

**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 WITHDRAW AND
REFILE THE MONITOR'S QUARTERLY REPORT**

TO THE HONORABLE COURT:

On December 20, 2017, the Monitor filed the Third Quarter report for 2017. (Docket #1259) Due to a breakdown in synchronization between the Monitor's home office and college office computers, the documents filed were not the final versions. Therefore the Monitor asks that the report filed in Docket 1259 be deemed withdrawn.

Today, the Monitor re-submits the Monitor's Third Quarter Report for 2017. The report covers the months of July, August and September 2017. This report consists of an introductory statement by the Monitor, along with the compliance ratings tables and special reports by the Monitor's consultants.

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

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

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

Certificate of Service

I HEREBY CERTIFY that this 21st day of December 2017, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor

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

USACPR Monitoring Inc.

Calle Mayaguez # 212, Esquina Nueva, San Juan, PR 00917

Voice: 212 237-8089

Fax: 914 306-3628

Email: nbenton@jjay.cuny.edu

Monitor's Quarterly Report Third Quarter 2017

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

The following is the Monitor's Third Quarter Report for 2017. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision. The report covers the months of July, August and September 2017.

The narrative supplements the tables, describing recent events and accomplishments, reviews the results of some of the on-site monitoring tours, and examining particular compliance problems and pending issues. The narrative section does not comment on every category of provisions in every quarterly report.

Document Attachment A: Consultant Report on Staffing Compliance
Document Attachment B: Report on Incidents and Understaffing
Document Attachment C: Abuse Referrals Tracking Statistics
Document Attachment D: Consultant Report on Education
Document Attachment E: Chronology of Site Visits

Attachment One: Table of Compliance Ratings

Compliance Table Versions of Provisions

For two provisions in the compliance tables, the language of the provisions has not been correct. Before the 2007 PLRA hearing the provisions in the QR tables were broken up into components if the provision encompassed several different expectations. Following the hearing and order in 2007, the provisions were recombined, but, at that time, several drafting errors were made. The correct version C.O.29 is from the 2003 modification stipulated order. (Dockets 416 and 431) The correct version of C.O.36 is from the PLRA settlement 2007 which was consistent with the original language of the C.O.

Incorrect	Correct
<p>C.O. 29: Defendants shall maintain an adequate <u>48 bed</u> 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.</p>	<p>C.O. 29: Defendants shall establish an adequate residential mental health treatment program which provides services in accordance with accepted professional standards for juveniles confined in the facilities in this case who are attempting to commit suicide and/or who are inflicting harm upon themselves and/or any other juvenile in need of such services as determined by the juvenile's interdisciplinary mental health team, <u>which includes a qualified psychiatrist. This residential treatment program will house up to forty-eight (48) juveniles from Commonwealth facilities. The residential treatment program will be established in an area that meets professional standards regarding safe physical areas for suicidal and/or self-mutilating juveniles.</u></p>
<p>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.</p>	<p>C.O. 36. Within 120 days of the filing of this Consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology services 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. <u>The continuous psychiatric and psychological services shall include at a minimum, a thorough psychiatric evaluation, necessary diagnostic tests before the prescription of behavior-modifying medications, blood-level monitoring if behavior-modifying medications are prescribed, therapy, counselling, treatments plans and necessary follow-up care.</u></p>

The areas that are affected by the changes are underlined. The attached compliance tables reflect the correct language. Dr. Martinez, the Monitor's consultant for mental health services, will

describe compliance implications, if any, of the corrected language in the quarterly report for the fourth quarter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "F. Warren Benton". The signature is written in a cursive, flowing style.

F. Warren Benton, Ph.D.
Monitor

Document Attachment A: Consultant Robert Dugan Reports on Staffing

S.A. 48: DCR Staff Youth Ratio 2017 Third Quarter Report

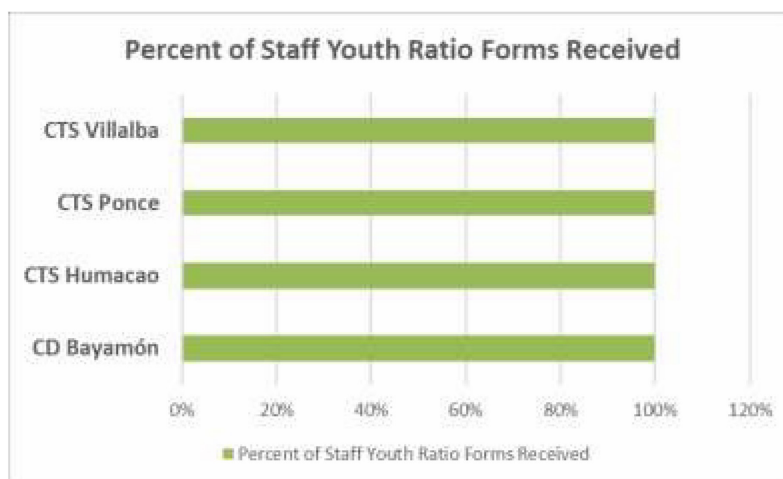
Prepared by Bob Dugan: Office of the Monitor

Background:

48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using DCR facility generated weekly staff youth ratio forms. These forms are submitted to the Monitor's Consultant throughout the reporting quarter. DCR facilities daily shift by shift staffing and youth population for each operational housing module is reported, as well as any 1:1 supervision events, and the volume of staff that are required to work a double shift. The report provides information from Staff Youth Ratio forms that were provided to the Monitor's Consultant for the period of July 2, 2017 through September 30, 2017.

Staffing form submittals were delayed during the reporting period in light of the impact Hurricanes Irma and Maria. As of the Saturday, November 18, 2017, the following forms were submitted:

Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Bayamón	12	12
CTS Ponce	13	13
CTS Humacao	13	13
CTS Villalba	13	13
Totals	51	51

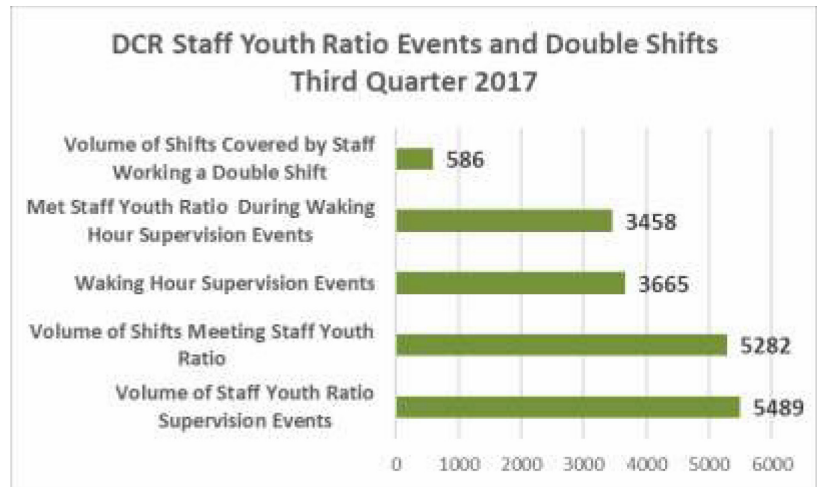


DCR submitted a total of 51 facility staff youth ratio forms for the four facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. DCR has consistently provided all requested Staff Youth Ratio forms used for monitoring and reporting. The table displaying the dates that staff youth ratio forms were received is on the last page of this report. [CD Bayamón](#) last reported a youth population on September 17, 2017. The facility will no longer be used by DCR as a juvenile detention facility. The youth population was detained in the CTS Humacao facility for the balance of the third quarter reporting period.

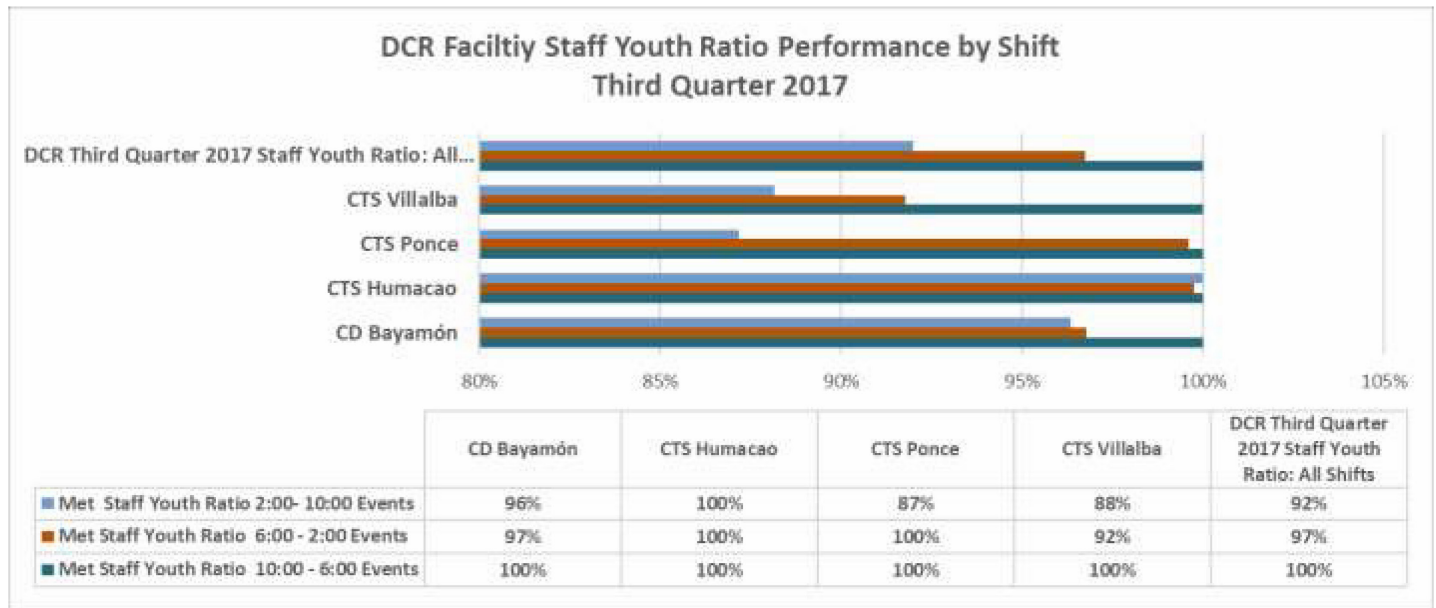
DCR Staff Youth Ratio Performance:

During the 2017 Third Quarter reporting period (July 2 through September 30, 2017), DCR documented a total of 5489 shift / unit events that required staff to youth supervision. This is a decrease of 810 staff youth supervision events from the Second Quarter of 2017 (6299 events). Of the 5489 shift / unit events, 5282 of the events (96%) were supervised with the required staff youth ratios, a 10% increase from the 86% of events supervised with the required staff youth ratios from the Second Quarter of 2017.

