, which is still very high. Guayama went from 14 broken fixtures to zero, a great improvement over last quarter and Humacao dropped from 18 to 9. The Bayamon facilities accounted for **three quarters** of all of the broken fixtures. Below are the figures for this quarter gathered during the week of September 24th:

- CD Bayamon - 22
- CTS Bayamon - 21 (Blue, Orange and Yellow units)
- Guali - 2
- Guayama - 0
- Humacao - 9
- Villalba – 4
- Creando - 0

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

PLUMBING CONDITIONS SUMMARY
September 24 – 28, 2012

Facility	Modules in use	Toilets			Urinals			Showers			Sinks			Drink Water	Hot water available (yes/no)	Comments	Summary of Broken Fixtures
		# toilets	# broken	# available	# urinals	# broken	# available	# showers	# broken	# available	# sinks	# broken	# available				
CTS Guayama	7 of 9	14	0	14	8	0	8	21	0	21	21	0	21	ok	yes	Two modules used for administrativ purposes. Air conditioning unit in living VII is working partially.	**0**
CTS Humacao	8 of 8	32	5	27	32	2	30	32	0	32	32	2	30	ok	partial	Roof leaks, 1 emergency door only works manually, two air conditioning units are working partially.	**9**
CTS Villalba	8 of 8	32	3	29	32	0	32	32	1	31	32	0	32	ok	yes	Some doors only work electronically. Roof leaks.	**4**
CD Bayamon	8 of 8	34	5	29	24	11	13	24	2	22	33	4	29	ok	no hot water in two modules	Roof leaks and rooms without air conditioning system were found. Some doors only work manually.	**22**
CTS Bayamon	7 of 11	133	3	129	0	0	0	15	15	15	135	3	132	ok	yes	Living Unit Green closed, improveme in medical area, 1 emerg. door not work.	**21**
Guali	1	4	2	2	0	0	0	4	0	4	4	0	4	ok	yes	none	**2**
CREANDO	4	12	0	12	0	0	0	12	0	12	18	0	18	ok	yes	none	**0**
Totals	**43 of 49**	**261**	**18**	**242**	**96**	**13**	**83**	**140**	**18**	**137**	**275**	**9**	**266**	_	_	_	**58**

Document Attachment B:
Consultant Robert Dugan Report on Staffing

DRC Staffing Quarterly Report: July 1, 2012 – September 29, 2012

Prepared by Bob Dugan: Office of the Monitor: October 14, 2012

Prison Rape Elimination Act:

S.A. 48. States the following:

Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.

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

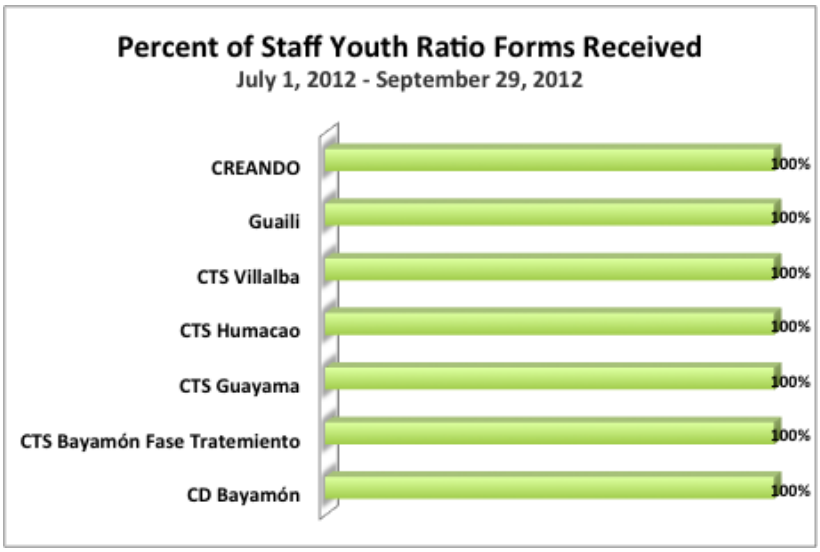
48.b Method Two: Defendants may develop, and submit to the Court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignments necessary to implement the terms of this agreement, taking into consideration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

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

Background:

The following report provides information on Staff Youth Ratio forms that were provided to the consultant for the period of July 1, 2012 thru September 29, 2012. As of the Sunday, October 14, 2012 the following forms have been submitted.

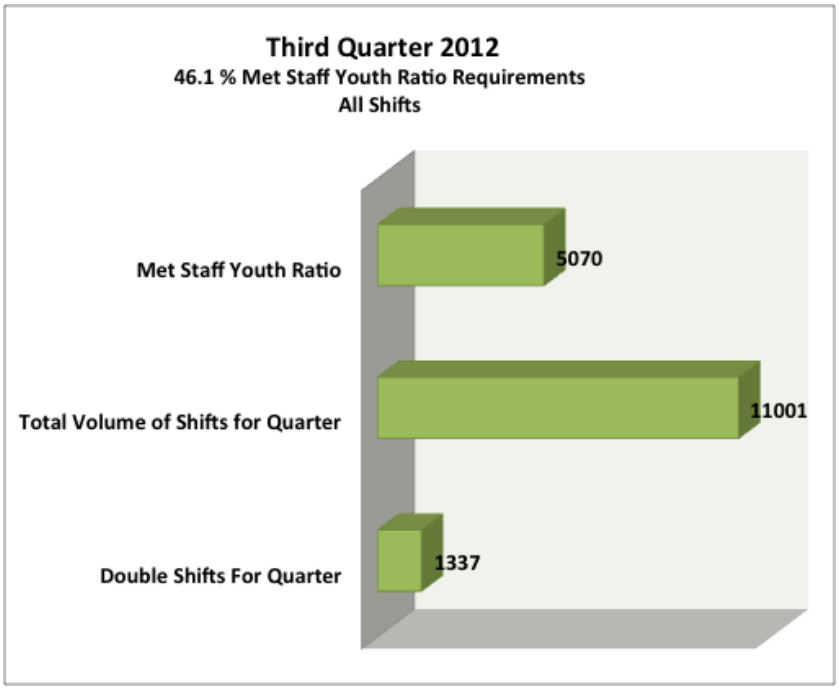
Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	13	13
CTS Bayamón Fase Tratemiento	13	13
CTS Guayama	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Guaili	13	13
CREANDO	13	13
Totals	91	91



DRC 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. DRC has consistently been providing all requested Staff Youth Ratio forms used for monitoring and reporting. CREANDO was operational for all thirteen weeks of the third quarter reporting period. The table displaying the date that staff youth ratio forms were received is on page 15 of this report.

DRC Staff Youth Ratio Averages:

During the Third Quarter 2012 reporting period (July 1, 2012 thru September 29, 2012), DRC documented a total of 11001 shift / unit events that required staff to youth supervision. This is an increase of 301 staff youth supervision events since the Second Quarter of 2012 (10700 events).
Of the 11001 shift / unit events, 5070 of the events (46.1%) were supervised with the required staff youth ratios, a .3 % increase from the Second Quarter of 2012.



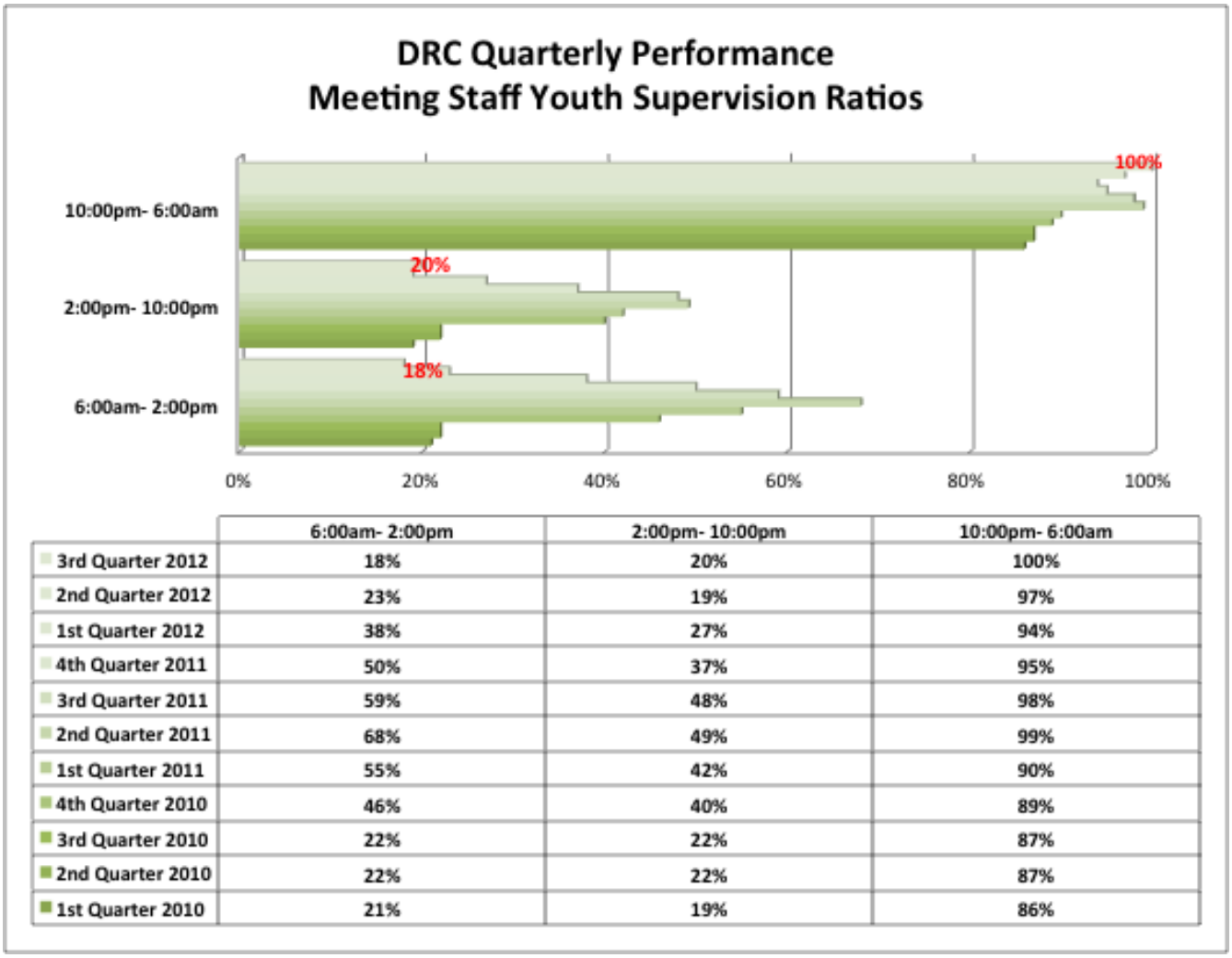
This is the first Quarter since the last Quarter of 2011 that has not resulted in a decrease in the volume of events that met required staff youth ratio.
Of the 5070 staffing events meeting the required staff youth ratio, 3674 (74.5%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.

The Third Quarter Report provides additional data on the volume of staff that are working double shifts in order to meet the reported staff youth ratios. For the 2012 Third Quarter, 1317 of the 11001 (12%) staff youth ratio events were covered by staff working a double shift. This is a 10% reduction of volume of shifts requiring staff to work a double shift since the 2012 Second Quarter reporting period.

Third Quarter 2012
Staff Youth Ratio Events and Double Shifts

	CD Bayamón	CTS Bayamón Fase Tratemiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	CREANDO
Met Staff Youth Ratio	995	1086	878	819	773	273	246
Volume of Staff Youth Ratio Supervision Events	2089	1996	1990	2160	2220	273	273
Volume of Shifts Covered by Staff Working a Double Shift	191	246	255	314	225	103	3
Percentage of Shifts Covered by Staff Working a Double Shift	9%	12%	13%	15%	10%	38%	1%

The following chart represents the DRC agency Staff Youth Ratio averages by shift for the last eleven quarters through September 29, 2012:



	6:00am- 2:00pm	2:00pm- 10:00pm	10:00pm- 6:00am
3rd Quarter 2012	18%	20%	100%
2nd Quarter 2012	23%	19%	97%
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 Third Quarter of 2012 has resulted in following performance in meeting required Staff Youth Ratios during waking hours:

- 6:00 am- 2:00 pm shift: 18% of events, 5% reduction
- 2:00 pm- 10:00 pm shift: 20% of events, 1% increase
- 10:00 pm- 2:00 am shift: 100% of events, 3% increase

DRC Agency 1:1 Supervision Events:

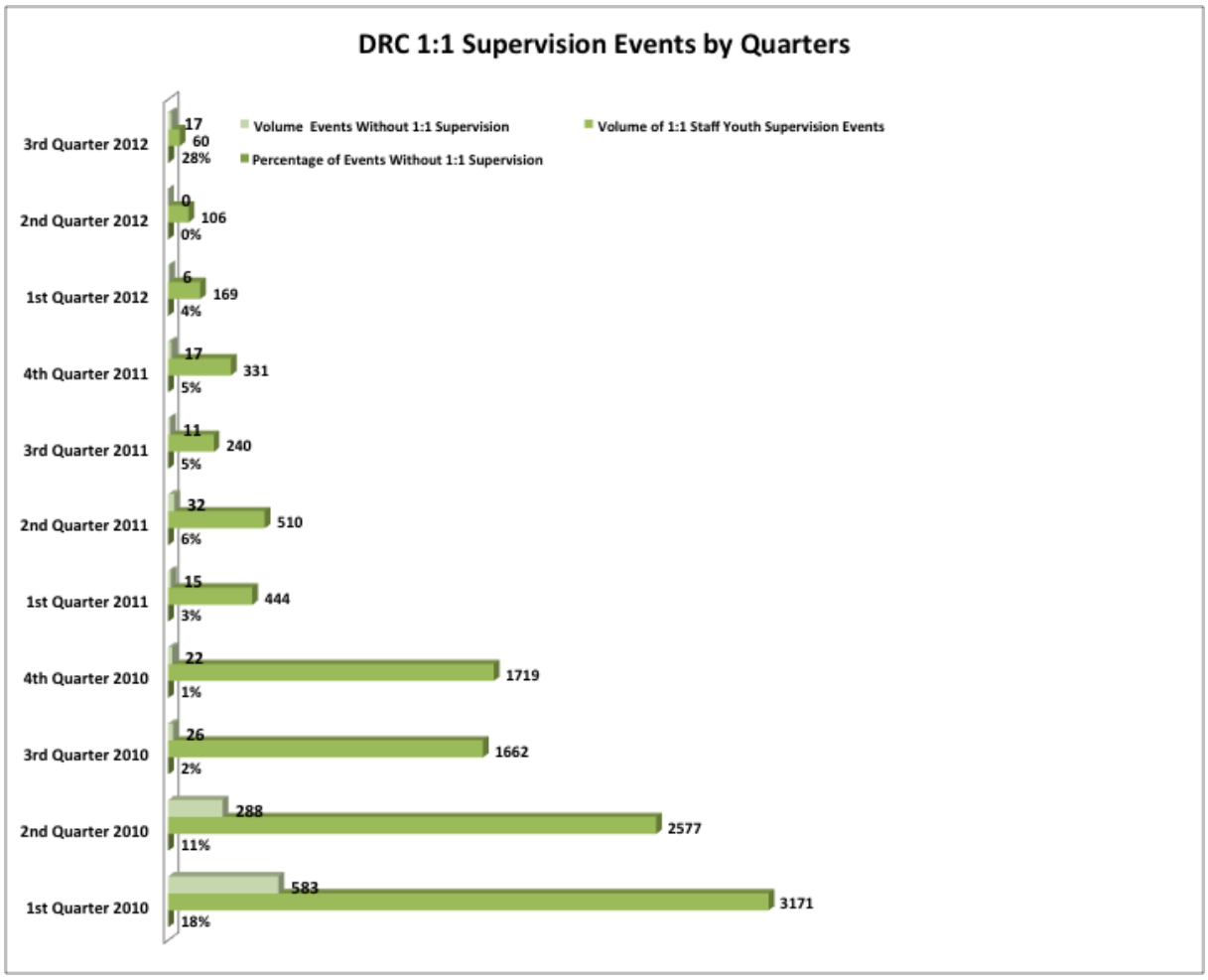
From the First Quarter of 2010 through the Third Quarter of 2011, there had been a remarkable reduction in the volume of youth designated for 1:1 supervision.

