

United States Department of Justice

V.

Commonwealth of Puerto

Civil Action No: 3:94 –cv-02080 (ccc)

Monitor's First Quarterly Report

January 1 – March 31, 2019

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Submitted this 31st day of May , 2019 by:

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Certificate of Service

I HEREBY CERTIFY that this, I electronically filed the foregoing with the Clerk of the Court on May 31, 2019 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 Kim Tandy

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EXECUTIVE SUMMARY

The remaining claims fall under the five (5) categories of: Physical Plant; Policies and Procedures, Training and Resources; Protection from Harm; Mental Health and Substance Abuse Treatment; and Education and Vocational Services. They are summarized briefly below with bulleted priorities to be achieved for compliance. The full text of the report provides complete information about compliance.

Physical Plant

Remaining physical plant issues fall into two general categories – those needed for Paragraph 31 compliance regarding various code violations, including life safety issues; and those related to physical plant problems which impede the availability of crucial space and safe living conditions. These problems, including lack of working air conditioning units, leaky roofs and mold, create resource issues for various other provisions of the Settlement Agreement by restricting needed living units, classrooms or other critical areas.

Priority: Per the Court's March, 2019 Order, continue to repair the areas identified above with reporting to be made on progress in the August Status Conference.

Policies and Procedures, Training and Resources:

The constraints imposed by the Fiscal Management and Oversight Board on DCR impose expectations that by 2023, DCR will make cuts to its juvenile facilities budget by nearly half. While this may be possible without the interruption of services, and without negatively impacting compliance, continued discussions with Secretary Rolon at DCR, as well as other key officials is critical to better understand the future direction the agency may take regarding further reductions or privatization.

Of all of the many areas where policies were required to be changed and approved by the Office of the Monitor, only 4 areas remain out of compliance relative to policies which, if implemented properly, would bring those provisions into compliance.

Priorities:

1) Budget reductions for juvenile services, whether imposed as a result of the PRFOMB or not, cannot impede critical services needed to reach full and faithful compliance on remaining issues. Resource issues such as staffing, physical plant issues, and professional service contracts must be addressed

2) Changes to the remaining sets of education policies (Policies 20.1 and 20.2) should be completed during the Second Quarter and approved by the appropriate officials. This will include a requirement that youth who are in protective custody and transitional measures receive a full school day and adding provisions for due process protections for youth who are entitled to special education.

3) Changes to the remaining two sets of policies (Classification and Transitional Measures) should be a high priority for completion during 2019 but require further discussion with the appropriate functional teams to resolve outstanding issues.

Protection from Harm

Remaining Protection from Harm provisions include Staffing under Paragraph 48 and later amendments, Classification, Use of Force, Investigations of Institutional Abuse and Neglect, Isolation and Protective Custody. These provisions work together to ensure youths' constitutional right to be protected from

harm is paramount, and that allegations of harm, whether by staff or other youth, are adequately investigated and remediated through disciplinary action, prosecution or other measures. It encompasses appropriate staffing, adequately trained and in sufficient numbers to keep youth safe, and the ability to separate youth who are vulnerable, and/or who need more intensive supervision from others.

Priorities:

1) There is a critical lack of direct care for both remaining facilities. NIJ must improve its youth/staff ratio compliance without excessive use of double shifting, sufficient to provide adequate supervision which can keep youth safe. The closure of Humacao has negatively impacted staffing compliance, led to higher incidents of youth isolated into transitional measures, and presents challenges to the current classification system. It was estimated by security staff that at least 50 direct care positions need to be filled.

2) Safety and security issues are of paramount concern. The need to separate various youth who are being harmed, and who may also be harming others, requires adequate space, staff, and effective behavior management tools. The end result of not having these tools is that youth are placed in isolated circumstances in their rooms for days, weeks, or even months, sometimes by choice in order to feel safe.

3) Installation of video cameras and implementation of the CCTV system should be completed at Villalba as discussed during the last Status Conference with the Court.

Mental Health and Substance Abuse Treatment

Six provisions remain regarding the provision of mental health and substance abuse treatment for youth, including psychiatric care, effective behavior modification programs, and an intensive mental health unit to serve youth the most severe needs. The requirements also address self-harm and appropriate responses to suicidal and/or other self-harming behaviors.

1) There is an inadequate amount of psychiatric hours contracted with the private provider to address the needs of the youth population. It has been recommended by the Mental Health Consultant that a minimum of 1.5 FTE be available for psychiatric care to address the mental health needs of youth, including youth with serious mental health issues and who are self-harming.

Education and Vocational Services

There are 9 remaining paragraphs related to educational services, most of which relate to the provision of special education services under the Individuals with Disabilities Education Improvement Act (IDEIA). In addition to providing youth with a full school day, these provisions jointly ensure that special education services are provided to youth, and that youth are identified, evaluated, provided with specially designed instruction and related services, and that due process protections are afforded.

Priorities:

1) Youth who have not yet completed required education and who are in transitional measures or protective custody must be afforded a full school day. NIJ must have sufficient staffing and classroom space to accommodate these youth's educational services.

2) Youth with special education needs must have plans which are individualized based upon need and not upon available resources. Evaluations and re-evaluations must be timely made,

and plans should address identified areas of deficit based upon the multi-faceted evaluations, and placement decisions should be in the least restrictive setting.

Complete ratings are listed below

Parag. No.	Compliance Provision	4 th 2018	1 st 2019	2 nd 2019	3 rd 2019	4 th 2019
Physical Plant						
S.A. 31	Facilities conforming to Building Codes	PC	PC			
Policies and Procedures, Training, and Resources						
C.O. 43	Sufficient funding for Implementation of C.O.	PC	PC			
S.A. 45	Agency Policy and Procedure Manual for all operations	PC	PC			
S.A. 50	Training for current and new direct care staff	PC	PC			
Protection from Harm						
S.A. 48	Sufficient Direct Care Staff	PC	PC			
Jan 2009 Para. 1	Reasonable Safety of Youth through Adequate Supervision	PC	PC			
Parag 2	Sufficient Staff to Implement Decree and adequate supervision	PC	PC			
Parag 3	Training for social workers if direct care staff	na	na			
Parag 4	Persons Hired to be Sufficiently Trained before deployed	SC	SC			
Parag 5	Monthly submission of master roster	PC	PC			
S.A. 52	Classification	PC	PC			
S.A. 77	Use of Force	PC	PC			
S. A. 78	Investigations into Alleged Abuse and Maltreatment of Youth	PC	SC			

S.A. 79	Protection and Isolation	PC	PC			
S.A. 80	Conditions for youth in Protective Custody	PC	PC			
Mental Health and Substance Abuse Treatment						
S.A. 59	Treatment Plans for youth with Substance Abuse problems	PC	PC			
C.O. 29	Residential Mental Health Treatment Program	PC	PC			
S.A. 36	Continuous Psychiatric and Psychological services	PC	PC			
S.A. 63	Reducing Risk of Suicide	PC	PC			
S.A. 72	Emergency Psychotropic Medication	PC	SC			
S.A. 73	Behavior Modification and Treatment Plans	SC	SC			
Education and Vocational Services						
S.A. 81	Provision of Academic and Voc. Education to All Youth	PC	PC			
S.A. 86a.	Compliance with IDEA Requirements and Timeframes	PC	PC			
S.A. 86b.	Screening for youth with Disabilities	PC	PC			
S.A. 87	Obtaining IEPs of Eligible Youth	PC	PC			
S.A. 90	Delivery of Specially Designed Instruction and Related Services	PC	PC			
S. A. 91	Qualified educational professionals and voc. Ed	PC	PC			
S.A. 93	Year Round Services for Youth with IEPs	PC	PC			
S.A. 94	Services to youth in isolation or other disciplinary settings	PC	PC			
S.A. 95	Modification of IEPs	PC	PC			

Compliance Ratings, Analysis and Recommendations

The Settlement Agreement requires that the Court retain jurisdiction of remaining claims “until such time as the Commonwealth has fully and faithfully implemented all requirements of the agreement and such full compliance has been maintained for one year.” (S.A. 103). Each provision of the Settlement Agreement (S.A.) or Consent Order (C.O.) will have only one compliance rating using the measures described below. Compliance ratings will be tracked by quarter in order to show which provisions come into and remain in substantial compliance over a one year period, and achieve “full and faithful compliance.” The Monitor and Consultants use a three-tiered system in this report defined as follows:

Substantial Compliance shall mean a level of compliance that does not significantly deviate from the components of the provision, provided that any deviation poses no significant risk to detainee health or safety. Substantial Compliance indicates that there are approved relevant policies and procedures which, when implemented, are sufficient to achieve compliance; trained staff responsible for implementation; sufficient staff and resources to implement the required reform; and consistent implementation of the procedures during the majority of the monitoring period. Substantial compliance also requires that the procedures accomplish the outcome envisioned by the provision.

The substantial compliance rating is given only when the required reforms address all of the issues discussed in the provision and when solid implementation of the reforms has been consistently demonstrated, through reliable data, observations and reports from staff and youth, for a majority of the monitoring period.

Partial Compliance indicates that compliance has been achieved on some of the components of this provision, but significant work remains. It indicates that there are approved relevant policies and procedures which, when implemented, are sufficient to achieve compliance; trained staff responsible for implementation; and sufficient staff and resources to implement the requirements of the provision. Partial compliance indicates that while progress has been made toward implementing the procedures described by policy, performance has been inconsistent throughout the monitoring period and additional modifications are needed to ensure that procedures are sufficiently comprehensive to translate policy into practice, and to accomplish the outcome envisioned by the provision. Partial compliance is appropriate if policies may need minor revisions for compliance with the Settlement Agreement provided other requirements of this section are applicable.

Non-compliance indicates that most or all of the components of the provision have not yet been met. Examples include provisions where policies still need to be overhauled, the majority of staff may need to be trained, procedures may not have been developed, documentation may not be in place or consistently provided, and there has been no determination that the procedures accomplish the outcome envisioned by the provision.

PHYSICAL PLANT - Curtiss Pulitzer

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.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The monitor's office continues to review the documents being developed by DCR's consulting architect Javier Valentin relative to compliance with this provision.</p> <p>I did not make a site visit during the first quarter of 2019. Part of the reason for delaying a site visit was the uncertainty surrounding the closure of Humacao. A second issue was the monitor's office insistence that repairs be made to the physical plants at Ponce and Villalba to allow for a successful closure of Humacao. An Interim Report to the federal court was filed in this regard. The closure occurred in mid-January, and DCR has been providing the monitor's office documentation as to the progress of necessary repairs. While many repairs of the air conditioning, mold remediation and roof repairs have been completed, additional work remains to be done. The monitor's office physical plant consultant plans to make a site visit in May to confirm the progress of the physical plant repairs.</p> <p>I have also been monitoring the progress being made to comply with suicide prevention measures (See below and Para 79) in juvenile rooms, and I continue to monitor fire safety conditions, plumbing and air conditioning to insure that all housing units are functional and safe for juveniles to occupy.</p>
Findings and Analysis	<p>Mr. Valentin submitted a draft report on January 31st which has been reviewed by the monitor's office. (see discussion below)</p> <p>There has been no movement in creating a solution to providing suicide resistant door hinges in rooms in which youth in isolation may be confined at the two facilities. This appears to be primarily a resource issue.</p> <p>On a positive note, the replacement of air vent grills with suicide resistant versions on the lower levels of the housing units and in the admissions area at Ponce and Villalba have reported to have been completed.</p>
What is needed for full compliance? What steps are required and/or recommended?	<p>At the present time, Mr. Valentin is working on the various documents that will be part of the full report. The monitor's office received a partial draft of the second report on NFPA code compliance for Chapters 7 and 23 of the Life Safety Code dealing with egress requirements. This draft document was received on January 31st. This report is incomplete and Mr. Valentin is aware of this. According to his last schedule completed in December 2018 (attached) the full NFPA 101 Life Safety Compliance report was to have been completed by January 31st. I was recently informed by Mr. Valentin that the full draft report is now complete and was being reviewed internally by DCS. The monitor's office will receive a draft after their review is completed sometime after May 9th.</p> <p>The primary document which serves as the basis of the building code analysis is the 2009 International Building Code (IBC) cross referenced with Amendments per Division</p>

	<p>II of the 2011 Puerto Rico Building Code. The codes also incorporate the relevant sections of the NFPA Life Safety Codes. In my meetings with Mr. Valentin and the Functional Team last December, we discussed my edits to the first document, which Mr. Valentin will incorporate into a Final Draft.</p> <p>The next steps in the analysis will be for Mr. Valentin to document the IBC and Puerto Rico Building Codes and then ADA violations at the two existing facilities followed by recommendations as to what capital improvements will be needed to achieve full compliance, and projected costs for each recommend remedy. A revised schedule for those deliverables has not yet been received by the monitor's office at this point as the production of these documents is behind the schedule received at the end of December, 2018.</p> <p>When the magnitude of compliance issues are fleshed out, a prioritization schedule will be developed along with potential timelines for compliance. Violations that affect Life Safety, and cannot be initially mitigated operationally, will have the highest priority for implementation. The financial resources available to DCR will become a key factor affecting a schedule for compliance at this juncture in the process.</p> <p>In terms of compliance with modifying the hinges at all three facilities, the monitor's office is waiting to have further discussions in May with DCR to determine how to proceed to develop a long term solution. There does not appear to be a simple solution and the hinges as well as the doors may need to be replaced to eventually achieve compliance.</p>
Priority Next Steps	<p>The schedule for deliverables are as follows:</p> <ul style="list-style-type: none"> • Analysis of Chapter 7 of Life Safety Code Compliance - Draft Received 1/29/19 and is in review by the monitor's office • Full Report on Life Safety Code Compliance -TBD • Analysis of Pertinent Building Codes Compliance- TBD • Analysis of ADA Compliance - TBD • Recommendations and Cost Estimates (Final Report) - TBD <p>DCR to develop a solution for resolving the suicide issues relating to door hinges.</p>
Quality Assurance Measures	<p>The quality assurance measures are for the monitor's office to keep reviewing the documents developed by Mr. Valentin and touring the facilities with Mr. Valentin to view first hand where the code and ADA violations may exist. This will occur once any violations are fully defined and explained. In addition, the monitor's office are reviewing the spread sheets being developed by DCR to track facility repair issues including suicide mitigation efforts followed up by tours to determine compliance..</p>
Sources of Information upon which Consultant	<p>The documentation being developed by Mr. Valentin will be the primary source to determine the levels of compliance with the codes and regulations. The financial resources to rectify violations and achieve compliance will need to involve discussions</p>

report and compliance ratings are based.	<p>with the Secretary of DCR as well as senior officials within DCR and the Commonwealth hierarchy responsible for funding the agency.</p> <p>The spread sheets and photographs being submitted periodically by DCR will help the monitor's office to track facility repair issues.</p>
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POLICIES AND PROCEDURES, TRAINING AND RESOURCES – Kim Tandy

S.A. 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.	
Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The Monitor met with Secretary Rolon and others from the Secretary's office on February 25th to discuss the status of this case, as well as continued plans by DCR relative to cost savings, privatization and budget issues.</p> <p>The Monitor arranged a meeting on February 2th between DCR officials, and the Annie E. Casey Foundation to explore whether or not the Foundation may be able to provide technical assistance to DCR regarding NIJ downsizing and community based programs. The Foundation is also working with Puerto Rico's child welfare system on a consultative basis, and could provide a link between the two agencies to incorporate juvenile justice funding into new federal funding opportunities. The meeting was well attended and there was a plan for follow up and continued discussions. At this point, NIJ has been exchanging documents with AECF consultants as next steps in creating a plan for what work they might do.</p> <p>The Monitor has requested a copy of the budget proposal sent to the legislature for 2019-2020 when completed, as well as projections of any cost reductions being presented to the PR Oversight and Accountability Board for NIJ facilities and administration.</p> <p>Several issues related to the closure of Humacao which have fiscal implications have been discussed with DCR, including staffing noncompliance, physical plant repairs and needed equipment and installation for video cameras at Villalba. These issues have been raised with the Court and are the subject of an upcoming Status Conference. The Monitor and her Consultants have received several updates on physical plant repairs and replacement of air conditioning units necessary as a result of increased numbers of youth and classification levels in the two remaining facilities.</p>
Findings and Analysis	The Commonwealth must submit a budget to the legislature each year which contains the "required sums of money" for implementation of the Consent Order, and subsequent Settlement Agreement.

	<p>The Fiscal Oversight and Management Board of Puerto Rico September, 2018 report indicates a plan to “rightsize Puerto Rico’s correctional facilities and footprint” and achieve cost reductions of \$353 million over the next five years. The Department of Corrections and Rehabilitation spends \$42 million in services offered to youth in the three existing NIJ facilities in Humacao, Villalba and Ponce. The Fiscal Plan indicates a plan to study the construction or rehabilitation and operation of a consolidated facility “through the modality of a private-public partnership,” noting an annual cost savings of \$19.4 million to be achieved beginning in FY 2022. Meanwhile, the report states that DCR is presently considering “externalizing “ services sooner, and is preparing a request for proposal intended for distribution in mid FY 2019, thereby realizing a cost savings by FY 2020. The plan notes that further cost savings from consolidations could occur to reduce the number of youth as appropriate, including early releases.</p> <p>It is unclear what cuts will be made in the NIJ budget for the coming fiscal year. The Monitor has requested a copy of what has been or will be submitted as a proposed budget for the 2019-2020 year to the legislature and the PR Oversight and Accountability Board. Reducing the budget by nearly half in the next few years may be possible, but since there is no clear picture of current expenditures, the impact of such reductions on services to youth in the care of NIJ remains uncertain. That uncertainty is cause for much concern.</p> <p>As indicated elsewhere in this report, staffing compliance is at risk given the voluntary resignations of many DCR staff. Concerns at the staffing level have been raised about whether sufficient direct care staff will be available to adequately staff the remaining two facilities without additional new hires. A more detailed discussion of this is found in the findings and analysis section for S.A. 48 and the 2009 amendments.</p> <p>Physical plant repairs and replacement of air conditioners have been stepped up at Ponce and Villalba as a result of the closure of Humacao and the need to utilize all available space in the remaining facilities. While reports indicate that good progress is being made, especially at Villalba, close communication with the Monitoring team and the Court to ensure the work is completed will hopefully make these improvements a continued priority within DCR.</p> <p>The challenge of meeting the Oversight and Management Board’s expectations of substantial cost reductions within NIJ must be balanced against the cost of compliance with the Settlement Agreement. DCR must be able to devote sufficient resources to NIJ facilities in order to comply with the remaining provisions of the Settlement Agreement. It is important to note that language contained in PROMISA prohibits the Fiscal Oversight and Management Board from exercising its authority in such manner as to impede the Puerto Rican government’s ability to comply with a court-issued consent degree or settlement. <i>E.g.</i> 48 U.S.C. §2106, 48 U.S.C. § 2144, 48 U.S.C. § 2164(h).</p>
What is needed for full compliance?	DCR must ensure that its budget addresses adequate staffing, training, resources and physical plant requirements to fully comply with the provisions of the Consent Order and Settlement Agreement.

<p>What steps are required and/or recommended?</p>	<p>DCR must provide sufficient budget information to the Office of the Monitor which can provide details relevant to adequate staffing, services, education, physical plant, and other operational aspects, and any anticipated cuts in these areas projected.</p> <p>Staffing levels must be maintained without resorting to overreliance upon double shifts by staff, a practice which has been used in excess in recent months. In the Second Interim Report filed with the Court on Monday, March 24, the Monitor included a report by Bob Dugan expressing his concerns relative to the correlation between staffing compliance, classification and the increased use of Transitional Measures and Protective Custody. The Fiscal Oversight and Management Board reportedly asked DCR to reduce direct staff numbers by nearly 40%, a number appears unrealistic and which has raised serious concerns for security personnel. Voluntary early terminations are underway, although it is not anticipated that these will achieve the 40% number being sought. NIJ staff must work with the Office of the Monitor to determine an appropriate level of staffing for the existing two facilities in order to be in compliance with the Settlement Agreement, and which will not rely on double shifting on a regular basis.</p> <p>To the extent that funding can be obtained from alternative sources to address physical plant, health and safety and/or emergency response situations, DCR is encouraged to seek out such sources.</p> <p>The Office of the Monitor stands ready and available to assist the Commonwealth to ensure adequate financial resources are available to bring this case into full compliance.</p>
<p>Priority Next Steps</p>	<p>Review any plans for the privatization of facilities or any additional closures with the Monitor, as well as other long-term plans for cost reductions, and other DCR cost savings measures which can impact compliance.</p> <p>Continue to provide the Monitor's office with documentation of repairs to roof and air conditioning units within housing units, as well as mold removal, in classrooms and educational offices and other areas where operations may be interrupted, and/or safety and security may be compromised.</p> <p>Identify any other areas where additional funding is needed in order to comply with the Consent Order and Settlement Agreement which has not been identified in this report.</p> <p>DCR must provide the requested documentation regarding budget, and other plans for cost reduction or NIJ operations impacting compliance</p>
<p>Sources of Information upon which Consultant report and compliance ratings</p>	<p>Fiscal Plan for Puerto Rico as submitted to the Fiscal Oversight and Management Board of Puerto Rico, September 7, 2018, found at http://www.aafaf.pr.gov/assets/pr-fiscal-plan-090718.pdf</p> <p>The New Fiscal Plan for Puerto Rico: Restoring Growth and Prosperity, as certified by the Financial Oversight and Management Board for Puerto Rico on October 23, 2018.</p> <p>Documentation relative to physical plant repairs and replacement of air conditioners, mold eradication, painting and roof repair.</p>