Of the 5282 staffing events meeting the required staff youth ratio, 1824 (35%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.



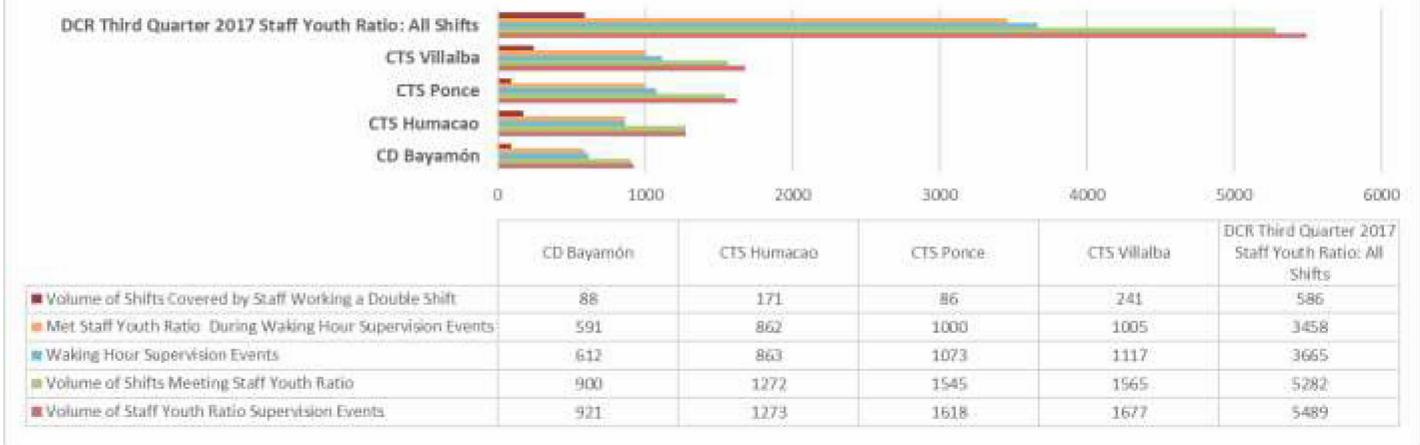
The chart and table below represent staff youth ratio performance by shift for the period (July 2 through September 30, 2017).



Staffing Requiring Double Shifts:

For the 2017 Third Quarter, 586 (11%) of the 5489 staff youth ratio events were covered by staff working a double shift. This is 3% decrease of shifts requiring staff to work a double shift compared to the Second Quarter 2017 reporting period.

DCR Staff Youth Ratio Events and Double Shifts Third Quarter 2017



The tables below provides data relating to staff youth ratio events during waking hours for the Third Quarter of 2017. Third Quarter waking hour staff youth ratio of 94 % is 15% higher than the prior quarter (79%).

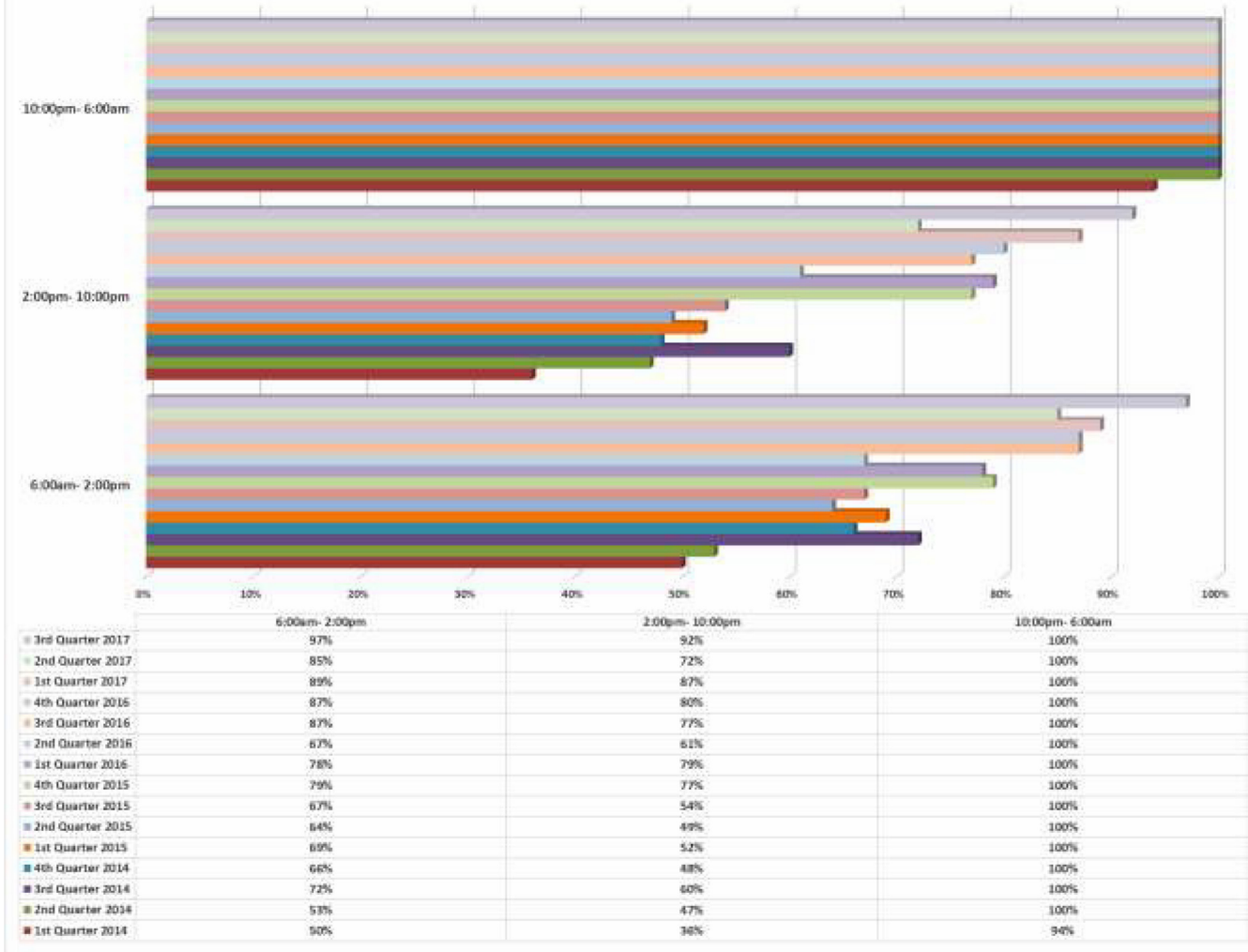
During the Third Quarter, CTS Humacao reported meeting the staff youth ratio in 100% of the waking hour staffing events. This rate is the highest amongst the four facilities operational during the quarter.

During the Third Quarter, CTS Villalba has the lowest volume of events meeting the staff youth ratio requirements during waking hours (90%), and had the highest volume of waking hour shift events requiring double shifts (241/ 22%). PUERTAS, housed in one of the housing modules within CTS Ponce, met the staff youth ratio for all shifts throughout the 2017 Third Quarter reporting period.

DCR Third Quarter 2017 Staff Youth Ratio During Waking Hours Shifts (6:00 -2:00 and 2:00 -10:00)	Waking Hour Supervision Events	Met Staff Youth Ratio During Waking Hour Supervision Events	Percentage of Events Meeting Staff Youth Ratio During Waking Hours	Volume of Shifts Covered by Staff Working a Double Shift During Waking Hours	Percentage of Waking Hours Shifts Requiring Double Shifts
CD Bayamón	612	591	97%	88	14%
CTS Humacao	863	862	100%	171	20%
CTS Ponce	1073	1000	93%	86	8%
CTS Villalba	1117	1005	90%	241	22%
DCR Third Quarter Staff Youth Ratio: Waking Hours	3665	3458	94%	586	16%

The following chart represents the DCR agency Staff Youth Ratio averages by shift for the last fifteen quarters through September 30, 2017:

DCR Quarterly Staffing Performance
**Meeting Staff/ Youth Supervision Ratios:
 2014, 2015, 2016 and 2017 Through Third Quarter**



The DCR 2017 Third Quarter performance in meeting Staff Youth Ratios during waking hours is as follows:

- 6:00 am – 2:00 pm shift: 97% of events, a 12% increase from the Second Quarter of 2017(85%)
- 2:00 pm – 10:00 pm shift: 92% of events, a 20% increase from the Second Quarter of 2017(72%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the Second Quarter of 2017(100%)

Of the 3665 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3458 of the events (94%) met the shift staff youth ratio requirements. The DCR 2017 Third Quarter Staff Youth Ratios compliance performance reflects a 15% increase in staff youth ratio compliance from the second quarter reporting period. The third quarter staff youth ratio was the highest aggregate percentage of staff youth ratio compliance in the thirty-one quarters that have been documented in Staff Youth Ratio Quarterly Reports. Although site visits were not conducted during the third quarter, the extraordinary staffing effort and performance by DCR under such catastrophic conditions should be recognized and commended.

Policy and Documentation Request to DCR:

There has been no change in the policy and documentation request status during the third quarter reporting period. Consequently, the narrative from the second quarter report below remains the same.

To support staff youth ratio compliance analysis, the Monitor's Office has requested the following of DCR: For DCR, as well as the Monitor's Office, to effectively assess staff youth ratio compliance the DCR Staffing policy must identify that retrievable staff youth ratio documentation be maintained at each facility. The documentation should consist minimally of the following:

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

Staff youth ratio compliance analysis consists of a review of the Master Roster. The Master Roster is an agency generated staffing roster identifying posts, fixed posts, fix posts identified by need, movable posts and relief personnel. Supervisor IV's are required to develop a facility shift daily roster from the Master Roster, adjusting as required for housing module youth populations, approved leave status, call offs, training, trips and special needs. The Master Roster designates one fixed post for each housing modules and additional fix posts identified by need, predicated on the housing module youth population and youth on special status (protective custody, transitional measure, constant supervision, etc.) within the housing module. Mini-control logs are used to provide supplemental documentation of staff housing module assignments and movement.

As of the Staffing Consultant site visits of June 20, 21, and 22, 2017, DCR had not been able to implement the facility uniform staffing documentation requests. Absence of agency wide uniform staffing source documentation significantly limits the volume of validation sampling of facility daily youth population housing assignments, master roster, daily roster and mini-control logs that can be reviewed in the time available during a site visit. For purposes of the staffing quarterly report, weekly facility staff performance information is aggregated, analyzed and reported on form the facility staff youth ratio forms that are provided to the Monitor's Office.