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

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

Correspondingly, the Third Quarter of 2012 has a significant increase volume of these events without required 1:1 supervision, 17 events:

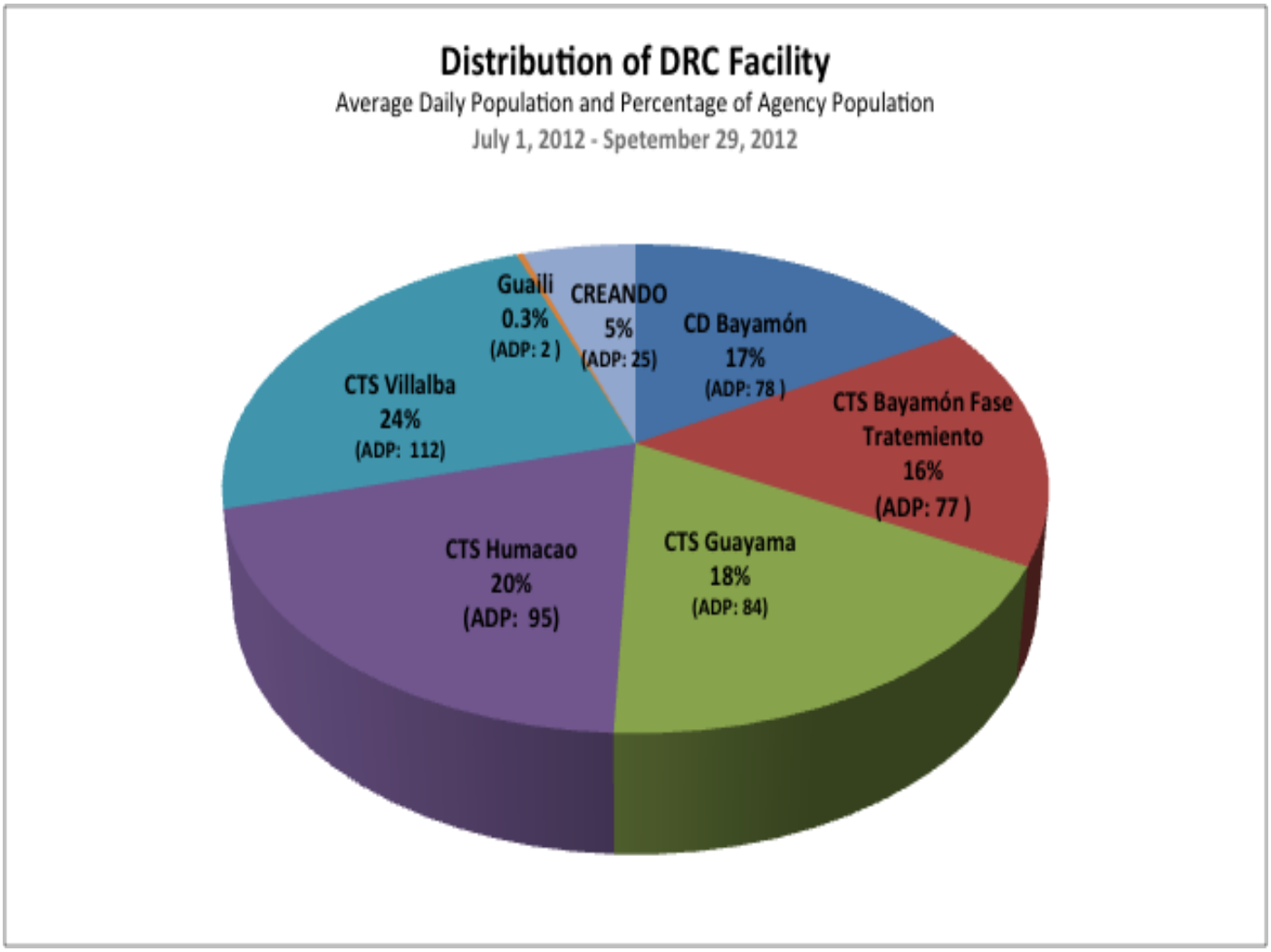
- 583 events 1st Quarter 2010
- 288 events 2nd Quarter 2010
- 26 events 3rd Quarter 2010
- 22 events 4th Quarter 2010
- 15 events 1st Quarter 2011
- 32 events 2nd Quarter 2011
- 11 events 3rd Quarter 2011
- 17 events 4th Quarter 2011
- 6 events 1st Quarter 2012
- 0 events 2nd Quarter 2012
- 17 events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



DRC Average Daily Population:

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

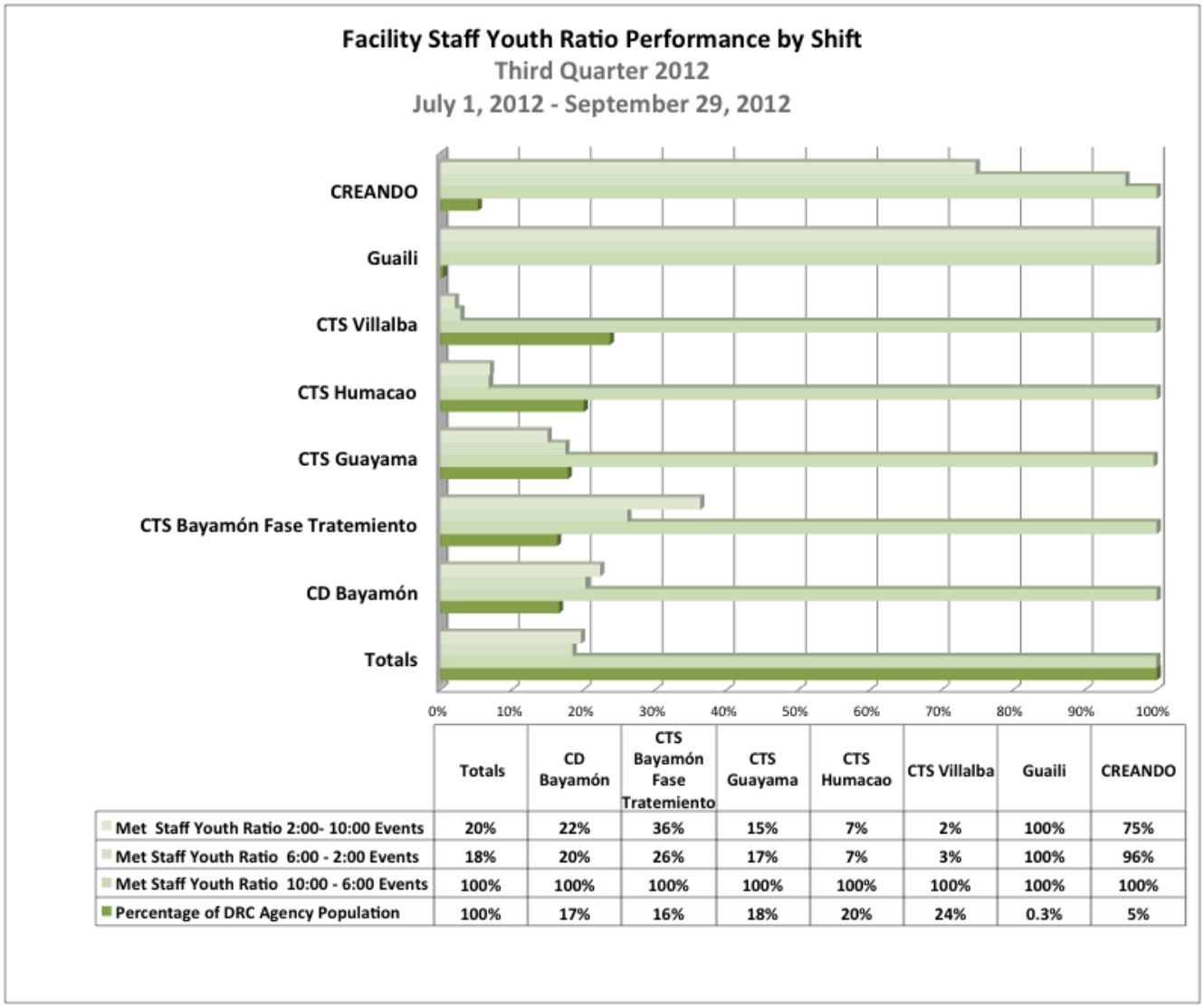
The table below displays each facility's average daily population for the reporting cycle (July 1, 2012 thru September 29, 2012) as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



Facility Staff Youth Ratio Performance by Shift:

The staff youth ratio analysis below represents the staffing information received for the period from (July 1, 2012 thru September 29, 2012 (13 weeks). The dark green bar for each facility represents the proportionate average daily population that facility contributes to the DRC average daily population. The table of average daily population can be found on page 15 of this report.

During the Third Quarter reporting period ((July 1, 2012 thru September 29, 2012), CTS Guayama, CTS Humacao and CTS Villalba have the largest volume of deficiencies meeting the staffing youth ratio, representing 62% of the DRC youth population.



	Totals	CD Bayamón	CTS Bayamón Fase Tratemiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	CREANDO
Met Staff Youth Ratio 2:00- 10:00 Events	20%	22%	36%	15%	7%	2%	100%	75%
Met Staff Youth Ratio 6:00 - 2:00 Events	18%	20%	26%	17%	7%	3%	100%	96%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%	100%	100%	100%	100%	100%	100%	100%
Percentage of DRC Agency Population	100%	17%	16%	18%	20%	24%	0.3%	5%

CD Bayamón Staff Youth Ratio Analysis:

July 1, 2012 thru September 29, 2012

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

At this time all of the detention youth population is expected to meet the following Staff Youth ratios:

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

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

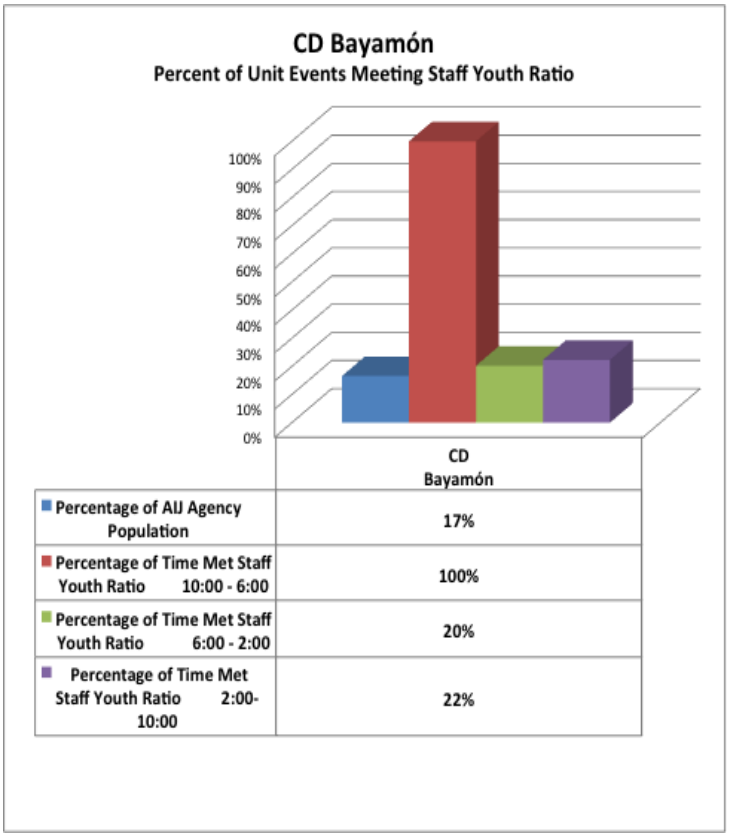
- **Volume of Staff Youth Ratio Events: 2089**
- **Volume of Staffing Events with Staff Working a Double Shift: 191 (9%)**

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

- **10:00pm - 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: a 10% increase since 2012 Second Quarter reporting**
- **2:00 pm – 10:00 pm: a 11% increase since 2012 Second Quarter reporting**

Volume of Weeks Analyzed: 13

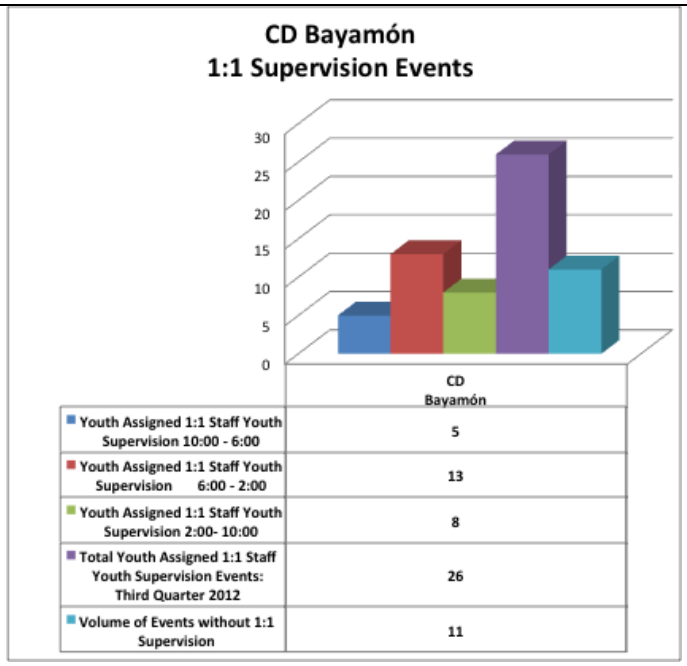
Volume of Days Analyzed: 91



****CD Bayamón contributed 26 of the 60 (43%) DRC 1:1 supervision events for the Third Quarter reporting period.**

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

Volume of 1:1 Events Without Required staffing during reporting period: **11**



CTS Bayamón Fase Tratemiento Staff Youth Ratio Analysis:

July 1, 2012 thru September 29, 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

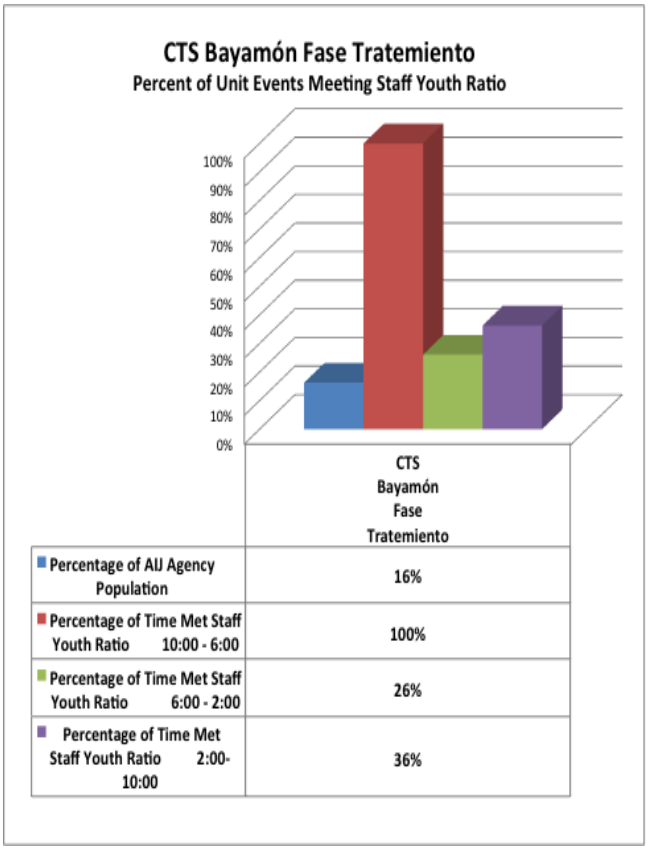
- **Volume of Staff Youth Ratio Events: 1996**
- **Volume of Staffing Events with Staff Working a Double Shift: 246 (12%)**

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

- **10:00pm- 6:00am: maintained 100% required staff youth ratio**
- **6:00 am – 2:00 pm: a 8% reduction in meeting staff youth ratio requirements since the Second Quarter reporting**
- **2:00 pm – 10:00 pm: a 1% reduction in meeting staff youth ratio requirements since the Second Quarter reporting**

Volume of Weeks Analyzed: 13

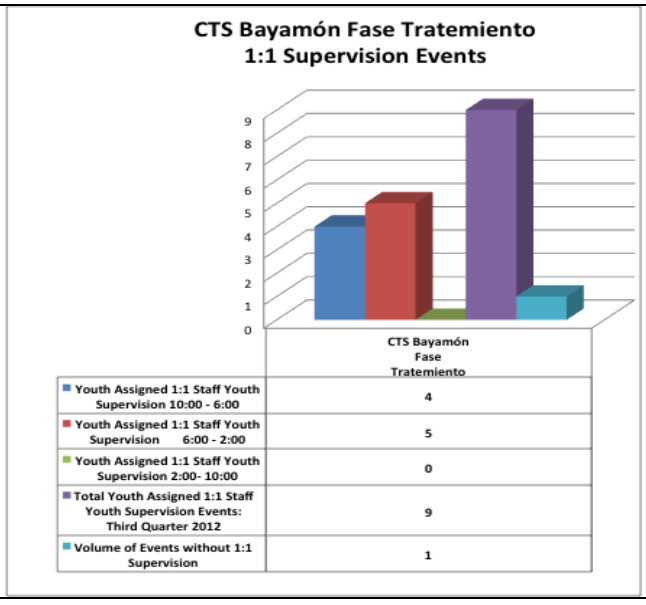
Volume of Days Analyzed: 91



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

9 youth supervision events for the Third Quarter of 2012

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



CTS Guayama Staff Youth Ratio Analysis:

July 1, 2012 thru September 29, 2012

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

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

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

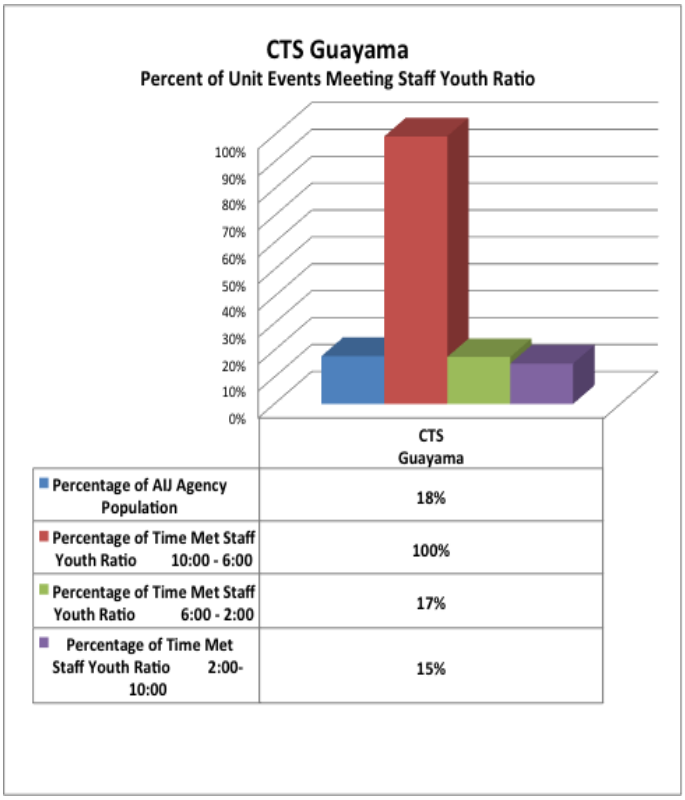
- **Volume of Staff Youth Ratio Events: 1990**
- **Volume of Staffing Events with Staff Working a Double Shift: 255 (13%)**

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

- **10:00pm- 6:00am: maintained 100% since 2012 Second Quarter reporting period**
- **6:00 am – 2:00 pm: a 5% reduction since 2012 Second Quarter reporting**
- **2:00 pm – 10:00 pm: a 67% reduction since 2012 Second Quarter reporting**

Volume of Weeks Analyzed: 13

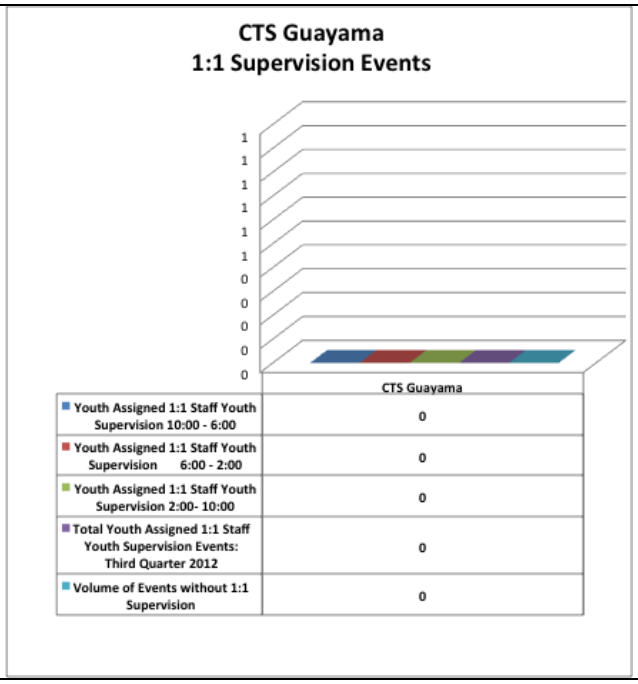
Volume of Days Analyzed: 91



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

July 1, 2012 thru September 29, 2012

Level 4 Facility:

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

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

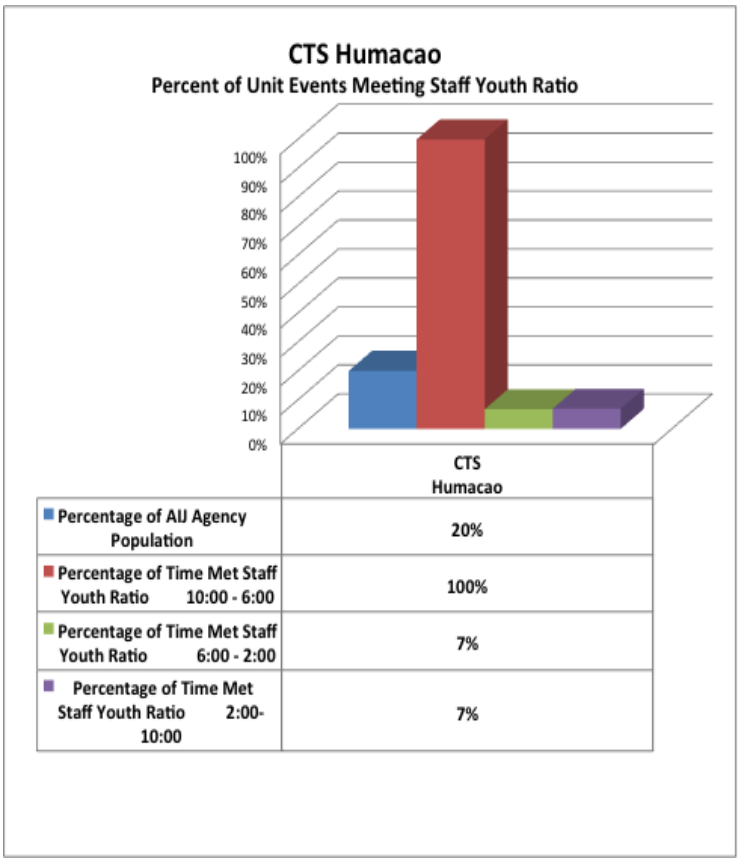
- **Volume of Staff Youth Ratio Events: 2160**
- **Volume of Staffing Events with Staff Working a Double Shift: 314 (15%)**

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

- **10:00pm- 6:00am: maintained at 100%**
- **6:00 am – 2:00 pm: a 1% increase since 2012 Second Quarter reporting**
- **2:00 pm – 10:00 pm: a 6% increase since 2012 Second Quarter reporting**

Volume of Weeks Analyzed: 13

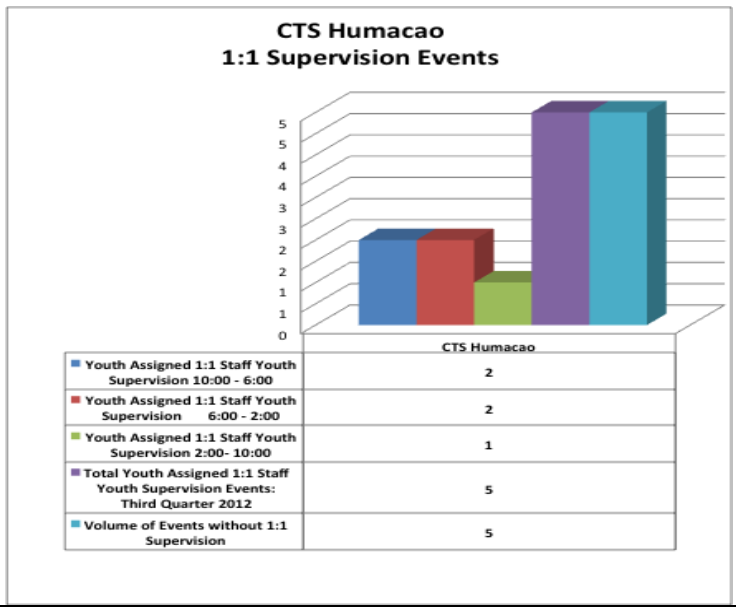
Volume of Days Analyzed: 91



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

5 youth supervision events for the Third Quarter of 2012

Volume of 1:1 Events Without Required staffing during reporting period: **5**



CTS Villalba Staff Youth Ratio Analysis:

July 1, 2012 thru September 29, 2012

Level 5 Facility:

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

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

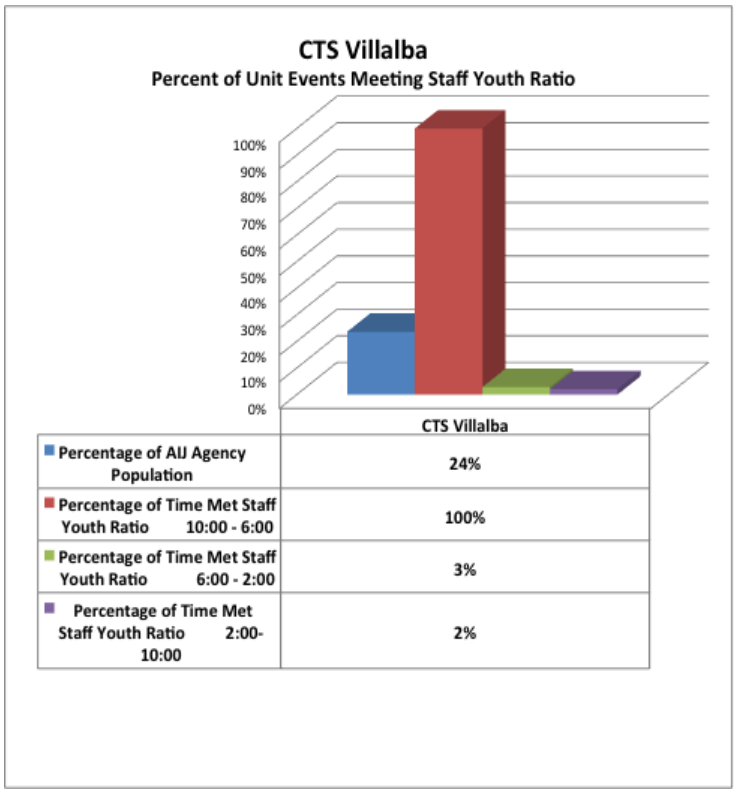
- **Volume of Staff Youth Ratio Events: 2020**
- **Volume of Staffing Events with Staff Working a Double Shift: 225 (10%)**

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

- **10:00pm- 6:00am: maintained at 100%**
- **6:00 am – 2:00 pm: a 26% reduction since 2012 Second Quarter reporting**
- **2:00 pm – 10:00 pm: an 7% reduction since 2012 Second Quarter reporting**