	Phone calls and emails with staff and consultants.		
S.A. 45 Within one year of the approval of the 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, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.			
Compliance Rating	Partial Compliance		
Description of Monitoring process during this period of time	The Monitor has copies of existing policies and procedures in most of the remaining areas of the Settlement Agreement and Consent Order. Most have been formally or informally translated into English where possible. During site visits made by the Consulting team during this quarter, completion of policies was discussed by subject matter area.		
Findings and Analysis	The following policies and procedures have not been finalized and approved through the Office of the Monitor:		
	S.A. 43 Agency Policy and Procedure Manual for all Operations	Not complete	Will achieve compliance when all policies are completed
	S.A. 52 Classification	Not complete	Bob Dugan provided recommendations on July 18, 2018 to bring the existing policies into compliance. Necessary changes must include annual review of the validation of objective methods of classification instruments and processes. This is particularly important given classification issues which have arisen as a result of the closure of Humacao.
	S. A. 79 and 80 Isolation and Protective Custody	Not complete	A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments provided by the Monitor’s Consultant on February 28. The Monitor has

			requested that DCR wait until the results of the QA process are available and can inform the content of revised documents and practices.
	S. A. 81 General and Vocational Education	Not complete	The changes are needed to Policy 20.1 to include TM/PC youth receiving a full school day.
	S.A 86, 91, 94	Not complete	Changes are needed to Policy 20.2 to ensure procedural safeguards are included consistent with IDEIA
	Further discussion about policies and procedures are noted in other sections of this report as relevant in the sections noted above.		
What is needed for full compliance? What steps are required and/or recommended?	Approved policies and procedures should remain a priority in any area where the Monitor’s office has not yet approved of changes, and where policies do not adequately reflect the requirements of the Settlement Agreement and/or Consent Order. It is recommended that NIJ develop timeframes for the Monitor’s review of outstanding unapproved policies so that all remaining provisions can be finalized by June of 2019.		
Quality Assurance Measures	NIJ staff, under the leadership of Kelvin Merced, have been working on a set of policies regarding Quality Assurance which are under review by Bob Dugan. It will be important for other members of the monitoring team to review some of the specific subject matter areas relevant to areas of their monitoring.		
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.			
Compliance Rating	Partial Compliance		

<p>Methodology for Monitoring this Quarter</p>	<p>A site visit was conducted during the week of February 24, 2019, and a meeting with Aida Burgos, Human Resource Director and Kelvin Merced was held to discuss training compliance and documentation.</p> <p>The Monitor has also received a copy of the Annual Report prepared by NIJ staff for the period of July 1, 2017 – December 31, 2018, training schedules for January, February and March, and an excel spreadsheet of completed training during that period by employee.</p> <p>The site visit included a discussion of required metrics for compliance with paragraph 50. It was agreed that five areas would be tracked for compliance, and that these provisions should also be part of quality assurance measures:</p> <ol style="list-style-type: none"> 1) Required topics for training are scheduled and available with such frequency that all staff can attend as required. 2) Training must be completed by qualified trainers with relevant, accurate and helpful materials and content as indicated by pre/post tests and evaluation of training sessions. 3) Training completion by topic will meet targeted goals. (NIJ indicated it would discuss this by topic and provide recommendations) 4) Ongoing training needs will be assessed on an annual basis or more frequently if appropriate. 5) Necessary revisions to training based on changes in policies and procedures will be made within a targeted time, with full implementation within 12 months. <p>The meeting also included discussion about the lack of support staff for IDECARH and the extent to which that hampers compliance. Guillermo Samosa made contacts that day to discuss acquiring the needed resources to assist Aida Burgos.</p>
<p>Findings and Analysis regarding compliance.</p>	<p>NIJ has policies regarding training which have been approved.</p> <p>The 18 month report ending December 31, 2018 highlights the number of officers trained and the percentages of required training completion by topic. The data collected by IDECARH was based upon the 408 officers who were fully available for training purposes. Fifteen additional officers were inactive meaning they were on extended leave, abandonment of post, or reassigned to another facility that does not serve youth.</p> <p>The IDECARH report and indicates a total of 15,882 hours of training was provided during the 18 month period being reported upon. The prior Consultant determined that an 18 month period was sufficient based upon disruption in the training schedule in the second and third quarters of 2017 due to the hurricanes. Of the OSJs available for training, 55% completed the required 40 hours or more (100%+ completion rate) and an additional 18% completed between 36-39 hours, representing a 90% + completion rate. Slightly under 4% of OSJs at Villalba, Ponce and Humacao completed less than 30 hours of training during the period.</p>

	<p>The report details the percentage of staff which have completed training by topic by facility, ranging from a low of 28% for training on chemical restraints, and a high of 93% for training on suicide prevention measures.</p> <p>On March 11, IDECARH was assigned a new full time support staff to assist Aida Burgos with data entry and other administrative tasks. This is a welcome addition and will hopefully aid in providing documentation of compliance with this provision in the future.</p> <p>The Monitor has received documentation from July 2017 – December of 2017 of training calendars, evaluation of training events, attendance logs and summaries of completion, and pre-post tests. Evaluations include assessment by participants of trainer preparedness, adequate duration of time spent on the topic, presentation of materials in a clear and organized manner, adequacy of time on topics, adequacy of materials, facilities, and whether topics promoted greater efficiencies in meeting responsibilities. Pre/post tests generally showed good improvement in understanding materials, ranking most commonly in the 90-100th percentile range in post testing. Evaluations also suggest that topics are generally well rated overall with content, presentation, materials, and relevancy to work.</p>
<p>What is needed to reach full and faithful compliance?</p>	<p>Training sessions in all SA 50 categories must be planned and provided throughout the coming year with sufficient frequency to allow for ready access by participants in the remaining two facilities. A training calendar must be prepared in advance.</p> <p>Training completion by active direct care staff must reach the targeted benchmarks by topic over an 18 month period, and corrective action plans for facilities not achieving those benchmarks must ensure that the remaining staff complete training within 180 days. This includes:</p> <p>Training on the use of chemical agents must be completed at the 100% rate, but only for those who are authorized and certified to use OC spray.</p> <p>CPR training and certifications must be completed every 2 years at the 90% level for those direct care staff.</p> <p>Training on suicide prevention must be completed at the 90% rate for all direct care staff.</p> <p>Facility directors must ensure that all other required trainings for this provision meet at least 85% completion rate within the 18 months.</p> <p>Pre and post must be used to evaluate participants' increase in knowledge and skills achieved by the training. Staff must pass such tests with a 70% or higher grade.</p> <p>Evaluation of training modules and delivery must be sought by participants and through QA to ensure trainers are knowledgeable and skilled both in content and delivery to adult learners, materials are understandable and adequately cover the topic, and that content is relevant, current and accurate.</p> <p>Ongoing training needs will be assessed at least on an annual basis or more frequently if needed to determine if modifications are necessary.</p>

	<p>Necessary revisions to training based on changes in policies and procedures will be made within a targeted time, with full implementation within 12 months.</p> <p>Appropriate clerical support must continue to assist the IDECAHR director to facilitate report preparation and compliance evidence.</p>
Priority Next Steps	<p>Documentation from IDECARH which supports compliance with the above metrics will determine if compliance has been achieved, and the point at which compliance was or will be achieved in order to show full and faithful implementation of this provision over a one year period.</p> <p>The Monitor has not received complete documentation to date that compliance has been achieved for the period of time from July 1, 2017 – December, 2018 regarding evaluation of training, annual assessment of training needs, and a process established to provide training based upon changes in policies and procedures. Documentation of evaluations, attendance and pre-post tests were received for the period of July 1 – December 31, 2017, but not for 2018 or the first quarter of 2019.</p> <p>In order to retrospectively determine if there has been full and faithful compliance, as requested, the Monitor should be provided with summarized information in addition to back up files. With the additional administrative support, such report could be generated for the first and/or second quarter with prior information included over a one year period.</p>
Basis for findings and recommendations	<p>The findings and recommendations are based upon the annual report submitted, and discussion with the Human Resource Specialist., as well as documentation provided of monthly training.</p> <p>A review was also conducted of the Quality Assurance measures for training as part of Policy 22.</p> <p>Documentation from July, 2017 – December of 2017 including training schedules, evaluations, calendars, and pre-post test information.</p>

PROTECTION FROM HARM – STAFFING (Bob Dugan)

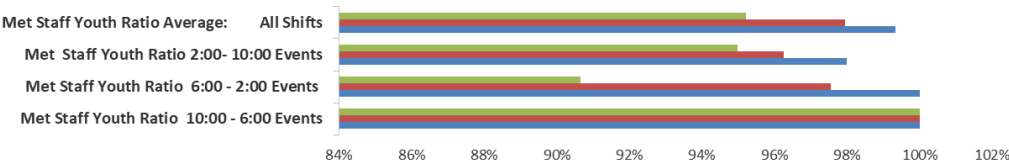
S.A. 48. Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.

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

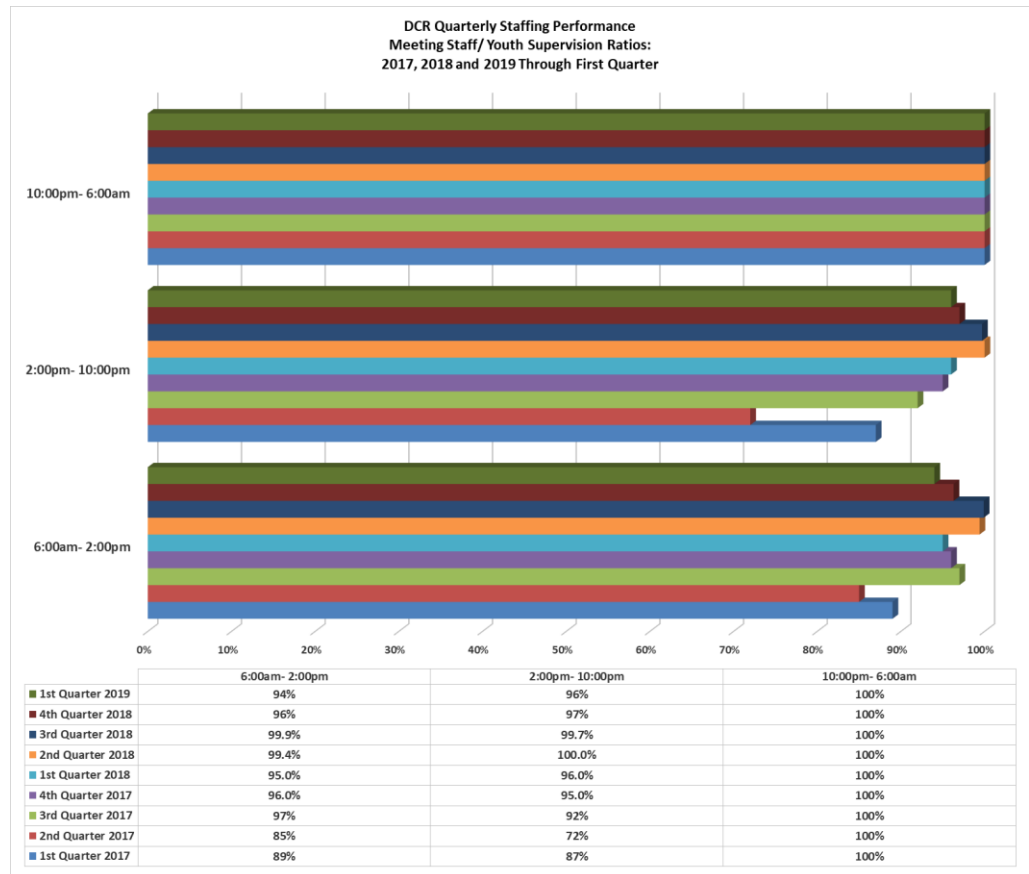
48.b Method Two: *Defendants may develop, and submit to the court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignment necessary to implement the terms of this agreement, taking into consideration the physical configuration and function of spaces, the classification and risk profiles of youths involved, the incident patterns*

in the settings involved, the routine availability in the settings of other categories of staff, and the overall number of direct care positions necessary to consistently achieve the coverage proposed. Once a plan is approved for a facility, defendants shall document the employment of the necessary overall numbers of direct care staff, and the ongoing deployment of such staff in accordance with the plan.”

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.

Compliance Ratings	Partial Compliance																				
Description of Monitoring process during this period of time	<p>S.A. 48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using DCR facility generated weekly staff youth ratio forms as well as the weekly Form DCR -NIJ - 0144. 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 compliance report provides information from Staff Youth Ratio forms that were provided to the Monitor’s Consultant for the period December 30, 2018 through March 30, 2019.</p> <p>The Monitor's Consultant conducted site visits on February 26, 2019 to CTS Ponce and February 27, 2019 to CTS Villalba. Observation and documentation of housing module staff youth ratios is conducted on each visit.</p>																				
Findings and Analysis	<p>DCR submitted a total of 29 facility staff youth ratio forms for the three 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. Detention youth population was detained in the CD Humacao facility for the first quarter reporting period through January 15, 2019, at which time the CD Humacao facility was closed for youth populations.</p> <p>The chart and table below represent staff youth ratio performance by shift for the period (December 30, 2018 through March 30, 2019).</p> <div><p style="text-align: center;">DCR Facility Staff Youth Ratio Performance By Shift: First Quarter 2019</p><table><thead><tr><th></th><th>Met Staff Youth Ratio 10:00 - 6:00 Events</th><th>Met Staff Youth Ratio 6:00 - 2:00 Events</th><th>Met Staff Youth Ratio 2:00- 10:00 Events</th><th>Met Staff Youth Ratio Average: All Shifts</th></tr></thead><tbody><tr><td>■ CTS Villalba</td><td>100%</td><td>91%</td><td>95%</td><td>95%</td></tr><tr><td>■ CTS Ponce</td><td>100%</td><td>98%</td><td>96%</td><td>98%</td></tr><tr><td>■ CD Humacao</td><td>100%</td><td>100%</td><td>98%</td><td>99%</td></tr></tbody></table></div>		Met Staff Youth Ratio 10:00 - 6:00 Events	Met Staff Youth Ratio 6:00 - 2:00 Events	Met Staff Youth Ratio 2:00- 10:00 Events	Met Staff Youth Ratio Average: All Shifts	■ CTS Villalba	100%	91%	95%	95%	■ CTS Ponce	100%	98%	96%	98%	■ CD Humacao	100%	100%	98%	99%
	Met Staff Youth Ratio 10:00 - 6:00 Events	Met Staff Youth Ratio 6:00 - 2:00 Events	Met Staff Youth Ratio 2:00- 10:00 Events	Met Staff Youth Ratio Average: All Shifts																	
■ CTS Villalba	100%	91%	95%	95%																	
■ CTS Ponce	100%	98%	96%	98%																	
■ CD Humacao	100%	100%	98%	99%																	

The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2017 through March 30, 2019:



Waking Hours Youth Ratio Events:

The DCR 2019 first quarter performance in meeting Staff Youth Ratios is as follows:

- 6:00 am – 2:00 pm shift: 94% of events, a 2% decrease from the fourth quarter of 2018 (96%)
- 2:00 pm – 10:00 pm shift: 96% of events, a 1% decrease from the fourth quarter of 2018 (97%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the fourth quarter of 2018 (100%)

Of the 2892 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 2748 of the events (95%) met the minimum shift staff youth ratio requirements. The DCR 2019 first quarter Staff Youth Ratios compliance performance reflects a 2% decrease in staff youth ratio compliance compared to the fourth quarter reporting period. This represents the second consecutive quarter that there has been a decrease in NIJ meeting the minimum required staff youth ratio.

Staff Double Shifts:

For the 2019 first quarter, 812 (19%) of the 4343 staff youth ratio events were covered by staff working a double shift. This is 1% increase of shifts requiring staff to work a double shift compared to the fourth quarter 2018 reporting period, but a reduction in volume by 114 events. It needs to be noted that this increase in double shifts occurred after the closure of CD Humacao on January 15, 2019.

DCR Staff Youth Ratio Events and Double Shifts: First Quarter 2019	Waking Hour Supervision Events	Met Minimum Staff Youth Ratio During Waking Hour Supervision Events	Volume of Shifts Covered by Staff Working a Double Shift	Percentage of Shifts Covered by Staff Working Double Shift	Waking Hour Double Shifts	Percentage of Waking Hour Double Shifts
CD Humacao	103	102	7	5%	0	0%
CTS Ponce	1395	1352	408	20%	135	10%
CTS Villalba	1394	1294	397	19%	327	23%
DCR First Quarter 2019 Staff Youth Ratio: All Shifts	2892	2748	812	19%	462	16%

- Although only open until January 15, 2019, CD Humacao decreased percentage of shifts covered by staff working a double shift to 5% (7 events), -17% from the previous quarter.
- CTS Ponce increased percentage of shifts covered by staff working a double shift to 20% (408 events), +7% from the previous quarter.
- CTS Villalba increased percentage of shifts covered by staff working a double shift to 19% (397 events), 0% increase from the previous quarter.

A closer review identifies staff working double shifts occurred disproportionately on weekends and occurring on the first and second shifts. There was a significantly higher volume of non-compliant staff youth ratio events (144), from the fourth quarter, while 44% of the events occurred on weekends.

DCR Facility First Quarter 2019	Volume of Non-Compliant Staffing Ratios	Volume of Non-Compliant Staffing Ratios on Weekends	Percentage of Non-Compliant Staffing Ratios on Weekends	Volume of Double Shifts	Volume of Double Shifts on Weekends	Percentage of Double Shifts on Weekends
CD Humacao	1	1	100%	7	7	100%
CTS Ponce	43	23	53%	408	203	50%
CTS Villalba	100	40	40%	397	173	44%
DCR Totals	144	64	44%	812	383	47%

The table below displays the last five quarters of staffing events, double shift staffing events, percentage of double shift staffing events and total number of operational facilities for the quarter.

Staff Double Shifts and Staffing Events	First Quarter 2018	Second Quarter 2018	Third Quarter 2018	Fourth Quarter 2018	First Quarter 2019
Volume of Double Shifts	1202	1233	796	926	812
Volume of Staffing Events	5712	5816	5935	5288	4343
Percentage of Double Shift Staffing Events	21%	21%	13%	18%	18.7%
Number of Facilities	3	3	3	3	3

Implications of a large volume of double shifting are deterioration in staff productivity, reducing the ability to be actively engaged in the supervision of youth as well as the

negative impact to staff morale. The outcome of double shifting for direct care staff can lead to a level of inattentiveness on the part of staff, which can negatively impact youth safety and potentially contribute to staff negligence in providing effective, safe and secure supervision of youth. Double shifting often leads to staff calling in sick to avoid being required to double shift after their regularly scheduled shift. All of the aforementioned are outcomes of a significant dependence on double shifts to staff housing modules.

There are no prohibitions nor restrictions in S. A. 48 on the use of double shifts to meet the requirements of minimum required direct care staff youth ratios. Although undesirable from an operational and budgetary perspective, it does not impact analysis of whether the minimum required staff youth ratios are being met. Conversely, double shifting is a significant contributing factor in jeopardizing the agency's capacity to provide staffing to provide adequate supervision to assure youth safety and protection from harm, as well as staff call offs and staff turnover.

Policy and Quality Assurance Documentation Requirements for Compliance:

The Monitor's Consultant Staff Policy Compliance and Performance Reviews assess for accuracy, reliability and comprehensive reporting required by the DCR Staff Policy and is the primary quality assurance process to determine compliance of S.A. 48a. The design of the Monitor's Consultant Staff Policy Compliance and Performance Reviews consists of a comparative analysis of weekly submitted Staff Youth Ratio workbook documentation and forms DCR-NIJ-0144 with the Master Roster, the daily rosters and mini-control logs.

In conjunction with analysis of NIJ performance in meeting the minimum required staff youth ratios, DCR Policy 9.20, NIJ's procedural compliance and quality assurance performance are the associated critical performance criteria for meeting the requirements of S.A. 48a.

During facility site visits on February 26 and 27, 2019, the Monitor's Consultant reviewed facility documentation for Staff Policy procedural compliance and minimum required staff youth ratio youth quality assurance compliance analysis.

As of the Staffing Consultant site visits of February 26 and 27, 2019, based on the Staff Compliance Reviews and the weekly staff youth ratio forms provided for the first quarter of 2019, the following findings have been made:

- Both facilities need to use the daily roster template that has the row for documenting the EST 48- 1x8 directly under each module.
- The Monitor's Consultant reviewed his Staff Policy Compliance and Performance Reviews with facility Kelvin Merced and Aida Burgos and shared the findings on the February site visit.
 - The DCR -NIJ -0144 form was not previewed by the Monitor's Consultant prior to Staffing Policy implementation. The Monitor's Consultant believes this form should be revised to allow for documentation of the volume of housing modules that do not meet the minimum required staff youth ratio for each shift. The Monitor's Consultant provided a

	<p>revised DCR -NIJ -0144 for implementation, but was told it could not be implemented until there was a future policy revision. In the interim, NIJ is documenting the volume of posts that are non-compliant minimum required staff youth ratio.</p> <ul style="list-style-type: none"> For the first quarter of 2019, Form DCR -NIJ -0144 had not been consistently implemented at each facility. Form DCR -NIJ -0144 documents posts that are compliant and non-compliant with the requirements of Policy 9.20. <p>For the 2019 first quarter, S.A. 48a is found to be in partial compliance.</p> <ul style="list-style-type: none"> The rate of non-compliant minimum required staff youth ratio events continues to increase The percentage of shifts (19%) covered by staff doing double shifts continues to increase The agency youth population continues to decrease The closure of CD Humacao and transfer of youth to CTS Ponce and CTS Villalba did not positively impact compliant minimum required staff youth ratio events The volume of non-compliant minimum required staff youth ratio events and double shifting are occurring disproportionately on Saturdays and Sundays <p>As of the 2019 first quarter, the Monitor and Monitor's Consultant believe that being in partial compliance with the minimum staff youth ratios, in and of itself, is not sufficient to assure youth safety.</p>
What is needed for full compliance? What steps are required and/or recommended?	<p>During the first quarter there has been a continuation of significant reduction in NIJ meeting the minimum required staff youth ratio. NIJ needs to meet procedural compliance not only with S.A. 48, but also their own Policy 9.20. Substantial compliance requires significant improvement in meeting minimum required staff youth ratios with a minimum dependence on double shifting, as was accomplished during the 2018 third quarter. Additionally, procedural compliance with DCR-NIJ Policy 9.20 requires meeting minimum required staff youth ratios as well as corrective action when ratios are not met for any given supervision event on any shift. NIJ needs to produce quality assurance reports as required by DCR-NIJ Policy 9.20.</p>
Priority Next Steps	<p>Priority next steps required to find compliance for S.A. 48a are the following:</p> <ul style="list-style-type: none"> Recalculate and produce new Master Rosters for facilities based on the CD Humacao closure and staff and youth population redistribution. Address the requirement for procedural compliance with staffing Policy 9.20, especially in light of facility housing module increased populations, as well as any required 1:1 staff youth supervision events. The youth in restrictive housing status, specifically youth assigned to protective custody and transitional measures, has significantly increased during the first quarter of 2019. Address the inability to provide the necessary staff to maintain youth in the least restrictive placement possible, assuring protection from harm.