DCR has been working on development of agency staffing policy to procedurally require staffing assignment and documentation to prioritize operational compliance with the required staff youth ratios. Reviews and recommendations of the draft version of the staffing policy, master roster and facility daily rosters were provided to DCR by the Monitor's Consultant on June 22, 2017. Although it was anticipated that the revised staffing policy would be approved and distributed in the second quarter of 2017, DCR has yet to provide an update on the status of the staffing policy recommendations as of the production of the second quarter staffing report. As of the second quarter site visit, DCR continues a practice with facility Supervisors III and Supervisor IV that the daily facility roster should be completed for each shift with a priority of staffing 'from the inside (the modules) to the outside'.

Additionally, DCR was asked as to whether they would provide documentation as required by S. A. 48 January 2009 Stipulation Paragraph 5. As of the time of production of the third quarter staffing report there has been no response on the status of this report.

DCR Agency 1:1 Supervision Events:

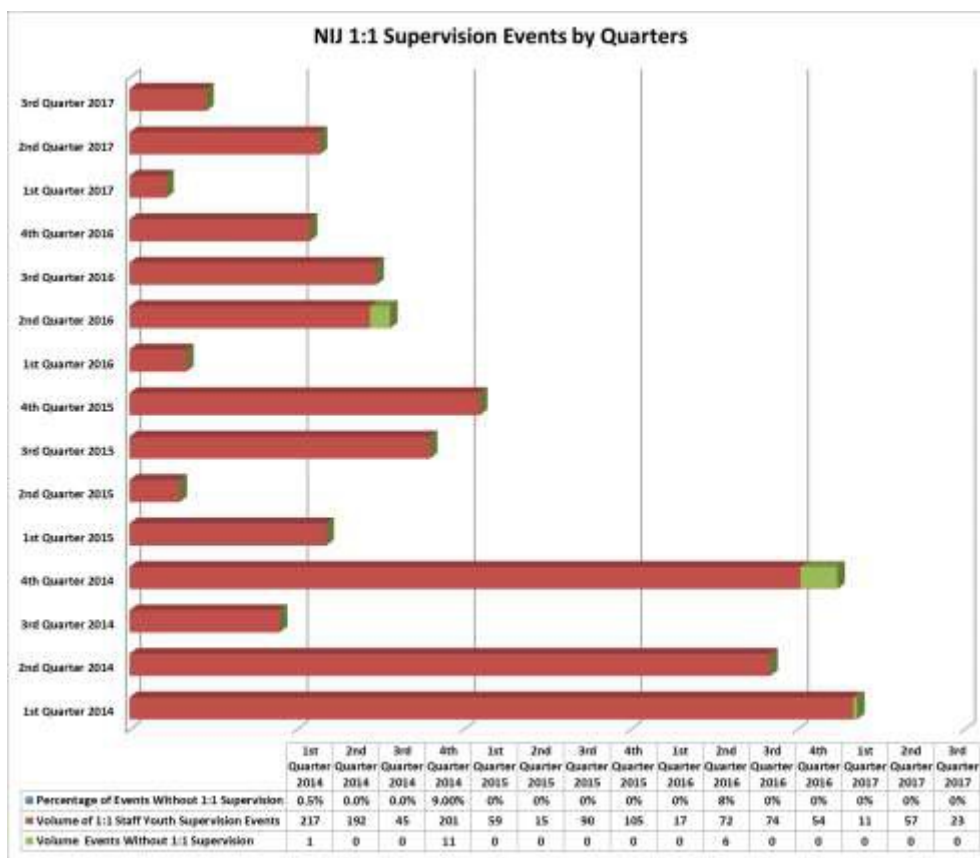
DCR reported successfully staffing all 1:1 supervision events for the 2017 Third Quarter, continuing to resolve 1:1 staffing shortages identified in the 2016 Second Quarter report.

The 2017 Third Quarter reporting period reflects the volume of 1:1 supervision events reported as 23 events:

Correspondingly, the 2017 Third Quarter volume of these events without required 1:1 supervision was reported as 0 events:

- 217 events 1st Quarter 2014
- 192 events 2nd Quarter 2014
- 45 events 3rd Quarter 2014
- 201 events 4th Quarter 2014
- 59 events 1st Quarter 2015
- 15 events 2nd Quarter 2015
- 90 events 3rd Quarter 2015
- 105 events 4th Quarter 2015
- 17 events 1st Quarter 2016
- 72 events 2nd Quarter 2016
- 74 events 3rd Quarter 2016
- 54 events 4th Quarter 2016
- 11 events 1st Quarter 2017
- 57 events 2nd Quarter 2017
- 23 events 3rd Quarter 2017

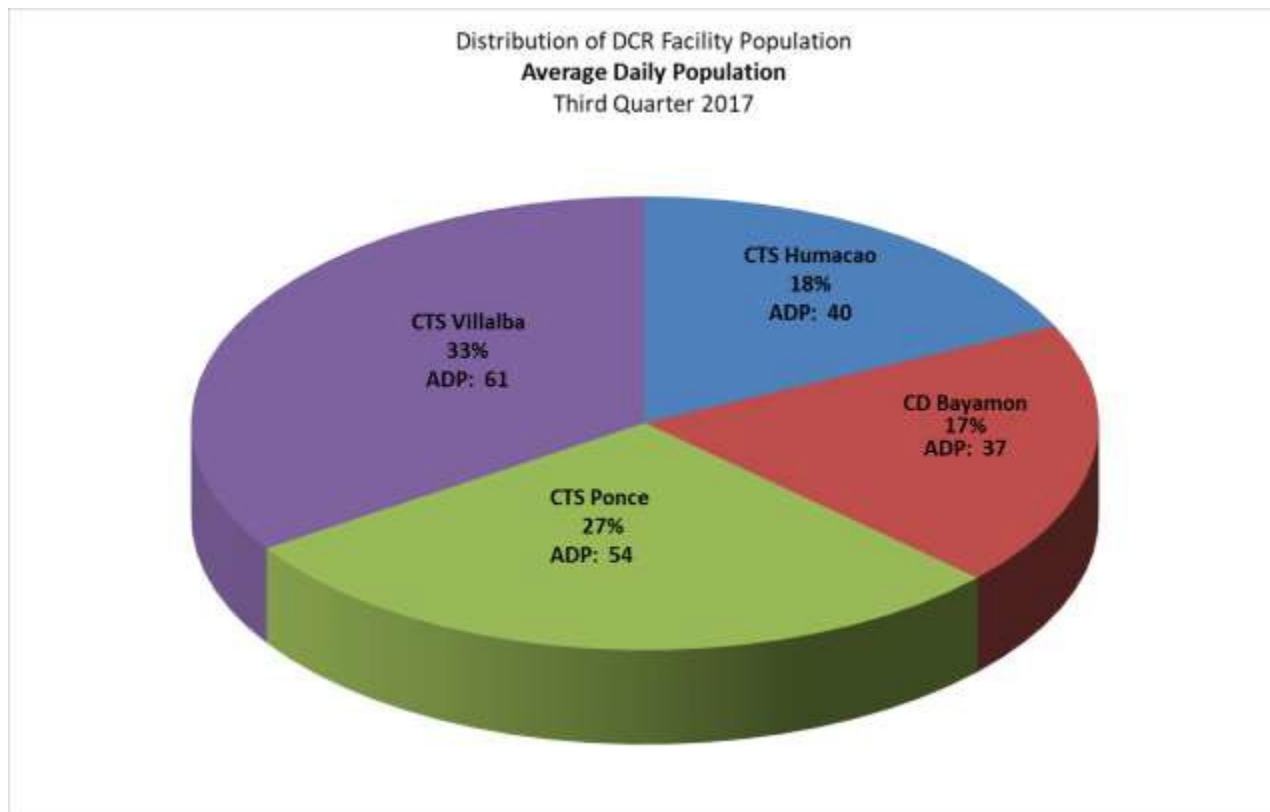
- 1 events 1st Quarter 2014
- 0 events 2nd Quarter 2014
- 0 events 3rd Quarter 2014
- 4 events 4th Quarter 2014
- 0 events 1st Quarter 2015
- 0 events 2nd Quarter 2015
- 0 events 3rd Quarter 2015
- 0 events 4th Quarter 2015
- 0 events 1st Quarter 2016
- 6 events 2nd Quarter 2016
- 0 events 3rd Quarter 2016
- 0 events 4th Quarter 2016
- 0 events 1st Quarter 2017
- 0 events 2nd Quarter 2017
- 0 events 3rd Quarter 2017



DCR Average Daily Population

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

The table below displays each facility's average daily population for the reporting period (July 2, 2017 through September 30, 2017), as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



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

CD Bayamón Staff Youth Ratio Analysis:

July 2 through September 30, 2017

CD Bayamon operates as a detention center. CD Bayamon closed as a DCR juvenile detention facility on September 18, 2017.

The CD Bayamon detention youth population is expected to meet the following Staff Youth ratios:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 12 of 12 requested

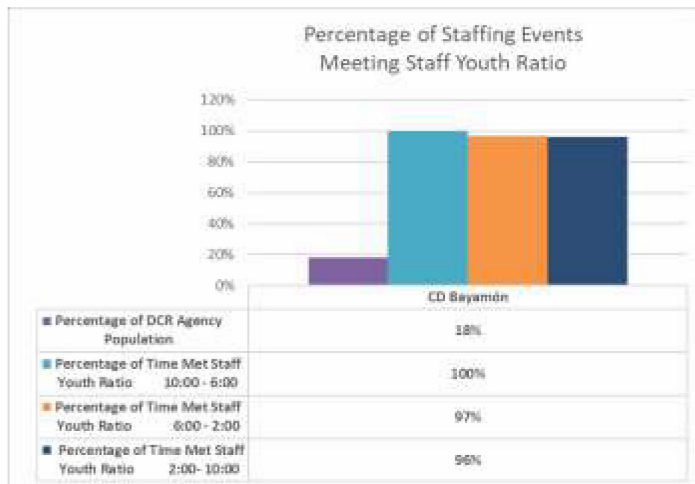
- Volume of Staff Youth Ratio Events: 921
- Volume of Staffing Events with Staff Working a Double Shift: 88 (10%)

The Third Quarter of 2017 Staff Youth Ratio requirements display the following characteristics:

- 10:00 pm – 6:00 am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 97%, an 11% increase since the Second Quarter reporting
- 2:00 pm – 10:00 pm: 96%, a 12% increase since the Second Quarter reporting
- CD Bayamón represents 18% of the DCR institutional population.
- Third quarter site visits were cancelled because of the hurricanes. No site visit was conducted during the third quarter reporting period.