Volume of Weeks Analyzed: 13

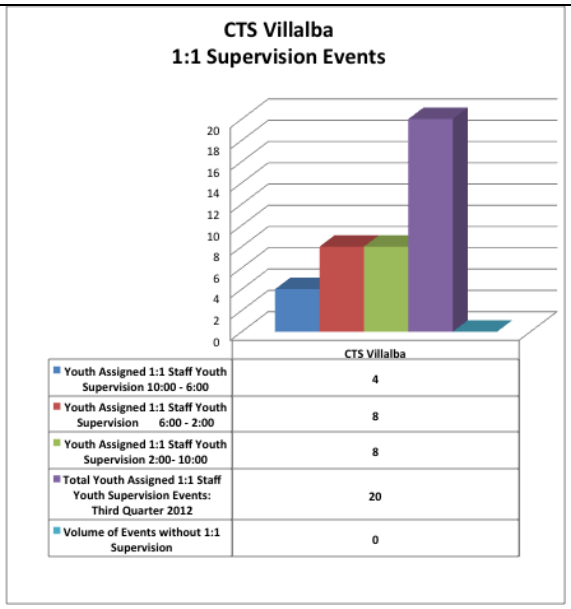
Volume of Days Analyzed: 91



Average volume of youth assigned 1:1 staff youth supervision per reported day**: 0.07**

20 youth supervision events for the Third Quarter of 2012

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



Guaili Staff Youth Ratio Analysis:

July 1, 2012 thru September 29, 2012

Level 2 Facility:

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

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

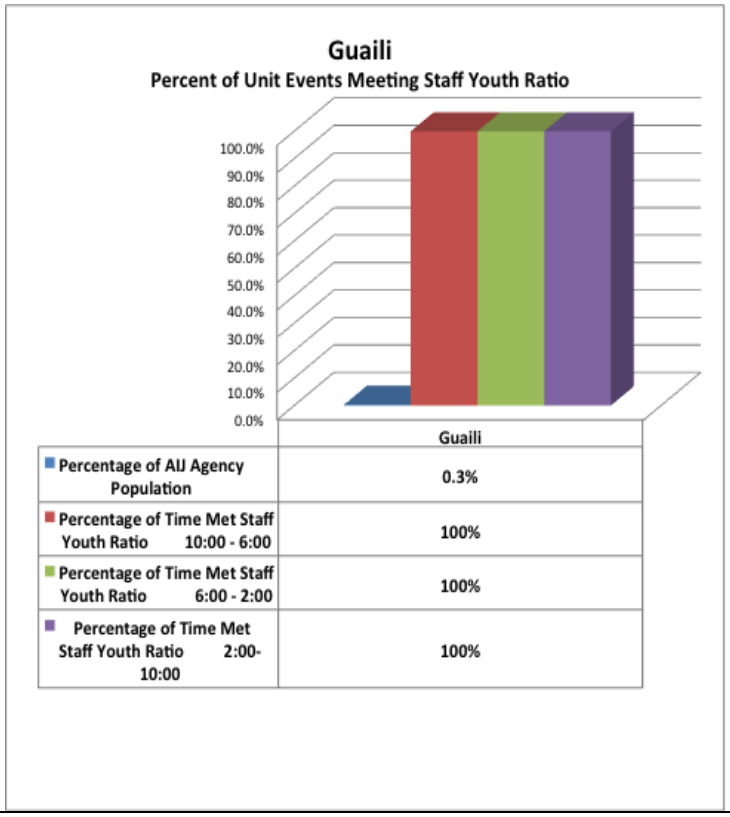
- **Volume of Staff Youth Ratio Events: 273**
- **Volume of Staffing Events with Staff Working a Double Shift: 103 (38%)**

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

Guaili represents 0.3% of the DRC institutional population.

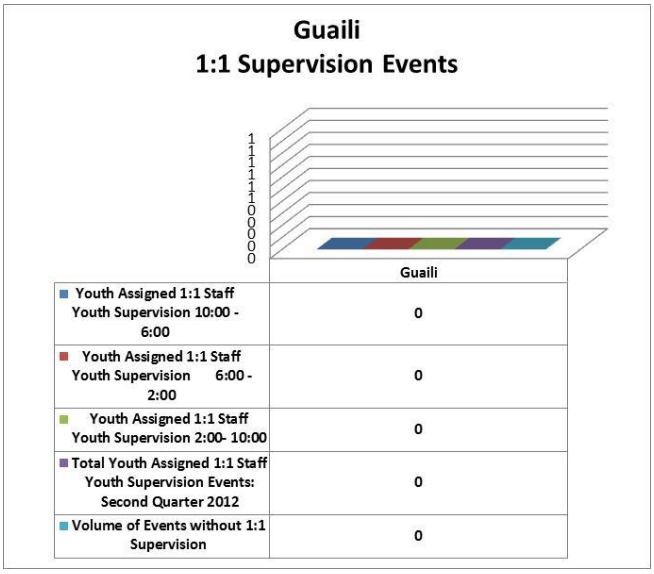
Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



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

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



CREANDO Staff Youth Ratio Analysis:

July 1, 2012 thru September 29, 2012

Level 2 Facility:

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

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

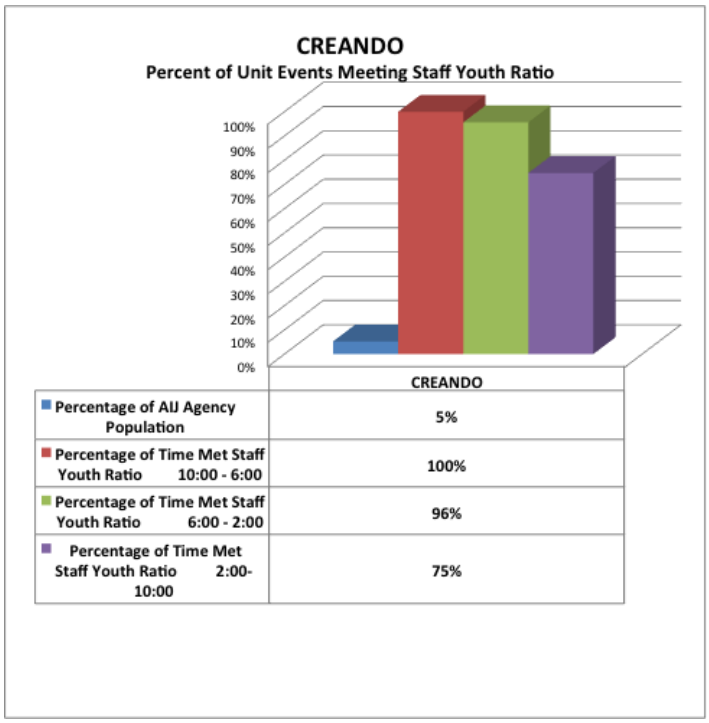
- **Volume of Staff Youth Ratio Events: 273**
- **Volume of Staffing Events with Staff Working a Double Shift: 3 (1%)**

For the Third Quarter reporting period, CREANDO was in operation for 91 days of the reporting period.

CREANDO represents 5% of the DRC institutional population.

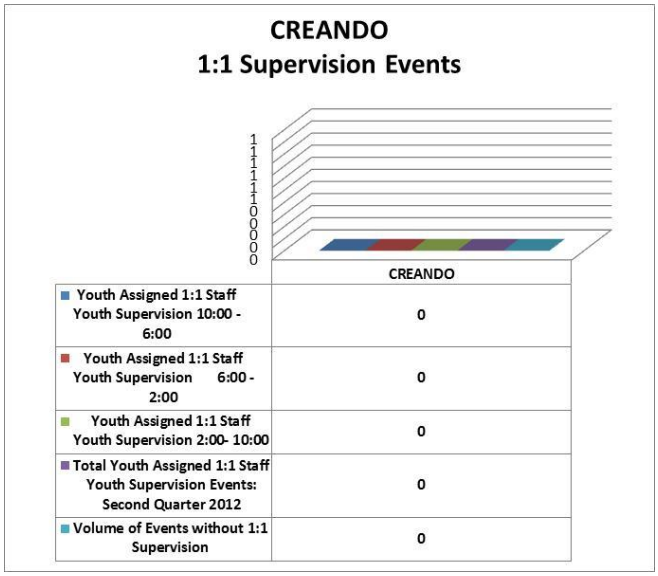
Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



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

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



Facility Table of Shift Compliance with Staff Youth Ratio:

Third Quarter 2012 Staff Youth Ratio Performance by Shift	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ Agency Population	Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	Percentage of Time Met Staff Youth Ratio 2:00- 10:00	Average Daily Population
CD Bayamón	100%	17%	100%	20%	22%	78
CTS Bayamón Fase Tratemiento	100%	16%	100%	26%	36%	77
CTS Guayama	100%	18%	100%	17%	15%	84
CTS Humacao	100%	20%	100%	7%	7%	95
CTS Villalba	100%	24%	100%	3%	2%	112
Guaili	100%	0.3%	100%	100%	100%	2
CREANDO	100%	5%	100%	96%	75%	25

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

Third Quarter 2012 Youth Assigned 1:1 Supervision	Percent of Staff Youth Ratio Forms Received	Percentage of AIJ Agency Population	Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	Total Youth Assigned 1:1 Staff Youth Supervision Events:	Volume of Events without 1:1 Supervision	Volume of Days Analyzed
CD Bayamón	100%	17%	5	13	8	26	11	91
CTS Bayamón Fase Tratemiento	100%	16%	4	5	0	9	1	91
CTS Guayama	100%	18%	0	0	0	0	0	91
CTS Humacao	100%	20%	2	2	1	5	5	91
CTS Villalba	100%	24%	4	8	8	20	0	91
Guaili	100%	0.3%	0	0	0	0	0	91
CREANDO	100%	5%	0	0	0	0	0	91
Totals	100%	100%	15	28	17	60	17	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	Ponce Ninas
July 1 -July 7, 2012	9/13/2012	7/20/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012
July 8 -July 14, 2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012
July 15 -July 21, 2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012
July 22 -July 28, 2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012
July 29 -August 4, 2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/19/2012	9/13/2012	9/21/2012	9/13/2012
August 5 -August 11, 2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012
August 12 -August 18, 2012	9/13/2012	9/19/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/28/2012	9/13/2012
August 19 -August 25, 2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012
August 26- September 1, 2012	9/19/2012	9/28/2012	9/13/2012	9/13/2012	9/13/2012	9/13/2012	9/19/2012	9/13/2012
September 2- September 8, 2012	9/21/2012	9/28/2012	9/19/2012	9/19/2012	9/19/2012	9/19/2012	9/19/2012	9/28/2012
September 9 - September 15, 2012	9/21/2012	9/28/2012	9/21/2012	9/21/2012	9/21/2012	9/21/2012	9/21/2012	9/21/2012
September 16 - September 22, 2012	9/28/2012	10/4/2012	9/28/2012	9/28/2012	9/28/2012	9/28/2012	9/28/2012	9/28/2012
September 23 -September 29, 2012	10/8/2012	10/4/2012	10/4/2012	10/4/2012	10/4/2012	10/4/2012	10/4/2012	10/4/2012
	13	13	13	13	13	13	13	13
Volume of Forms Submitted	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

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

Dates of Reporting Period	CD Bayamon	CTS Bayamón Fase Tratamiento	CTS Guayama	CTS Humacao	CTS Villalba	Guaili	Program CREANDO
July 1 -July 7, 2012	88	76	85	95	113	2	25
July 8 -July 14, 2012	77	95	85	96	111	2	25
July 15 -July 21, 2012	63	86	86	97	113	2	25
July 22 -July 28, 2012	71	78	85	96	112	1	25
July 29 -August 4, 2012	66	80	87	93	112	1	25
August 5 -August 11, 2012	74	80	87	95	110	2	25
August 12 -August 18, 2012	75	80	80	96	112	2	25
August 19 -August 25, 2012	84	80	82	89	113	1	25
August 26- September 1, 2012	76	72	82	90	113	1	25
September 2- September 8, 2012	103	75	80	95	111	1	25
September 9 - September 15, 2012	78	73	80	94	111	1	25
September 16 - September 22, 2012	71	63	93	97	112	2	25
September 23 -September 29, 2012	94	64	82	98	112	2	24
Totals	1020	1002	1094	1231	1455	20	324
Percentage of AIJ Agency Population	17%	16%	18%	20%	24%	0.3%	5%

Document Attachment C:
Report on Operations Provisions

United States of America v. Commonwealth of Puerto Rico

Third Quarter 2012

Prepared by Monitor's Consultant David M. Bogard

October 9, 2012

During this quarter I visited three DCR facilities-CTS Villalba, CTS Humacao, and Ponce Ninas (including Guaili) on August 21-22. In addition, my colleague Michael Gatling, visited three other facilities between September 17-19 CTS Guayama, CTS Bayamon, and CD Bayamon, plus CTS Villalba (for a second time this quarter).

Along with Monitor's Consultant Bob Dugan, on August 21 I met with representatives of DCR, including Aida Burgos, Miguel Segura, Raul Cepeda, Nelson Echevarria and Taraneh Ferdman at the Monitor's office.

The following is a summary of key observations and recommendations resulting from these site visits and the August 22 meeting.

Meeting with DCR

1. DCR provided final drafts of a new Use of Force Log and a new Infirmary Restraints Log. It was agreed that the pilot test of the new instruments would continue at Humacao through the end of September. Aida Burgos committed to ensure that training will be provided to compliance officers and nurses at all institutions, and the new forms were to be officially implemented systemwide by September 29. The forms will be maintained in Excel and will be submitted along with each facility's staffing workbook that is submitted to Aida Burgos and transmitted to Bob Dugan.

2. David Bogard and Bob Dugan are continuing their quality assurance process to determine the reliability and validity of the use of force data being reported with the staffing workbooks. They have been identifying numerous discrepancies as reported data is checked against source documents, including the incident reports, use of force logs, and infirmary mechanical restraint logs.

3. Modifications to the Incident Report format are required to incorporate improvements and better respond to how the form is used in practice. The primary change that is required concerns the ability to document all actions taken and distinguish whether the report writer personally took those specific actions or observed them. Aida committed to implementation of a revised form and/or new training to be in place by September 29.

4. Policy 9.18, which governs use of force, should be revised as follows:
    a. Youth subject to any form of restraint-chemical, mechanical (excluding outside transports), or physical (the policy does not currently require this after physical restraints)-must be escorted to the infirmary for evaluation, treatment and documentation.

b. Any time a youth is brought to the infirmary as a result of any form of restraints being used, medical staff will complete the Infirmary Restraints Log. All required fields must be completed.
c. The Shift Supervisor will carefully review all incident reports prepared by staff after use of force incidents to insure that all fields are completed properly, that staff clearly identify what they did versus what they observed, and narratives are completed where necessary to further explain check boxes and other fields, e.g., if staff witnessed an action taken by another, the narrative should identify the persons who took the action.
d. The Shift Supervisor will complete all fields in the Use of Force Log.