	<ul style="list-style-type: none"> • Provide the Monitor's Consultant with electronic versions of each facility's monthly/ cycle Master Roster as well as DCR-NIJ 0144 occurring during the second quarter of 2019. • DCR-NIJ needs to implement independent quality assurance assessment of procedural compliance as required by Policy 9.20, generating reports for both internal use and submission to the Monitor's Office.
Quality Assurance Measures	<p>DCR Staffing Policy 9.20 identifies that retrievable staff youth ratio documentation be maintained at each facility. As described in the previous section, the documentation consists of the following:</p> <ul style="list-style-type: none"> • 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 has 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. • At this time this form is not uniform between all three facilities. This issue was addressed at the Operational Functional Team meeting on December 5, 2018. <p>Staff youth ratio quality assurance compliance analysis consists of a review of the Master Roster, facility Daily Roster, facility mini control logs, and DCR-NIJ 0144 daily forms to assess procedural and performance compliance with DCR-NIJ Policy 9.20.</p> <p>The Master Roster is an agency generated staffing roster-identifying posts, fixed posts, fixed 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.). Mini-control logs are used to provide supplemental documentation of staff housing module assignments and staff and youth movement.</p> <p>Additionally, review and assessment of DCR-NIJ 0144 forms for each day are assessed for accuracy to the Daily Roster and compliance with DCR-NIJ Policy 9.20 by the Supervisor IV the day after the events.</p> <p>At this time DCR-NIJ has not initiated independent analysis of procedural compliance to Policy 9.20.</p>
Sources of Information upon which Consultant report and	<p>Weekly facility staff youth ratio workbooks and form DCR-NIJ-1044 are provided to the Monitor's Consultant throughout the quarter. Facility staff youth ratio workbook data is analyzed to assess facility and agency compliance in meeting the minimum required staff youth ratio as described in S.A. 48a. Form DCR-NIJ-1044 is analyzed for procedural compliance with staffing policy, 9.20.</p>

compliance ratings are based	<p>A component of facility site visits is review facility staffing source documentation, Master Rosters, Daily Rosters, mini control analyzed against the weekly facility staff youth ratio workbooks that are provided to the Monitor's Consultant. Review and assessment of DCR-NIJ 0144 forms for each facility for each day are assessed for accuracy to the Daily Roster and compliance with DCR-NIJ Policy 9.20, by the Supervisor IV the day after the events.</p> <p>Staffing practices, documentation and quality assurance discussions were conducted with facility compliance officers during site visits conducted on February 26 and 27, 2019. Daily roster and housing module staff youth ratios were observed and analyzed with strengths and weaknesses shared with facility compliance officers.</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>	
Compliance Ratings	Partial Compliance
Description of Monitoring process during this period of time	<p>The Monitor's Consultant conducted site visits on February 26, 2019 at CTS Ponce and February 27, 2019 at CTS Villalba. The Monitor's Consultant reviews and analyzes weekly Staff Youth Ratio forms and form DCR-NIJ-0144. Additional documentation that is reviewed is as follows: Master Rosters, Daily Rosters, DCR-NIJ 0144 Daily Staffing forms, as well as use of force events, monthly contraband reports, and incident report events. Observation and documentation of housing module staff youth ratios is conducted on each visit.</p>
Findings and Analysis	<p>Facility Closure of CD Humacao: Detention youth population was detained in the CD Humacao facility for the first quarter reporting period through January 15, 2019, at which time the CD Humacao facility was closed for youth populations.</p> <p>The following narrative was submitted for the fourth quarter compliance report:</p> <p><i>Prior to the confirmation of the CD Humacao closure, the Monitor's Consultant shared with NIJ his reservations and concerns about the planned closure of CD Humacao, especially in the absence of a comprehensive transition plan. As witnessed with previous facility closures and staff and youth population reassignment, there is a period of instability and storming as the facilities adjust to the housing assignments, new classification configurations and staff and youth composition. Housing modules with youth populations between twelve and fifteen youth will consistently require a minimum of two staff for both the first and second shifts. With the influx of recent and anticipated staff voluntary resignations, fiscal restraints on overtime for double shifting, the projection of meeting minimum requirements for staff youth ratios seems very challenging.</i></p>

	<p><i>Additionally, meeting the minimum staff youth ratio of two staff for a housing module of a large youth population may not be adequate to assure youth safety.</i></p> <p><i>In light of the geographic distance and residency of CD Humacao staff, the proposed closure of CD Humacao cannot be expected to provide an infusion of direct care staff to CTS Ponce and CTS Villalba. As in previous closures, the reassignment of staff from the closed facility to the open facilities is a process that is not assured as to whether staff will accept the assignments. At the same time the two facilities require an influx of direct care staff and professional staff to meet the staffing, programming and service requirements of the Settlement Agreement.</i></p> <p><i>The reconfiguration of youth populations will initiate new dynamics in the facilities and housing modules. Managing youth "leaders" and maintaining safe and secure environments will require strong and persistent staff leadership and a level of direct care staff active behavior management skills and practice that does not consistently exist at this time in NIJ facilities. Consequently, not only a facility closure, but the staff training, skill development and programming development to manage a reduced but significantly more challenging youth population would be a crucial component for successful implementation.</i></p> <p><i>Based on what the Monitor's Consultant is aware of in regard to classification, youth population, special populations, protection from harm and facility operations, there is a significant risk to youth safety with a facility closure at this time and with the apparent absence of preparation and planning.</i></p> <p>As of the close of the 2019 first quarter, the volume of youth that have been assigned restrictive housing status, as either protective custody or transitional measures has increased significantly as reflected in the table below.</p>
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				Volume of Protective Custody and Transitional Measures Events for Quarter	Protective Custody and Transitional Measures Percentage of Population for Quarter
Quarters	Facilities	Quarterly Average Population	Population Type, Levels of Treatment		
2014 Fourth Quarter	CD Bayamon	76	Detention		
	CTS Bayamon	62	Level 4 and 5, PUERTAS, MER		
	CTS Humacao	70	Level 5		
	CTS Ponce	91	Levels 2 and 3		
	CTS Villalba	74	Level 4		
		373		40	11%
2016 Third Quarter	CD Bayamon	54	Detention		
	CTS Humacao	52	Level 5		
	CTS Ponce	84	Levels 2 and 3, PUERTAS		
	CTS Villalba	82	Level 4 and detention		
		272		25	9%
2018 Fourth Quarter	CTS Humacao	41	Detention		
			Levels 2 and 3, 2 PUERTAS modules		
	CTS Ponce	43			
	CTS Villalba	53	Levels 4 and 5		
		137		17	12%
2019 First Quarter	CTS Ponce	49	Detention, Sumaridos, Levels 2 and 3, PUERTAS, girls committed and girls detention		
	CTS Villalba	64	Levels 4 and 5, Detention, MER		
		113		24	21%

Additionally, there were two 1:1 supervision events at CTS Villalba on 1/10 and 1/11 on all three shifts, a total of six events that were not supervised as required by their assigned mental health safety status. This is the first time since the 2016 second quarter that 1:1 staff youth ratio events were not supervised as required by their assigned mental health safety status.

What is needed for full compliance? What steps are required and/or recommended?

DCR has provided a January 2009 Stipulation Paragraph 5 report for January and March 2019, that describes the volume of staff by classification assigned to each of the three facilities, even though CD Humacao no longer houses a youth population. Analysis of the January 2009 Stipulation Paragraph 2 and 5 report can be found in the January 2009 Stipulation Paragraph 5 compliance report section.

Meeting minimum staff youth ratios does not necessarily equate that staffing provides adequate supervision to keep youth safe. For full compliance, staff youth ratios need to consistently meet the minimum required staff youth ratio, as well as additional staffing that is required by special populations, youth assigned to Transitional Measures, Protective Custody and 1:1 staff youth supervision events. Youth placed in restrictive housing statuses in an effort to provide protection from harm, does not alone provide “adequate supervision” to ensure youth safety.

To assure youth safety, procedural and operational practices need to require direct care staff to engage in active behavior management, youth need to be engaged in robust programming, as well as classification and programming to assure adequate staff supervision to effectively manage and control aggressive youth and youth “leaders”.

	For full compliance for this provision, NIJ needs to consistently provide and assure availability of direct care staff to be deployed to housing modules based on the minimum required staff youth ratio as well as the specific staff supervision needs of special populations, Transitional Measures, Protective Custody and 1:1 staff youth supervision events.
Priority Next Steps	Further analysis of facility incident reports, specifically reviewing youth injuries, youth fights, youth assaults, youth self-harm, youth cutting events, youth on youth sexual assault, and staff on youth sexual assault is required to adequately assess youth safety. The Monitor's Consulting Team continue to request access to incident report information as one of the critical components to assess youth safety. As of the close of the 2019 first quarter this information has not been provided.
Quality Assurance Measures	Incident report analysis and quality assurance requires consensus on incident report characteristics and definitional compliance as well as comprehensive reporting. The proposed installation of video systems at CTS Villalba, while assisting in the assessment of investigations, will also significantly help in assessing youth safety, as well as the dynamics associated with youth incident events and adequate staff supervision to assure youth safety.
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.	
The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991). No new YSOs were hired during the Third Quarter of 2018.	
Compliance Ratings	Partial Compliance
Description of Monitoring process during this period of time	Monitoring of S.A. 48 January 2009 Stipulation Paragraph 2 occurs through review of the monthly staffing report required by the January 2009 Stipulation Paragraph 5 provided by the DCR Human Resources Development and Training Institute. The report indicated that no new officers were appointed during the quarter. Additional monitoring processes that occurred during this quarter were analysis of facility populations, classification levels, youth assigned to restrictive housing, minimum required staff youth ratios, and agency and facility staff volume and assignments.
Findings and Analysis	<p>January 2009 Stipulation Paragraph 5: DCR provided the January and March staffing report required by the stipulation. On February 12, 2019, NIJ provided the January 2019 report followed by the March report received on April 12, 2019.</p> <p>On February 26, 2019, the Monitor's Consultant was informed by Ms. Arlene R. Pérez Borrero that NIJ would not be providing the February 2019 staffing report. Ms. Pérez Borrero stated that NIJ could not be confident of providing an accurate report, so chose not to submit a monthly report.</p> <p>For the first quarter of 2019, NIJ has produced two of the three months of the report required by the January 2009 Stipulation Paragraph 5. The stipulation language requires that the defendants shall submit a report by the fifth day of the following month. As seen</p>

in the receipt dates of the first quarter reports, the reports were not received by the fifth day of the month.

The Monitor's Consultant has identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. On numerous occasions at various Functional Team meetings and by email requests, the Monitor's Consultant has asked for an electronic copy of each facility forty-two day Master Roster to assess the accuracy and reliability of the Master Roster relative to the data provided in the January 2009 Stipulation Paragraph 5 reports. As of the production of this first quarter report, DCR has not provided the Monitor's Consultant with electronic versions of each facility's Master Roster for this quarter. Consequently, the Monitor's Consultant cannot attest to the accuracy and reliability of the numbers provided in the DCR January 2009 Stipulation Paragraph 5 report. For this 2019 first quarter, January 2009 Stipulation Paragraph 5 is found to be in partial compliance.

The table below summarizes the January, February and March 2019, January 2009 Stipulation Paragraph 5 reports:

Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	New Hires: 1/2019	Voluntary Resignation Program	Date Received
Jan-19	369	28	21	6	424	44	0	0	2/12/2019
Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	NA
Mar-19	365	29	21	6	421	37	0	0	4/12/2019

Although the aggregate volume of staff would appear that DCR/NIJ has the volume of staff to meet the requirements of S.A. 49, a closer review illustrates that staff have not been deployed in a manner to meet minimum required staff youth ratios nor to effectively reduce the disproportionate reliance on double shifting.

Facilities	Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	New Hires: 1/2019	Voluntary Resignation Program	Date Received
CD Humacao	Jan-19	125	3	6	1	135	19	0	0	
CTS Ponce	Jan-19	112	12	5	3	132	11	0	0	
CTS Villalba	Jan-19	109	9	6	1	125	12	0	0	
Central level and Other facilities DCR	Jan-19	23	4	4	1	32	2	0	0	
	Jan-19	369	28	21	6	424	44	0	0	2/12/2019
CD Humacao	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
CTS Ponce	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
CTS Villalba	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
Central level and Other facilities DCR	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	NA
CD Humacao	Mar-19	17	0	3	1	21	10	0	0	
CTS Ponce	Mar-19	112	12	5	2	131	4	0	0	
CTS Villalba	Mar-19	121	10	7	2	140	12	0	0	
Central level and Other facilities DCR	Mar-19	115	7	6	1	129	11	0	0	
	Mar-19	365	29	21	6	421	37	0	0	4/12/2019

As can be seen in the table above, with the closure of CD Humacao of a youth population, there still remained 17 officers assigned to CD Humacao to manage the facility. Between January and March 2019, there was a net decrease of 114 officers at CD Humacao.

Correspondingly, between January and March 2019, there was a net increase of 97 officers assigned to DCR Central Office and other DCR facilities.

When legal counsel for DCR, Arlene R. Pérez Borrero, was asked in an email on April 12, 2019, as to why the closure of CD Humacao did not result in a positive impact to the staffing compliance requirements of S. A. 48, the following answer was provided:

There are several reasons why personnel might be placed in the Central offices or the closed facilities, such as the officers have rights under their Union Contracts cannot be placed in facilities or position that are farther than a certain distance from their home, or they are providing a service to the central offices and their position has not been reclassified in response to this functions. Other officers are placed in closed facilities because there are still some operations in them that require security personnel.

The closure of CD Humacao did not provide the volume of staff to CTS Ponce nor CTS Villalba to relieve the agencies inability to consistently meet the minimum required staff youth ratio, or to provide the adequate supervision to keep youth safe in the least restrictive placement possible, nor to relieve the disproportionate necessity on double shifting to provide the minimum required staff youth ratio for youth supervision. The availability and manner that staff are deployed to facilities and youth populations, based on housing module youth population volume or by need, has not consistently met the requirements of this provision.

First Quarter 2019 Contraband Report Review:

NIJ submitted contraband workbooks for all both active facilities during the first quarter of 2019.

- CTS Ponce reported twenty-three contraband events for the quarter.
- CTS Villalba reported six contraband events for the quarter.

The first quarter contraband reports reported the following:

- nine pills of unknown nature;
- one cellular phone;
- fifteen events of knives, shanks or sharp objects
- various pieces of silicone used for handles for sharps

The contraband report did not document the volume of searches that were conducted, the type of searches that resulted in the discovery of contraband, nor the volume of searches that did not result in the discovery of contraband. The volume of contraband reported for CTS Villalba for the quarter seems to be a low volume. The volume of sharp contrabands that were discovered is concerning in light of the history and volume of cutting events at NIJ facilities.

Staffing and Incident Events:

There were 144 staff youth ratio events during the first quarter that did not meet the minimum required staff youth ratio.

	<ul style="list-style-type: none"> 19-003 CD Humacao: In this case a youth, during a fight with other youth, was punched in his abdominal area. Allegedly, when the incident occurred the youth officers assigned to the module were in the mini-control. 19-012 CTS Villalba: In this case a youth got cut in his lips after a fight between youths and the victim was taken to an emergency room for stitches. The staffing ratio was 1 officer, 10 juveniles. <p>As stated in previous quarterly reports, these incident events are very concerning, but it cannot be stated unequivocally that the presence of the second officer minimally required by the volume of youth could or would have prevented the assaults nor did the absence of the officers cause the assault, although it certainly provided an opportunity for the assaults to occur. Assaults of both a serious and less serious nature occur with compliant ratios of staff to youth.</p> <p>Officers properly assigned and posted, engaged in active behavior management and awareness of behavioral indicators of potential disruptive behavior increases the probability of adequate staffing to keep youth safe.</p> <p>This Stipulation is found to be in partial compliance for the first quarter of 2019.</p>
What is needed for full compliance? What steps are required and/or recommended?	For full compliance for this provision, NIJ needs to consistently provide and assure availability of direct care staff to be deployed to housing modules based on the minimum required staff youth ratio as well as the specific staff supervision needs of special populations, Transitional Measures, Protective Custody and 1:1 staff youth supervision events to avoid restrictive housing placement to assure youth safety.
Priority Next Steps	<p>The Monitor's Team is analyzing how to better assess characteristics of incident reports to accurately assess the volume of events occurring impacting youth safety and adequate staff supervision of youth.</p> <p>A priority next step will be to assess DCR IT capacity to provide an electronic incident report module within the electronic record keeping process. In the interim, the Monitor's Consultant has developed an Excel contraband workbook for consideration of implementation by DCR to allow for more efficient analysis of contraband reporting.</p> <p>Additionally, the Monitor and Monitor's Consultant will continue to dialogue with DCR to better understand stipulation requirements to assess whether the existing volume of direct care staff is "sufficient" to "adequately supervise youth". Although there appears to be a sufficient number of direct care staff within the agency, there appears to be an inadequate number of staff available for assignment, as well as a significant need for staff skill development and programming to assure "adequate youth supervision".</p>
Quality Assurance Measures	The critical next steps for quality assurance measures is to develop consensus over critical terms of this stipulation. Agreement on the importance of the accuracy and reliability of data, consensus on definitional compliance of terminology, and comprehensive reporting of events and incident event characteristics are essential for effective quality assurance measures.

Sources of Information upon which Consultant report and compliance is based	Reports that were used for analysis of this compliance ratings were the January 2009 Stipulation Paragraph 5 report for January, February and March 2019 and the DCR-NIJ submitted contraband reports for January, February and March 2019.
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.	
<i>In approximately 2011, the Commonwealth decided not to employ the categorization of Social Workers as direct care staff as allowed by 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, but has been categorized as "NA" not applicable. The struck part of the provision references a provision that has been terminated.</i>	
<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><i>The struck part of the provision references a provision that has been terminated.</i></p>	
Compliance Ratings	Substantial Compliance
Monitoring process during this period of time	<p>There were no new appointments to the agency during the first quarter reporting period, nor has there been any new appointments in the last several years.</p> <p>Upon hiring of any new staff, DCR NIJ Policy Chapter 4.1 and 4.2 address the agency's policy and procedure for new employee pre-service training and annual training, as well as certification prior to facility assignment. In light of the approved and implemented policies, this stipulation is found to be in Substantial Compliance.</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> <p><i>The struck part of the provision references a provision that has been terminated.</i></p>	

Compliance Ratings	Partial Compliance																																								
Description of Monitoring process	Monitoring of S.A. 48 January 2009 Stipulation Paragraph 5 occurs through review of the monthly staffing report provided by the DCR Human Resources Development and Training Institute.																																								
Findings and Analysis	<p>January 2009 Stipulation Paragraph 5: For the first quarter of 2019, NIJ has produced two of the three months of the report required by the January 2009 Stipulation Paragraph 5. The stipulation language requires that the defendants shall submit a report by the fifth day of the following month. As seen in the receipt dates of the first quarter reports, the reports were not received by the fifth day of the month.</p> <p>DCR provided the January and March staffing report required by the stipulation. On February 12, 2019, NIJ provided the January 2019 report followed by the March report received on April 12, 2019.</p> <p>On February 26, 2019, the Monitor’s Consultant was informed by Ms. Arlene R. Pérez Borrero that NIJ would not be providing the February 2019 staffing report. Ms. Pérez Borrero stated that NIJ could not be confident of providing an accurate report, so chose not to submit a monthly report.</p> <p>The Monitor’s Consultant has identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. On numerous occasions at various Functional Team meetings and by email requests, the Monitor’s Consultant has asked for an electronic copy of each facility forty-two day Master Roster to assess the accuracy and reliability of the Master Roster relative to the data provided in the January 2009 Stipulation Paragraph 5 reports. As of the production of the first quarter report, DCR has not provided the Monitor’s Consultant with electronic versions of each facility’s Master Roster for this quarter. Consequently, the Monitor’s Consultant cannot attest to the accuracy and reliability of the numbers provided in the DCR January 2009 Stipulation Paragraph 5 report. For the 2019 first quarter, January 2009 Stipulation Paragraph 5 is found to be in partial compliance.</p> <p>The table below summarizes the January, February and March 2019, January 2009 Stipulation Paragraph 5 reports:</p> <table><tr><th>Month/Year</th><th>OSJ I</th><th>OSJ II</th><th>OSJ III</th><th>OSJ IV</th><th>Total</th><th>Inactive</th><th>New Hires: 1/2019</th><th>Voluntary Resignation Program</th><th>Date Received</th></tr><tr><td>Jan-19</td><td>369</td><td>28</td><td>21</td><td>6</td><td>424</td><td>44</td><td>0</td><td>0</td><td>2/12/2019</td></tr><tr><td>Feb-19</td><td>NA</td><td>NA</td><td>NA</td><td>NA</td><td>NA</td><td>NA</td><td>NA</td><td>NA</td><td>NA</td></tr><tr><td>Mar-19</td><td>365</td><td>29</td><td>21</td><td>6</td><td>421</td><td>37</td><td>0</td><td>0</td><td>4/12/2019</td></tr></table> <p>Although the aggregate volume of staff would appear that DCR/NIJ has the volume of staff to meet the requirements of S.A. 49, a closer review illustrates that staff have not been deployed in a manner to meet minimum required staff youth ratios nor to effectively reduce the disproportionate reliance on double shifting.</p>	Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	New Hires: 1/2019	Voluntary Resignation Program	Date Received	Jan-19	369	28	21	6	424	44	0	0	2/12/2019	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	NA	Mar-19	365	29	21	6	421	37	0	0	4/12/2019
Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	New Hires: 1/2019	Voluntary Resignation Program	Date Received																																
Jan-19	369	28	21	6	424	44	0	0	2/12/2019																																
Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	NA																																
Mar-19	365	29	21	6	421	37	0	0	4/12/2019																																

Facilities	Month/Year	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	New Hires: 1/2019	Voluntary Resignation Program	Date Received
CD Humacao	Jan-19	125	3	6	1	135	19	0	0	
CTS Ponce	Jan-19	112	12	5	3	132	11	0	0	
CTS Villalba	Jan-19	109	9	6	1	125	12	0	0	
Central level and Other facilities DCR	Jan-19	23	4	4	1	32	2	0	0	
	Jan-19	369	28	21	6	424	44	0	0	2/12/2019
CD Humacao	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
CTS Ponce	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
CTS Villalba	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
Central level and Other facilities DCR	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	
	Feb-19	NA	NA	NA	NA	NA	NA	NA	NA	NA
CD Humacao	Mar-19	17	0	3	1	21	10	0	0	
CTS Ponce	Mar-19	112	12	5	2	131	4	0	0	
CTS Villalba	Mar-19	121	10	7	2	140	12	0	0	
Central level and Other facilities DCR	Mar-19	115	7	6	1	129	11	0	0	
	Mar-19	365	29	21	6	421	37	0	0	4/12/2019

As can be seen in the table above, with the closure of CD Humacao for a youth population, there still remained 17 officers assigned to CD Humacao to manage the facility. Between January and March 2019, there was a net decrease of 114 officers at CD Humacao. Correspondingly, between January and March 2019, there was a net increase of 97 officers assigned to DCR Central Office and other DCR facilities.