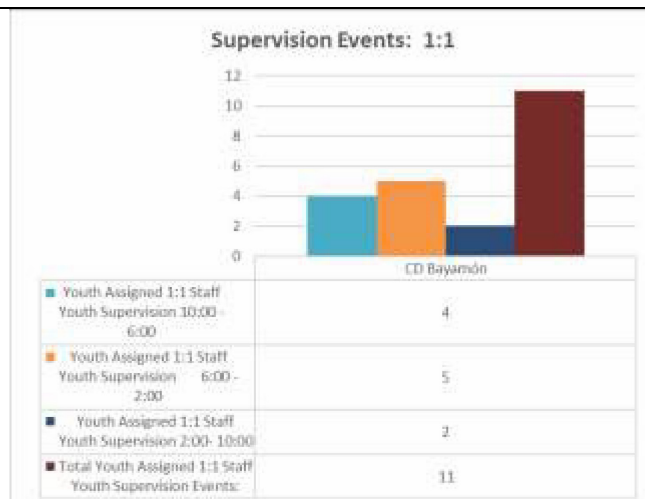
Volume of Weeks Analyzed: 12

Volume of Days Analyzed: 78



11 youth supervision 1:1 events for the Third Quarter of 2017

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



CTS Humacao Staff Youth Ratio Analysis:

July 2 through September 30, 2017

Treatment Level 5 Facility:

- A Staff Youth Ratio of 1:8 during 6:00 AM-2:00 PM and 2:00 PM -10:00 PM and
- A Staff Youth Ratio of 1:16 during 10:00 PM -6:00 AM
- For a period of the third quarter, Humacao housed both girls committed, detention and boys detention youth.

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

- **Volume of Staff Youth Ratio Events:** 1273
- **Volume of Staffing Events with Staff Working a Double Shift:** 171 (13%)

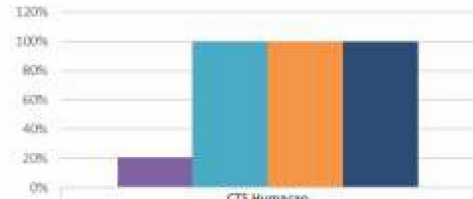
The Third Quarter of 2017 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00 am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 100%, a 5% increase since the Second Quarter reporting
- 2:00 pm – 10:00 pm: 100%, maintaining the same performance of the Second Quarter reporting
- CTS Humacao represents 21% of the DCR institutional population.
- Third quarter site visits were cancelled because of the hurricanes. No site visit was conducted during the third quarter reporting period.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

Percentage of Staffing Events Meeting Staff Youth Ratio

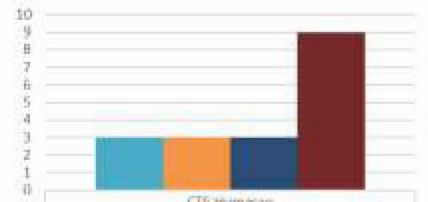


CTS Humacao	
Percentage of DCR Agency Population	21%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	100%
Percentage of Time Met Staff Youth Ratio 2:00 - 10:00	100%

9 youth supervision events for the Third Quarter of 2017

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

Supervision Events: 1:1



CTS Ponce Staff Youth Ratio Analysis:

July 2 through September 30, 2017

Treatment Level 2 and 3 Facility:
 CTS Ponce staff youth ratio is being analyzed as follows:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

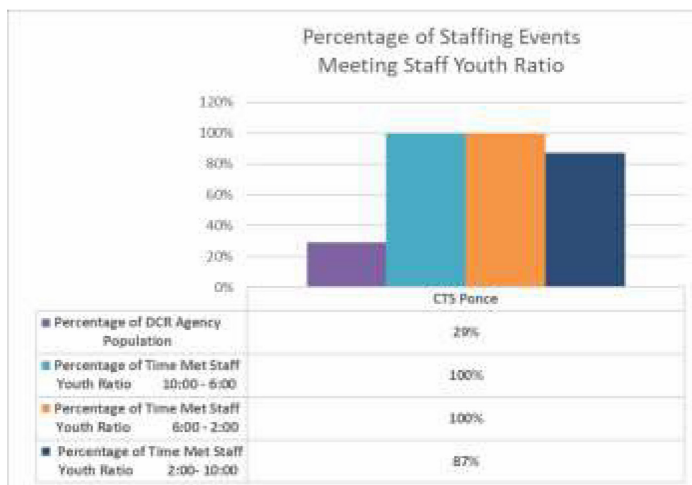
- Volume of Staff Youth Ratio Events: 1618
- Volume of Staffing Events with Staff Working a Double Shift: 86 (5%)

The Third Quarter of 2017 Staff Youth Ratio requirements display the following characteristics:

- 10:00 pm- 6:00 am: 100%, maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 100 %, a 19% increase since Second Quarter reporting
- 2:00 pm – 10:00 pm: 87%, a 31% increase since the Second Quarter reporting
- CTS Ponce represents 29% of the DCR institutional population.
- The PUERTAS module met the staff youth ratio 100% of the Second Quarter shifts.
- Third quarter site visits were cancelled because of the hurricanes. No site visit was conducted during the third quarter reporting period.

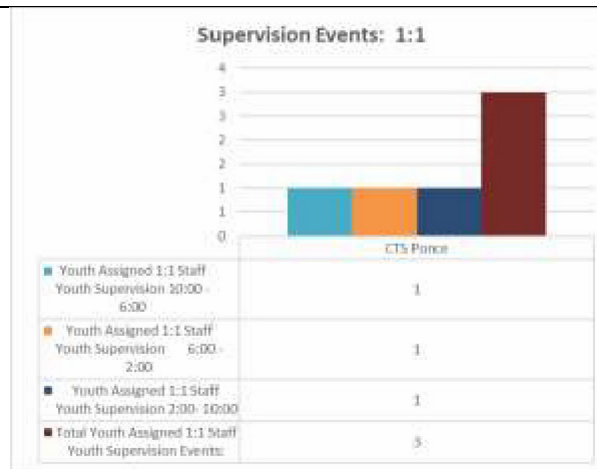
Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



3 youth 1:1 supervision events for the Third Quarter of 2017

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



CTS Villalba Staff Youth Ratio Analysis:

April 2 through July 1, 2017

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

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

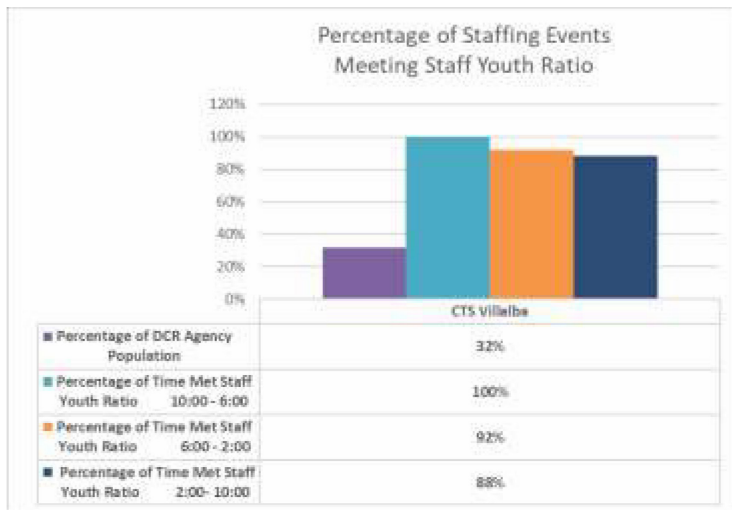
- **Volume of Staff Youth Ratio Events:** 1677
- **Volume of Staffing Events with Staff Working a Double Shift:** 241 (14%)

The Third Quarter of 2017 Staff Youth Ratio requirements display the following characteristics:

- **10:00pm- 6:00am:** maintained 100% required staff youth ratio
- **6:00 am – 2:00 pm:** 92%, an 11% increase since Second Quarter reporting
- **2:00 pm – 10:00 pm:** 88%, a 23% decrease the Second Quarter reporting
- CTS Villalba represents 32% of the DCR institutional population.
- Third quarter site visits were cancelled because of the hurricanes. No site visit was conducted during the third quarter reporting period.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91



0 youth 1:1 supervision events for the Second Quarter of 2017

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

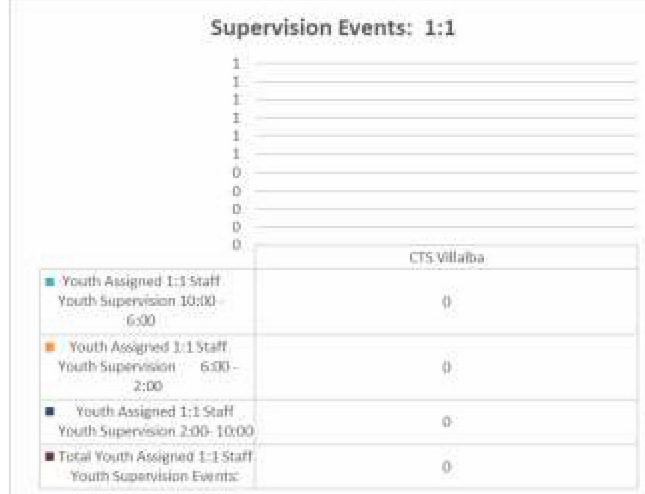


Table of Date of Receipt of Facility Staff Youth Ratio Form:

<u>Date</u>	<u>CD Bayamon</u>	<u>CTS Humacao</u>	<u>CTS Ponce</u>	<u>CTS Villalba</u>	<u>Program CREANDO</u>
July 2 - 8, 2017	7/24/17	7/24/17	7/24/17	7/24/17	NA
July 9 - 15, 2017	8/9/17	7/24/17	7/24/17	7/24/17	NA
July 16 - 22, 2017	8/9/17	8/9/17	8/8/17	8/9/2017	NA
July 23 -29, 2017	8/8/17	8/8/17	8/8/17	8/8/17	NA
July 30 - August 5, 2017	8/14/17	8/8/17	8/14/17	8/14/17	NA
August 6 -12, 2017	8/18/17	8/18/17	8/18/17	8/18/17	NA
August 13 - 19, 2017	8/25/2017	8/25/2017	9/1//2017	9/1//2017	NA
August 20-26, 2017	9/1//2017	9/1//2017	9/1//2017	9/1//2017	NA
August 27 - September 2, 2017	9/15//2017	9/15//2017	9/15//2017	11/16/17	NA
September 3 - 9, 2017	10/19/17	10/19/17	10/19/17	10/25/17	NA
September 10 -16, 2017	11/16/17	10/19/17	10/19/17	11/16/17	NA
September 17 -23, 2017	11/16/17	10/25/17	10/19/17	11/16/17	NA
September 24 - 30, 2017	NA	10/25/17	10/19/17	11/16/17	NA
	12	13	13	13	0
Volume of Forms Submitted	100.00%	100.00%	100.00%	100.00%	0.00%

**CREANDO closed as of 5/30/2017.

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

<u>Dates of Reporting Period</u>	<u>CD Bayamon</u>	<u>CTS Humacao</u>	<u>CTS Ponce</u>	<u>CTS Villalba</u>	<u>Program CREANDO</u>	<u>Totals</u>
July 2 - 8, 2017	30	33	55	73	NA	191
July 9 - 15, 2017	32	32	53	71	NA	188
July 16 - 22, 2017	39	32	53	67	NA	191
July 23 -29, 2017	41	33	52	63	NA	189
July 30 - August 5, 2017	41	33	53	64	NA	191
August 6 -12, 2017	35	33	55	59	NA	182
August 13 - 19, 2017	38	34	55	57	NA	184
August 20-26, 2017	39	34	55	62	NA	190
August 27 - September 2, 2017	34	33	57	59	NA	183
September 3 - 9, 2017	39	28	55	56	NA	178
September 10 -16, 2017	41	67	54	56	NA	218
September 17 -23, 2017	35	64	54	54	NA	207
September 24 - 30, 2017	NA	67	55	53	NA	175
Totals	444	523	706	794	0	2467
Percentage of AIJ Agency Population	18%	21%	29%	32%	0%	100%
Average Daily Population	37	40	54	61		190

Document Attachment B: Incident and Understaffing report

For the quarter there was one incident to report where there was understaffing at the time and location of the incident.