5. Requirements for 15-minute safety checks should be clarified in a training memorandum and in policy as follows:
   a. 15-minute safety check forms must be posted on or next to the youth's door and entries made only when the officer arrives at that location and actually checks on the youth's status. The actual time the check occurred must be documented on the form.
   b. Safety checks must be made once in every 15-minute increment. They should not be made routinely on the hour, at 15 minutes after, 30 minutes after and 45 minutes after (as current pre-printed forms encourage into practice.)

Site Visit-Humacao (David Bogard- August 21)

1. Compliance Officer Nelson Echevarria has been actively reviewing incident reports involving use of force and following up with staff concerning discrepancies. He has been writing memoranda to the files with clarifications.
2. It appears that the number of incidents in which OC is being used has decreased substantially. While there were 52 juveniles subjected to OC in the first quarter, that number was reduced to 17 in the second quarter and there were only three in the first half of the third quarter (July 1-August 21). Director Rodriguez explained that the reduced incidence of youth with razor blades (due to more shakedowns and searches) and the emphasis to staff that OC should be a "last resort" have been the primary reasons for the drop in use of OC.
3. In response to the escape in May, Director Rodriguez issued a memorandum on May 14 authorizing staff to move youth in leg irons during the second shift. This was attributed to a shortage of staff and the absence of working cameras in the facility's courtyard, which was the location of the escape. Although policy contemplates movement in restraints for specific security reasons, it does not, and should not, permit this on an extended and routine basis as a reaction to short staffing or a lack of physical security such as cameras and razor wire. While funds were made available to enhance the razor ribbon in the courtyard, there is an urgent need for several security cameras in that area. I understand that a request for cameras was submitted to central office some time ago and I strongly recommend that DCR make funding and installation of the necessary cameras a priority so that the unacceptable practice of routinely moving youth in leg irons can be discontinued.

4. I continue to observe major inconsistencies as to how 15-minute room check logs are maintained. Some are placed on or next to the youth's door, while others are maintained on a clipboard that is placed on a dayroom table or is carried by the officer. In most cases, supervisors are not signing the logs indicating their review and in many cases the listed times clearly do not indicate the actual time the check was made.

Site Visit-Ponce Ninas (David Bogard- August 22)

1. Two girls were being housed in Admissions under the direct observation of an officer- one was on Transitional Measure status and the other on Protective Custody. DCR policies 17.19 and 17.20 specifically prohibit the housing of youth in either of these statuses in the Admissions area.

2. We found discrepancies between information recorded on the use of force log and that which was reported to Bob Dugan through Aida. In fact, after reviewing the log and various incident reports, it appears that the use of force log was missing entries and that the data reported was more accurate.

Site Visit- Villalba (David Bogard- August 22)

1. While I note that we have seen what we believe to be more use of force data reporting in the second quarter, there are still major documentation and data reporting discrepancies. During the *second* quarter we found 7 use of force events, involving 27 youth, which were reported on the Use of Force log but were not reported as data to Bob Dugan via Aida.

2. I am most concerned about the use of force reporting associated with a June 30 incident report that I reviewed to verify information on the use of force log. While the log indicated that the force involved youth being held and taken to the floor, not one of seven incident reports indicated that any force was used. The discrepancy between the log notations and the reporting by seven officers, including a supervisor, is troubling and deserves diligent follow-up to determine why not one officer or supervisor reported using force in their incident report.

Site Visit- CTS Guayama (Michael Gatling- September 19)

1. While the quarterly data on the number of transitional measures cases at Guayama decreased this quarter (there were three placements this quarter versus 7 and 16 in the previous periods) there are not appropriate locations in which to house juveniles in this status. Living Unit 3 is not an acceptable location for TM housing because the cells have bars, there is not continuous supervision, there are no security cameras in the cells and the sight lines are poor in relation to the officer's work station . In addition, on the day that Mr. Gatling was present, the safety check log showed a two-hour gap of observations.
2. Staff making entries in the Use of Force log are documenting that all or most youth in the housing unit in which the force was used were subjected to the force, even when it was actually only one or two that force was used against. This dynamic was revealed by checking Use Of Force log entries against incident reports. This is confusing the review of data and incidents and causing over-reporting of use of force instances.

Site Visit- CD Bayamon (Michael Gatling- September 17)

1. It appears that staff may be reporting as "use of force" instances of physical contact with juveniles that do not actually constitute force. For example, in one incident on September 11, a youth was being attacked by other youths and the only physical contact between staff and youth was the officer carrying the victim to remove him from the scene; this is not a use of force.

Site Visit- CTS Bayamon (Michael Gatling- September 17)

1. The same use of force reporting practice occurring at CD Bayamon appears to be happening at CTS. When a youth was being attacked by others on July 15 in the Yellow Unit, staff appropriately stepped in

and held the victim to protect him from further stab wounds. The use of force log incorrectly listed the youth who was held for protection as the subject of a use of force encounter with staff.

2. On September 4 a youth was severely beaten by three other youth in the Orange Unit, resulting in the victim undergoing surgery. The apparent aggressors were transferred to Villalba and Humacao, without any disciplinary charges being filed against them, either by staff at CTS Bayamon or by the institutions to which they were transferred. While the incident was referred to police, and presumably charges will be filed, aside from the transfers to a more secure facility, there was no institutional discipline and no measures taken to impose more stringent supervisory controls or housing environment. Not only does this mean that the youths were not held accountable, but no measures were taken to protect other youths from these youths, who clearly showed the propensity toward violence they were capable of.

Site Visit- Villalba (Michael Gatling- September 18)

1. On August 22, we advised Villalba administration that we had reviewed the June 30 incident in which force was used according to the Use of Force log although none of the seven incident reports documented this. When Mr. Gatling returned to the facility on September 18 he was informed that an orientation was provided for the seven staff involved in the incidents, an incident report checklist was developed for use by the supervisor, yet no report supplements or amendments were submitted to update and correct the missing documentation on the June 30 case.

Quarterly Data Trends

1. Validation of data being reported by DCR juvenile facilities continues to be a time consuming process. There continue to be variances between data being reported and that which is found at the institutions in logs and incident reports.
2. With respect to the use of physical restraints, two issues in particular warrant further review as they may be resulting in over-reporting. First, it appears that when there are large numbers of youth present or even involved in an incident, that is the number that is reported as subjected to physical restraint although force may actually have only been used against one or two. Second, there may be instances in which a youth is attacked by one or more other youths and staff intervene by holding the victim to shield him from the aggressors or to remove him from the scene, yet the data is reporting the physical contact with the victim as a use of force. Our review of reported data against the source documents (use of force logs and corresponding incident reports) has revealed these concerns.
3. Based on data received from DCR for July-September:

    - The systemwide number of Transitional Measures placements was far lower than in the previous two quarters, due in large part to a substantial decrease at Humacao.
    - The number of Protective Custody placements was reduced this quarter , with the biggest decreases at Ponce Ninas and Guayama
    - Only two facilities have reported use of mechanical restraints the past two quarters-Ponce Ninas and Humacao; both showed significant decreases this quarter.
    - With regard to OC usage, Humacao continues to account for the vast majority of systemwide incidents, with 100% this quarter. That said, the usage at Humacao is higher than the second quarter, but far less than the first quarter.
    - Until the data issues discussed in #2 above can be resolved, it is of no utility to discuss any trends relative to physical restraints.

P-74 Disciplinary Hearing Evaluation

The six month long effort to review disciplinary hearings relative to P-74 compliance requirements has now been completed and will be submitted under separate cover. There are other aspects of P-74 that remain to be reviewed, including the usage of pre-hearing segregation and the availability of up-to-date notice to juveniles relative to rules and potential sanctions.

Document Attachment D:
Report on Disciplinary Hearings

United States of America v. Commonwealth of Puerto Rico
Evaluation of DCR Juvenile Disciplinary Hearing Process (P-74)
Prepared by Monitor's Consultant David Bogard[1]
October 22, 2012

I. Introduction

This evaluation was undertaken to determine the status of compliance on the part of DCR juvenile facilities with the due process/disciplinary hearing component of P-74. P-74 reads as follows:

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. (emphasis added)*

This evaluation focuses exclusively on the highlighted portion of the provision that relates to the hearing process. Additional review is required to assess compliance relative to the two remaining components of the provision, namely the specification of rules and sanctions,[2] and the use of pre-hearing segregation. As such, nothing contained in this report should be taken to suggest that this supports a finding of compliance relative to P-74 as a whole. In fact, notwithstanding any positive findings set forth herein, I continue to rate this provision as non-compliant.[3]

II. Methodology

1. We first reviewed relevant documents (e.g., Settlement Agreement, DCR Juvenile Chapter 15 policies, current youth handbook, disciplinary reports, associated incident reports, copies from logbook entries, the disciplinary officer's checklist of procedures-to-follow and current staff practices).
2. During site visits from March 26-30, 2012, a prototype data collection instrument was field-tested, including an initial attempt to observe and record how disciplinary hearings were being conducted at each facility. In advance of the trip to test the prototype instrument, the Monitor's Office staff contacted the facility directors and compliance officials at each facility to arrange for the Monitor's Consultant and staff to observe 3-5 disciplinary hearings during our site visit of their respective facility. Despite diligent attempts to coordinate arrangements so disciplinary hearings could be observed, we were only able to view one disciplinary hearing at one facility (i.e., Humacao).

[1] I was assisted by my associate, Michael Gatling, who made site visits in March and September 2012 in conjunction with this effort. In addition, all data collection and facility observations were performed by Deputy Monitor Javier Burgos and Associate Monitor, Ricardo Blanco.
[2] I note that the Court has previously dismissed P 47, requiring a juvenile handbook setting forth institutional rules and sanctions, and P-75, which required that the handbook describe the grievance process.
[3] My 2012 Third Quarterly Report rated non-compliance on policy, staffing, training and resources.

3. In April 2012, the Monitor's Consultant, in cooperation with the Monitor's Office staff, built on the prototype and prepared a19-item questionnaire/ checklist entitled "Review of DCR Juvenile Disciplinary Hearing Process." (see Attachment)
4. From June through September 2012 the Monitor's Office staff, in consultation with the Monitor's Consultant, applied the Disciplinary Hearing Process checklist at the facilities. The scope of activities included interviewing each facility's designated disciplinary officer, and (wherever possible) observing at least 1-2 disciplinary hearings at each facility. A total of 11 disciplinary hearings were observed and evaluated as follows:
    - Humacao-1
    - Villalba- 2
    - CTS Bayamon-1
    - CD Bayamon-1
    - CTS Guayama-3
    - Ponce Ninas-3

DCR representatives were made aware of this initiative during meetings with the Monitor's Consultant in June and August, as well as in site visit reports submitted after each of those meetings.
Unfortunately, the overall level of cooperation received from the DCR facilities was lacking. Despite the fact that many facilities conduct hundreds of disciplinary hearings each year, it was extremely difficult for Monitor's Office staff to observe any, notwithstanding their repeated efforts. This served to both prolong the length of this evaluation and limit the validity of its conclusions.

III. Findings supportive of compliance

1. DCR Juvenile's Policy 15.5, Disciplinary System, describes the disciplinary process including, in general terms, the timing requirements and conduct of the hearing.
2. At each facility, there is a designated disciplinary officer. The disciplinary officer is typically not assigned full-time to this position and may be also required to fulfill assignments related to shift coverage. The primary responsibilities of this position are to maintain the discipline logbook, use the current *Lista De Cotejo Sistema Disciplinario* form to track the steps pertaining to due process in accordance with applicable policies related to discipline under Chapter 15. The responsibilities of this staff person also include: deliver timely written notice to the affected youth of the rule violation(s); review incident reports and conduct timely investigations; obtain witness statements; present the case to the disciplinary hearing committee; ensure that the affected youth is afforded and receives notice of his/her right to appeal the decision of a disciplinary hearing committee; etc. The disciplinary officer does not participate as a member of the disciplinary hearing committee.
3. At each facility, there is a disciplinary hearing committee to hear cases involving charges alleging major offenses (*Falta Graves* and *Falta Extremas*) by youth. It is comprised of at least three members. Committee members are expected to be persons without direct involvement in the disciplinary incident. Disciplinary hearing committee members are not permanent assignments, but are selected for this ad hoc duty depending on the staff coverage and their particular functional positions and roles.

4. In each case evaluated, the youth was allowed to be present at the hearing and to present witnesses if desired. This practice is consistent with DCR Juvenile policy and the handbook.
5. Minor and moderate rules violations are typically not heard by the disciplinary committee unless they are repeated. Lower level violations are addressed by staff providing an orientation to youth and/or subject to a review by the Behavior Modification Treatment Team, which may adjust incentives available to the affected youth.
6. If a youth with mental health issues has committed a major rule violation that would otherwise result in a disciplinary hearing, there is a practice of referral to and evaluation by a mental health professional to determine whether that youth's assessed treatment needs, current competence to understand the consequences of his/her actions, and other safety considerations (e.g., suicide risks) would take potential precedence over the decision to initiate disciplinary hearing proceedings.
7. With rare exception, youth appearing before the disciplinary hearing committee voluntarily admit to their wrongdoing. Based on interviews with the disciplinary officer and self-reports by affected youth, their admission of guilt occurs because the youth hopes for leniency in the penalties they may receive (especially if the preponderance of physical or circumstantial evidence that could influence the disciplinary hearing committee's decision is not in their favor).
8. In none of the 11 cases evaluated did the youth request to appeal the disciplinary hearing committee decision. Upon inquiry after each observed hearing, youth reported that they felt they had been treated fairly by the disciplinary hearing committee. Youth indicated they were made aware (by the disciplinary officer) of their right to appeal the disciplinary hearing committee decisions to the facility director.

IV. Findings Supporting Ratings of Non-Compliance

1. Other than routine training received in the Academy, Disciplinary Officers generally do not receive any training specifically related to their assignments. The exception to this was at CTS and CD Bayamon where the officer assigned as disciplinary officer for the two facilities reported in August that Geovanny Alomar has been providing training to disciplinary officers related to due process and other topics.
2. Members of disciplinary committees, including staff who chair the hearings, receive no training at all in how to conduct such hearings, due process rights, DCR policy, etc. This results in problems to include:
    i. violations of policy regarding persons involved in incidents participating as a member of the committee; [4]
    ii. members of the committee believing that the maximum sanction must be imposed;[5]
    iii. committee members not knowing that each rule violation must be included in the notice to the juvenile;[6]
    iv. youth not being informed that they have three days to submit an appeal, during which sanctions will be suspended;[7]
    v. juveniles do not automatically receive a copy of the results of their disciplinary hearing, even if requested; [8] and

[4] This was observed at CTS Guayama on June 6.
[5] This was observed at CTS Villalba on August 3.
[6] This was observed at CTS Villalba on August 3.
[7] This was observed at CTS Humacao on June 18, Ponce Girls on September 6, CTS Villalba 0n August 3, etc.
[8] CTS Villalba did not have a copy machine to reproduce and provide a copy to the affected youth; in other facilities the issue is the quality of the copy.

vi. sanctions that do not comport with those permitted by DCR Policy or the youth handbook[9] (although all observed sanctions decided by disciplinary hearing committees and those reviewed in the disciplinary logbooks during this evaluation were within the established DCR Juvenile guidelines).