When legal counsel for DCR, Arlene R. Pérez Borrero, was asked in an email on April 12, 2019, as to why the closure of CD Humacao did not result in a positive impact to the staffing compliance requirements of S. A. 48, the following answer was provided:

There are several reasons why personnel might be placed in the Central offices or the closed facilities, such as the officers have rights under their Union Contracts cannot be placed in facilities or position that are farther than a certain distance from their home, or they are providing a service to the central offices and their position has not been reclassified in response to this functions. Other officers are placed in closed facilities because there are still some operations in them that require security personnel.

The closure of CD Humacao did not provide the volume of staff to CTS Ponce nor CTS Villalba to relieve the agencies inability to consistently meet the minimum required staff youth ratio, nor to provide the adequate supervision to keep youth safe in the least restrictive placement possible, nor to relieve the disproportionate necessity on double shifting to provide the minimum required staff youth ratio for youth supervision. The availability and manner that staff are deployed to facilities and youth populations, based on housing module youth population volume or by need, has not consistently met the requirements of this provision.

This Stipulation is found to be in partial compliance for the first quarter of 2019.

What is needed for full compliance?
What steps are required

The Monitor's Consultant believes the following actions, metrics and data elements are necessary for DCR-NIJ to be in compliance with S.A. 48 January 2009 Stipulation Paragraph 5:

- Assessment and deployment of staffing requirements of the two operational facilities to meet the minimum required staff youth ratio without unreasonable reliance on double shifting, and capacity to provide adequate staffing to keep youth

and/or recommended ?	<p>safe in the least restrictive placement possible without dependence on restrictive housing;</p> <ul style="list-style-type: none"> • For each month submit a January 2009 Stipulation Paragraph 5 staffing report to the Monitor's Consultant on or about the fifth day of the month; • The inactive (inactivos) staff identified for each facility should be identified by classification type; • The report should contain the number of qualified direct care staff hired during the previous period (month); • For each month, the volume of staff by classification type and facility that has resigned as a result of the Puerto Rico government or DCR agency incentivized voluntary resignation program should be identified; • In light of the CD Humacao closure, CD Humacao staff that have been reassigned to either CTS Ponce or CTS Villalba should be identified in the monthly report by facility and classification. • Identify the juvenile facilities where the direct care staff who were hired in the previous quarter have been deployed or assigned. • Provide the Monitor's Consultant with each facility's electronic version of the Master Rosters that is applicable to the monthly S.A. 48 January 2009 Stipulation Paragraph 5 reports.
Priority Next Steps	<p>DCR needs to continue to provide this report on a consistent and timely basis. Additionally, in order to assess the accuracy and reliability of the S.A. 48 January 2009 Stipulation Paragraph 5 report, DCR needs to provide to the Monitor's Consultant an electronic version of each facility's corresponding monthly/cycle Master Rosters for each facility. As the Monitor's Consultant has explained to the Operations Functional Team, the criteria to assess the accuracy of the S.A. 48 January 2009 Stipulation Paragraph 5 report would be that the monthly report documentation be the same volume of staff that is identified in each facilities Master Roster.</p>
Quality Assurance Measures	<p>Upon receipt of the monthly facility Master Roster, a comparative analysis will occur with the S.A. 48 January 2009 Stipulation Paragraph 5 report to assess the accuracy and reliability of the report matching the data from the facility Master Rosters.</p> <p>Ultimately, the Monitor's Consultant expectation as an effective quality assurance measure that DCR-NIJ, upon production of the S.A. 48 January 2009 Stipulation Paragraph 5 report, assure and stipulate that the numbers presented in the report correspond to the volume of staff and corresponding classifications for each facility's Master Roster. If the cycle Master Report and the S.A. 48 January 2009 Stipulation Paragraph 5 report staff numbers do not match, an explanation as to why there is variance in the numbers should be provided.</p> <p>As of the production of the 2018 first quarter report, DCR has not produced electronic versions of the applicable Master Rosters nor stipulated that the volume of staff documented in each facility's Master Roster corresponds with the data in the monthly S.A. 48 January 2009 Stipulation Paragraph 5 report.</p>

PROTECTION FROM HARM – CLASSIFICATION (Bob Dugan)

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.

Compliance Ratings	Partial Compliance												
Description of Monitoring process during this period of time	<p>Site visits were conducted on February 26 and 27, 2019. CTS Ponce was visited on February 26 and CTS Villalba was visited on February 27, 2019. An Operational Functional Team meeting was held on the afternoon of February 27, 2019 with those NIJ staff present for the Casey Foundation meeting.</p> <p>During site visits facility youth population classification and housing assignments were provided for both facilities. Throughout the quarter, and in the previous twenty-seven quarters, NIJ has provided detention and committed classification documentation, with corresponding youth facility assignments and assessed levels of treatment. NIJ facility and housing assignments have been found to consistently correspond to youth's assessed levels of classification and treatment.</p> <p>As documented in the fourth quarter 2018 Classification Compliance Report, CD Humacao closed on January 15, 2019. The Monitor's Consultant provided his initial concerns about a possible CD Humacao closure to NIJ on October 17, 2018 by email. The Monitor's Consultant provided analysis of existing and potential classification housing module needs, concerns to NIJ representatives about the absence of a transition plan, implications of youth population consolidation, potential negative impact to existing classification milieus within housing modules, and behavior management challenges anticipated with larger housing module populations</p>												
Findings and Analysis	<p>NIJ has been engaged in an effort to meet the requirements of S. A. 52 since 2013. The following timeline illustrates various milestones of the agency's classification efforts:</p> <table border="1" data-bbox="483 1434 1487 1707"> <thead> <tr> <th>Quarters</th><th>Activity</th></tr> </thead> <tbody> <tr> <td>Fourth Quarter 2013</td><td>Proposals for Classification validation study</td></tr> <tr> <td>Fourth Quarter 2014</td><td>Start of Classification validation study</td></tr> <tr> <td>First Quarter 2015</td><td>Classification validation study preliminary report</td></tr> <tr> <td>Second Quarter 2015</td><td>Classification Manual for training and implementation</td></tr> <tr> <td>Fourth Quarter 2016</td><td>NIJ Administrative Order CDR -2016-10, for implementation of NIJ Classification processes</td></tr> </tbody> </table> <p>Since the Fourth Quarter 2014, NIJ has experienced a 60% reduction in the volume of facilities and a 69% reduction in youth population:</p>	Quarters	Activity	Fourth Quarter 2013	Proposals for Classification validation study	Fourth Quarter 2014	Start of Classification validation study	First Quarter 2015	Classification validation study preliminary report	Second Quarter 2015	Classification Manual for training and implementation	Fourth Quarter 2016	NIJ Administrative Order CDR -2016-10, for implementation of NIJ Classification processes
Quarters	Activity												
Fourth Quarter 2013	Proposals for Classification validation study												
Fourth Quarter 2014	Start of Classification validation study												
First Quarter 2015	Classification validation study preliminary report												
Second Quarter 2015	Classification Manual for training and implementation												
Fourth Quarter 2016	NIJ Administrative Order CDR -2016-10, for implementation of NIJ Classification processes												

Quarters	Facilities	Quarterly Average Population	Population Type, Levels of Treatment	Volume of Protective Custody and Transitional Measures Events for Quarter	Protective Custody and Transitional Measures Percentage of Population for Quarter
2014 Fourth Quarter	CD Bayamon	76	Detention		
	CTS Bayamon	62	Level 4 and 5, PUERTAS, MER		
	CTS Humacao	70	Level 5		
	CTS Ponce	91	Levels 2 and 3		
	CTS Villalba	74	Level 4		
		373		40	11%
2016 Third Quarter	CD Bayamon	54	Detention		
	CTS Humacao	52	Level 5		
	CTS Ponce	84	Levels 2 and 3, PUERTAS		
	CTS Villalba	82	Level 4 and detention		
		272		25	9%
2018 Fourth Quarter	CTS Humacao	41	Detention		
			Levels 2 and 3, 2 PUERTAS modules		
	CTS Ponce	43			
	CTS Villalba	53	Levels 4 and 5		
		137		17	12%
2019 First Quarter	CTS Ponce	49	Detention, Sumaridos, Levels 2 and 3, PUERTAS, girls committed and girls detention		
	CTS Villalba	64	Levels 4 and 5, Detention, MER		
		113		24	21%

Throughout the NIJ Classification development process the Monitor's Consultant has continually requested that the agency provide the following core elements to assure policy and procedural compliance with the S.A. 52:

- An approved, agency Secretary signed, trained policy and procedure that addresses the requirements of S. A. 52.
- The policy needs to specifically require an annual validation that assesses the objective methods and efficacy of the classification processes. Revisions to the classification processes should be made based on the annual validation.
- The policy needs to provide for both the detention and committed classification processes an administratively approved override process.

As of March 31, 2019, the agency has only produced various draft classification policies, has not produced any annual validations, has not identified a mechanism for or implemented any detention nor committed classification overrides, nor made any revisions to the existing classification practices.

In October 2018, the Monitor's Consultant was asked to provide his professional opinion relative to the closure of CD Humacao. At that time, the Monitor's Consultant addressed his concerns about the impact that the closure of CD Humacao would have on the classification, staffing and youth safety. These issues were further documented in the Monitor's 2018 Fourth Quarter Report:

Needless to say, the proposed classification distribution leaves NIJ with no capacity to manage facility maintenance without further population and classification consolidation. Although there is recognition of the NIJ population

reduction, the logistics to maintaining the integrity of the existing classification practices will be very challenging.

The present NIJ Classification practice was implemented in the Spring of 2015 with an Administrative Order. Staff were trained in April of 2015, at which time the agency operated five facilities and an agency youth population of 267. With the reduction in facilities, over a 50% reduction in youth population, and the absence of classification validation studies, the Monitor's Consultant has significant concerns about whether the NIJ classification practices are effective in meeting the safety and treatment needs to youth, especially in light of facility closure and consolidation of youth populations.

For the fourth quarter of 2018, the Monitor's Consultant has found DCR-NIJ to be in partial compliance with S.A. 52.

A snapshot review of the agency population, protective custody and transitional measure events illustrates that over the course of seventeen quarters-- 2014 fourth quarter through the 2018 fourth quarter-- with a 63% reduction in youth population, the number of youth assigned to protective custody and transitional measures as a percentage of the Quarterly Average Population remained stable (11%, 9%, 12%). During the 2019 first quarter, with the closing of CD Humacao, and with a continuing reduction in youth population there has been a significant increase (up to 21%) in the volume of protective custody and transitional measures events as a percentage of the Quarterly Average Population.

Quarters	Quarterly Average Population	Volume of Protective Custody and Transitional Measure Events for Quarter	Protective Custody and Transitional Measures Percentage of Population for Quarter
2014 Fourth Quarter	373	40	11%
2016 Third Quarter	272	25	9%
2018 Fourth Quarter	137	17	12%
2019 First Quarter	113	24	21%

Youth assigned to protective custody and transitional measures are placed in a restrictive housing placement, confined to their assigned rooms for most hours of the day, segregated from other youth when other youth in the housing module are present. While on a restrictive housing placement, youth are receiving reduced educational services and programming in comparison to those youth not assigned to protective custody and transitional measures status. Consequently, youth in protective custody and transitional measure status do not meet the criteria of S.A. 52, of being placed, "*in the least restrictive placement possible*".

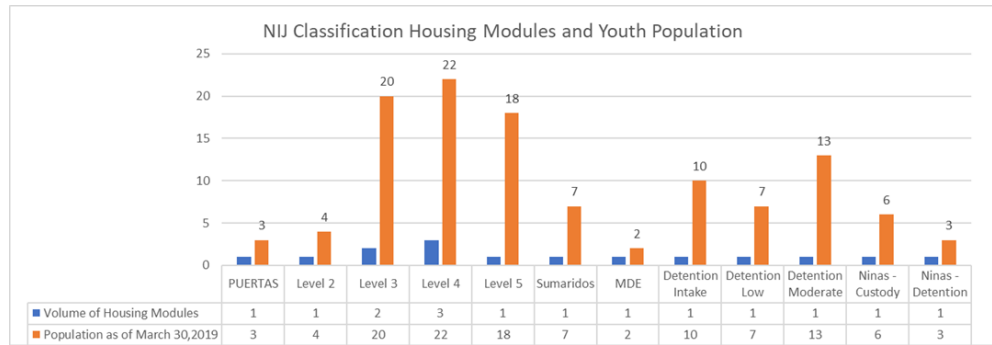
In the fourth quarter of 2017, NIJ conducted a pilot program at CD Humacao, which had all CD Humacao transitional measures placed in one housing module. This transitional measure pilot program and other limited instances when NIJ was able to identify housing options that would satisfy the safety needs for these youths (and others who might be at

risk from them) without resorting to room confinement or significantly limited restrictive housing. At this time, the closure of CD Humacao has made it more difficult or impossible to implement other less restrictive means of responding to those statuses without jeopardizing anyone's safety.

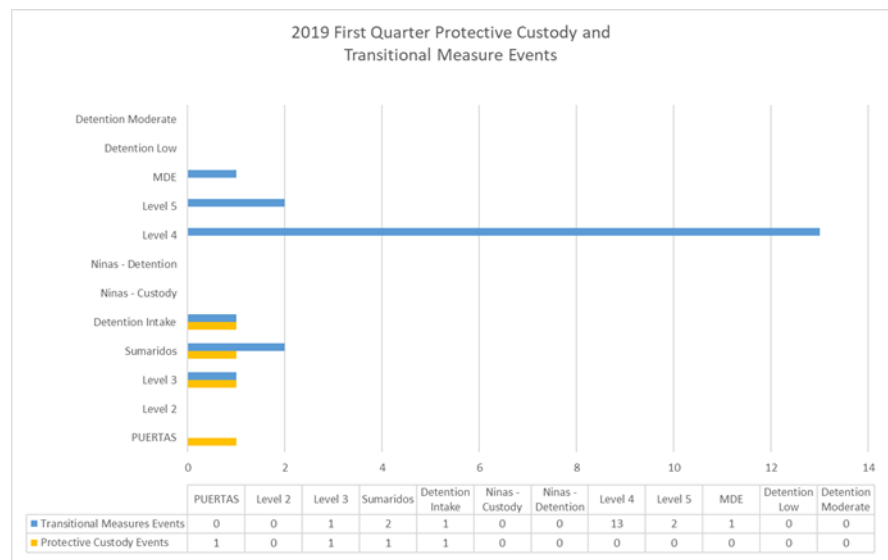
Over the course of the last ten quarters, protective custody and transitional measure events have been assessed for compliance with the elements of S.A. 79 and S. A. 80. The protective custody and transitional measure record reviews have consistently identified that youth assigned to these statuses have not received the following services as required by the provisions:

· There is inadequate documentation concerning the actual reasons underlying the conclusions about the youth posing "a serious and immediate physical danger to himself or others." The current explanation of "inability to cohabitate" is not adequate to justify isolation as required by this criterion, although there are instances in which a significant risk does, in fact, exist but is insufficiently documented and supported beyond the "inability to cohabitate" description.
· There is inadequate documentation to determine if "...other less restrictive methods of restraint were tried and failed."
· Youth are confined to their sleeping rooms for protective custody and transitional measures and all such rooms are not sufficiently suicide resistant at the NIJ facilities.
· Youth are not seen by a psychologist within eight (8) hours of being placed in isolation.
· Youth were not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation.
· Youth are not seen by a master's level social worker within three hours of being placed in isolation.
· Youth are not seen by their case manager at least once every twenty-four (24) hours thereafter.
· Limited educational programming

As of March 30, 2019, the NIJ youth population and assigned classification housing modules are illustrated below:



Youth classified as Level 4, housed at CTS Villalba, comprise the largest volume of NIJ youth population, 22. For the first quarter of 2019, twelve Level 4 youth at CTS Villalba have been in transitional measure status.



CTS Villalba Level 4 youth, representing 19% of the agency youth population, comprise a disproportionate volume of the first quarter transitional measure events at 65% (13).

During the third quarter of 2018, for the first time in the history of the case, NIJ met the staff youth ratios requirements of S. A. 48 in 100% of the staffing events. Unfortunately, despite a reduction in facilities, a significantly decreased youth population, for the fourth quarter of 2018, NIJ was not able to sustain staff youth ratio compliance with compliance dropping to 96%. And more pronounced is the fact that for the first quarter of 2019 CTS Villalba has met the minimum required staff youth ratio in only 93% of the waking hour staffing events (1294). Of the 100 staffing events that did not meet the minimum required staff youth ratio during the first quarter of 2019, 67% occurred in Level 4 housing modules, which housed the thirteen transitional measure.

	<p>DCR_NIJ staffing policy, 9.20, requires that facility daily shift supervisors, Officers III and IV, assign staff to housing modules in compliance with the minimum required staff youth ratios required by S. A. 48. NIJ has not provided the Monitor's Consultant with documentation that would explain why the Level 4 housing modules were not staffed as required by policy and the provision. The Monitor's Consultant assumes that this failure to properly staff Level 4 housing modules was because the facility supervisors did not have the volume of staff available for assignment to comply and or budgetary limitations in using additional double shift that would prevent assigning staff to meet the minimum required staff youth ratio . One would have expected that the closure of CD Humacao and reassignment of CD Humacao staff to one of the two remaining facilities would have resulted in the agency's capacity to meet the requirements of S. A. 48a, but that has not occurred.</p> <p>Youth on protective custody and transitional measures are placed on restrictive housing resulting in extended room confinement which requires compliance with the S. A. 79 provision: <i>"... 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"</i>. Although NIJ documentation reflects compliance with this specific requirement of the provision, the volume of Level 4 youth on transitional measures, placed in housing modules that have not been staffed with the minimum required staff youth ratio places youth safety and well-being at risk.</p> <p>The volume of youth that require placement on transitional measures has generated a hybrid classification status that needs to be addressed by agency policy and practice in order to assure that they can be placed in the least restrictive placement possible, receiving a full array of educational services and programming. NIJ's limited classification housing options, as the result of the closure of CD Humacao, the failure to provide minimum required staff youth ratios, generating restrictive housing practices resulting in extended room confinement for a population with the associated limited educational services and programming dictates an urgent response.</p> <p>For the first quarter of 2019, the Monitor's Consultant has determined that DCR-NIJ is in partial compliance with S.A. 52.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>The dynamic changes in the reduction of NIJ facilities and youth populations, accompanied by the absence of comprehensive planning, and the failure to conduct annual classification validation and revisions, has jeopardized the agency's capacity to provide for the safety and treatment needs of the youth in their care in the least restrictive placements as possible.</p> <p>It is imperative that NIJ initiate a comprehensive review of the agency's classification, restrictive housing and non-compliant staffing practices. The review and associated revisions to policy and practice should result in a classification process that places youth in the in the least restrictive placement possible, with the minimally required staffing to assure protection from harm, absent restrictive housing practices.</p>

	<p>A review of the classification practices and revisions to the classification validation should be focused on expeditiously developing the required policy, procedures, training and quality assurance processes to meet all of the compliance requirements of, S. A. 48, S. A. 52, as well as the protection from harm and services required by S. A. 79 and S. A. 80.</p> <p>The metrics established for compliance of this provision are the following:</p> <ul style="list-style-type: none"> • A final agency approved classification policy and procedure, inclusive of a process requirement for annual classification methodology validation, findings, and revisions that are necessary. • Production of annual review of validation of classification objective methods, findings and revisions as required. • Continued production of monthly detention and committed classification data. • 100% of detention youth are classified and assigned to appropriate housing modules, unless prior release by the Court. • 100% of committed youth are classified and assigned to appropriate facilities and housing modules, consistent with their assigned classification treatment levels and safety requirements. • Youth are placed in the least restrictive placement possible with staff assigned to assure their safety and protection from harm.
Priority Next Steps	Priority next steps are stated in the above section.
Quality Assurance Measures	<p>NIJ effectively documents the results of both detention and committed classification processes and youth classification, levels of treatment and corresponding housing module assignments. Monthly documentation of detention and committed classification is consistently provided to the Monitor's Consultant.</p> <p>NIJ must incorporate annual reviews of the validation of the objective methods of the classification instruments, processes and findings, negating the opportunity to systematize quality assurance into the classification processes.</p> <p>The CD Humacao facility closure, youth population consolidation, staff resignations and staff reassignments, increase volume of transitional measures and the corresponding restrictive housing practices requires NIJ to assess the effectiveness of existing Classification practices in light of a reduction in housing modules, and how these issues impact youth treatment and protection from harm requirements.</p>
Sources of Information upon which Consultant report and compliance ratings are based	Monthly classification documentation for youth who have been classified for detention and committed youth is provided to the Monitor's Consultant. Monthly, NIJ provides the Monitor's Consultant facility youth population and classification reports. During site visits, the Monitor's Consultant obtains facility youth population documentation that identifies youth housing module populations and classification levels of treatment.