Date	Number	Facility	Shift	Summary	Ratio
Week of Aug. 7-11	17-053	CTS Villalba	Unknown	Allegedly, the youth R. Torres was hit in Module C-2. According to the youth, the aggressors R. Marucci, L. Morales, and C. Rivera were the module's leaders and he does not wanted to follow his instructions. After the incident the victim requested to be moved to other module.	1 officer, 12 juveniles
Aug. 12-14	17-048	CTS Villalba	Unknown	Allegedly, the youth J. Velázquez was being assaulted in previous days by other juveniles in the module. In addition the alleged victim mentioned other youths in the module were consuming "illegal drugs". Infirmary notes show no evidence of the aggressions.	2 officers, 12 juveniles (1 officer was taking care of a youth on Transitional Measure)
Sept. 7	17-056	CTS Humacao	Morning	Allegedly, youth officers J. Colón, assigned to Module 3-B, and M. González hit and sprayed with OC a group of juveniles in module's common area. According to the 284 form the officers used authorized and unauthorized OC. Infirmary notes show a list of youths with different type of injuries and confirmed the use of OC.	1 officer, 15 juveniles
Sept. 18	17-059	CTS Humacao	Morning	Juveniles from Living Unit 1-A were hit and cut in different parts of their bodies resulting with multiple open wounds. The incident occurred in living's unit common area. Initially the victims were evaluated in the facility's infirmary but later were transferred to an emergency room for stitches.	1 officer, 8 juveniles

Sept. 23	17-060	CTS Humacao	Afternoon	Allegedly, the youth A. Cáez was hit in his head by the youth E. Lugo and others. The incident occurred in Living Unit 3-A. Infirmary notes and other documents were not available for review.	1 officer, 14 juveniles
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The staffing requirement was not met because there should have been 3 officers, as one was assigned to therapeutic supervision of one youth.

Document Attachment C: Abuse Referrals Tracking Report

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

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

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

A. General Measures	16-4th	17-1st	17-2nd	17-3rd
A.1 Average Monday 1st Shift count of youth	259	256	210	184
A.2 Number of incident events	53	65	49	40
A.3 Number of youth-to-youth incident events	23	34	10	24
A.4 Incident events involving use of force by staff	23	16	10	17
A.5 Incident events with suicide act, ideation, or gesture	9	7	12	5
A.6 Incident events w/ self-mutil. act, ideation, or gesture	3	8	16	6

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

B. Mental Health Record Information	16-4th	17-1st	17-2nd	17-3rd
B.1 Suicidal incidents, ideation or gestures	9	6	12	5
B.2 Number of individual youth referenced	9	4	10	4
B.3 Cases involving ideation only	6	4	11	2
B.4 Cases involving suicide gesture	3	2	1	3
B.5 Cases involving suicide intention	0	0	0	0
B.6 Cases w/ ambulatory treatment	9	6	12	5
B.7 Cases with hospitalization	0	0	0	0
B.8 Cases leading to death	0	0	0	0
B.9 Suicide Cases with 284 report filed	0	0	0	0
B.10 Self-mutilations incidents, ideation or gestures	3	8	4	1
B.11 Number of individual youth referenced	3	8	3	1
B.12 Cases requiring sutures	0	0	0	0
B.13 Cases requiring hospitalization	0	0	0	0
B.14 Cases leading to death	0	0	0	0
B.15 Self-Mutilation Cases with a 284 report filed	0	0	0	0

The above cases come from mental health records. NIJ has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a recently developed mental health process. Of the 40 (A.2) incident events in most recent quarter, 6 (B.1 plus B.10) involved suicide and self-mutilation incidents.

None of the above incidents resulted in a Paragraph 78a abuse referral. All cases were to be referred to the mental health process. During the quarter, a change in mental health staffing was proposed and apparently implemented it is not clear whether the new personnel are fully informed as to how to complete the referral reviews.

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

C. 284 Incidents	16-4th	17-1st	17-2nd	17-3rd
C.1 284 Incident Events	21	21	11	28
C.2 Level One Incident Events	2	5	1	4
C.3 Level Two Incident Events	19	16	10	24
C.4 Referrals to OISC	19	16	11	24
C.5 Youth-to-Youth Incidents	5	6	0	9
C.6 Youth-to-Youth Injuries	2	3	0	5
C.7 Youth-to-Youth with External Care	2	2	0	4
C.8 Youth-to-Youth Sexual	1	0	0	0
C.9 Youth-to-Youth Sexual w/ Injury	0	0	0	0
C.10 Staff-to-Youth Incidents	16	15	11	19
C.11 Staff-to-Youth Injuries	3	9	2	3
C.12 Staff-to-Youth with External Care	1	0	0	0
C.13 Staff-to-Youth Sexual	1	1	2	4
C.14 Staff-to-Youth Sexual with Injury	0	0	0	0
C.15 284 Incident Events with administrative actions	21	21	11	28
C.16 284 Incident Events with report by end of shift	21	20	10	27
C.17 Level 1 Investigations complete within 20 days	2	5	1	4
C.18 SOU (Special Operations) interventions	1	1	0	0
C.19 SOU events with 284 reports	1	1	0	0
C.20 284 with Item 5 completed	21	20	10	26
C.21 284 with Staffing Compliance	17	16	9	26
C.22 Percent 284 cases with staffing compliance	81%	80%	81%	93%

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

Of the 10 housing unit events with item 5 checked in the report (C.20), 81% (C.22) took place when there was compliance with staffing provisions.

D. Initial Case Management Measures	16-4th	17-1st	17-2nd	17-3rd
D.1 284 percent with admin actions	100%	100%	100%	100%
D.2 284 per cent completed by end of shift	100%	95%	91%	96%
D.3 284 Level 1 Investigation Complete Within 20 days	100%	100%	100%	100%

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

E. OISC	16-4th	17-1st	17-2nd	17-3rd
E.1 Cases Referred from this quarter	19	16	11	24
E.2 Received by OISC Within 24 hours	19	15	10	23
E.3 Completed by OISC Within 30 workdays	18	16	10	14
E.4 Complete during the next quarter, but within 30 days	0	0	0	0
E.5 Cases Not Completed by OISC Within 30 days.	1	0	1	10
E.6 Percent of OISC cases completed within 30 days	95%	100%	91%	58%
E.7 Completed Cases Returned for Further investigation	1	0	0	0
E.8 Percent of cases returned for further investigation	6%	0%	0%	0%
E.9 Further Investigation Completed	2	0	0	0
E.10 Cases this quarter incomplete, including further investigation	2	0	1	3
E.11 Percent of cases from this quarter not yet completed	11%	0%	9%	12%

The timely completion of OISC investigations (Item E.6) was initially reported as 88% but has been reduced to 50% based on the following additional information provided by Commonwealth officials.

- **July 2017** – 7 cases investigated, from that amount 2 were not completed in 30 days. The reason was a week off all investigators took during the “Week of the Investigator”. Those 2 cases were supposed to be delivered during that week.
- **August 2017** – 12 cases investigated, in 7 cases the 30 days period ended after Hurricane Maria when DCR was not operating.
- **September 2017** – 5 cases investigated, from that amount 3 were received after Hurricane Maria.

During the quarter 24 cases were investigated but only 14 were completed in the 30 days period for a 58% timely completion rate.

The Monitor has received detailed case data from UEMNI that conflicts with the figures provided by OISC officials and which are included in E.6, E.10 and E.11; these conflicts remain unexplained and have yet to be reconciled.

The quality of investigations is assessed in the Case Assessment Table that normally follows in the next Appendix section. However, due to the hurricanes, this report will be included in the fourth quarter report.

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

F. Administrative Determinations for 284 Cases	16-4th	17-1st	17-2nd	17-3rd
F.1 Cases with youth discipline referrals	14	10	2	26
F.2 Cases with youth discipline actions	11	7	2	23
F.3 Cases with youth no discipline actions	3	3	0	3
F.4 Cases Staff/youth with determinations	5	20	5	10
F.5 Cases recommending personnel actions	0	8	11	2

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

Of the 11 cases (C.1) with referrals as 284-cases, 2 (F.2) were referred for disciplinary actions and 2 (F.3) were the subject to discipline actions for youth involved.

G. Prosecutorial Determinations for 284 Cases	16-4th	17-1st	17-2nd	17-3rd
G.1 Cases received by PRDOJ	2	0	0	1
G.2 Cases with decision not to prosecute	3	0	4	0
G.3 Cases with referral for prosecution	1	0	0	0
G.4 Cases pending determinations	5	5	1	2

Document Attachment D: Consultant Report on Education and Training Victor Herbert September, 2017

Functional Team Meeting (8/16/2017): A major portion of the meeting was dedicated to SA 50 training issues and the development of a compliance memorandum shortly after the projected compliance target date of December 31, 2017. Aida Burgos IDECAHR director stated that she believed the date was still feasible but submitted a series of issues in need of resolution. At the request of Counsel Arlene Perez, this document should be discussed in the next FT meeting during early December 2017.