3. It is system-wide practice that while a youth may be charged, at the discretion of the disciplinary officer, with multiple Falta Grave and Falta Extrema rule violations, the disciplinary hearing committee only considers and renders a sanction for what is considered the most severe rule violation arising out of a single incident. For example, a youth can be charged with Use of a Fabricated Weapon and Robbery, which are both major offenses. The disciplinary hearing committee arbitrarily determines which of the equivalent charges to cite for purposes of sanctions. All other charges are dismissed (which is tantamount to findings of not guilty, except that they are simply ignored.) System-wide, these non-sanctioned charges are not resolved nor removed from the youth's file. This practice is inconsistent with a functional disciplinary system that holds youth accountable for their actions.
4. System-wide, there are variances with regards to whether the youth actually receives and is permitted to retain a copy of the completed disciplinary report form (*Reporte Disciplinario Del Joven*) as required by DCR Policy. It appears that the youth is merely verbally notified of his rule violation and their due process rights by the disciplinary officer. The youth then signs the disciplinary report form and a copy is placed in the file maintained by their social worker. The youth is permitted to ask their social worker to review the copy as needed to prepare for their disciplinary hearing.
5. The current practice of not charging youth who commit violent acts with major rule violations and instead immediately transferring them to a higher security level facility is untenable. These incidents are not resulting in a disciplinary investigation or due process hearings prior to the youth being transferred, and neither process occurs at the receiving institution, which is not well positioned to do so in any event.[10] In such a case, a youth will likely be subject to a criminal investigation and possibly additional charges, although the criminal process is slow and should not be used to substitute for internal disciplinary measures and associated documentation that is necessary for classification decisions and even release determinations. In fact, it is not uncommon for the victim to refuse to press charges with the police, which results in the offending youth receiving no consequences at all for his behavior. This practice is inconsistent with a functional disciplinary system that holds youth accountable for their actions and provides consequences for maladaptive behavior.
6. The Monitor's Consultant discovered (March 26-30, 2012) and verified (April 2012) that DCR Juvenile had instituted a practice that permits the use of a Group Disciplinary Sanction (via the *Sistema Disciplinario Modificacion de Grupal* form), which authorizes the facility directors to impose Limited Dayroom Access as a group sanction. As revised, Policy 15.5(II.17) authorizes the use of this sanction. DCR Juvenile produced a PowerPoint presentation and issued a compact disc to each facility that was designed to serve as training and guidance for them to implement this form of group punishment. This

[9] While this did not occur during this evaluation, this has been observed previously.

[10] During our site visit on September 17, 2012, the compliance officer and disciplinary officer made us aware of a case involving a youth (victim: Kenneth Cruz Rodriguez) who was severely assaulted with a fabricated weapon (i.e. a faucet head in a sock) by three other youth (aggressors: Alexis Reyes-transferred to Villalba; Josue Santiago and Jamie Steel-transferred to Humacao) . The victim required hospital transport for severe injuries sustained to his face and was assigned to the medical infirmary housing at the time of our visit. The aggressors did not receive any discipline for their alleged actions.

policy and practice is inconsistent with the due process and individual accountability necessary for an effective disciplinary system under this provision.[11]

V. Recommendations To Enhance Compliance Efforts

1. DCR Juvenile Central Office should provide targeted and continuous training to disciplinary officers. Such training should be current and include revisions and updates to applicable policies and procedures pertaining to the disciplinary system when they become effective.
2. Members of each facility's disciplinary hearing committee should receive formal training in the form of guidelines from DCR Juvenile Central Office concerning how to execute their duties and responsibilities with respect to due process and the limits on their authority to sanction youth. This is necessary to insure consistency and uniformity in terms of how the hearing process occurs at all facilities.
3. Policy 15.5should be revised to require the disciplinary hearing committee to consider and render a sanction for each charge when the disciplinary officer documents multiple Falta Grave and Falta Extrema rule violations.
4. DCR Juvenile should review and revise Policy 15.5 to incorporate periodic updates to the disciplinary system pertaining to due process, including forms such as the *Lista De Cotejo Sistema Disciplinario* procedural form[12] used by each facility's disciplinary officer.
5. In order to insure that due process protections are consistently afforded to youth who appear before disciplinary boards, DCR Juvenile should determine how to achieve continuity in representation on the disciplinary hearing committee at each facility. Review whether at least one member of the disciplinary hearing committee should be permanently assigned based on the functional necessity of their role (e.g., Social Work Supervisor or Behavior Modification Program Coordinator).[13]
6. An additional recommendation pertaining to consistency in how hearings are conducted relates to the fact that during the course of the year, the designated disciplinary officer will need to take time off away from the job for any number of personal or administrative reasons. As such, facility directors should ensure that is an adequately trained alternate to execute the duties for this necessary function. While dismissing charges in the event of a delay is appropriate for due process purposes, this is avoidable and unacceptable especially when it could result in a youth who has seriously harmed another completely avoiding consequences.[14]

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[11] Despite the fact the facility directors reported (between March 26-30, 2012) that they believe the process is too cumbersome given its constraints, we believe the practice raises the following questions: 1) If this is a formal disciplinary measure, does each youth assigned to the living unit and subjected to the group LDA receive a disciplinary report?; 2) Does each youth in the living unit retain other due process rights including a right to appeal, and to whom?; 3) Is a copy of this type of discipline placed in the file of each youth assigned to the housing unit?; 4) Does this measure really hold each youth accountable for his/her own actions?; and 5) What is the impact of housing placement decisions depending on how long group LDA is in progress (e.g., Are new arrivals subject to the Group LDA or is the social worker constrained by not being able to make housing placements to the affected living units until this disciplinary measure is lifted?

[12] The most current version of the document in use is dated August 2011. We have been advised that a new version of this instrument is being piloted at Humacao and will soon be adopted systemwide after the experience at Humacao is considered.

[13] While there should be a minimum number to form a quorum for voting purposes regarding disciplinary decisions, there may be opportunities to have volunteers or other appropriate individuals trained to serve on disciplinary hearing committees in order to avoid having to dismiss a case because of delays resulting from the availability of sufficient staff.

[14] The right of youth to request to have copies of any disciplinary report expunged from their record (e.g., when there are delays resulting in the dismissal of charges or in cases of a not guilty verdict) should be addressed in DCR Juvenile policy and the Youth Handbook.

7. DCR should discontinue the practice of not charging youth who commit violent acts with major rule violations and instead simply transferring them to a facility that has a higher security level designation. Rather than immediately transporting these juveniles to another institution, DCR should avail itself of the opportunity set forth in the third portion of P-74, namely using pre-hearing segregation with an expedited investigation and disciplinary hearing. This option should be limited to emergency cases, where the offending youth is believed to have committed a particularly violent act, and the segregation must include 15 minute safety checks, visits by social workers, medical staff and other treatment and programmatic staff. While classification based transfers to higher security level institutions may well be necessary, they cannot be implemented in a manner that precludes investigation of the incidents and disciplinary sanctions imposed on the offending juvenile.
8. I recognize that facility administrators need some discretion to temporarily place restrictions (limited movement, lockdown, loss of television, etc.) on a module or facility as a result of a large scale incident, or series of incidents, in order to restore calm or permit an investigation to occur. These measures should be limited in time and should not be considered discipline that would be reflected in the youth's disciplinary records and classification.
9. Provisions should be made, whether by creating multipart forms or ensuring that there are working copy machines to insure that youth are able to receive and retain written notice of charges, disciplinary hearing findings, and copies of submitted appeals and responses.

Attachment-Evaluation Checklist

Facility: _____ **Date/Time of Hearing:** _____
Disciplinary Officer: _____ **Disciplinary Hearing Case #:**_____
Disciplinary Hearing Committee Members and Functional Areas: _____
_____
Name and Current Housing Location of Youth: _____
Youth's Name: _____
Violation(s) charged: _____
☐ **Guilty** ☐ **Not Guilty** ☐ **Case Dismissed** ☐ **Hearing Continued** ☐ **See comments below:**
Sanction(s): _____
Monitor's Observer(s): _____/_____

1. Does the youth receive a copy of the completed disciplinary report (D.R.) with the specific rule violation(s) listed from 15.8 and the Youth Handbook? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

2. Was the disciplinary hearing held within 7 business days? (If not, was it held within 15 business days with a good reason for the delay?) ☐ Yes ☐ No ☐ N/A ☐ See comments below:

3. Does the disciplinary officer (D.O.) present the specific rule violation and investigative results during the hearing? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

4. Does the D.O. participate as a member of the hearing committee? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

5. Were any of the disciplinary hearing committee members involved in the incident that resulted in a rule violation (either as a participant, witness, and/or while acting under the orders of a supervisor)? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

6. Is there is a designated chair for the disciplinary hearing committee? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

7. Has the disciplinary officer received formal AIJ training on the disciplinary system? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

8. Have all disciplinary hearing committee members received formal AIJ training on the disciplinary system? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

9. Did the disciplinary hearing chair explain the role of the committee, and that its decisions will be based on objective and verifiable evidence and circumstances? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

10. Was the charged youth present at the hearing? If not, why not? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

11. Was the charged youth permitted to call witnesses or present testimony? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

12. Was the sanction imposed by the disciplinary hearing committee listed exactly as written and described in 15.8 and the Youth Handbook? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

13. If there are multiple youth involved in a single incident, was <u>each</u> individual charged with a specific rule violation and does each receive their own disciplinary hearing? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

14. Was the youth made aware of the sanctions that were imposed by the disciplinary committee? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

15. Was the youth made aware of his/her right to appeal sanctions imposed by the committee? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

16. Did the youth request an appeal prior to the end of the hearing? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

17. Is the youth made aware that if he/she changes his/her mind prior to the 3-day notice for submitting an appeal that the sanction will be suspended pending the outcome of the appeal? ☐ Yes ☐ No ☐ N/A ☐ See comments below:

18. Did the youth receive a legible copy of the completed disciplinary hearing form following the hearing (or is it made available for his/her review upon request to his/her social worker?) ☐ Yes ☐ No ☐ N/A ☐ See comments below:

19. Briefly interview the youth to determine if she/he has been placed on pre-hearing detention or Transitional Measures (TM) for disciplinary reasons associated with the rule violation. Note reason(s) cited for pre-hearing or TM in conjunction with a rule violation.

_____

Add comments as necessary here. Refer to the question number above.

Document Attachment E:
Report on Incidents and Understaffing
July – September 2012

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

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

For each of these cases, the number of youth service officers present in the housing unit did not meeting the ratio requirement of Paragraph 48, which is the same requirement as standard 115.313 of the Prison Rape Elimination Act.

Date	Facility	Case #	Shift	Summary or Case Comments	Ratio
Jul. 1	CD Bayamón	12-173	Afternoon	Allegedly, two juveniles hit another youth in his head and face and locked him in his room.	1 officer, 13 juveniles
Jul. 7	CTS Bayamón	12-183	Afternoon	Allegedly, the juvenile GM was punched by a group of juveniles from his own living unit with a piece of broom stick. In addition, one of the aggressors cut him in his face, head and arm with a piece of a disposable razor blade.	1 officer, 12 juveniles (the officer was working double shift)
Jul. 30	CTS Guayama	12-198	Afternoon	Allegedly, a juvenile was threatened with a blade and after that was hit by other juveniles in one of the rooms.	1 officer, 9 juveniles
Jul. 29	CTS Villalba	12-194	Morning	Allegedly, a group of 10 juveniles, during a fight, assaulted the youth JCM. The incident occurred in the living module's day room.	1 officer, 11 juveniles
Aug. 1	CTS Guayama	12-199	Afternoon	Allegedly, the juvenile KRR was hit in arms and back by a group of 3 juveniles from his own module while they were in the day room.	1 officer, 11 juveniles
Aug. 2	CTS Guayama	12-223	Afternoon	Allegedly, a juvenile was cut in his chest with an unknown object. The incident occurred in the module.	1 officer, 12 juveniles

Aug. 2	CTS Guayama	12-200	Morning	Allegedly, a juvenile was hit by a group of juveniles in his room. Apparently, this action was part of a system of sanctions operated internally by the youths.	1 officer, 11 juveniles
Aug. 7	CTS Guayama	12-203	Afternoon	Allegedly, a youth officer pushed a juvenile to provoke him.	1 officer, 15 juveniles
Aug. 12	CD Bayamón	12-210	Afternoon	Allegedly, a juvenile was hit in his room while he was sleeping. The youth officer was playing cards in the day room with other juveniles.	1 officer, 7 juveniles
Aug. 13	CD Bayamón	12-208	Afternoon	Allegedly, a juvenile was hit with a punch in his arm by other juvenile. The incident occurred in the module.	1 officer, 12 juveniles
Aug. 23	CTS Guayama	12-213	Afternoon	Allegedly, a juvenile was hit multiple times by two youth officers. The incident occurred in the living unit.	1 officer, 9 juveniles
Aug. 27	CTS Guayama	12-218	Afternoon	Allegedly, a juvenile was hit by a group of youths inside a module's room. The victim was hit with a pillow case containing a soap bar.	1 officer, 13 juveniles
Aug. 28	CTS Villalba	12-226	Afternoon	Allegedly, a juvenile was hit by a group of youths in the living unit.	1 officer, 15 juveniles.
Aug. 28	CTS Humacao	12-219	Morning	Allegedly, a juvenile was hit by two juveniles in the bathroom while they were cleaning the area.	1 officer (was out of the module), ? juveniles
Sept. 2	CTS Guayama	12-222	Afternoon	Allegedly, a juvenile was hit in different parts of his body by a group of 8 youths. The incident occurred inside the module.	1 officer, 12 juveniles
Sept. 4	CTS Bayamón	12-225	Afternoon	Allegedly, the juvenile KCR was punched and kicked by 4 youths in the module's bathroom. The aggressor used a shower head to hit KCR.	1 officer, 15 juveniles
Sept. 8	CTS Humacao	12-229	Afternoon	Allegedly, the juvenile LGM was hit and cut by a group of 3 youths in the module. A piece of razor blade was used in the incident	1 officer, 13 juveniles
Sept. 9	CTS Guayama	12-236	Night	Allegedly, a juvenile was hit by a group in a room. Apparently, this action was part of a system of sanctions operated internally by the youths.	1 officer, 17 juveniles