	<p>Detention classification documentation provided to the Monitor's Consultant monthly, indicates youth have been consistently classified and assigned to a housing module that corresponds to detention classification level.</p> <p>For the first quarter of 2019, all the reviewed committed institutional assignments are consistent with the level of treatment scores and level assignments as reported in the monthly committed classification reports. Youth committed classification levels and institutional housing assignments are reviewed for consistency during site visits. During the CTS Ponce and CTS Villalba site visits on February 26 and 27, 2019, youth housing assignments were uniformly consistent with assessed classification levels of treatment and corresponding facilities.</p> <p>NIJ assigns committed Level 2 and Level 3 youth to CTS Ponce. In the first quarter, CTS Ponce also housed one PUERTAS housing modules. NIJ assigns committed Level 4 and Level 5 youth to CTS Villalba.</p>
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PROTECTION FROM HARM – USE OF FORCE (David Bogard)

S.A. 77. In no event is physical force justifiable as punishment on any juvenile. The use of physical force by staff, including the use of restraints, shall be limited to instances of justifiable self-defense, protection of self and others, to maintain or regain control of an area of the facility, including the justifiable protection of significant property from damage; and prevention of escapes; and then only when other less severe alternatives are insufficient. A written report is prepared following all uses of force and is submitted to administrative staff for review. When force, including restraint, is used to protect a youth from self, this must be immediately referred to the medical area for medical and mental health evaluation and any necessary treatment.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>I visited the two facilities on February 26-27, 2019 to review quarter to date use of force incidents and discuss same with institutional management and compliance staff. At Ponce I reviewed incident reports and videos for the two use of force incidents that had transpired thus far in this quarter). At Villalba, I reviewed incident reports for the one such incident that had occurred in the quarter (video was not yet available at Villalba). Off-site, I reviewed 13 OISC investigations for use of force incidents or related allegations that occurred during the 3rd-4th quarters of 2018 as well as others for incidents that occurred in the first month or so of 2019-Q1 to determine whether the investigations were thorough and comported with the requirements of ¶78.</p> <p>I also reviewed DCR's weekly spreadsheet reports of use of force incidents and multiple descriptive data elements for same including names of youth involved, locations, types of force employed, injuries sustained by youth, medical services provided, etc. I also reviewed a table developed by UEMNI listing all OISC and UEMNI investigations of use of force and other allegations and the status of such reports and any corrective or disciplinary actions taken against staff for confirmed mistreatment.</p>

Findings and Analysis	<p>The number of use of force incidents in this this quarter (4) is half of last quarter's figure (8), a third of the mean for the previous three quarters and the lowest figure we can recall. This quarter's incidents occurred as follows: Villalba (1); Ponce (3). While the average daily population (per DCR Quarterly statistical report) has decreased by 13% from the previous quarter, the 50% decrease in use of force incidents far exceeds the population decrease.</p> <p>My review of reports and videos at Ponce continues to reveal that use of force by Ponce staff generally continues to comport with ¶177 and agency Policy criteria, and staff frequently display impressive restraint and patience, particularly with Puertas program youth . No youth were reported as injured due to staff force in the single Villalba incident or in the three Ponce use of force incidents (each of which occurred in the Puertas module). OC was used in two of three Ponce incidents which, while higher than the previous quarter's zero, is far lower than historical numbers in the system.</p> <p>My review of 13 OISC investigations for use of force going back to the third quarter of 2018 reveals that these investigations continue to improve and have generally become extremely useful and informative reviews of incidents. The reports are typically thorough, following an investigation protocol that is geared to assessing numerous aspects of the incidents being reviewed including the completeness and accuracy of written reports, good summaries of youth and staff interviews, review of medical records and interviews with nurses, most recent training received by each employee involved, as well as thorough findings of relevant facts. OISC is now routinely opining as to whether there is evidence to corroborate allegations of excessive or unnecessary force and whether other policy or training violations occurred. Although it is the Legal Division that ultimately determines the efficacy of charges and, if appropriate, any corrective actions, OISC staff are also now identifying specific policy violations, by policy number, that may have occurred.</p> <p>In most cases, staff who used force themselves, or were witnesses, prepared thorough reports using the check boxes and narrative components of the Incident Report form, with reviews by supervisors' part of that package and Cernimiento reviews by directors and compliance staff to determine whether 284 referrals would be made. The reports typically provide adequate explanations and justifications for the amount and type of force used, consistent with policy and this provision, including pre and post use weights of any OC canisters that are deployed (none this quarter).</p> <p>When youth bring an allegation of excessive or unnecessary force to staff, typically to social workers, psychology or behavior modification staff, a 284 is promptly generated. And use of force related investigations are now, and have been for some time, routinely completed within 30 days.</p> <p>As of December 2018, IDECARH issued revised training materials to reflect the August 2018 revised version of policies 9.18 (use of force) and 9.10 (reporting). As stated in the last report, we have reviewed the revised training materials and found them to mirror or track the new policy and appropriately convey to staff the expectations for use of force as required by ¶177 and the policy itself.</p>
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<p>What is needed for full compliance?</p>	<p>On March 31, 2019 the Monitor's Consultant drafted a QA incident protocol that he and NIJ can use to review use of force incidents. This draft tool reflects the requirements of ¶77 as clarified by policy 9.18. While DCR does have review procedures in place to assess whether OISC investigations are required for use of force incidents (e.g., Cernimiento) , they are not sufficiently directed at the key provisions to be said to specifically assess compliance with the provision and associated policies. And while OISC has protocols that determine what steps its investigators will take in reviewing an incident, those measures are not directed at reviewing specific aspects of an incident to determine whether there is compliance with P77 and Policy 9.18. This tool needs to be finalized and then used by NIJ officials for QA and compliance documentation.</p> <p>DCR IDECARH needs to provide evidence to the Monitor's Office that all staff have received three hours training in the revised Use of Force Policy 9.18 and reporting requirements included in 9.10.</p>
<p>What steps are recommended?</p>	<p>As per the Court's Order, which NIJ has committed to following, installation of cameras at Villalba could greatly enhance youth and staff safety in many respects, including serving as a deterrent to unsafe behavior by staff and youth and allowing for far greater employee accountability via enhanced investigations.</p> <p>A sound Project Management Plan for installation of a CCTV video system at Villalba requires details about the various steps in the process and should include the following information:</p> <ol style="list-style-type: none"> 1. What is the video system design including logistics of location of video system monitors? 2. What additional pieces of video equipment are needed that requires an 8-10 week extension? <ol style="list-style-type: none"> a. Is that additional equipment procured by DCR or by a private contractor? 3. Who is doing the installation? <ol style="list-style-type: none"> a. Will this work be done by DCR or a private contractor? 4. What are the electrical requirements and installation plan? <ol style="list-style-type: none"> a. Will this work be done by DCR or a private contractor? 5. Camera, cabling and server installations 6. Staffing required to operate video system <ol style="list-style-type: none"> a. Will a room be designated for the primary on-site monitors? b. What video management will occur at the facility versus what will occur at DCR Central 7. What is the schedule for video system testing? 8. What is the schedule for video system training? 9. What is planned for the video system backup aside from the facility generator? <ol style="list-style-type: none"> a. Is there an emergency power battery backup source planned? 10. What is the system for backup of recorded video at the facility and/ or DCR?

	<p>11. What is the schedule for Villalba video system activation?</p> <p>An additional measure would be very helpful—conversion of handwritten incident reports into electronic files in order to allow for capturing data from the reports.</p>
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Protection from Harm: Investigations of Abuse and Institutional Neglect – Kim Tandy, Javier Burgos and David Bogard

S.A. 78. Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment. An incident report shall be prepared for each allegation of physical or mental abuse, including juvenile on juvenile assaults, staff on juvenile abuse, and excessive use of force by staff, within 24 hours of the incident. A copy of each incident report together with the preliminary investigation prepared by the Police Department and/or AIJ shall be forwarded to Defendant Department of Justice, where the allegations shall be investigated and a final report shall be made in 30 days. In addition, a copy of each incident report alleging physical or mental abuse by staff or excessive use of force by staff together with the preliminary investigation prepared by the Police Department and/or the AIJ, shall be forwarded to the Defendant Department of Social Services.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The Monitor met with the Functional Team regarding Paragraph 78 on February 25 at Ponce. The meeting included a discussion of monthly and quarterly reporting as part of the Document Request Master Chart, categorization of investigations (physical aggression versus excessive use of force), and corrective action plans as a result of investigative results.</p> <p>At the Monitor's request, NIJ shared 3 charts completed for calendar year 2018 – a list of incidents referred for 284 investigations by type and other identifying information, use of force chart for calendar year 2018 with findings, investigations with criminal and administrative actions taken by the DOJ and DCR, and/or prosecutors. The Monitor requested that an analysis of this information be completed after June of 2019 for the fiscal year as was done by special request in August of 2018. The Monitor also reviewed the table developed by UEMNI listing all OISC and UEMNI investigations of alleged abuse and/or institutional neglect for the first quarter of 2019, and any corrective or disciplinary actions taken against staff for confirmed mistreatment</p> <p>The Monitor also asked about the process for identifying corrective action measures taken as a result of the investigations done, including who is involved in that review, and how time frames are established for needed policy changes and/or training.</p> <p>Incidents involving abuse and/or institutional neglect fall into three general categories: those involving self-harm where misconduct is alleged by staff, unnecessary or excessive use</p>

	<p>of force incidents, and/or other incidents involving harm to a youth such as assaults between youths. Level 1 incidents which do not meet the criteria for a referral for an abuse or neglect investigation are investigated through UEMNI for resolution. A review of First Quarter Level 1 incident reports for 2019 was completed by Javier Burgos for compliance with policy. There were 5 such incidents, although one was reclassified as a Level 2 incident.</p> <p>Incidents involving suicidal or self-mutilation were diverted to Miriam Martinez for review under paragraph 63, as well as investigations by UEMNI and OISC when allegations of abuse or neglect are alleged. Level 2 284 reports completed by OISC involving the use of force were reviewed by David Bogard. Other investigations by OISC are reviewed by the Monitor and/or David Bogard. The Monitor reviewed 8 completed investigations for the first quarter, including 5 which were categorized as incidents of physical aggression.</p>																									
Findings and Analysis	<p>The approved policies are divided in three sections, and include the analysis of referrals of abuse and/or institutional neglect by UEMNI (Policy No 13.2.1); immediate prevention actions regarding serious allegations (Policy No. 13.2.2); and final determinations on referrals of abuse and/or institutional neglect (Policy 13.2.3). There are also child abuse and neglect reporting forms, a table of definitions and classification of incidents, and an analysis of incidents reported of alleged institutional abuse which determines if the incident should be reported as abuse and/or institutional neglect. Review of investigations under this provision are reviewed against these policies.</p> <p>NIJ routinely provides training to staff on Management of Investigations Regarding Abuse and Institutional Neglect. For the First Quarter, four (4) training sessions were scheduled for Management of Investigations Regarding Abuse and Institutional Neglect. The prior 18 month report, ending December of 2018, reported that 95% of staff received this training during that period of time.</p> <p>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 reviewed by members of the Monitoring team.</p> <p>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. Because incident reports are not digitalized, and there are no detailed reports generated, the Monitoring team cannot corroborate the information in this set of data.</p> <p>Incident Tracking by Quarter involving Harm to Youth</p> <table><tr><th></th><th>2nd 2018</th><th>3rd 2018</th><th>4th 2018</th><th>1st 2019</th></tr><tr><td>A. General Measures by quarter</td><td></td><td></td><td></td><td></td></tr><tr><td>A.1 Average Monday 1st Shift count of youth</td><td>168</td><td>158</td><td>142</td><td>123</td></tr><tr><td>A.2 Number of incident events</td><td>41</td><td>45</td><td>45</td><td>33</td></tr><tr><td>A.3 Number of youth-to-youth incident events</td><td>16</td><td>13</td><td>11</td><td>6</td></tr></table>		2nd 2018	3rd 2018	4th 2018	1st 2019	A. General Measures by quarter					A.1 Average Monday 1st Shift count of youth	168	158	142	123	A.2 Number of incident events	41	45	45	33	A.3 Number of youth-to-youth incident events	16	13	11	6
	2nd 2018	3rd 2018	4th 2018	1st 2019																						
A. General Measures by quarter																										
A.1 Average Monday 1st Shift count of youth	168	158	142	123																						
A.2 Number of incident events	41	45	45	33																						
A.3 Number of youth-to-youth incident events	16	13	11	6																						

A.4 Incident events involving use of force by staff	7	14	10	3
A.5 Incident events with suicide act, ideation, or gesture	9	2	4	5
A.6 Incident events w/ self-mutilation act, ideation, or gesture	10	5	12	15

Mental Health Incidents – Including 284 Reports

The subset of incidents involving suicidal acts, ideation, or gestures, or self-mutilation acts, ideation or gestures is found in Table B. Most of these do not warrant abuse allegations. If a 284 report is filed, implicating possible abuse by a staff member or other, the case also moves through the investigative stage.

B. Mental Health Record Information	2nd 2018	3rd 2018	4th 2018	1st 2019
B.1 Suicidal incidents, ideation or gestures	9	2	7	5
B.2 Number of individual youth referenced	9	2	7	5
B.3 Cases involving ideation only	9	1	5	3
B.4 Cases involving suicide gesture	0	1	0	2
B.5 Cases involving suicide intention	0	0	2	0
B.6 Cases w/ ambulatory treatment	9	2	4	4
B.7 Cases with hospitalization	0	0	3	1
B.8 Cases leading to death	0	0	0	0
B.9 Suicide Cases with 284 report filed	0	1	1	0
B.10 Self-mutilations incidents, ideation or gestures	10	5	17	15
B.11 Number of individual youth referenced	9	4	14	10
B.12 Cases requiring sutures	1	0	0	0
B.13 Cases requiring hospitalization	0	0	0	0
B.14 Cases leading to death	0	0	0	0
B.15 Self-Mutilation Cases with a 284 report filed	2	2	6	5

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 mental health process. Of the 33 (A.2) incident events in most recent quarter, twenty (20)(B.1 plus B.10) involved suicide and self-mutilation incidents.

During the first quarter, five (5) of the fifteen (15) incidents involving self-mutilation resulted in a 284 report being filed. None of the five (5) cases involving suicidal gestures or ideation resulted in a 284 case being filed.

This information was received and reviewed by the Mental Health Consultant Dr. Miriam Martinez to ensure that appropriate protocols have been followed, and that data provided here matches what is provided to that her for purposes of Paragraph 63. It is important that she have the corresponding youth names involved so that Dr. Martinez can cross-reference these incidents. For cases that result in a 284 investigation, it is important that the Mental Health Consultant examine the results of those investigations. For a discussion of these incidents and how they were handled, see Dr. Martinez's analysis for Paragraph 63 in the Mental Health section.

[Responses to Abuse Referrals](#)

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

C. 284 Incidents by quarter (2018-2019)	2nd	3rd	4th	1st
C.1 284 Incident Events	25	27	24	19
C.2 Level One Incident Events	4	3	5	5
C.3 Level Two Incident Events	21	24	19	14
C.4 Referrals to OISC	21	24	19	14
C.5 Youth to Youth incidents	16	13	11	6
C.6 Youth to Youth Injuries	12	10	5	3
C.7 Youth to Youth with External Care	7	4	5	3
C.8 Youth to Youth Sexual Intercourse	2	0	1	0
C.9 Youth to Youth Sexual Intercourse w/injury	0	0	0	0
C.10 Staff to Youth Incidents	9	14	13	13
C.11 Staff to Youth Injuries	6	8	7	6
C.12 Staff to Youth External Care	1	3	0	1
C.13 Staff to Youth Sexual Intercourse	2	0	0	1
C.14 Staff to Youth Sexual Intercourse w/injury	0	0	0	0
C.15 284 Incidents with Admin. Action	25	27	24	19

C.16 284 Incidents with report by shift end	22	27	24	18
C.17 Level 1 investigations completed 20 days	4	3	5	5
C.18 Special Operations interventions	1	2	0	1
C.19 SOU reports with 284 investigations	1	1	0	0
C.20 284 with Item 5 completed	25	27	24	19
C.21 284 with Staffing Compliance	22	25	23	17
C.22 Percent of 284 cases with staffing compliance	88%	93%	96%	89%

A determination is made at the institutional level as to whether incidents are Level One or Level Two based upon criteria in the Cernimiento de Incidentes de Alegado Maltrato Institutional form. Level one incidents by definition include verbal abuse and some forms of physical aggression. Level Two incidents include material exploitation, incidents of a sexual nature, death, various instances of institutional neglect, including youth self-harm, undue restrictions with medication, misuse of mechanical restraint or pepper spray, and excessive use of force.

Level One incidents are investigated locally at the institution. Level Two incidents are investigated by OISC. Referrals to OISC as based on the screening protocol.

A review during the 1st quarter of 2019 for the calendar year shows that there were 5 such reports made, who of which were reclassified from having been Level 2 incidents. These Level I cases followed the same format/guidelines than Level II cases but the facilities' investigators only have 20 working days to finish the investigation. Three of the five cases were investigated within the required time frame, while one was not, and the remaining case had no specified date when the incident occurred. Two involved allegations against staff. In each of the cases there was a finding of no evidence or insufficient evidence to substantiate the allegations.

Of the 19 housing unit events with item 5 checked in the report (C.20), 17 (89%) (C.22) took place when there was compliance with staffing provisions.

Initial Case Management Measures Taken

D. Initial Case Management Measures (2018-19)	2nd	3rd	4th	1st
D.1 284 percent with admin actions	100%	100%	100%	100%
D.2 284 per cent completed by end of shift	88%	100%	100%	95%
D.3 284 Level 1 Investigation Complete Within 20 days	100%	100%	100%	100%

Initial case management data indicates that compliance remains strong regarding the percentage of documentation by the end of the shift, and completion by UEMNI of Level 1 investigations within the prescribed period of time.

Investigations Referred to OISC

E. OISC (2018-2019)	2nd	3rd	4th	1st
E.1 Cases Referred from this quarter	21	24	19	14
E.2 Received by OISC Within 24 hours	16	22	19	12
E.3 Completed by OISC Within 30 workdays	21	15	19	12
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.	0	3	0	2
E.6 Percent of OISC cases completed within 30 days	100%	88%	100%	86%
E.7 Completed Cases Returned for Further investigation	0	0	0	0
E.8 Percent of cases returned for further investigation	0%	0%	0%	0%
E.9 Further Investigation Completed	0	0	0	0
E.10 Cases this quarter incomplete, including further investigation	0	2	0	0
E.11 Percent of cases from this quarter not yet completed	0%	12%	0%	0%

NIJ's quarterly statistical report indicated that 14 cases were investigated and 12 were completed in the 30 days period for an 86% timely completion rate. The Monitor received 8 completed investigative reports for the quarter, none of which were labeled as use of force.

Completed use of force investigations are reviewed by David Bogard, who reviews them for compliance against a set of criteria previously developed to ensure the quality of the investigative process. Other incident reports which do not involve use of force, suicidal or self-mutilation ideation or behavior, have not been reviewed consistently sought and reviewed by the monitoring team against a set of standard criteria.

As previously mentioned in Paragraph 77, David Bogard reviewed 11 third and fourth quarter use of force related OISC investigations during this quarter. His review indicated that these investigations continue to improve and have generally become extremely useful and

informative reviews of incidents. The reports were typically very thorough, assessing numerous aspects of the incidents being reviewed including the completeness and accuracy of written reports, good summaries of youth and staff interviews, review of medical records and interviews with nurses, most recent training received by each employee involved, as well as thorough findings of relevant facts.

A recent improvement noted in the review of investigations is the addition of findings as to whether the allegations were validated and other policy or training violations occurred. Although it is the Legal Division that ultimately determines the efficacy of charges and, if appropriate any corrective actions, OISC staff are now making recommendations as to whether there is sufficient evidence to corroborate the allegations or any other concerns that arise during the investigation. Reports are also now identifying specific policy violations, by policy number, that may have occurred.

While the reports do address the key facts that allow the investigator to reach conclusions as to whether there was mistreatment, the findings do not always bring together the evidence in a logical manner. For example, if the allegations cannot be corroborated, the factual basis for reaching that conclusion should be clearly drawn based upon the type of evidence reviewed. The investigation format could add a section which lists the key evidence supporting or refuting the allegations.

Some investigations are hampered by the absence of video footage at Villalba. Investigators have expressed concern that this tool is not available to provide critical information to substantiate or refute certain allegations. The cameras are now available and are on a schedule for installation, training and testing.

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

F. Administrative Determinations for 284 Cases (2018-2019)	2nd	3rd	4th	1st
F.1 Cases with youth discipline referrals	15	44	43	21
F.2 Cases with youth discipline actions	9	36	36	12
F.3 Cases with youth no discipline actions	6	5	2	9
F.4 Cases Staff/youth with determinations	23	11	18	9
F.5 Cases recommending personnel actions	20	7	10	3

Of the 21 youth cases referred for disciplinary action (F.1) with referrals as 284-cases, 12 (F.2) disciplinary actions were imposed; no disciplinary action was taken in 9 cases (F.3.)

Of the 9 cases involving staff/youth incidents, 9 determinations were made (F.4) and of these 3 were recommendations for personnel actions. (F.5) Only one determination was made at

	<p>the time of this report regarding administrative personnel actions, and that indicated the need for written disciplinary notice.</p> <p>A review of 33 final determinations for all cases completed in 2018 indicated the actions below were taken by the Legal Department. Information regarding appeals or other actions which might have been taken by the Secretary are not available. The numbers reflect actions by employee and not just by case. For example, there were five final actions indicating dismissal, but all were involved in the same incident and resulting investigation</p> <p>Close and archive – 21 Suspension – 3 Written Guidance – 2 Corrective Action – 5 Written Warning – 1 Orientation -1 Reprimand – 4 Dismissal – 5</p> <p>Prosecutorial Determinations for 284 Cases</p> <table><tr><th>G. Prosecutorial Determinations for 284 Cases (2018-2019)</th><th>2nd</th><th>3rd</th><th>4th</th><th>1st</th></tr><tr><td>G.1 Cases received by PRDOJ</td><td>0</td><td>2</td><td>0</td><td>1</td></tr><tr><td>G.2 Cases with decision not to prosecute</td><td>0</td><td>1</td><td>0</td><td>1</td></tr><tr><td>G.3 Cases with referral for prosecution</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>G.4 Cases pending determinations</td><td>0</td><td>1</td><td>0</td><td>1</td></tr></table> <p>Referrals for criminal investigations were note in the 33 cases completed in 2018, but none appeared to result in a prosecution. Two remain pending. Several others were noted as still under investigation.</p>	G. Prosecutorial Determinations for 284 Cases (2018-2019)	2nd	3rd	4th	1st	G.1 Cases received by PRDOJ	0	2	0	1	G.2 Cases with decision not to prosecute	0	1	0	1	G.3 Cases with referral for prosecution	0	0	0	0	G.4 Cases pending determinations	0	1	0	1
G. Prosecutorial Determinations for 284 Cases (2018-2019)	2nd	3rd	4th	1st																						
G.1 Cases received by PRDOJ	0	2	0	1																						
G.2 Cases with decision not to prosecute	0	1	0	1																						
G.3 Cases with referral for prosecution	0	0	0	0																						
G.4 Cases pending determinations	0	1	0	1																						
<p>What is needed for full compliance?</p> <p>What steps are required and/or recommended?</p>	<p>Moving forward, it is important that the Monitoring team obtain and review documentation at several important points:</p> <ul style="list-style-type: none">○ Incident reports should be digitalized and easily accessed by category. The Monitor team now gets abuse reports sporadically which arise from incidents categorized as either Level 1 or Lever 2. They are hand written in part. Getting these in digitalized form will make them more consistent, reliable, and easy to access as part of the online system, and will also save paper.○ Incident reports that are “diverted” to the mental health team should be sent to the Mental Health Consultant so that she can determine whether the appropriate procedures were in taken, and review back up documentation. The quarterly data provided relative to these incidents should match the number of incidents provided on a monthly basis involving youth self-harm.																									