1. Document Delivery: Since several will be quite lengthy, electronic attachments will not be a problem for any of the parties.
2. Population: As established earlier in the road map planned for this stipulation, IDECAHR will demonstrate at least 90% compliance with 40 hours of training for all direct care staff as stated in the stipulation.
3. Time Line: As established in an earlier agreement with the Federal Monitor, the period of compliance demonstration will extend to 18 months including half the fiscal year and a full calendar year. In this case that period extends from July 1, 2016 through to December 31, 2018.
4. IDECAHR will no longer provide the compliance tables available before 2011. Beginning soon after December 31, 2017, a document will be available that lists the name of each direct care staff member, the job title, the title of the training session, the date and the total numbers of hours completed. A sample from the FT meeting in August 2017 is attached. This is still subject to review and revision as appropriate. It will be attached in its final form as an electronic document as it will be quite lengthy.
5. IDECAHR agrees to maintain a file of attendance sheets subject to review by all parties in the central office for DCR/NIJ.
6. IDECAHR agrees to maintain a complete library of curriculum and other instruction material for all course work offered in accord with SA 50 subject to review by all parties.
7. IDECAHR will provide training calendars for the entire 18 months with notation of revision, cancellation and/or re-schedule. The calendars will indicate time and place of the training, SA 50 topics, length of the instruction period and the instructor.

8. IDECAHR notes that current levels of instruction far exceed the specific topics listed in SA 50 but agrees that additional training will not replace the items listed under the rubric “to include but not be limited to.”
9. IDECAHR will provide the names, titles, qualifications and positions whether as employees of DCR/NIJ or as outside instructors of “qualified personnel” offering the various courses.
10. IDECAHR or DCR/NIJ officials will provide a rationale for the reduction in CPR training or request a change in the language. It should be noted that the stipulation does not address CPR certification but rather annual training. Nevertheless, if direct care staff achieves certification from the Red Cross or other approved agencies licensed to certify, copy of the certificates will be stored in the IDECAHR office.
11. While PREA regulations arrived after the language for SA 50 was approved, PREA should be considered an integral component of the stipulation.
12. All documents in support of the compliance memorandum will be housed in IDECAHR or the DCR/NIJ central office. They will be available to all parties for review and requests for random samplings by all parties will be addressed with dispatch.
13. DCR/NIJ will establish firm disciplinary action in the case of direct care personnel who do not participate in the SA 50 training.
14. IDECAHR will continue to investigate instruction delivery platforms other than the traditional in class instruction solely available at the moment.
15. The Monitor’s consultant agrees to compose a draft compliance memorandum shortly after December 31, 2017 for review and revision by all parties.

Document Attachment E: Site Visit Chronology

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

Jul. 5, 2017:	Deputy Monitor Javier Burgos visited CTS Ponce.
Jul. 14, 2017:	Deputy Monitor Javier Burgos visited CTS Villalba.
Jul. 20, 2017:	Deputy Monitor Javier Burgos visited CTS Humacao.
Jul. 27, 2017:	Deputy Monitor Javier Burgos visited CD/CTS Bayamón.
Aug. 1, 2017:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Ponce.
Aug.1, 2017:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Villalba.
Aug. 2, 2017:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Humacao.
Aug. 2, 2017:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CD/CTS Bayamón.
Aug. 24, 2017:	Deputy Monitor Javier Burgos visited CD/CTS Bayamón.
Aug. 25, 2017:	Deputy Monitor Javier Burgos visited CD/CTS Bayamón.
Aug. 30, 2017:	Deputy Monitor Javier Burgos visited CTS Humacao.
Aug. 31, 2017:	Deputy Monitor Javier Burgos visited CTS Villalba.
Sept. 12, 2017:	Deputy Monitor Javier Burgos visited CTS Humacao.
Sept. 15, 2107:	Deputy Monitor Javier Burgos visited CD/CTS Bayamón.
Sept. 29, 2017:	Deputy Monitor Javier Burgos visited CD/CTS Bayamón.

THE UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

COMMONWEALTH OF PUERTO RICO

Defendants,

Monitor's Compliance Ratings
Third Quarter 2017

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

Provision	P	S	R	T	D	G	Comment
Facility Provisions							
C.O. 41: Within ninety (90) days of the filing of this Consent Order, Defendants shall repair all defective plumbing in the facilities in this case. The defective plumbing shall be repaired first at Mayaguez, Ponce Industrial, Ponce Detention and Humacao.	Y	Y	Y	I	Y	Y	This provision was terminated by the Court on March 30, 2017.
S.A. 29. Each new facility shall be built in accordance with: (1) the American Correctional Association's (hereinafter "ACA") standards in effect at the time of the construction; (2) the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101–12213 and 47 U.S.C. §§ 225 and 611, and the regulations thereunder; and (3) all Commonwealth fire codes and regulations.	Y	I	I	I	Y	Y	This provision was terminated by the Court on March 30, 2017.
S.A.31. Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state and/or local building codes.	Y	N	N	N	N	N	<p>There are still life and fire safety code and ADA violations that have not been remedied. DCR has not allocated sufficient resources to support compliance with this provision nor is there documentation at this juncture to support a pathway to compliance. The Monitor's office and the functional team have, however, discussed a potential Roadmap for compliance with this provision, including utilizing the checklists developed for SA 29 as a foundation for further evaluation. We also met in March with a new team of engineers who are consultants to DCR who are to develop a strategy that may pave the way for a roadmap for eventual compliance with this provision. The monitor was informed that DCR has reviewed existing drawings and the documentation developed for SA 29 as well as toured one of the existing facilities. They have also presented the Monitor's Office with a preliminary listing of codes for compliance analysis. This list was preliminarily reviewed by the Monitor's office and was pending a follow-up discussion with the engineers.</p> <p>The monitor's office has since been informed that the contract with the engineers ended on June 30th and that a new consulting group will need to be hired. If a different firm is re-hired, it will set the process back for making progress on this provision.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	N	#	#	#	#	N	<p>The DCR Fire Safety Officer has revised the procedures for emergency key control based on the review by the monitor's office.</p> <p>Presently, Humacao is still testing if current staffing is sufficient to manually unlock housing room doors in compliance with current life safety codes. The Monitor's Consultant is continuing to review the weekly documentation and evacuation simulation data, which indicates that housing units can be safely evacuated in less than two minutes per the life safety code. In addition, DCR is developing new documentation that shows sufficient staff with proper communication capabilities are always working in the Mini Housing Control stations on all shifts to remotely unlock all exit doors in each facility.</p> <p>DCR has completed the initial process to properly color code and notch emergency keys and store them in accessible secure locations for staff access on all shifts.</p> <p>The Monitor's Consultants submitted a report in the third quarter of 2016 based on the tours completed earlier in 2016. Since the time of the tours that generated the report, DCR has been very responsive in correcting most of the issues noted in the report. The Monitor's Consultant has spot checked some of the corrections on subsequent site visits and has seen improvements. DCR submitted a document that described all these corrections as well as a few final updates of the emergency key procedures that the Monitor's office has reviewed and found acceptable. Accordingly, in April 2017, the Monitor's Consultant conducted a compliance tour to determine full compliance and the tour revealed that compliance has been achieved with only a few minor corrections required. Documentation for those modifications will be presented to the monitor's office for verification and once all the other documents required for compliance with this provision, such as the specific policies and evidence of staff training are submitted to the Monitor's Consultant, a Compliance Memorandum will be drafted.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	N	#	#	#	Y	N	<p>DCR has vastly improved its ability to maintain operable exit doors from living units that can be readily unlocked in emergency situations.</p> <p>DCR is now documenting on a weekly basis its monitoring and inspections made by the fire safety officers at each facility documenting that all exit doors are maintained in operable condition and can be readily unlocked. The process for documentation has been agreed to with the Monitor and Functional team and documentation began in August 2014. The Monitor's office has observed this documentation being utilized at all the facilities and in practice and is satisfied with the progress of compliance. The monitor is also waiting for additional training curriculum documentation. A draft Roadmap for this provision was completed in consultation with the Functional Team and was presented to USA for comments. The Monitor's Office received those comments and also shared them with the functional team members. In the most recent quarterly site visits to the four facilities, there were no issues observed in spot checking emergency exit doors in the housing units. In addition, the Monitors' Office reviewed the most recent quarterly inspection reports and found them to be complete and demonstrated compliance with this stipulation.</p> <p>In addition to all the weekly reports, DCR is currently developing summary spreadsheets of all the exit door tests showing the data in summary form for the last twelve months.</p> <p>Once all the other documents required for compliance with this provision, such as specific policies and training of staff, which is presently proceeding, are submitted to the Monitor's Consultant, a Compliance Memorandum will be drafted.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	Y	N	Y	#	#	N	<p>DCR is planning to submit an update to its new lesson plans for training compliance. The training using the new curriculum has begun. The Monitor and Functional Team have agreed to focus primarily on the training curriculum and number of staff trained in 2016 and 2017 as these time-frames are more pertinent to determine compliance with this provision.</p> <p>DCR has supplied documentation that emergency procedures are reviewed and updated annually. Documentation has also been provided showing that copies of the emergency plans are available to staff at all facilities.</p> <p>A Final Roadmap for this provision has been agreed to by DCR and USA. The Monitor's consultants continue to work with the parties to assemble the necessary compliance documentation expectations for the Roadmap. The Monitor's Office is waiting for the updated training documentation to become part of a compliance memorandum to be submitted later in 2017</p>

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

Provision	P	S	R	T	D	G	Comment
Staffing							
<p>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.</p> <p><u>48.a Method one:</u> 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.</p> <p><u>48.b Method Two:</u> Defendants may develop, and submit to the court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignment necessary to implement the terms of this agreement, taking into consideration the physical configuration and function of spaces, the classification and risk profiles of youths involved, the incident patterns in the settings involved, the routine availability in the settings of other categories of staff, and the overall number of direct care positions necessary to consistently achieve the coverage proposed. Once a plan is approved for a facility, defendants shall document the employment of the necessary overall numbers of direct care staff, and the ongoing deployment of such staff in accordance with the plan.”</p>	N	N	N	N	Y	N	<p>The Commonwealth has the choice to demonstrate compliance according to method 48.a or 48.b. They have informed the Monitor that they do not intend to select method 48.b and that their legal position is that this language should be struck from the Settlement Agreement as superfluous. The Monitor agrees.</p> <p>For the Third Quarter of 2017, the compliance table reflects the data received from DCR prior to the hurricanes. DCR provided 92% of the weekly staff youth ratio forms expected in the Third Quarter. The staffing performance data below reflects the staff youth ratio of the forms that were received and analyzed..</p> <p>6:00 am- 2:00 pm shift: 96% of events, a 11% increase since the Second Quarter reporting period 2:00 pm- 10:00 pm shift: 92% of events, a 20% increase since the Second Quarter reporting period 10:00 pm- 6:00 am shift: 100% of events, a 0% increase since the Second Quarter reporting period</p> <p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>While compliance with the terms of this provision is not likely for some time, Monitor’s consultants are working with the parties to identify necessary compliance documentation expectations for compliance.</p>