Sept. 11	CD Bayamón	12-241	Afternoon	Allegedly, a Special Operations Officer RC punched a juvenile that was locked in his room under protective custody. Apparently other juveniles were also hit by this officer during this incident.	1 officer, 12 juveniles
Sept. 11	CD Bayamón	12-235	Night	Allegedly, a juvenile was hit in his face (eye area) with a mop stick. While the youth was unconscious on the floor was also hit by other juveniles	1 officer, 12 juveniles
Sept. 15	CTS Guayama	12-245	Afternoon	During an interview with a social worker the juvenile JSR mentioned that was threatened in the module by two youths using pieces of a disposable razor blade.	1 officer, 14 juveniles
Sept. 22	CD Bayamón	12-242	Morning	Allegedly, the juvenile VGC try to choke the youth CVC while the custody officer was watching. The incident occurred in the module.	1 officer, 12 juveniles
Sept. 23	CTS Guayama	12-243	Afternoon	Allegedly, the juvenile AAC was hit by other youths while he was in the bathroom.	1 officer, 16 juveniles
Sept. 24	CTS Guyama	12-246	Night	Allegedly, a juvenile was cut with a piece of a disposable razor blade in his chest. The incident occurred in Living Unit IV. Apparently, was the second time in the same week.	1 officer, 17 juveniles
Sept. 30	CTS Ponce Girls	12-250	Afternoon	Allegedly, two girls were found by the youth officer kissing and touching each other in a room. The incident occurs in the module.	1 officer, 11 juveniles

Document Attachment F:
Abuse Referrals Tracking Report

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

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

Statistics for 2011-2012	2011-4th	2012-1st	2012-2nd	2012-3rd
Incidents	217	161	188	**158**
Suicidal Incidents	50	34	25	**13**
Self-Mutilation Incidents	49	32	46	**26**
Suicidal Incidents (From M/H Records)	50	34	25	**13**
Youth Involved	43	27	24	**13**
Cases involving ideation only	38	30	23	**12**
Cases involving suicide intention	1	0	1	**0**
Cases w/ ambulatory treatment	47	33	23	**13**
Cases with hospitalization	3	1	2	**0**
Cases leading to death	0	0	0	**0**
Cases with 284a report filed	0	0	0	**0**
Self-Mutilations Incidents (MH records)	49	32	46	**26**
Youth Involved	43	28	39	**21**
Cases requiring sutures	0	0	1	**0**
Cases requiring hospitalization	0	0	2	**0**
Cases leading to death	0	0	0	**0**
Cases with a 284a report filed	2	2	7	**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 158 suicide and self-mutilation incidents for the third quarter, none 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	2011-4th	2012-1st	2012-2nd	2012-3rd
284 A Incidents	66	88	85	**81**
Level Two Incidents	52	76	68	**61**
Referrals to SAISC	52	76	68	**61**
Suicide Ideation/Attempt	0	0	0	**0**
Self-Mutilation Idea/Attempt	2	2	7	**4**
Youth-to-Youth Incidents	41	16	55	**53**
Youth-to-Youth Injuries	14	26	26	**18**
Youth-to-Youth with External Care	8	9	14	**12**
Youth-to-Youth Sexual	2	8	5	**5**
Youth-to-Youth Sexual w/ Injury	0	1	0	**0**
Staff-to-Youth Incidents	25	17	30	**28**
Staff-to-Youth Injuries	4	17	10	**13**
Staff-to-Youth with External Care	1	2	1	**5**
Staff-to-Youth Sexual	0	3	0	**2**
Staff-to-Youth Sexual with Injury	0	0	0	**0**
SOU 284A Interventions	1	2	3	**1**
284A with Item 5 completed	49	67	75	**70**
284A with Staffing Compliance	28	41	41	**56**

The next table summarizes initial case management.

Statistics for 2011-2012	2011-4th	2012-1st	2012-2nd	2012-3rd
Initial Case Management				
284A percent with admin actions	98%	86%	88%	**86%**
284A Within 24 hours	88%	97%	86%	**95%**
284A Within 72 hours	98%	2%	8%	**5%**
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	78%	50%	44%	**66%**

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		2011-4th	2012-1st	2012-2nd	2012-3rd
OISC					
	Cases Referred from this quarter	44	76	57	**63**
	Referred Within 1 day	20	29	26	**30**
	Referred Within 3 days	9	27	20	**9**
	Referred Within 10 Days	15	15	11	**24**
	Referred Within 20 Days		0	0	**0**

Paragraph 78.c requires that cases are to be provided to the OISC investigator responsible for the facility involved within 24 hours of knowledge of the incident. There appears to be a persistent decline in the timely referral of cases to OISC. At the start of 2011, all cases were being referred on time.

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

Statistics for 2011-2012		2011-4th	2012-1st	2012-2nd	2012-3rd
OISC Investigation Durations					
	Completed in less than 10 workdays	0	0	0	**0**
	Completed in 11-20 workdays	0	1	1	**2**
	Completed in 21-30 workdays	1	1	0	**6**
	Completed in 31-45 workdays	1	2	7	**1**
	Completed in more than 45 workdays	7	7	0	**0**
	Completed in a subsequent quarter	33	54	44	**60**
	Not completed yet.	35	65	43	**54**
	Returned for Further investigation	10	7	2	**1**
	Further Investigation Completed	4	3	4	**0**

Paragraph 78.e requires that OISC complete investigations within 30 days. For the third quarter of 2012, there were 63 cases referred to OISC, and two were completed within the 30-day limit specified in Paragraph 78.e.

One of the eight cases initially completed by OISC were returned by the Commonwealth Department of Justice for further investigation.

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

Statistics for 2011-2012	2011-4th	2012-1st	2012-2nd	2012-3rd
Administrative Determinations				
Cases with youth discipline referrals	39	60	90	**74**
Cases with youth discipline actions	32	45	67	**41**
Cases with youth no discipline actions	5	13	23	**29**
Cases staff/youth with determinations	18	0	2	**0**
Cases recommending personnel actions	9	0	5	**0**
Prior stf/yth Cases w/ Determinations	2	7	13	**0**
Prior Cases – Recmd Personnel Action	3	8	5	**0**

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

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

Of 4 cases documented, 1 was referred for prosecution.

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

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

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

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

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

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

The first table relates to initial incident reporting.

Case Assessment Instrument – Section A – Initial Reporting		
Assessment Criterion	**Status Y/N/NA**	**Comment**
A.1 Was the incident promptly reported?	Y-30, N-4	The percentage for this report is 88%. The percentage in the last Quarterly Report was 97%.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-33, N/A-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 97%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-34	The percentage for this report is 100%. The percentage in the last Quarterly Report was 100%.
A.4 Was evidence preserved?	Y-9, N-11 N/A-14	The percentage for this report is 42%. The percentage in the last Quarterly Report was 47% In this reporting period 21 Level II cases were selected.
A.5 Was investigation initiated promptly?	Y-30 , N-4	The percentage for this report is 88%. The percentage in the last Quarterly Report was 94%.
A.6 Was the 284-A filed within 24 hours?	Y-32, N-1, Blank-1	The percentage for this report is 94%. 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-31, N-3	The percentage for this report is 91%. The percentage in the last Quarterly Report was 94%.
A.8 If this was a serious incident, was SAISC notified within 24 hours?	Y-32, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%.
A.9 Was the AIJ preliminary investigation reported within 24 hours to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration.	Y-30, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%.
A.10 Were any youths suspected as perpetrators separated from the victim(s)?	Y-33, N-1	The percentage for this report is 97%. The percentage in the last Quarterly Report was 56% **Improved Compliance**.
A.11 If the case was serious, were the police notified that the case was serious within 24 hours?	Y-29, N-5	The percentage for this report is 85%. The percentage in the last Quarterly Report was 91%
A.12 Did the initial investigation accurately list all youth and staff witnesses?	Y-21, N/A-13	The percentage for this report is 100%. The percentage for the last Quarterly Report was 61%. **Improved Compliance**
A.13 Did all staff witness's document what they knew or saw before the end of shift?	Y-29, N-4	The percentage for this report is 85%. The percentage in the last Quarterly Report was 97%.
A.14 If there was timeliness non-compliance, was related to shortage of staffing?	Y-2, N-32	The percentage for this report is 1%. A low percentage is a positive fact.

A.15 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-19, N-8, Blank-7	The percentage for this report is 56%. 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 13 Level II cases. It contains the following: case number, and case disposition. Twelve of those cases were dismissed administratively by the police agent or investigator. Only one case was still under investigation at the time of this report.
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- 31, Blank-3	The percentage for this report is 91%. The percentage in the last Quarterly Report was 75%. **Improved Compliance**
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	Y-25, N-5, Blank-4	The percentage for this report is 73%. The percentage in the last Quarterly Report was 50%. **Improved Compliance**
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	Y-25, N-6, Blank-3	The percentage for this report is less than 73%. The percentage in the last Quarterly Report was 47%. **Improved Compliance**
C.4 Was physical evidence preserved and documented?	Y-10, N-7, N/A-13, Blank-4	The percentage for this report is 29%. The percentage in the last Quarterly Report was less than 1%. **Improved Compliance**
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	Y-13, N/A-21	The percentage for this report is 38%. Twenty one cases were classified as Level II. **Improved Compliance**
C.6 Was the completion of the investigation documented in the tracking database?	Y-13	The percentage for this report is 100%.
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	N/A-34	The answers do not represent the facilities real situation. Most of the compliance officers and investigators are Youth Officers.

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-8, N-12,	The percentage for this report is 40%. The information in the last Quarterly Report was 37%.
D.2 Did SAISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by SAISC?	Y-2, N-18	The percentage for this report is less than 1 %. The information in the last Quarterly Report was1%.
D.3 Did the investigation meet SAISC's standards for investigation quality?	Y-14, Blank-6	The percentage for this report is 70%. The information in the last Quarterly Report was 97%.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-13, Blank-7	The percentage for this report is 65%. The information in the last Quarterly Report was 97%. **Reduced Compliance**
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-13, Blank-7	The percentage for this report is 65%. The information in the last Quarterly Report was 97%. **Reduced Compliance**
D.6 Did the investigation provide proposed findings?	Y-I, N-1, Blank-18	The percentage for this report is less than 0%. The information in the last Quarterly Report was 1%.
D.7 If there was timeliness non-compliance, was it related to shortage of staffing?	Y-2, Blank-18	According to the information provided less than 1% of the cases were completed on time due to lack of staff. In the last Quarterly Report the percentage was less than 1%.
D.8 Did SAISC completed the investigation within 30 days of receipt of the referral?		Additional information sent to the Monitor Office shows that 8 investigations were completed in 30 days or less during the reporting period.

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

Case Assessment Instrument – Section F – Monitor's Office Assessment		
Assessment Criterion	**Status Y/N/NA**	**Comment**
F.1 Does the Monitor's Office confirms the timeliness facts as asserted in Page A?	Y-31, N-3	All the cases were reviewed and the Monitor's Office confirmed the information provided by the facilities 91% of the cases. The percentage in the last Quarterly Report was 91%.
F.2 Does the Monitor's Office confirms the timeliness facts as asserted in Page B?		Some information was sent, but not in the form required.
F.3 Does the Monitor's Office confirms the timeliness facts as asserted in Page C?	Y-32, N-2	The percentage for this report is 94%. The percentage in the last Quarterly Report was 94%.
F.4 Does the Monitor's Office confirms the timeliness facts as asserted in Page D?	Y-20	The percentage for this report is 100%. The percentage for the last Quarterly Report was 100%.
F.5 Does the Monitor's Office confirms the timeliness facts as asserted in Page E?		The Information was not provided.
F.6 Does the Monitor's Office confirms the investigation quality as asserted in page B?		Some information was provided, but not in the form required.
F.7 Does the Monitor's Office confirms the investigation quality as asserted in page C?	Y-32, N-2	The percentage for this report is 94 %. This percentage only means that the Monitor's Office confirms the information provided by the facilities not a percentage of compliance.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	Y-20	The percentage for this report is 100%. This percentage only means that the Monitor's Office confirms the information provided by OISC not a percentage of compliance.

Document Attachment H: Site Visit Chronology

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

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July 12, 2012:	Federal Monitor F. Warren Benton, Consultant Thomas Kucharski, Consultant Victor Herbert, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.
July 13, 2012:	Federal Monitor F. Warren Benton, Consultant Thomas Kucharski, Consultant Victor Herbert and Deputy Monitor Javier Burgos site Visit to CTS Bayamon.
July 13, 2012:	Federal Monitor F. Warren Benton, Consultant Thomas Kucharski, Consultant Victor Herbert and Deputy Monitor Javier Burgos site Visit to CD Bayamon.
July 23, 2012:	Deputy Monitor Javier Burgos site visit to CTS Humacao.
July 24, 2012:	Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.
July 30, 2012:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CDT Ponce "Girls".
July 30, 2012:	Consultant Curtiss Pulitzer, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.
July 31, 2012:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos site visit to CTS Humacao.
July 31, 2012:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos site visit to CD Bayamon.
July 31, 2012:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos

site visit to CTS Bayamon.

August 3, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Villalba.

August 17, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CTS Bayamon.

August 17, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco Site visit to CD Bayamon.

August 20, 2012: Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.

August 20, 2012: Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.

August 21, 2012: Consultant David Bogard, Consultant Robert Dugan, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Humacao.

August 21, 2012: Consultants Victor Herbert and Peter Leone site visit to CTS Guayama.

August 21, 2012: Consultants Victor Herbert and Peter Leone site visit to CTS Villalba.

August 22, 2012: Consultant David Bogard, Consultant Robert Dugan and Associate Monitor Ricardo Blanco site visit to CDT Ponce “Girls”.

August 22, 2012: Consultant David Bogard, Consultant Robert Dugan and Associate Monitor Ricardo Blanco site visit to Home group “Guaili”.

September 6, 2012: Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site Visit to CDT Ponce “Girls”.

September 17, 2012: Consultant Michael Gatling, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Bayamon.

September 17, 2012: Consultant Michael Gatling, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CD Bayamon.

September 18, 2012: Consultant Michael Gatling, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Villalba.

September 19, 2012: Consultant Michael Gatling, Deputy Monitor Javier Burgos and Associate Monitor Ricardo Blanco site visit to CTS Guayama.

THE UNITED STATES OF AMERICA

Plaintiff,

v. CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Third 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 rapid deterioration in the number of defective plumbing fixtures from the last quarter of 2011, when there were 21, to the last quarter when there were 50, to the current quarter, when there were 81. The Bayamon facilities accounted for nearly all the increase. Below are the figures for this quarter: • CD Bayamon - 21 • CTS Bayamon - 21 (Blue, Orange and Yellow units) • Guali - 1 • Guayama - 14 • Humacao - 18 • Villalba – 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	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.