	<ul style="list-style-type: none"> ○ UEMNI investigations, and those done by OISC, when completed, should be sent to the Monitor at the end of each month. For those involving mental health incidents, the Mental Health Consultant should review as well as the Monitor. For those involving use of force incidents, David Bogard should review to determine whether the investigation followed required policies and practices. For other incidents, the Monitor and/or Javier Burgos will review to determine whether the required policies and practices were followed. ○ Cameras are a vital resource for investigations as has been indicated by UEMNI and OISC investigators. The timely installation of cameras is an issue being reviewed by the Court and should be completed according to schedule. <p>There was an improvement in document submission this quarter, in part because we have worked collaboratively with OISC and UEMNI staff more closely to secure needed information. The Monitor has clarified through the Document Request Master Chart which documents are needed, and the frequency with which they are needed. This remains a work in progress, but a more consistent process for documentation review should be possible during 2019.</p>
Priority Next Steps	<p>Create an online case management system which can track incidents through all stages could enhance the ability of staff to create better reporting and analysis. Bob Dugan created a document for this purpose which is being reviewed by NIJ, or it is possible that the current system can be enhanced for this purpose.</p> <p>Ensure the Office of the Monitor is receiving timely incident reports.</p> <p>Provide the Monitor with details regarding the corrective action steps which were outlined in response to the special report provided in September, or examples of other corrective action plans based upon investigations from 2018.</p> <p>Continue the excellent work in improving the quality of investigations, including clearly established findings and conclusions clearly tied to the evidence collected in the case.</p> <p>Ensure the timely installation of video cameras at Villalba which can provide video footage for investigations.</p>
Quality Assurance Measures	<p>The Monitor has not reviewed proposed QA measures but will do so by June 1.</p>

PROTECTION FROM HARM – USE OF ISOLATION (David Bogard)

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.

Compliance Rating	Partial Compliance																
Description of Monitoring process during this period of time	<p>First quarter site visits occurred on February 26 and 27, 2019. During these site visits, the following volume and type of cases were assessed against all the criteria of S.A. 79 and S.A. 80.</p> <table><tr><th>Facility</th><th>First Quarter Events Protective Custody</th><th>First Quarter Events Transitional Measures</th><th>Record Reviews During First Quarter Site Visit</th></tr><tr><td>CTS Ponce</td><td>4</td><td>2</td><td>4 PC and 1 TM</td></tr><tr><td>CTS Villalba</td><td>0</td><td>17</td><td>10 TM</td></tr><tr><td>First Quarter 2019 Totals</td><td>4</td><td>19</td><td>14 PC and 11 TM</td></tr></table> <p>All fourth quarter Protective Custody and Transitional Measure events that were not reviewed at the time of the December 2018 site visits, and events occurring during the first quarter or active at the time of facility site visits were reviewed during the February 26 and 27 site visits. One first quarter TM event at Ponce occurred after the February 26 and 27 site visits and consequently was not reviewed. Seven other Villalba TM events were not record reviewed because of lack of time during the visit. The tables below, organized by facility, displays the date of site visit case study reviews, facility, identification of either Protective Custody or Transitional Measure, youth initials, starting and ending date of status and duration of status.</p> <p>CTS Ponce:</p>	Facility	First Quarter Events Protective Custody	First Quarter Events Transitional Measures	Record Reviews During First Quarter Site Visit	CTS Ponce	4	2	4 PC and 1 TM	CTS Villalba	0	17	10 TM	First Quarter 2019 Totals	4	19	14 PC and 11 TM
Facility	First Quarter Events Protective Custody	First Quarter Events Transitional Measures	Record Reviews During First Quarter Site Visit														
CTS Ponce	4	2	4 PC and 1 TM														
CTS Villalba	0	17	10 TM														
First Quarter 2019 Totals	4	19	14 PC and 11 TM														

Date of Review	02/26/19	02/26/19	02/26/19	02/26/19	02/26/19
Facility:	CTS Ponce	CTS Ponce	CTS Ponce	CTS Ponce	CTS Ponce
Name of Youth:	C.V.P.	C.D.V	G.S.C	L.V.O.	M.L.R.
Isolation Status:	Protective Custody	Protective Custody	Protective Custody	Protective Custody	Transitional Measures
Starting Date of Status:	12/16/18	11/15/18	01/29/19	01/31/19	02/13/19
Ending Date of Status:	Status Not Ended	Status Not Ended	02/07/19	Status Not Ended	Status Not Ended
Total Days of Status:	NA	NA	10	NA	NA

CTS Villalba:

Date of Review	02/27/19	02/27/19	02/27/19	02/27/19	02/27/19	02/27/19	02/27/19	02/27/19	02/27/19	02/27/19
Facility:	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba
Name of Youth:	A.P.H.	C.D.M.	K.E.R.	R.T.V.	A.M.L.	A.M.L.	D.P.G.	D.P.G.	E.M.R.	E.M.R.
Isolation Status:	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures
Starting Date of Status:	01/25/19	02/15/19	02/15/19	12/26/18	01/03/19	02/12/19	12/05/18	01/21/19	02/15/19	02/21/19
Ending Date of Status:	01/28/19	Status Not Ended	Status Not Ended	01/03/19	01/25/19	Status Not Ended	01/16/19	Status Not Ended	02/21/19	Status Not Ended
Total Days of Status:	4	NA	NA	9	23	NA	43	NA	7	NA

During the Q1 site visit to Ponce, Monitor's staff interviewed two youths on PC status (C.V.P. and L.V.O.) and one on TM status (M.L.R.). while at Villalba two youths on TM status were interviewed (D.P.G. and K.E.R.). There were no youths remaining at the Humacao facility as of the time of our site visit.

In early October, after a couple of months of discussions regarding the use of TM and PC measures, the Monitoring Team provided a process to better document the decision making process for authorization of these measures, and provided the forms and instructions to DCR for collecting this information-- a '*TM/PC Decision Making Questionnaire*' to track the decisions made by the facility when making assessing the need to place a youth on TM or PC status and a '*SA 79 and 80 Checklist*,' which assesses the conditions of the youth on PC or TM status and how they measure up to the required services and protections set forth in ¶79.

The information was to be used to provide a more in-depth analysis which could inform changes to policies which are currently non-compliant with ¶79. We indicated at that time that further changes in the policies would likely not be productive and would not be approved by the Monitor until such analysis could be done. Although DCR committed to begin sending these QA forms on March 1 when we met to discuss the process on February 27, it was not until April 12 that the Monitor received isolation checklists for two cases from Villalba, five from Ponce, and one decision making questionnaire completed on a Ponce youth. Fortunately, most of those cases had already been reviewed when we were last in PR and therefore we were able to do a side-by-side analysis and validation of the two Villalba checklists and four of five Ponce checklists; that analysis revealed a significant number of errors by NIJ staff who prepared the forms.

The Monitor's physical plant consultant has continued to cooperate with DCR staff regarding installation of new vents and door hinges that are necessary to meet the ¶79 suicide resistant requirements for PC and TM youth who would be restricted to their rooms. There was still no movement on creating a solution to provide suicide resistant door hinges at Ponce and Villalba.

	However, the replacement of air vent grilles with suicide resistant versions on the lower levels of the housing units at Ponce and Villalba have been completed.																																																																																																																																																																															
Findings and Analysis	<p>The number of TM placements increased dramatically at Villalba during the first quarter. While the system wide number (19) was higher or comparable when comparable to the previous three quarters (11,11, and 19); however, the census was significantly higher during the three previous quarters, i.e., 123 versus 142, 158 and 168. The four PC placements represented were higher than the three quarter average of 3.3, although that figure is primarily attributable to judicial orders of protection.</p> <p>There continues to be extensive documentation available concerning the requirements of this provision when TM and PC youth are in room confinement/isolation, although there have been no changes from previous quarters in the agency’s performance relative to the 20 ¶179 criteria .</p> <table><tr><th>Date of Review: February 26 and 27, 2019</th><th colspan="4">Table Scoring Summary</th></tr><tr><th>Facility:</th><th colspan="2">CTS Ponce</th><th colspan="2">CTS Villalba</th></tr><tr><th>Number of Youth:</th><th colspan="2">5 Youths</th><th colspan="2">7 Youths</th></tr><tr><th>Isolation Status:</th><th colspan="2">4 Protective Custody Events; 1 Transitional Measure Events</th><th colspan="2">10 Transitional Measure Youth Events</th></tr><tr><th>SA 79 Components</th><th>No</th><th>Yes</th><th>Yes/ Limited</th><th>NA</th></tr><tr><td>Was youth placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others?</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Were other less restrictive methods of restraint tried and failed?</td><td>14</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Was the isolation cells suicide resistant ?</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Did the facility director or acting facility director approve the placement ?</td><td>1</td><td>14</td><td>0</td><td>0</td></tr><tr><td>Was youth afforded living conditions approximating those available to the general juvenile population ?</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>Was youth visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time ?</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>Was juvenile seen by a masters level social worker within three (3) hours of being placed in isolation?</td><td>14</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Was juvenile seen by a psychologist within eight (8) hours of being placed in isolation?</td><td>10</td><td>5</td><td>0</td><td>0</td></tr><tr><td>Was juvenile seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation?</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Was youth seen by his/her case manager as soon as possible ?</td><td>6</td><td>9</td><td>0</td><td>0</td></tr><tr><td>Was youth seen by his/her case manager at least once every twenty-four (24) hours thereafter?</td><td>14</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Was the juvenile released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others ?</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>Is there a log (or other documentation) kept which contains:</td><td></td><td></td><td></td><td></td></tr><tr><td>daily entries on each juvenile in isolation,</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>the date and time of placement in isolation,</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>who authorized the isolation,</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>the name of the person(s) visiting the juvenile,</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>the frequency of the checks by all staff,</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>the juvenile's behavior at the time of the check,</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>the person authorizing the release from isolation</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>the time and date of the release</td><td>0</td><td>15</td><td>0</td><td>0</td></tr><tr><td>Are the following revoked or limited?</td><td></td><td></td><td></td><td></td></tr><tr><td>safety</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>crowding</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>health</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>hygiene</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>food</td><td>15</td><td>0</td><td>0</td><td>0</td></tr><tr><td>education</td><td>0</td><td>0</td><td>9</td><td>5</td></tr><tr><td>recreation</td><td>0</td><td>1</td><td>11</td><td>0</td></tr><tr><td>access to courts</td><td>15</td><td>0</td><td>0</td><td>0</td></tr></table> <p>The case reviews that were conducted for the 11 youth on TM status and four on PC status, revealed consistent compliance as follows: the cases reviewed consistently met all log</p>	Date of Review: February 26 and 27, 2019	Table Scoring Summary				Facility:	CTS Ponce		CTS Villalba		Number of Youth:	5 Youths		7 Youths		Isolation Status:	4 Protective Custody Events; 1 Transitional Measure Events		10 Transitional Measure Youth Events		SA 79 Components	No	Yes	Yes/ Limited	NA	Was youth placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others?	15	0	0	0	Were other less restrictive methods of restraint tried and failed?	14	1	0	0	Was the isolation cells suicide resistant ?	15	0	0	0	Did the facility director or acting facility director approve the placement ?	1	14	0	0	Was youth afforded living conditions approximating those available to the general juvenile population ?	0	15	0	0	Was youth visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time ?	0	15	0	0	Was juvenile seen by a masters level social worker within three (3) hours of being placed in isolation?	14	1	0	0	Was juvenile seen by a psychologist within eight (8) hours of being placed in isolation?	10	5	0	0	Was juvenile seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation?	15	0	0	0	Was youth seen by his/her case manager as soon as possible ?	6	9	0	0	Was youth seen by his/her case manager at least once every twenty-four (24) hours thereafter?	14	1	0	0	Was the juvenile released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others ?	0	15	0	0	Is there a log (or other documentation) kept which contains:					daily entries on each juvenile in isolation,	0	15	0	0	the date and time of placement in isolation,	0	15	0	0	who authorized the isolation,	0	15	0	0	the name of the person(s) visiting the juvenile,	0	15	0	0	the frequency of the checks by all staff,	0	15	0	0	the juvenile's behavior at the time of the check,	0	15	0	0	the person authorizing the release from isolation	0	15	0	0	the time and date of the release	0	15	0	0	Are the following revoked or limited?					safety	15	0	0	0	crowding	15	0	0	0	health	15	0	0	0	hygiene	15	0	0	0	food	15	0	0	0	education	0	0	9	5	recreation	0	1	11	0	access to courts	15	0	0	0
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	<p>documentation criteria; youth were consistently seen by case managers as soon as possible; consistent random minimum fifteen-minute room safety checks were conducted; living conditions approximating those available to the general juvenile population; and the facility director or acting facility director reviewed and approved the placements expeditiously. However, documentation once again revealed protection and isolation compliance deficiencies for the following elements:</p> <ul style="list-style-type: none"> • There is inadequate documentation concerning the actual reasons underlying the conclusions about the youth posing “a serious and immediate physical danger to himself or others.” The current explanation of “inability to cohabitate” is not adequate to justify isolation as required by this criterion, although there are instances in which a significant risk does, in fact, exist but is insufficiently documented and supported beyond the “inability to cohabitate” description. • There is inadequate documentation to determine if “...other less restrictive methods of restraint was tried and failed.” • While progress has been made on making ceiling vents and door hinges safer for when youth are confined to their sleeping rooms for TM or PC, all such rooms are not yet sufficiently suicide resistant at the three facilities. • Youth were not seen by a psychologist within eight (8) hours of being placed in isolation. • Youth were not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation. • With the exception of one event, youth were not seen by a master’s level social worker within three hours of being placed in isolation. • Youth were not seen by their case manager at least once every twenty-four (24) hours thereafter. <p>Challenges that still remain include implementing measures to achieve the desired safety goals without having to resort to any form of isolation or, where not possible, reducing its duration, or mitigating the potential harmful impact of isolation through additional time out of cells, education and programs, although the requirements of ¶179 would still apply. We note that one youth on TM status (D.P.G.) was on that status and isolated/confined for 81 days.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Compliance with this provision would require documentation that all or the majority of placements of TM and PC youth in isolation satisfy the 20 criteria set forth in ¶179 as well as the eight criteria specifically required in ¶180 in the case of PC youth. For those youth on PC status that are not separated in a form of isolation, only the ¶180 requirements will apply.</p> <p>As a prerequisite to developing a compliant policy for TM and one for PC, DCR must begin completing accurately ‘The <u>Protective Custody or Transitional Measures Decision Making Process</u>’ questionnaire,’ and the ‘<u>¶179 and ¶180 Checklist</u>’ for all Transitional Measures and Protective Custody events for the second quarter of 2019 and all moving forward.</p> <p>Once DCR and the Monitor’s Office have the opportunity to review and analyze the <u>Protective Custody or Transitional Measures Decision Making Process</u> questionnaire,” and the “<u>¶179 and</u></p>

	<p>¶180 Checklist,” DCR must submit for Monitor’s review and implement final versions of the TM (17.20) and PC (17.19) policies.</p> <p>DCR must complete door hinge changes for any rooms that can be used for youth in isolation or room confinement. If the door hinge changes are overly onerous in terms of cost or complexity, DCR should consider identifying a couple of rooms in each module that can be retrofitted and then used when room confinement/isolation is necessary.</p>
Priority Next Steps	<p>Completion of the QA study Decision Making Questionnaire and Checklists (see above); agreement on a definition of “isolation;” development of new policies driving TM and PC; and improved performance relative to restrictive housing or confinement cases that would fall within ¶79 criteria are the most critical next steps to advance compliance. It is also imperative that there be a rethinking of TM versus PC criteria such that youth who are vulnerable to assault would typically be considered PC. In addition, there must be a general understanding that TM and PC status does not automatically invoke ¶79—that happens only when the youth is placed in “isolation” in order to carry out the status’ safety requirements. There also is a need to create and define alternatives to isolation that can insure the safety of youth’s on TM and PC statuses. Alternatives could include specialized and designated housing modules in each facility for TM or PC or expanded use of staff one-on-one escorts.</p> <p>A decision on a course of action relative to enhancing suicide resistance for rooms needs to be reached and implemented rapidly.</p>
Quality Assurance Measures	<p>The Monitor has provided DCR with various tools that will lend themselves to future QA efforts by DCR. These tools include the ‘<i>Protective Custody or Transitional Measures Decision Making Process</i>’ questionnaire,’ and the ‘¶79 and ¶180 Checklist’ for all Transitional Measures and Protective Custody events, which the Monitor has been using to assess compliance but which DCR needs to take over responsibility for the QA aspects of same.</p>

PROTECTION FROM HARM – PROTECTIVE CUSTODY (David Bogard)

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.

Compliance Rating	Partial Compliance		
Description of Monitoring process during this period of time	First quarter site visits occurred on February 26 and 27, 2019. During these site visits, the following volume of Protective Custody cases were assessed against all the criteria of both ¶180 and ¶79 (as all such youth were also subject to room confinement).		

	<table><tr><td>First Quarter 2019 Totals</td><td>4</td><td>4 PC</td></tr></table>	First Quarter 2019 Totals	4	4 PC
First Quarter 2019 Totals	4	4 PC		
	<p>Activities this quarter also included receipt and analysis of weekly PC data concerning numbers of placements and compiling this data into quarterly spreadsheets, quarterly tables showing overall and individual youth compliance with eight ¶80 PC requirements (and 20 ¶79 criteria when room confined/isolated).</p> <p>During the Q1 site visit to Ponce, Monitor’s staff interviewed two youths on PC status. There were no youths on PC status at Villalba and all youths had been removed from the Humacao facility as of the time of our site visit.</p> <p>In early October, after a couple of months of discussions regarding the use of TM and PC measures, the Monitoring Team provided a process to better document the decision making process for authorization of these measures, and provided the forms and instructions to DCR for collecting this information-- a ‘<i>TM/PC Decision Making Questionnaire</i>’ to track the decisions made by the facility when making assessing the need to place a youth on TM or PC status and a ‘<i>SA 79 and 80 Checklist</i>,’ which assesses the conditions of the youth on PC or TM status and how they measure up to the required services and protections set forth in ¶79 and ¶80.</p> <p>The information was to be used to provide a more in-depth analysis, which could inform changes to policies which are currently non-compliant with ¶80. We indicated at that time that further changes in the policies would likely not be productive and would not be approved by the Monitor until such analysis could be done. Although DCR committed to begin sending these QA forms on March 1 when we met to discuss the process on February 27, it was not until April 12 that the Monitor received isolation checklists for two cases from Villalba, five from Ponce, and one TM/PC decision making questionnaire completed on a Ponce youth. Fortunately, most of those cases had already been reviewed when we were last in on site and therefore we were able to do a side-by-side analysis and validation of the two Villalba checklists and four of five Ponce checklists; that analysis revealed a significant number of errors by NIJ staff who prepared the forms.</p> <p>The Monitor’s physical plant consultant has continued to cooperate with DCR staff regarding installation of new vents and door hinges that are necessary to meet the ¶79 suicide resistant requirements for PC and TM status youth who would be restricted to their rooms. There was still no movement on creating a solution to provide suicide resistant door hinges at Ponce and Villalba. However, the replacement of air vent grilles with suicide resistant versions on the lower levels of the housing units at Ponce and Villalba have been completed.</p>			
Findings and Analysis	The four PC placements this quarter were higher than the previous three quarter average of 3.3, although that figure is primarily driven by judicial orders of protection.			

	<p>Even if it is determined that PC placements are typically ordered by judges, there may still be alternate means available to provide the required protection without resorting to isolation.</p> <p>In addition, the Monitor's case reviews and youth interviews reveals that some youths designated as TM should more appropriately be considered as PC because they are separated solely or primarily for their protection from potential physical harm caused by others. This would require a policy change to effectuate.</p> <p>There continues to be extensive documentation available concerning the requirements of this provision when PC status youth are in room confinement/isolation (See the summary findings included in the narrative for ¶79.) Concerning the eight criteria specifically included in ¶80, findings were that there was no revocation or limitation as it related to: safety; crowding; health; hygiene; food; or access to courts. There continue to be some limits to recreation, most often on weekends. Also, the long-standing practice has been for youth on PC who are eligible to receive education receive services on a one-on-one basis for 20 minutes per subject in contrast with the full school day for other youths; the Monitor has taken the position that this practice represents a ¶80 "limitation" on education.</p>
<p>What is needed for full compliance?</p> <p>What steps are required and/or recommended ?</p>	<p>Challenges that still remain include implementing alternative measures to achieve the critical and fundamental safety goals of protective custody but without having to resort to any form of "isolation" or room confinement. Where that may not be possible, the confinement must either meet all ¶79 and ¶80 criteria or at least the potential harm should be mitigated by reducing the duration, increasing time out of cells, and increasing access to out of room education and programs.</p>
Priority Next Steps	<p>Completion of the QA study Decision Making questionnaire and TM/PC checklists, agreement on a definition of "isolation," development of new policies driving TM and PC and improved performance relative to isolation cases meeting ¶79 criteria are the most critical next steps to advance compliance. It is also imperative that there be a rethinking of TM versus PC criteria such that youth who are vulnerable to assault would typically be considered PC. In addition, there must be a recognition in policy and discussions of compliance that while PC status must be applied so as to satisfy the requirements of ¶80 criteria, it does not automatically invoke ¶79—that happens only when the youth is placed in "isolation" in order to carry out the status' safety requirements (which is typically the case at this time). There is also a need for additional teacher resources to provide eligible youth in PC confinement/isolation status with a full day of education.</p>
Quality Assurance Measures	<p>DCR must apply the QA criteria set forth in the TM/PC Decision Making Questionnaire to track the decisions made by the facility when assessing the need to place a youth on TM or PC status and also the SA 79 and 80 Checklists. These documents should be provided to the Monitor's Consultant on a routine and timely basis for validation.</p>

MENTAL HEALTH – Dr. Miriam Martinez

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.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>During this quarter the Mental Health Consultant performed site visits in February of 2019 to Ponce, Villalba and to the DEC. During the site visits, she interviewed staff and thirteen (13) youth in total. Six were from Ponce and seven from Villalba. Of these thirteen youth, three were in transitional measures and three were in protective custody. During the site visit, three new psychologists were interviewed as was the psychiatrist. During this quarter the Mental Health Consultant also remotely reviewed medical records, wrote to DCR leadership regarding concerns and requested information regarding youth who were expressing suicidal ideation. The Mental Health Consultant has remained concerned for the well-being of JR, especially following his interview this quarter and as a consequence of reviewing medical records where it is evident that he is self-mutilating and has had suicidal ideation.</p> <p>The Mental Health Consultant received and reviewed documentation regarding use of emergency psychotropic medication.</p>
Findings and Analysis	<p>The Mental Health Consultant has repeatedly expressed a need for increased number of psychiatric hours to fully implement plans of care. There is evidence of little communication between the psychiatrists as the one interviewed appeared to not know that Dr. E. had left and of note, Dr. C. left in August of 2018. This turnover continues to impact continuity of care which is imperative when taking care of this population of youth who has overwhelmingly experienced trauma, abandonment, are less likely to trust and engage, and who need providers who are familiar with their individual needs and progress over time.</p> <p>Chart reviews this quarter revealed a need for more psychiatric coverage. It bears repeating that additional psychiatric hours are needed to:</p> <ul style="list-style-type: none"> • review medications the youth may be on • confer with medical and mental health providers • attend multidisciplinary planning meetings • order and read lab results • intervene in crisis (suicide attempts, self-mutilation) • timely documentation • attend court or reply to judges requests as needed

What is needed for full compliance? What steps are required and/or recommended?	NIJ must increase psychiatric coverage so that psychiatrists can timely address the issues noted above.
Priority Next Steps	The priority is to provide consistent psychiatric coverage and to maintain a minimum of 1.5 FTE psychiatrists for this population of youth. This coverage should be in place and maintained by the end of the second quarter, 2019.
Quality Assurance Measures	The Mental Health Consultant recommended in March of 2016 the establishment of a Quality Assurance team for self-monitoring. This has yet to be realized in part due to the constant changes in leadership within NIJ.
Sources of Information upon which Consultant report and compliance ratings are based.	Sources of information that the mental health monitor relied on were site visits to Ponce/PUERTAS, Villalba inclusive of interviews with youth and staff, a site visit to the DEC as well as review of medical records, reports submitted to the mental health consultant and the monitor, and mental health staffing lists.