<p>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.</p>	Y	N	N	N	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p>
<p>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.</p>	N	N	N	N	N	N	<p>The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991)</p> <p>No new YSOs were hired during the Third Quarter of 2017.</p>
<p>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.</p>	#	#	#	#	#	#	<p>The Commonwealth has decided not to employ this provision to enhance coverage. However, the provision remains as a future option. Unless and until the Commonwealth determines that they want to apply this provision, the Monitor’s Office will not Monitor the provision. The choice to not implement this provision is not non-compliance. The struck part of the provision references a provision that has been terminated.</p>
<p>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.</p>	#	#	#	#	#	#	<p>The phrases in this provision that refer to Paragraph 49 are struck because that provision has been terminated.</p>
<p>January 2009 Stipulation Paragraph 5: On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.</p>	N	N	N	N	N	N	<p>The struck part of the provision references a provision that has been terminated.</p> <p>The report was not provided during the Third Quarter of 2017, nor has it been provided by the Commonwealth since the initiation of the stipulation</p> <p>On 10/20/2017 Joel Torres Ortiz (PR DOJ) in an email to Brian Buehler (DOJ) reported on the staffing distribution by facility and by Officer Classification for CTS Ponce, CTS Villabla and CTS Humacao. This email did not describe the reassignment of CD Bayamon staff after the transfer of youth and closure of CD Bayamon.</p>

Provision	P	S	R	T	D	G	Comment
Training							
<p>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.</p>	Y	N	N	N	N	N	<p><u>Compliance tables documenting training within the agency as required in this stipulation have not been submitted to the Monitor since 2011, despite repeated requests. The compliance plan described below will provide a different but more accurate reporting method.</u></p> <p>During the 3rd quarter 2017 DCR FT meeting the IDECAHR director and FT members provided additional detail about the compliance plan for this stipulation. The timeline will extend from July 2016 to the end of December 2017 and will achieve a 90% or higher compliance threshold for all components of the training offered to active direct contact security staff. IDECAHR stated that they have already achieved 100% compliance for CPR and are on track to do so with other training categories. The lead attorney for DCR/NIJ requested that the monitor's consultant prepare a reaction and recommendation document following the meeting. The document was prepared and forwarded. This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. A review of the training sessions during the quarter revealed that PREA training is being offered within the institutions.</p>
Classification							

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	Y	Y	#	Y	N	N	<p>DCR, with the support of consultants, has conducted a validation study of the classification process for detention and committed and detention youth.</p> <p>DCR has conducted a classification validation study on committed and detention youth. The validation study was assessed for agency impact, piloted and was implemented in June 2016. An Administrative Order describing implementation of the Instruments of Classification in Custody and Instruments of Classification in Detention has been trained and operationalized</p> <p>Documentation has been provided for the classification of youth for detention, as well as for committed youth, for the months of July and August of the Third Quarter of 2017.</p> <p>For the months of July and August of the Third Quarter, there were 56 detention admissions, of which 59% (33) were classified as low; 36% (20) were classified as moderate; 2% (1) was classified as severe, and 4% (2) as Released prior to classification.</p> <p>For the months of July and August of the Third Quarter, there were 10 committed youth institutional assignments based on the Instruments of Classification in Custody: CTS Humacao (Treatment Level 5: 0 youth); CTS Villalba (Treatment Level 4: 6 youth); CTS Ponce (Treatment Level 2: 0 youth) CTS Ponce (Treatment Level 3: 3 youth); CTS Ponce, PUERTAS; 1 youth). Pending Placement: 3 Monitor's consultants are continuing to work with the parties to identify necessary compliance documentation expectations.</p>

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	#	#	N	Significant gaps in mental health services continues to exist. Acceptable standards, as required by Consent Order paragraph 59 are not being met due to insufficient mental health (psychiatry and psychologist) hours. Mental health treatment, rehabilitation plan, including services provided by contracted psychiatrists, psychologists and social workers for each juvenile with a substance abuse problem are not being provided by generally acceptable standards.
C.O. 29: Defendants shall establish an adequate residential mental health treatment program which provides services in accordance with accepted professional standards, for juveniles confined in the facilities in this case who are attempting to commit suicide and/or who are inflicting harm on themselves and/or any other juvenile in need of such services as determined by the juvenile's interdisciplinary mental health team which includes a qualified psychiatrist. This residential treatment program will house up to forty-eight (48) juveniles from Commonwealth facilities. The residential treatment programs will be established in an area that meets professional standards regarding safe physical areas for suicidal and/or self-mutilating juveniles.	#	N	N	N	N	N	As mentioned previously it is the understanding of the Monitor's Mental Health Consultant that the 48 bed residential mental health treatment program provision was originally developed, and then reaffirmed by joint stipulation of the parties in 2007, when the overall DCR youth census was substantially higher. The Monitor's Mental Health Consultant recommends a review of this provision for possible revision (i.e. decrease from the 48 bed requirement) given the significant decrease in census (less than 200).
C.O. 34. Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self mutilating behaviors.	Y	Y	Y	Y	Y	Y	This provision was terminated by the Court on March 30, 2017.
C.O. 36. Within 120 days of the filing of this consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology services 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 shall include at a minimum, a thorough psychiatric evaluation, necessary diagnostic tests before prescription of behavior-modifying medications, blood-level monitoring if behavior-modifying medications are prescribed, therapy, counselling, treatment plans and necessary follow-up care.	N	N	N	N	#	#	As per previous quarterly report, there are insufficient hours to allow for mental health staff to attend multidisciplinary case conferences, treatment reviews, committees where decisions are made (i.e. regarding entrance to PUERTAS) and important school meetings where special education services are discussed.

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	#	N	N	#	#	#	<p>As per previous quarterly report, there are insufficient hours to allow for mental health staff to attend multidisciplinary case conferences, treatment reviews, committees where decisions are made (i.e. regarding entrance to PUERTAS) and important school meetings where special education services are discussed. Psychiatrists are not immediately available to examine juveniles who have self-mutilated and/or expressed suicidal ideation.</p>
<p>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.</p>	#	N	N	#	N	N	<p>See above regarding decrease in psychiatric hours.</p>
<p>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.</p>	Y	Y	Y	Y	#	N	<p>The overall rating is not being determined to be in full compliance as a determination needs to be made regarding youth in detention vs. custody and the interpretation of this into the existing policies and procedures. policies, staffing numbers</p>

Provision	P	S	R	T	D	G	Comment
Discipline							
<p>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.</p>	Y	Y	I	Y	Y	Y	<p>This provision was terminated by the Court on December 10, 2014 after the parties filed a joint motion to terminate this provision on July 11, 2014.</p>

Provision	P	S	R	T	D	G	Comment
<p>S.A. 77. In no event is physical force justifiable as punishment on any juvenile. The use of physical force by staff, including the use of restraints, shall be limited to instances of justifiable self-defense, protection of self and others, to maintain or regain control of an area of the facility, including the justifiable protection of significant property from damage; and prevention of escapes; and then only when other less severe alternatives are insufficient. A written report is prepared following all uses of force and is submitted to administrative staff for review. When force, including restraint, is used to protect a youth from self, this must be immediately referred to the medical area for medical and</p>							<p>Data was provided for the 10 weeks that Bayamon was operational, all 13 weeks for Humacao and Ponce, and 9 of 13 weeks for Villalba. Recognizing that not all data was available for Villalba, the overall volume of use of force incidents increased significantly compared to the 2nd (and previous) Quarter: 20 use of force incidents involving 33 youth this quarter compared with 8 incidents involving 11 youth in Q-2. Incidents occurred as follows: Bayamon (8); Humacao (2); Villalba (3); Ponce (12). However, 7 of the incidents at Ponce involved a single youth, JS, who has continued to present significant management challenges</p>

mental health evaluation and any necessary treatment.

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and generate use of force incidents. The incidences of OC use increased significantly this quarter from 4 times system wide last quarter to 16 in Q-3 (Villalba-9; Humacao-4; Bayamon-3).

During site visits in June 2017, the Monitor’s consultant reviewed the incident report packages (including Cernimiento review forms and all incident reports) and each of four quarter-to-date incident videos at Ponce. Review of reports and videos at Ponce revealed incidents in which staff acted admirably, in one case exhibiting extraordinary patience with a very troubled youth and in another using their own bodies to shield/protect youth from assault by others. Many uses of force arise as officers intervene to break up group fights or assaults, typically occurring due to “leader” disputes. Administrators routinely initiate the Cernimiento review process and make referrals for administrative investigations.

Information concerning referrals for OISC investigations pertaining to uses of force this quarter was not made available to the Deputy Monitor.

The Deputy Monitor attended a use of force training session conducted on June 8 for 9 officers at Villalba. He found the training to be excellent, well delivered by qualified trainer, and the content closely tailored to both this provision as well as DCR policy. Training materials, including a PowerPoint presentation (dated September 2015) that was thorough and reflected all salient aspects of P77 and policies, were provided to trainees and pre and post-tests were administered to assess understanding of that which was taught.

Evidence of training completion is a key next step toward DCR demonstrating compliance with this provision.

Provision	P	S	R	T	D	G	Comment
Abuse and Maltreatment Investigation and Management							
<p>S.A. 78.a Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, and excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.</p>	Y	N	N	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. Policies have been updated to comply with this provision.</p> <p>Due to the hurricanes there was no Case Assessment Report for the July-September period. The following observations are based on the report from the prior quarter.</p> <p>Evidence was preserved in 91% of applicable cases sampled. (Case Assessment A.4) Suspected youth were separated from their victim(s) in 90% of the cases assessed. (Case Assessment A.8) Additional information about compliance can be found in the case assessment tables in the main report.</p>