Provision	P	S	R	T	D	G	Comment
S.A.31. Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	N	I	N	N	N	N	In light of the recent evaluation of the currently operating AIJ facilities by the Court Monitor's code and fire safety consultant, it is apparent that numerous life and fire safety violations still exist and have not been remedied to date. In addition, the staff responsible for maintaining code and fire safety for AIJ have certified compliance with this provision in their recent PLRA motion indicating a lack of training and understanding of the requirements of this provision. Furthermore, the Commonwealth has not allocated sufficient resources to allow compliance of this provision.
S.A. 34. In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.	Y	#	#	#	N	N	While all facilities have emergency keys that are readily available for use in an emergency, the monitor's office has found that in many instances the keys are not properly color coded or notched. Also, there is no systematic approach to storing or issuing the correct keys in an emergency. The AIJ Fire Safety Officer has been working on a plan to rectify this. 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 sufficient 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	N	Non-compliance with the resource designation in this provision relates to the lack of staff and funds in regards to maintenance and repair of all exit doors as well as current maintenance procedures and procurement policies. There are sufficient resources to conduct regular checks and monthly reports by each facility's fire safety coordinators and that is being performed and documented. The monitor's office is waiting to see the monthly automated results from the fire safety officer as the exit door checks are supposed to be documented in AIJ's new data and tracking system.

Provision	P	S	R	T	D	G	Comment
S.A. 37. AIJ policy shall ensure safety for juveniles and staff by requiring compliance with fire safety code requirements. Specific emergency plans shall be developed and copies made available to staff members. There shall be ongoing training programs and emergency procedures shall be reviewed and updated annually.	Y	Y	Y	N	#	N	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
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 2nd quarter of 2012, all of the facilities submitted the staffing compliance reports, with the exception of one form from CD Bayamon. Agency meeting staffing ratio requirements: 6:00 am- 2:00 pm shift: 18% of events, 5% reduction 2:00 pm- 10:00 pm shift: 20% of events, 1% increase 10:00 pm- 2:00 am shift: 100% of events, 3% increase Guaili has met 100% staff youth ratio requirements for ten consecutive quarters. There has been a continual reduction in Staff Youth Ratio compliance during the last two 2011 and 1st and 2nd reporting quarter of 2012 . See the 2012 2nd QR narrative for more information about staffing compliance. This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313.

Provision	P	S	R	T	D	G	Comment
January 2009 Stipulation Paragraph 1: All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.	Y	N	N	N	N	N	Reported 106 youth requiring 1:1 supervision, reduction of 56 youth from 1st QR 2012. 0 reported instances of youth not receiving 1:1 supervision in 2nd quarter 2012. This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364
January 2009 Stipulation Paragraph 2: All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48, as amended by Court Order dated 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.
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	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.332, 115.334, and 115.335. • The most recent annual report for the calendar year 2011 indicated 78% compliance with this provision across AIJ. The lowest level of compliance is a Villalba (59%) and Guayama (58%). While compliance has not yet been achieved, this is an improvement over the report for the Fiscal Year ending June 2011.
Classification							
S.A. 52. At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.	N	#	#	#	#	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.341 and 115.342. • DCR is undertaking a validation study of committed and detention youth . Staff have been trained on the youth detention classification instrument. Documentation has been provided for the classification of youth for detention for the months of the 2nd quarter. • The second quarter CD Bayamón admission classification resulted in 378 admissions, of which 302 (80%) are classified as low; 64 (17%) are classified as moderate; 2 (1%) are classified as severe; and 5 (1%) were court releases.

Provision	P	S	R	T	D	G	Comment
Mental Health and Substance Abuse Treatment							
S.A. 59. Defendants, specifically the Department of Health (ASSMCA), shall provide an individualized treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers, for each juvenile with a substance abuse problem.	N	N	Y	#	N	N	Review of the medical records and observation of a treatment team meeting revealed that the treatment planning process is markedly deficient. The team meeting was not attended by the psychiatrist, no treatment needs were identified, the youths were all reported to be "stable". The types and frequency of substance abuse difficulties were noted but the treatable psychological deficits that lead to and support substance abuse were not identified or discussed.
C.O. 29: Defendants shall maintain an adequate 48 bed residential mental health treatment program which provides services in accordance with accepted professional standards, for juveniles confined in the facilities in this case in need of such services as determined by a qualified child and adolescent psychiatrist as part of a qualified interdisciplinary mental health team.	N	N	N	#	N	N	Currently there are no special residential placements for youth in detention. Detention youth released from suicide watch or returning from inpatient psychiatric hospitalization are placed back in general population as there is no specialized residential placement in detention. The mission of the PUERTAS program at CTS Bayamon (which has replaced an earlier program at Rio Grande) remains unclear. At the last site there were less than 20 youth at the CTS Bayamon residential facility. Interviews with youth at other facilities identified several youth who could benefit from residential treatment who were not being considered for CTS Bayamon Mental Health Unit
C.O. 30: Defendants provide adequate qualified staff members for the residential treatment program, which include a child psychiatrist, psychologist, occupational therapist, social workers and nurses.							• Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
C.O. 34. Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self-mutilating behaviors.							• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.335..
C.O. 36. Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum, a thorough psychiatric evaluation. The continuous psychiatric and psychological services to juveniles in need of such services to include at a minimum diagnostic tests before prescription of behavior-modifying medications.	N	N	#	N	N	N	• Psychologist hours had been cut from 35 to 30 hours. Youth are not adequately assessed. • Treatment plans are not individualized and treatment progress not assessed and documented. • Policy is deficient in terms of the procedures for documenting progress. Given the deficient assessment practices policies will need to be developed that include enhanced assessment. • Assessment is seriously deficient with many youth being diagnosed as free of mental health concerns. • Because the evaluation of youth is so deficient, appropriate treatment services are not being provided.

Provision	P	S	R	T	D	G	Comment
S.A .62. In addition to the mental health staff required by ¶ 36 of the Consent Order approved by the Court in this case in October 1994, Defendants shall provide ambulatory psychiatric services by a team. This team shall be composed of a child psychiatrist, a child psychologist and a social work counselor. All mental health care personnel shall have written job descriptions and meet applicable Commonwealth licensure and/or certification requirements. Defendants, specifically AIJ, will provide for residential treatment and, if needed, in-patient hospitalization for those cases where such service is needed.							• Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
S.A. 63. For each juvenile who expresses suicidal or self-mutilating ideation or intent while incarcerated, staff shall immediately inform a member of the health care staff. Health care staff shall immediately complete a mental health screening to include suicide or self-mutilation ideation for the juvenile. For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist shall immediately examine the juvenile. The juvenile, if ever isolated, shall be under constant watch. Defendants shall develop written policies and procedures to reduce the risk of suicidal behavior by providing screening for all juveniles at all points of entry or re-entry to AIJ's facilities and/or programs and by providing mechanisms for the assessment, monitoring, intervention and referral of juveniles who have been identified as representing a potential risk of severe harm to themselves. Treatment will be provided consistent with accepted professional standards.	Y	#	N	N	N	N	• 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.							• Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
S.A. 67. Defendants shall obtain specific informed consent from a juvenile's parent or legal guardian or from the state court for the use of psychotropic medication for each juvenile on such medication. All psychotropic medications will be prescribed by a licensed psychiatrist and/or physician. All psychotropic medication will be reviewed and approved by an AIJ child psychiatrist. In all cases, the family of any juvenile taking psychotropic medication will be informed in writing by the family's case manager.							• Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.
S.A. 71. Stimulants, tranquilizers, and psychopharmacological drugs shall only be used as deemed medically necessary and shall not be administered for punishment.	#	N	Y	#	#	N	• Defendants moved on October 5th for this provision to be dismissed. See the Monitor's upcoming PLRA Report for information about compliance with this provision.

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

Provision	P	S	R	T	D	G	Comment
Discipline							
S.A. 74. Defendants shall specify the rules of the facilities with a complete list of possible punishments for violations of such rules in the handbook described in ¶ 47 above. Written notice of any rule violation, a hearing before a facility staff person not involved in the investigation of the violation, and an appeal to the facility director shall be provided to a juvenile prior to any punishment being imposed, except that Defendants may administratively segregate a juvenile in emergency or life-threatening situations. In the event of an emergency, when circumstances make it inappropriate to hold a hearing prior to segregation, a hearing shall take place within forty-eight (48) hours from the time of segregation.	N	N	N	N	Y	N	• Monitor's Consultant maintains that "Written notice" requires that juvenile receive and retain a copy of rule violation. • Copy machines required for youth to receive copies of due process notices • Concerns about group punishment now being supported by DCR policy. • Inadequate/no training of disciplinary officers and committee members • No provision for substitute disciplinary officers during time off from work • Transitional Measures *possibly* being used in lieu of pre-hearing segregation, • See the extended discussion of this issue in the QR narrative report and October 10, 2012 disciplinary hearing evaluation.
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	N	N	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 three years. • Consistent reporting of data from all facilities a prerequisite to evaluating compliances. • Continued concerns about high frequency of use of OC at Humacao • Mechanical restraints used at Humacao for escorts due to no cameras and insufficient staff • 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	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.321, 115.322, 115.361, 115.362, 115.264, 115.366, 115.367, 115.368, and 115.371. 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	This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.361 and 115.364. 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.

Provision	P	S	R	T	D	G	Comment
S.A. 78.c Within 24 hours of knowledge of a potential abuse incident, the report shall be transmitted to the Commonwealth Police for investigation, the Department of Family Services for statistical reporting, the Department of Corrections, and the AIJ administration. For serious incidents involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile, the AIJ administration shall also notify SAISC within 24 hours of knowledge of the potential incident, and 1 hour for any juvenile death, and SAISC shall conduct an administrative investigation.	Y	Y	Y	#	N	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371. • The timeliness of initial reporting by AIJ, based on AIJ records, has been high. • The Commonwealth Police do not respond to the Monitor's information requests for case analysis information. • Cases are promptly referred to SAISC.
S.A.78.d Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.	N	#	#	#	N	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371. • Documentation is insufficient concerning the implementation of investigations by the Commonwealth Police. The Commonwealth Police do not respond to the Monitor's information requests. See the Attachment to the QR concerning Abuse Referral Case Assessments. The Monitor infers that the Commonwealth Police lack a procedure or policy to comply.

Provision	P	S	R	T	D	G	Comment
S.A. 78.e Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC's receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.	Y	#	#	#	N	N	• 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	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371. • No process is in place to assess whether compliance is achieved with respect to investigation quality. • No standards have been formally adopted.
S.A. 78.g Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.	N	N	Y	#	N	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.371. • No process is in place to assess whether compliance is achieved with respect to these aspects of investigation quality.
S.A. 78.h AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ's quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.	N	N	Y	#	N	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.365. • Case tracking is inconsistent and incomplete. • The case tracking information system has not been updated at all during 2008. • AIJ lacks staffing and resources to do meaningful analysis of cases

Provision	P	S	R	T	D	G	Comment
S.A. 78.i Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.	Y	Y	Y	Y	N	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.362, 115.364, 115.366 and 115.367. • AIJ policies comply with this provision. • Policies and procedures require separation based on substantiated allegations, which is a higher standard of performance than required in this provision. • It appears that criminal charges had been filed against three AIJ employees in relation to an alleged assault on a youth on September 10, 2009. The fact of the charges was not reported and compliance with the separation requirements of the December 2006 order has also not been established.
Separation Order, of December 4, 2006: Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.	N	Y	Y	N	N	N	• This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.362, 115.364, 115.366 and 115.367.

Provision	P	S	R	T	D	G	Comment
Protection and Isolation							
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.	N	#	#	#	N	N	• 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. This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.342.
S.A. 80. The terms of this agreement relating to safety, crowding, health, hygiene, food, education, recreation and access to courts shall not be revoked or limited for any juvenile in protective custody.	#	N	#	#	N	N	• Confusion between transitional measures and PC • Youth on TM status being housed in admissions area contrary to DCR policy. • Youth on TM status housed in inappropriate and potentially unsafe location • Problems getting access to education and exercise • See the discussion of this issue in the QR narrative report. • This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Section 115.368 and 115.342

Provision	P	S	R	T	D	G	Comment
Education and Vocational Services							
S.A. 81. Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juveniles would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. AIJ shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.	Y	N	R	I	Y	N	The AIJ facilities began the school year in August 2011 more fully staffed than in recent years. By the end of September, AIJ had only three teacher vacancies in the system. One of the three vacancies was due to the death of one of the teachers.
S.A. 86a. Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 et seq. Defendants shall screen juveniles for physical and learning disabilities.	Y	Y	Y	I	N	N	The Commonwealth does not maintain a systematic audit of this provision. The Monitor's Office will review such documentation when it is provided. Compliance with 86a requires compliance with 86b.
S.A. 86b. The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.	Y	Y	Y	I	N	N	The Commonwealth does not maintain a systematic audit of this provision. The Monitor's Office will review such documentation when it is provided. Compliance with 86b requires compliance with 86a.

Provision	P	S	R	T	D	G	Comment
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.	Y	Y	Y	I	N	N	With the addition of a facilitator from the Department of Education, AIJ has improved its ability to obtain students' prior school records. Document reviews during site visits indicate that teachers meet, assess students prior IEPs and modify them as necessary. However, a systematic review of the records has not been provided by the Commonwealth to the Monitor's Office.
S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.	Y	Y	Y	I	Y	N	• Visits to each institution, interviews with youth at Humacao, and examination of unit logs and education records showed that students in transition or protective custody were not receiving the services specified in their IEPs.
S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.	Y	Y	Y	I	N	N	• Certified special education teachers, many of them new to the profession, provide education services to youth. All vocational education positions were filled during this reporting period. • Special education students were enrolled in vocational courses consistent with their IEP recommendations. • In the July review of IEPs at Bayamon,, in the majority of cases reviewed, the IEP recommendations for mental health services were not being implemented.
S.A. 93. Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.	#	N	N	I	N	N	Students eligible for special education services, like other students in DCR, do not receive services from the end of May to the beginning of August.
S.A. 94. Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.	N	N	N	I	N	N	• A recent review of services provided for youth in isolation, referred to as youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. (See also comment for S.A. 90). • Youth in isolation receive some services, some days but often materials are delivered to the housing units and students revieve minimal or no direct services from teachers.

Provision	P	S	R	T	D	G	Comment
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	Y	Y	Y	I	N	N	• All special education positions are filled. • Visits to Humacao and Bayamon CTS indicated that teachers were periodically reviewing students' IEP. • A systematic assessment has not yet been completed by the Commonwealth and provided to the Monitor's Office for review.
Funding and Implementation							
C.O. 43 Until this order 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.