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, 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.

Compliance Rating	Partial compliance
Description of Monitoring process during this period of time	<p>The Mental Health Consultant conducted a site visit to PONCE PUERTAS in February of 2019. Youth and mental health staff were interviewed. The charts of youth in PUERTAS were also reviewed.</p> <p>A separate visit to the DCR Division of Evaluation and Classification (DEC), Juvenile Facilities accompanied by the attorney for the Department of Justice, Richard Goemann and the DOJ psychiatric consultant, Dr. Santiago was conducted in order to review admission criteria for Ponce PUERTAS. The Mental Health Consultant interviewed the DEC staff to determine the reasons for the decrease in census in PUERTAS.</p>
Findings and Analysis	<p>At the time of the visits, only three youth were housed in PUERTAS. The level of care was not discernably different that youth who were not admitted to this level of care.</p> <p>As stated in previous report, it is expected that at least 3 youth qualified for PUERTAS but the mental health staff did not refer them for consideration into PUERTAS. This was</p>

	<p>confirmed with the site visit to the DEC. Staff overturning constantly is severely impacting the ability to consistently deliver high quality mental health care. Mental health staff that are being hired are new graduates and while they may have some experience with an incarcerated population, they do not have the extensive experience necessary to effectively evaluate youth who are incarcerated. As indicated previously, this is made worst by the ongoing problem of inadequate psychiatric coverage.</p> <p>During one interview, one youth in PUERTAS stated that he had to cut himself in order to get attention and that one officer stated to him "Cut, go ahead. I don't care." This is the same youth (JR) previously reported on that now needs intensive physical therapy as a result of paralysis of his left side.</p>
What is needed for full compliance? What steps are required and/or recommended ?	In order to be in full compliance the program needs to (1) identify and admit more youth as clinically indicated into the program, (2) provide more robust programming as stated in previous reports and (3) provide adequate psychiatric coverage.
Priority Next Steps	The Mental Health Consultant has addressed with DCR leadership the concern over the drop in PUERTAS census. This needs to be addressed by the mental health staff by consistently evaluating the needs of all youth in custody. There were several youth that the monitor identified via chart reviews that had expressed suicidal ideation, hearing voices and they did not (1) receive psychiatric evaluation and (2) they were not referred to Ponce PUERTAS.
Quality Assurance Measures	There are no quality assurance measures in place although DCR had stated that this was underway.
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 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.	
Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	All mental health staff were interviewed. Three new psychologists were interviewed to understand their level of preparation/orientation, their familiarity with the cases they were treating and their level of clinical sophistication.
Findings and Analysis	New mental health staff were found to be lacking basic knowledge about the clinical cases they were carrying such as background in trauma or history of suicide attempt. The mental health consultant did find that each of the new staff reported that they had

	received basic training in suicidal ideation, documentation, administration, scoring and interpretation of the MAYSI 2 and procedures for managing crisis.
What is needed for full compliance? What steps are required and/or recommended?	<p>As reported previously and data provided regarding psychiatric staffing - the mental health monitor has recommended that the psychiatric coverage be brought up to 1.5 FTE to cover youth in the remaining 2 facilities.</p> <p>In addition, and as reported previously, stability in the mental health staff is crucial for the standard of care delivery of services. Turnover in staff, especially in psychiatric staff has led to gaps as has been previously reported (training, documentation, EMR location of assessments, etc.) The Mental Health Consultant recommends that PCPS make concerted efforts to train and retain their mental health staff. Surveying staff training needs, staff concerns and need for resources and support are some of the ways that PCPS can retain these providers.</p>
Priority Next Steps	The priority is to provide more psychiatric coverage as recommended above.
Quality Assurance Measures	See above.

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.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	The Mental Health Consultant reviewed reports that were submitted by DCR of youth that were reported to have suicidal ideation, suicidal intent and/or self mutilation for the entire quarter. The Mental Health Consultant reviews the electronic medical records to find evidence of compliance with S.A. 63, including providing treatment consistent with professional standards.
Findings and Analysis	<p>The electronic medical records reviewed included five cases of youth with suicidal ideation. Only two of these youth were seen by a psychiatrist within 24 hours. One of the five youth was hospitalized but two left the institution without ever seeing a psychiatrist after expressing suicidal ideation (5675 and 5772). Upon review of electronic medical records, of particular concern was :</p> <p>Youth #5675</p>

	<p>1/10 blank note from an intern. The concern remains that interns should not be treating high risk patients. A blank note denotes that the provider either (1) did not actually see the patient or (2) saw the patient and neglected to document his finding which is not consistent with professional standards of care.</p> <p>On 1/10 the youth is interviewed by a different mental health provider and this note documents that the youth states that he is hearing voices that come and go.</p> <p>On 1/11 the youth complains of auditory hallucinations.</p> <p>Although communication to psychiatrist was noted by psychologist #5675 was not seen by psychiatrist until 1/14. This is not consistent with standard professional practice. The minor should have been evaluated by a psychiatrist immediately following his report of psychosis.</p> <p>On 3/11 this same young man reports suicidal ideation – thoughts of hanging himself and he is not seen by psychiatrist. Again, this is a failure of standard professional practice – especially for a young man who has reported psychotic symptoms. His last mental health visit was on 3/13 and he left the institution on 4/1/2019 – with no psychiatrist visit.</p> <p>The electronic medical record reviews this quarter also included thirteen cases of self mutilation, of which only 8 were seen by a psychiatrist within 24 hours. Five were not. Of particular concern is #4697. The youth has a history of suicidal ideation and psychiatric hospitalizations. On 2/12 he was seen by psychologist but only seen by psychiatrist on 2/15. With this history, should have been seen within 24 hours. Again this suggests evidence of neglecting to provide a standard of care consistent with professional practice.</p> <p>With respect to S.A. 63, a psychiatrist has typically been available via telephone regarding a mental health crisis.</p>
<p>What is needed for full compliance?</p> <p>What steps are required and/or recommended?</p>	<p>Policies and procedures are in place, have been reviewed and approved by the mental health monitor.</p> <p>Adherence to policies regarding youth with self-harming behaviors is critical and must be documented.</p> <p>A joint goal between DCR, PCPSS sand the Mental Health Consultant is to have the psychiatrist see the youth within 24 hours. This is the agreed upon interpretation of the word “immediate” in S.A. 63.</p> <p>For compliance, additional hours are needed so that a psychiatrist can consistently see youth who have expressed suicidal ideation or have had a gesture within 24 hours.</p>
Priority Next Steps	Recent changes in facilities should make it easier for a psychiatrist to be available in a crisis moving to two facilities vs. three.
Quality Assurance Measures	It is highly recommended that DCR have PCPS perform their own quality assurance measures to ensure compliance with S.A. 63. This would include chart reviews of minors that express suicidal ideation/intent and minors who self-mutilate. This would also include randomly reviewing electronic medical records and interviewing youth as does the mental health consultant during her site visits.

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.

Compliance Rating	Substantial Compliance
Description of Monitoring process during this period of time	The Mental Health Consultant has requested and reviewed documentation attesting to no use of emergency psychotropic medications during this first quarter of 2019. This information was provided by the nursing staff.
What is needed for full compliance? What steps are required and/or recommended?	There are policies and procedures in place for the use of psychotropic medications which have been reviewed and approved by the mental health monitor. Compliance and documentation will continue to be monitored.
Priority Next Steps	A period of assessment of at least one year with new psychiatric staff will be required for this provision to remain in full and faithful compliance.
Quality Assurance Measures	See above.

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.

Compliance Rating	Substantial Compliance
Description of Monitoring process during this period of time	The Mental Health Consultant has reviewed written evidence of the curriculum, staff training, receipt of incentives by the youth and interviewed youth during the site visits and consistently received information that incentives are provided for this first quarter of 2019.
Findings and Analysis	Please review previous reports where the Mental Health Consultant indicated the review of plans of care within electronic medical records. The records have consistently indicated a plan for behavior modification for youth in treatment facilities. Policies and procedures were provided, reviewed, discussed and approved. A request for training materials was made, delivered, reviewed and approved. In addition, the Mental Health Consultant has interviewed youth each quarter that she has been on site, and requested proof of incentives being delivered and received written documentation of youth signing

	<p>off on incentives they were given. The Mental Health Monitor will continue to work with behavior modification staff so that low or no cost incentives can be used more with youth (more time on phone with family, outdoor time, jobs outdoors, etc., a special trip or walk, etc.)</p> <p>While youth may protest that incentives are withheld, the treatment plans and review of documentation consistently supports that youth are receiving behavior modification services.</p>
What is needed for full compliance? What steps are required and/or recommended?	As previously reported, policies and procedures for behavior modification have been reviewed and approved by the mental health monitor. The continued improvement in the use of low or no cost incentives is encouraged.
Priority Next Steps	The Mental Health Consultant will continue to review records and will perform another site visit next quarter to review continued compliance with this provision.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based.	Review of documentation has been adequate and indicates compliance with the policies and procedures and with the individual plans of care.

SPECIAL EDUCATION AND VOCATIONAL TRAINING –Kim Tandy

Section XIII: Educational and Vocational Services – General Population

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 juvenile 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. All 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.

Compliance Rating	Partial Compliance
Methodology for Monitoring this Quarter	During the First Quarter monitoring visit, conducted February 25 - 28, the Monitor met with Carlos Delgado and others to review the issues raised in the 2018-4 th Quarterly report, and as well as necessary items for document review on a monthly, quarterly and annual basis. A participation by key officials from PRDE charged with compliance and ensure timely notice regarding meetings and site visits.

	<p>Structured interviews were also completed by Javier Burgos in March at Villalba and Ponce with 9 special education students at various grade levels to gain their perspectives about the educational services while in detention as well as in while in one of the treatment programs.</p> <p>Documentation received and reviewed this quarter, as well as on-site verification includes:</p> <ol style="list-style-type: none"> 1) An analysis of classroom space and resources for the provision of education, including for transitional measures and protective custody youth, annually and/or as needed 2) List of school employee vacancies by month by facility 3) Monthly personnel attendance by support staff, teachers, and special education teachers, with documentation of teacher absences and “security situations” which disrupt school services. 4) List of all student receiving vocational education, including special education students 5) Verification of the provision of educational services within 5 days of arrival for eligible youth. <p>The above items were received for the First Quarter. With the closure of Humacao, the Monitor received a new schedule of classes for Villalba and Ponce while on site in February since changes had been made since the original version.</p> <p>The Monitor also received revisions to Policies 20.1 and 20.2 from NIJ and DE in March, and has sent back her comments. She has requested that the Memorandum of Understanding between NIJ and PRDE regarding the delivery of education services in NIJ facilities be revised.</p> <p>A Functional Team meeting was held on February 25th with NIJ and PRDE representatives present including counsel for PRDE over special education compliance issues. Agenda items included impact of Humacao closure, paragraph 81 issues regarding PRDE assumption of responsibility and revised MOU, full school day issues, policies and procedures revisions, and training records, paragraph 86 issues relative to evaluations and re-evaluations, provision of specially designed instruction and related services, and procedural safeguards, and paragraphs 79, 80 and 94 related to educational services for youth in TM and PC.</p>
Findings and Analysis	<p>The current structure for education services in NIJ facilities splits responsibilities between the Puerto Rico Department of Education, which provides special education teachers, Title I, and vocational education staff, and the Department of Corrections and Rehabilitation, which provides academic and library staff. The language in S.A. 81 requires the Department of Education to provide these services. As such, compliance regarding educational and vocational education for youth confined 2 weeks or more, five days per week, 10 months per year, is the responsibility of the Department of Education. The requirement of providing qualified teachers logically also falls on the</p>

Department of Education based upon this responsibility. NIJ is required to provide adequate educational materials and space for instruction.

The current Memorandum of Understanding must be modified to reflect these responsibilities between the two entities and to redefine the relationship as DOE assumes full responsibility for the delivery of educational services. It is anticipated that PRDE will assume full financial responsibility for all services by July 1, 2019. The agencies are working on a revised Memorandum of Responsibility which would be in effect after that change is made.

Policy 20.1 Educational and Recreational Services provides for regular and vocational services to youth in detention and in social treatment centers. It was approved and signed for implementation on July 6, 2016. Recommended changes were sent by the Monitor to NIJ and PRDE in September of 2018. The revised policies received by the Monitor in March 2019 contain the recommended changes with the exception of providing full school days to youth in TM or PC status. The policies must ensure this change is made before the Monitor's office can approve them. The new policies reflect improvement and show commitment and continued effort to provide high quality educational services for youth.

Monitored Provisions:

1) Provision of academic and/or vocational education for youth confined 2 weeks or more 5 days per week, 6 hours per day, 10 months per year.

This provision ensures that all youth who are eligible for educational services receive such services within a two week period, and that full school days are provided over the 10 month school calendar.

Documentation received at the beginning of the school year verifies that NIJ uses the PRDE school calendar. Monthly monitoring of attendance for education staff is documented on a daily basis, for administrative support, teachers, and special education teachers. Monthly reports have been received for the quarter.

Rates are affected by teacher absences and "security situations." Security situations are discussed in more detail in paragraph 94. NIJ has been asked to report when youth are removed from school for security or other reasons and do not receive educational services. Starting this quarter, that documentation is being collected and sent to the Monitor.

A review of enrollment information for educational services for January, February and March of 2019 indicates youth participation in vocational services as follows:

1) Villalba – A review of documentation for Villalba for January, February and March indicated that all youth regardless of grade level were enrolled in one vocational class, either administrative assistance, barbering, bakery, horticulture and woodworking. For those youth who have completed their 12th year, all were receiving vocational services. All special education students were receiving vocational services as well.

2) Ponce – All youth are listed as being scheduled for vocational services, including all special education students and youth who have completed 12th grade. They are receiving classes in administrative assistance, barbering, bakery or woodworking. Youth are scheduled for one vocational class each.

3) Humacao – The closure and final removal of youth from Humacao was completed before the second semester of school began in mid-January.

2) AIJ shall provide adequate instructional materials and space for educational services

Both facilities have multiple classrooms for students engaged in regular and special education as well as vocational services. Classrooms seem adequate for students to have small classes based upon subject, and in some cases, grade levels (i.e. elementary level students). The facilities have vocational education rooms which were inviting, seemingly well stocked, and were engaging students.

The closure of Humacao has created significant challenges to ensuring adequate classroom space with the addition detention youth in both of the other facilities, and an increase in the number of youth in TM/PC measures. A review of the schedule provided by NIJ indicates that other than youth in TM/PC status, each classification of youth is scheduled for a full school day, and the required teacher planning time is incorporated into the schedule.

Some classes now combine 9th and 10th graders, and 11th and 12th graders by subject according to Carlos Delgado. There are 9 groups to accommodate within the facilities: 9th graders, 10th graders, 11th graders, 12th graders, sumariados, detained females, females in treatment, elementary school youth, and youth in TM or PC status.

A request has been made for 2 new special education teachers who can assist with providing services to youth in TM/PC status. Efforts are being made to make use of unused space by creating on unit classrooms behind control centers in some units. This can accommodate youth who cannot attend regular school because of the inability to cohabitate, or because they are in protective custody. The Monitor observed two classroom to accommodate youth on TM status, and sumariados. An additional small classroom was created by splitting up a larger room which included library services. While not ideal, these on unit classrooms can help to ensure that youth are receiving full school services, and are one way in which the current space issues can be creatively addressed. It will be important that these rooms can be arranged in such a way to ensure adequate materials, supplies and resources for meaningful learning experiences.

3) Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.

The Monitor reviewed a list of instructional staff and their certifications and subject matter expertise for each of the three facilities the beginning of the school year. That information was contained in the Third Quarterly Report for 2018.

	<p>There are no current teacher or administrator vacancies. There is one open position as a library assistant in Ponce</p> <p>In January, education staff attendance for the 17 scheduled school days at Villalba was at 94% for regular and vocational teachers, and 100% for special education teachers. On one day, youth could not attend as a result of teacher absences. For Ponce, attendance for regular and vocation staff was at 97% with special education teacher attendance at 87%. A “security situation” occurred on January 16th which kept all youth from receiving education services.</p> <p>In February, regular and vocational staff attended at a 95% rate for the 20 school days of the month, with special education teachers achieving a 99% attendance rate. At Ponce, these numbers were at 95% and 100% , respectively. There were no security events or teacher absences which affected school attendance.</p> <p>For March, regular and vocational staff attended at a 90% rate over the 21 school days, with special education teachers attending at a 75% rate. Staff training and teacher absences had an overall effect this month on attendance for special education teachers. At Ponce, attendance was at 91% and 89% respectively. Training and teacher absences also impacted this percentage. Youth did not receive services on March 8 or March 20th at either facility as a result of teacher training. There were no identified security events which affected school attendance.</p> <p>Having substitute teachers can help to ensure youth are not prevented from receiving services when there are teacher absences or other factors which are beyond control. Service interruption as a result of teacher training should be anticipated and built into the annual schedule in such manner to not effect total required school days for the year.</p> <p>NIJ Policy 4.1 requires the Training Division to coordinate and implement a master plan of training for staff development, including orientation and pre-service training of a minimum of 24 hours for treatment staff who are new. By definition, treatment staff includes teachers, social workers, counselors, and school principals.</p> <p>Training records, while partially received, must reflect that all new educational staff receive 24 hours of training by NIJ. In addition, Policy 4.1 requires that staff training needs be assessed in operational areas (including education and social work), and that such areas, in conjunction with the Division of Training, design training according to need. While not included in Policy 20.1, the Department of Education also requires annual training for its special education instructors, usually for one week prior to the beginning of the school year.</p> <p>Teacher attendance should be at 90% or higher, and a system of substitute teachers should be in place so that youth do not lose school days due to these absences.</p>
What is needed for full compliance?	<p>The Department of Education should assume responsibilities for the delivery of all educational services, as well as providing sufficient qualified teachers by no later than the 2019-2020 school year. A revised Memorandum of Understanding between the two agencies must be developed so that there are clear lines of authority and responsibility</p>

<p>What steps are required and/or recommended?</p>	<p>between the two reflective of the Settlement Agreement. This should be in place by July 1, 2019.</p> <p>This policies and practices must ensure that youth in protective custody or transitional measures who are eligible for education services will receive the required 6 hours per day, five days per week, 10 months of the year. The current policy of youth receiving 20 minutes of class per basic subject, while perhaps an improvement over prior practices, is insufficient to meet the inclusive language of this paragraph. This policy should be revised and in place by July 1 along with sufficient staffing to accommodate services to these youth.</p> <p>Well qualified staff should include verification not only of certifications, but also of training for new educational staff, and training required by the Department of Education and coordinated between the Division of Training and NIJ educational services. Additionally, a staff training needs assessment for education staff should be produced, as well as a training plan for the 2018-19 school year based upon that assessment. Training records of education staff (including ancillary staff) should be documented and provided as evidence of training requirements. Please provide these documents by the end of the school year for 2018-2019.</p> <p>Facilities for classrooms and administrative staff for the education programs must be functional, without leaking roofs, moldy ceilings or walls, and with air conditioning units that are working. The facilities have made a good effort toward addressing these issues in the last few months. The Monitor looks forward to continued progress and updates on the needed repairs.</p> <p>Monthly attendance by essential educational staff should remain at 90% or higher in each facility. Classes should not be disrupted or cancelled as a result of teacher absence. A system for substitute teachers should be in place and able to accommodate these situations.</p>
<p>Priority Next Steps</p>	<p>NIJ and PRDE should provide revisions back to the Monitor regarding Paragraph 20.1 which require a full school day for youth in PC and TM status.</p> <p>A plan for the addition of necessary regular and special education teachers who can provide full school day services for youth in TM and PC must be addressed with PRDE. This issue will be raised during the second quarter monitoring visit in May.</p> <p>NIJ should ensure that substitute teachers are available to accommodate those days when teachers are absent. Security situations should be fully examined so as not to adversely impact the availability of educational programming. Documentation of security situations must be communicated to education administrators. The</p> <p>A plan should be submitted to the Monitor in the first quarter which will detail the budget and allocation of resources sought for the 2019-20 school year by the PRDE for assuming full responsibility for the provisions of educational services.</p>

Quality Assurance Measures	<p>The Monitor is encouraged by the documentation that is kept and provided relative to many of the provisions of this paragraph.</p> <p>Efforts at quality assurance must also come from the DOE relative to the delivery of service, and/or must be incorporated into the Memorandum of Understanding.</p> <p>The Monitor will review the proposed QA provisions by June 1.</p>
Sources of Information upon which Consultant report and compliance ratings are based.	<p>Meetings at Villalba and Ponce facilities with Carlos Delgado to view available classrooms, teacher rosters and attendance, list of students, attendance logs, and documentation regarding intake of new students.</p> <p>Examination of school calendar</p> <p>Review of applicable policies</p> <p>Examination of other documents as listed above</p> <p>Interviews with youth and file documentation</p>