Provision	P	S	R	T	D	G	Comment
<p>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 staffperson or juvenile, the AIJ administration shall also notify SAISC within 24 hours of knowledge of the potential incident, and 1 hour for any juvenile death, and SAISC shall conduct an administrative investigation.</p>	Y	Y	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>Due to the hurricanes there was no Case Assessment Report for the July-September period. The following observations are based on the report from the prior quarter.</p> <p>The timeliness of initial reporting to PRPD by AIJ, based on AIJ records assessed in the case assessment process (Case Assessment B.1) , is 100%</p> <p>The Commonwealth Police do not fully respond to the Monitor's information requests for case analysis information. There are reports provided for about half of the cases, and much information is missing.</p> <p>Cases were promptly referred to OISC in 93% of sampled cases based on OISC records. (Case Assessment D.1)</p> <p>The conduct and completion of the investigations is assessed in P78.e below.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	N	#	#	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>Indicators of compliance with the provision include measures within the Abuse Referrals Tracking Report. Due to the hurricanes there was no Case Assessment Report for the July-September period.</p> <p>The Monitor’s Office has not recently reviewed compliance with the interview compulsion provision.</p>
<p>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.</p>	Y	#	#	#	N	N	<p>For the most recent quarter, 50% of OISC case investigations were completed within 30 days. (Abuse Tracking Statistics E.5 and E.6)</p> <p>100% of Level One case investigations were completed within 20 days at the facilities. (Abuse Tracking Statistics D.3)</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	N	N	Y	N	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>There is an internal process to review investigation quality. No formally-adopted standards have been submitted to the Monitor’s Office. Training may be insufficient if the policies are not in place which would be the topic of the training.</p> <p>DCR has recently adopted a very structured investigation report template for use of force cases addressing standards set forth in this provision and in others. It is considering revising and adapting the template for non-use of force investigations. The Monitor supports this concept.</p>
<p>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.</p>	N	N	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>For the most recent quarter, 50% of OISC case investigations were completed within 30 days. (Abuse Tracking Statistics E.5) The Commonwealth asserted that the delays primarily resulted from the hurricanes.</p> <p>There is an internal process to review investigation quality and the Monitor and Deputy Monitor are reviewing the instrument that was developed and is used. No formally-adopted standards have been submitted to the Monitor’s Office. Training may be insufficient if the policies are not in place which would be the topic of the training.</p> <p>OISC cases have been identified that do not contain “proposed findings.”</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	Y	Y	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>The rating for Staffing and Policy Compliance is "Y" because staffing and policy is sufficient for the Commonwealth to produce this report. The Monitor believes that the remaining area where additional monitoring and documentation is needed is the quality assurance assessment described in the third sentence.</p>
<p>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.</p>	Y	Y	Y	Y	Y	Y	<p>This provision was terminated by the Court on March 30, 2017.</p>
<p>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.</p> <p>For any criminal proceeding that is filed in the future, the same information shall be provided to the Monitor and the United States within fifteen (15) days after its filing.</p> <p>The order also required two reports to be filed by December 19, 2006. These were filed at the time.</p>	Y	Y	Y	Y	Y	Y	<p>This provision was terminated by the Court on March 30, 2017.</p>

Provision	P	S	R	T	D	G	Comment
Protection and Isolation							
<p>S.A. 79. Juveniles shall be placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others and only after less restrictive methods of restraint have failed. Isolation cells shall be suicide resistant. Isolation may be imposed only with the approval of the facility director or acting facility director. Any juvenile placed in isolation shall be afforded living conditions approximating those available to the general juvenile population. Except as provided in ¶ 91 of this agreement, juveniles in isolation shall be visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time. Juveniles in isolation shall be seen by a masters level social worker within three (3) hours of being placed in isolation. Juveniles in isolation shall be seen by a psychologist within eight (8) hours of being placed in isolation and every twenty-four (24) hours thereafter to assess the further need of isolation. Juveniles in isolation shall be seen by his/her case manager as soon as possible and at least once every twenty-four (24) hours thereafter. A log shall be kept which contains daily entries on each juvenile in isolation, including the date and time of placement in isolation, who authorized the isolation, the name of the person(s) visiting the juvenile, the frequency of the checks by all staff, the juvenile's behavior at the time of the check, the person authorizing the release from isolation, and the time and date of the release. Juveniles shall be released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others.</p>	N	Y	#	#	Y	N	<p>In the Q-2 report I wrote: There are currently very few youth designated as TM and, as a result, there are very few youth potentially subject to room confinement pursuant to this provision. In December 2016, Since January, the number of TM designated youth has decreased from approximately 12 to 1-2 at any given time.</p> <p>At the request of Plaintiffs in their response to the previous Quarterly Report, the Monitor's Consultants have initiated a new process of assessing- against the 21 criteria set forth in this provision- the circumstances and conditions of confinement of any youth on transitional measures and protective custody who are generally confined to their rooms. All second quarter Protective Custody and Transitional Measure events occurring or active at the time of facility site visits were reviewed and the results of this new process are included as a separate report in this Quarterly Report.</p> <p>There has not been an opportunity to complete further assessments this quarter and it may not be feasible in the next quarter, depending on the status of PR recovery efforts and access to the facilities.</p>

Provision	P	S	R	T	D	G	Comment
<p>S.A. 80. The terms of this agreement relating to safety, crowding, health, hygiene, food, education, recreation and access to courts shall not be revoked or limited for any juvenile in protective custody.</p>	N	Y	#	N	#	N	<p>See above discussion for P 79 and report on Transitional Measures and Protective Custody.</p> <p>In the previous quarter, I wrote: The only services that were found to be limited (none were revoked) in comparison with general population youth were recreation (on weekends) and education. DCR Policies 17.19 (PC) currently establish 20 minutes of individual instruction per subject as the standard for education for these youth and while this amount of one-on-one education <i>may</i> be the equivalent of that offered to other youth in classroom settings, this equivalence is not authorized in the Settlement Agreement and has not been stipulated to by the parties.</p>

Provision	P	S	R	T	D	G	Comment
Education and Vocational Services							
<p>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.</p>	#	N	N	I	N	N	<p>Although the opening of the 2016-2017 school year was delayed and the number of teacher vacancies required a modified schedule in each of the institutions, conditions improved significantly during the second semester of the year. There were 2 vacancies in CTS Villalba and 1 in CD Bayamon. The Villalba vacancies were covered by certified teachers at the elementary school level which allowed for a full-day schedule. It should be noted that the number of students in each institution was down from the previous semester including special education youths as well.</p> <p>Vocational opportunities are available in the CTS institutions for all students but there continues to be a deficiency in the CD institutions. DCR/NIJ revised the vocational programs two years ago, adding a civics/ethics course for the Bayamon and Villalba detention students since the agency believes it is a valid substitution for traditional vocational education. They also note that the decision was approved by the Commonwealth Department of Education. The Monitor's educational consultant continues to believe that in both locations civics/ethics cannot replace traditional vocational education.</p> <p>A meeting was scheduled to discuss the adult education program as administered in the various DCR/NIJ institutions. It did not occur during the quarter and a request to re-schedule will be sent to the lead attorney as part of the next FT agenda.</p>
<p>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 <i>et seq.</i> Defendants shall screen juveniles for physical and learning disabilities.</p>	#	N	N	N	N	N	<p>The Monitor, consultants, and DCR officials continue to study the most effective way to develop an instrument for periodic case reviews and assess stipulation compliance. During the quarter, there was little evidence of a coordination of mental health and other related services written into the IEPs by the COMPU. The agency compliance lead indicated that IEP review and subsequent delivery of related service is part of the PPCP contract. She further stated that once the services are offered they will be superior to those delivered during the last few years.</p> <p>Compliance with 86a requires compliance with 86b.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	#	N	N	I	N	N	<p>Special education files list various instruments employed to determine the educational, mental and physical needs of the students. There is little evidence that the areas identified here are addressed at admission and subsequently re-evaluated in annual reviews.</p> <p>The Monitor's, consultants and DCR officials continue to study the most effective way to develop an instrument for periodic case reviews and assess stipulation compliance.</p> <p>Compliance with 86b requires compliance with 86a.</p>
<p>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.</p>	#	N	N	I	N	N	<p>Compliance with the first part of the stipulation remains high in that the agency institutions request IEPs and special education files from the community public schools. The request is frequently ignored or results in late delivery preventing compliance with the second part requiring assessment of the documents' adequacy. This is particularly the case in the detention institutions. DCR's response to this issue is that they have no authority over the community schools and that is a concern of the Department of Education for the Commonwealth. It should be noted that the DOE is part of the consent decree and should take steps to implements terms of the agreement as they relate to DCR/NIJ youth.</p> <p>The Monitor, consultants, and DCR officials continue to study the most effective way to develop an instrument for periodic case reviews and assess stipulation compliance.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	#	N	N	I	N	N	<p>Since all special education students are mainstreamed with those not certified, they receive the equivalent adult education as the others except for those in protective custody or in transitional measures. The monitor's consultant does not acknowledge adult education as delivered in the institutions adequate to the needs of the DCR youth. See note to S.A. 81 as to the appropriateness of adult education. See note to S.A. 94 about protective custody and transitional compliance. See note to S.A. 87 about the development of a mental health/special education assessment.</p> <p>There are no educational services offered to special education or other students who have completed the 4th year, as DCR does not consider them part of the agreement. The DCR education director agreed that this policy should be re-examined and indicated he would prepare some recommendation for 4th year completers in the next quarter. He noted that some participate in vocational shops with instructor permission.</p>
<p>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.</p>	#	N	Y	I	N	N	<p>Certified special education teachers provide education services to youth. Vocational opportunities are available in each institution with the exception noted above where a civics/ethics course was substituted for traditional career and technical education courses. The monitor's educational consultant maintains that in both locations civics/ethics cannot be reasonably be considered vocational education.</p> <p>There continues to be a system wide gap in communication between education and mental health staff. Prescriptions written into the IEP fall into a "one size fits all" admittedly written by educators with scant consultation with mental health staff. During this quarter as in past ones, mental health personnel rarely participate in the COMPU which prepares and recommends implementation of the IEP.</p> <p>The agency has moved from their previous model of mental health and other related services by contracting with a private enterprise, PPCP. There have been numerous delays in the delivery to date.</p> <p>See note in reference to related services such as mental health and substance abuse in SA 87.</p>

Provision	P	S	R	T	D	G	Comment
<p>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.</p>	#	N	N	I	N	N	<p>The summer camp program did not offer credit-bearing opportunities this year. Although this could extend the school year for some, DCR/NIJ does not believe there are students who meet the prerequisites for year round education; the monitor’s office disagrees that there are no such students.</p> <p>The Monitor and consultants are working with DCR officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>
<p>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.</p>	#	N	N	I	N	N	<p>Ongoing reviews of services provided for youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. This has not changed to date (See also comments for S.A. 90 and SA 80).</p>
<p>S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.</p>	#	Y	Y	I	N	N	<p>All special education positions are filled for the 2017-2018 school year. The modified school program this school year negatively affects all students, including those in special education. See note about the delivery of special services in SA 86.</p> <p>A systematic assessment has not yet been completed by the Commonwealth and provided to the Monitor’s Office for review.</p>
Funding and Implementation							
<p>C.O. 43 Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the required sums of money will be established so as to implement this Consent order.</p>	I	I	N	I	N	N	<p>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.</p> <p>It is also not established that the budget identifies the “required sums of money” to “implement the order.”</p> <p>The budget has been, in fact, insufficient to implement the requirements of the decree. There are many provisions in non-compliance with category “R” specified as one of the factors. These are provisions where lack of resources is a factor in non-compliance.</p> <p>Monitor’s consultants are prepared to work with parties to identify necessary compliance documentation expectations for a Roadmap.</p>