S.A. 86 Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 et seq. Defendants shall screen juveniles for physical and learning disabilities. 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.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The Monitor conducted site visits to CD Humacao during the evening of November 4, 2018 to interview youth, and during that quarter, conducted file reviews of special education students.</p> <p>File reviews were not conducted during this quarter, however, interviews with a sampling of special education students at both facilities were conducted using a structured interview format to examine educational services while in detention, comparison of services to those received in the community, information regarding the youth's disability, IEP, placement and related services and/or accommodations, and schedule. Questions also focused on special education programming while in treatment, including classes, schedules, IEP services, educational environment, and meaningfulness of the educational experience.</p> <p>A meeting held during the February site visit was conducted to discuss several areas of concern raised in the Fourth Quarterly report, including the evaluation and re-evaluation process and the need for tracking time frames and results, lack of individualized educational planning, and procedural safeguards. The timing of IEP reviews was also</p>

	discussed to ensure expectations were clear relative to the definition of “annual” reviews. Procedural safeguards were also discussed, including involvement of parents, and discussion of parental rights, including surrogate parents.
Findings and Analysis	<p>This section provides a general requirement that compliance with the IDEA is necessary in order to meet compliance requirements of this section. For purposes of complying with the IDEA, as well as initial screening of youth for disabilities, this provisions has been broken down into 5 sections as noted below:</p> <p>1) Mandatory requirements of the Individuals with Disabilities Education Act</p> <p>a) Child Find</p> <p>PRDE is responsible for ensuring that Child Find provisions to locate and identify youth who may be eligible for special education are met, but must work collaboratively with NIJ instructional staff to ensure that adequate mechanisms are in place to identify when youth are appropriate for referrals.</p> <p>Education staff are consistently completing initial evaluations, including assessments in all five subject areas within 5 days for youth in detention (English, Science, Social Studies, Math and Spanish, as well as interest in vocational and recreational activities). Documentation was received indicating that testing was done in all cases for the quarter where youth were detained for at least 5 days. Youth interviewed also reported that this initial evaluation is completed early upon their arrival in detention. This screening and evaluation process, completed on all youth, is one way in which Child Find requirements can be met.</p> <p>A new form was designed to track those students who enter NIJ and are identified through the screening process as being appropriate for a referral for special education and began in January. One youth identified in January had no IEP but a prior eligibility for special education services identified him as being SLD. His evaluation is in process.</p> <p>b) Evaluation of youth with suspected disabilities</p> <p>PRDE has an obligation to ensure that youth with suspected disabilities, and those in need of re-evaluation, receive thorough multi-faceted evaluations which stretch across areas of concern as well as the identification of student strengths.</p> <p>For the months of January, February and March, the Monitor reviewed a new tracking document developed by Carlos Delgado which is prepared monthly. It indicates current IEPs are dates, dates of referrals for initial or re-evaluations, COMPU dates, and percentage of completion for IEP reviews. Three youth had IEPs which had not been updated, or where a new referral was sought for an evaluation. Two of these youth were in detention and had IEPs which were 2 years old. It is not unusual for youth in detention to have been out of school or have services otherwise disrupted; thus, a current IEP is not always available. The tracking instrument ensures that current IEP dates are regularly examined, and identifies when youth have IEPs which have not been reviewed and revised within a timely manner.</p>

The March report indicates that 2 of the 3 youth at Ponce were undergoing a re-evaluation at the time of reporting. In one case, the youth was referred for a re-evaluation in 11/12/19 but that evaluation was not yet completed at the end of the March reporting period. Two youth at Villalba referred for an evaluation on 1/25/19 did not have a completed evaluation by the end of March.

c) Provision of specially designed instruction and related services

Information relied upon during this quarter came primarily from interviews with nine (8) youth at Villalba and Ponce who were receiving special education services. They consistently described that education services began almost immediately upon arrival at Humacao.

Services at Ponce and Villalba were generally described as better than at Humacao. Youth described the school day from 8:00 – 3:00 or in one case 8:00 – 1:50 with lunch, or 8:00 – 2:00. One youth described being in classes only from 8:00 – 12:00 while at Humacao but since he was moved, the classes are 8:00 – 2:50 with lunch from 12:00 – 1:00.

Several youth described challenges with educational programs at Humacao, including not having work transfer once they went to either Ponce or Villalba, more problems with youth in school areas, and school being cancelled as a result of security issues or teacher absences.

In general, most youth felt the teachers cared about them and were helpful, and that they were receiving at least as good if not better services than in their community schools. A concern was raised, however, that the classes are much more limited than in some community schools.

When asked about how their educational programming in the community might have differed from the schools in NIJ facilities, some of the differences reported related to eligibility and placement. One youth reported his disabilities were the result of cognitive difficulties and ADHD, and that he was in a self-contained classroom. His current classification is listed as SLD and he is in a regular classroom with one hour of specially designed instruction per week. Another youth indicated he was in special education services in the community, but not while at Villalba, although he sometimes gets extra time to finish his work. His current classification is listed as SLD and his is being re-evaluated as his IEP is from 2017. He receives classes on module.

Another youth indicated he was receiving special education for ADHD and cognitive disabilities in the community, but does not get it at NIJ facilities. He was awaiting “reactivation” of his IEP. He has been in TM measures on several occasions. The youth is not indicated as being classified as special education but thought he was supposed to be.

Another youth indicated being in a self-contained classroom in the community, but did not know the area of disability addressed in the IEP. This youth was prescribed glasses and also gets extra time to finish tests and to have information repeated. The youth is listed as SLD and receives one hour of specially designed instruction per week.

	<p>Yet another youth indicated he has learning disabilities, and in the community was in a self-contained classroom. He felt he was getting more help in his community school, but then indicated he had not been in classes. He was identified as SLD and had no IEP on file. He is currently being re-evaluated.</p> <p>The information directly from youth was not entirely corroborated but does provide their perceptions about the services they are receiving for special education and the degree to which they are helpful.</p> <p>d) Procedural safeguards</p> <p>Further review of procedural safeguards will be included in Second Quarter file reviews.</p> <p>2) Screening of juveniles for physical and learning disabilities</p> <p>This paragraph requires that the Defendants screen juveniles for physical and learning disabilities, including “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> <p>Youth are screened at detention using an education questionnaire to determine prior educational placements, previous involvement in special education, and academic achievement. Diagnostic testing is completed within five school days and school records are requested and obtained. Physical disabilities are noted, including visual problems, speech problems, use of medication, hearing problems, and orthopedic problems. Recommendations for testing are made including for hearing impairment, psychological, occupational therapy neurological examination, psychiatric, visual, health and/or a Woodcock Munoz.</p> <p>Documentation received from NIJ education staff indicates that 100% of new youth admitted on detention status, and who were held for a minimum of 5 days, were evaluated based upon the process noted above, including basic testing across the five subject areas.</p>
<p>What is needed for compliance to be achieved?</p>	<p>NIJ and PRDE submitted substantially improved and updated policies consistent with requirements of the S.A as well as IDEA. One section which should be included, however, concerns procedural safeguards of youth and parents. Notes and suggestions were returned to NIJ/PRDE regarding the inclusion of this area in March.</p> <p>Initial evaluations and re-evaluations must be completed in a timely manner, and in accordance with the provisions of IDEA. Under 34 CFR §300.305(a)(1), the IEP Team and other qualified professionals, as appropriate, as part of an initial evaluation and as part of any reevaluation under 34 CFR Part 300, must: “Review existing evaluation data on the child, including—(i) Evaluations and information provided by the parents of the child; (ii) Current classroom-based, local, or State assessments, and classroom-based</p>

	<p>observations; and (iii) Observations by teachers and related services providers.” Referrals into the MIPE system by social workers without convening a COMPU meeting are inadequate to comply with the requirements of IDEA.</p> <p>IEPs must include an individualized determination of disability, special considerations, including behavioral plans when appropriate, and a range of placement options, including the availability of resource rooms and a self-contained classroom if necessary. A one size fits all plan for youth is not acceptable.</p> <p>The procedures for identifying the “parent” for purposes of IDEA, and the use of surrogates when necessary, must be examined. While it may be possible that an NIJ social worker may stand in for a parent, this must be a parental designation and not one made by NIJ or PRDE. This does not appear to be well understood, and warrants further discussion.</p>
Priority Next Steps	<p>The revisions to both sets of educational policies should be made as soon as possible.</p> <p>Given the closure of Humacao, and that the detention population is spread between two facilities, it will be important to ensure that proper procedures for assessment, screening and available services are in place at Villalba and Ponce.</p> <p>PRDE must ensure that COMPU meetings are conducted prior to the request for an evaluation or re-evaluation, and that such meetings comply with the requirements of the regulations under IDEA as to purpose, timing and outcomes. The tracking form established by NIJ will be a helpful tool to ensure that evaluations are completed in a timely fashion.</p> <p>PRDE must ensure that there are proper procedures for identification of “parents” and that such individuals meet the definition within IDEA, or are designated by such person, and that surrogate parents are also available as needed.</p> <p>PRDE should increase oversight of special education teachers to ensure that youth are properly identified, that IEPs and the services provided as a result, are individualized as to student need, including the type of placement available to the youth. Adequate resources must be in place to provide a greater level of service to youth depending upon their needs.</p>
Quality Assurance Measures	<p>The monitor has not yet reviewed draft quality assurance plans but will do so by June 1.</p>
Sources of Information upon which Consultant report and compliance ratings	<p>Interviews with NIJ and PRDE staff</p> <p>Documentation review of policies and procedures</p> <p>Interviews with youth who are receiving special education services</p> <p>Review of documentation regarding student schedules, attendance of staff and youth, disability categories and time spent in special education by facility</p> <p>Tour of facilities and classrooms</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.

Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The monitor previously reviewed the procedures and forms for requesting documentation on youth from prior school districts when admitted to detention. This includes the youth's cumulative file through SIS and the special education file through MIPE.</p> <p>The FT meeting on education included a discussion regarding the timely review of IEPs and how "annual" review is to be interpreted. The Monitor reviewed first quarter tracking data to determine if IEPs are being reviewed on an annual basis, meaning within a 12 months period, and revised accordingly.</p> <p>File reviews were completed during Fourth Quarter.</p>
Findings and Analysis	<p>Appropriate policies are in place to require that records of the youth's IEP are obtained immediately from the appropriate district. Records must be requested within 10 business days after the screening is done and the youth has indicated he or she has an IEP. The youth is enrolled in school within 72 hours. Documentation about starting dates was reviewed and consistently showed youth begin their classes within a couple of days.</p> <p>Two systems have been put in place electronically for securing regular and special education records of students. The Department of Education has been operating MIPE (My Education Portal) since 2012. Students eligible for special education are registered in this system, and any district, including the schools within NIJ facilities, can pull these records on a student they receive within their school. Access is available immediately. Some students, however, may have files that are "inactive" due to disruption in the youth's education. In these cases, education staff indicated that they send a request manually for a copy of the records. A copy of the form was noted which documents this request in the youth's file. In three cases this quarter, the Monitor noted that there was not an active IEP on file through MIPE, and in all 3, education staff initiated a re-evaluation to determine present levels of performance in order to create a new IEP with current information.</p> <p>The Student Information System (SIS) similarly provides student information on all youth registered for school in Puerto Rico, and interplays with MIPE. NIJ facilities are now on line and can obtain this information immediately when it is available in the system.</p> <p>The requirements of this provision as to obtaining records appears to be in compliance. The Monitor will examine in the next two visits whether IEPs are determined to be adequate when received, and/or whether changes are made. The Monitor will want to</p>

	<p>ensure that IEP's are not being revised to meet the resources available at NIJ rather than the individuals needs which have been previously identified for the student. Similarly, disability categories must be aligned with the youth's identified needs and areas of deficit.</p> <p>The tracking sheet for evaluations and IEP reviews for January, February and March indicates that only one youth was beyond the 12 months required to review and update his IEP, however, it was since learned that this was a mistake and the review was not due until May. Many youth are due during April and May for an annual review. Special education staff should be attentive to these approaching deadlines.</p>
<p>What is needed for full compliance?</p> <p>What steps are required and/or recommended?</p>	<p>All special education files should contain a records of annual IEP reviews, and other reviews of the IEP done during the year as needed. A system of reviewing IEPs must align with a 12 month calendar year, or more often.</p> <p>PRDE must establish greater oversight to ensure that youth are appropriately identified, that IEPs reflect the individualized needs of the youth, and that decisions regarding placement are based on the youth's needs and not the resources available. As assessment of resources should be made during this school year to determine what additional classroom space may be needed.</p>
Priority Next Steps	<p>Ensure that the appropriate COMPU meetings are held to review the youth's IEP goals and progress, present levels of performance, and any needed changes to the IEP's goals, measurable objectives, accommodations and placement.</p> <p>PRDE must establish greater oversight over the supervision of special education staff and the quality of IEPs and placement decisions.</p>
Quality Assurance Measures	Education QA tools have not been reviewed by the Monitor but will be reviewed by June 1.
Sources of Information upon which Consultant report and compliance ratings are based	<p>Review of screening and evaluation materials completed while youth are detained</p> <p>Review of documentation used to request and follow up on records</p> <p>Discussions with PRDE and NIJ education staff</p> <p>Review of monthly documentation tracking special education deadlines for evaluations and IEP reviews.</p>
<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>	
Compliance Rating	Partial Compliance

Description of Monitoring process during this period of time	See above generally. No new file reviews were done during this quarter. A larger discussion of this issue is contained in the Fourth Quarterly Report.
Next Steps	PRDE and NIJ education staff must ensure that services are individualized based upon the identified disabilities, and that related services are also provided if necessary to properly implement the IEP.
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.	
Compliance Rating	Partial compliance
Description of Monitoring process during this period of time	The Monitor reviewed the qualifications, including records of certifications, for special education staff at the beginning of the school year. A review of all youth schedules for regular and special education students was completed, including vocational education classes. A review of teacher vacancies was done this quarter. IEP reviews were not done during this quarter.
Findings and Analysis	<p>Staff responsible for the development of IEPs are the special education instructors, who are training in working with students with disabilities and the creation of IEPs. An adequate number of special education staff are employed in the two facilities, with the exception of providing coverage to youth in PC and TM status. Resources appear adequate to provide IEP services to youth. DOE should provide information regarding training provided to special education teachers employed at NIJ facilities regarding IEP development and implementation.</p> <p>IEPs are contained in the MIPE file as well as hard copies of files in each institution. See above concerns raised regarding lack of individual education plans.</p> <p>A review of the special education student schedules in both facilities indicates that all special education students were enrolled in vocational classes.</p> <p>A review during the Fourth Quarter of student files, interviews with staff, and youth interviews suggest that IEPs are not individualized, and that most youth are identified as Specific Learning Disability and receive the same 50 minutes of specially designed instruction 5 days per week in Math and Spanish. Placement options do not include resource rooms or a self-contained classroom in spite of the facility serving some youth with serious mental illness whose behaviors suggest that such settings might be considered.</p> <p>Youth interviews during the First Quarter suggest that some youth placements while in community schools included resource rooms or self-contained classrooms, options which were not used while at NIJ. While it is possible that small class sizes may make a</p>

	more mainstreamed placement feasible, PRDE and NIJ must ensure that a range of placement options are available for youth and individualized dependent upon their needs.
What is needed for full compliance? What steps are required and/or recommended?	<p>The monitor believes that the policies and procedures, training, staff and resources are available to ensure that this provision is in compliance. A system of documentation has been created which is thorough and which appears to follow the requirements under IDEA for the creation and implementation of IEPs.</p> <p>The provision of vocational education is incorporated into policy and, while not mandatory in all cases, has been an integral part of providing more robust educational services for youth in NIJ and is offered consistently.</p> <p>IEPs must be designed based upon the individual needs of the youth. Further review during the second quarters will provide greater information about whether and to what extent this is being done.</p>
Priority Next Steps	Ongoing monitoring over the next year will ensure that all provisions in place are being implemented fully and faithfully.
Quality Assurance Measures	The Monitor has not reviewed proposed QA measures but will do so by June 1.
Sources of Information upon which Consultant report and compliance ratings are based	<p>All youth schedules including the provision of vocational instruction</p> <p>Review of Policies and procedures</p> <p>Review of system of documentation maintained in student files</p> <p>Student interviews</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.	
Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	<p>The Monitor requested that DOE provide evidence of any year round services provided through Extended School Services (ESS) and reviewed the policy in place for such.</p> <p>Discussions with the functional team and during site visits focused on how this provision is carried out in the course of IEP reviews each year, and what criteria is applied. The Monitor also discussed the provision of full instructional days five days per week.</p>
Findings and Analysis	Year round school services to special education students must be provided to students who “prior to the corresponding evaluations, require this service in order to avoid falling back in their academic skills and performance.” (See policy 20.2 Section V)

	<p>During the Fourth Quarter, it was determined that extended school year services have not been provided to any students in the last school year, according to information received from the PRDE. Special education teachers interviewed did not appear to understand the requirements for extended school year or have a mechanism for considering this in the context of an IEP review.</p> <p>In the first quarter, a process was put into place to examine data which was used to determine which youth could benefit from extended school services. Data from September through December of 2018 was analyzed for grades, IEP progress, and student needs according to a formula established by the PRDE. It is up to the PRDE to determine whether youth then meet the criteria for Extended School Year Services which will run through the end of June. It is encouraging that such process has been put into place, and that preliminarily, it appears several students will qualify.</p> <p>Reviews during the second quarter should ensure that consideration is given as appropriate to students who may be eligible for extended school year services, and that this is documented in the youth's revised IEP.</p>
<p>What is needed for full compliance?</p> <p>What steps are required and/or recommended?</p>	<p>Policies are already in place which address the need for Extended School Services. The Monitor will continue to work with education providers to determine:</p> <ol style="list-style-type: none"> 1) if special education instructors are properly trained to identify youth who may need Extended School Services; 2) whether sufficient education staff are available to provide this service year round or as indicated by the need for extended school services; and 3) that proper documentation within IEPs is noted indicating that consideration has been given as to whether the youth should receive Extended School Services.
Priority Next Steps	<p>PRDE must provide oversight to its special education teachers to ensure that they understand extended school services and when it is appropriate for students, and that there is a mechanism in the annual review or other reviews done during the school year to consider eligibility of students.</p> <p>Second quarter file reviews and other documentation will determine whether the appropriate information was submitted on students who may be eligible for extended school years, and whether such students receive the service.</p>
Quality Assurance Measures	No QA measures have been reviewed by the Monitor for this provision but will be reviewed by June 1.
Sources of Information upon which Consultant report and compliance ratings are based	<p>Review of response from DOE regarding the provision of ESS services</p> <p>Review of Policy 20.2</p> <p>Interviews with youth, administrators and education staff</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.

Compliance Rating	Partial Compliance
<p>Description of Monitoring process during this period of time</p>	<p>The Monitor has reviewed the policies and procedures for both regular education and special education. She has discussed this provision with other members of the Monitoring Team in conjunction with paragraphs 79 and 80, which have similar provisions.</p> <p>A review of data regarding youth in transitional measures and protective custody, as well as expert reports regarding the provision of education services was completed.</p> <p>The Monitor also spent time during her November visit at Humacao interviewing youth about school exclusion, as well as scheduling of classes. A discussion with Carlos Delgado and other administrators regarding security issues and the impact on school attendance was helpful in identifying problem areas. Monthly attendance sheets were reviewed for indications of “situations regarding security”</p> <p>NIJ has developed a form to track when school attendance is disrupted as a result of security situations.</p>
<p>Findings and Analysis</p>	<p>There are three sections to Paragraph 94 which must be monitored:</p> <ol style="list-style-type: none"> 1) Whether youth who have an IEP are excluded from services based upon a propensity for violence or self-inflicted harm or based on vulnerability. 2) Whether youth in “isolation or other disciplinary settings” are provided the right to special education services; and 3) Whether educational services provided pursuant to an IEP occurring in settings outside of the classroom are required for institutional security. <p>The policies and procedures do include language regarding exclusion from services in 1) above, but do not address the other two provisions sufficiently. Recommendations were submitted to NIJ and DOE regarding this section on September 17, 2018, and again in March of 2019.</p> <p>Exclusion of youth from services on the basis of a propensity for violence, self-inflicted harm or vulnerability does not appear to be tied specifically to youth who are isolated or in protective custody or transitional measures, although certainly it would include these youth. Youth may also be excluded from services through removal from classes or “suspension” of services because of behavior or other circumstances. Removal from a youth’s IDEA required placement for ten (10) days or more may constitute a change in placement which would necessitate the convening of an IEP team. Returning youth back to their unit for behavior related issues, regardless of how it is labelled, may constitute such a removal.</p>

	<p>Only one day was recorded as a “security situation” during this first quarter, which also coincided with the movement of youth to both facilities upon the final closure of Humacao.</p> <p>Youth placed in transitional measures or protective custody and who have IEPs must be provided special education services under this provision, as well as the more comprehensive requirements of paragraphs 79 and 80. Documentation of a full school day which comports with the youth’s IEP must be provided for those youth who are identified as special education students. Such documentation has not been provided, nor are these youth receiving a full school day as required.</p> <p>Finally, youth with IEPs may receive services outside of the regular classroom if such is required for institutional security. This is a viable option for those youth in TM or PC status who cannot attend school regular classrooms, but who must receive a full school day and the services contained within their IEP. The Monitor toured areas on both facilities on unit which were being set up to use as small classrooms, including one which was for barbershop vocational services. While it is preferable that these youth return to regular classroom setting when possible, this may serve as a creative alternative, and is allowable under this provision. Staff should be commended to trying to better address the needs of the youth in TM who are not receiving a full school day; the success of this endeavor, however, will be dependent upon additional teaching staff which have been requested.</p>
<p>What is needed for full compliance?</p> <p>What steps are required and/or recommended?</p>	<p>Policies and procedures must address the need for youth with IEPs to receive a full school day regardless of whether they are in PC, TM or other disciplinary status. Similarly, documentation must be required by policy to justify alternative settings outside of the classroom when necessary for institutional security. Education staff must be sufficient to ensure that these youth are receiving a full school day, and that adequate education staff and classroom space is available.</p> <p>Continue to limit the amount of time youth are taken from classes as a result of security situations of other circumstances beyond a youth’s control.</p>
Priority Next Steps	<p>Continue to track when youth are excluded from school due to violence or vulnerabilities, and ensure that appropriate security measures are in place which limit these instances.</p> <p>Continue to use the tracking mechanism to ensure that if youth are removed from school as a result of behavior, self-harm or vulnerability, documentation is provided to indicate why such removal was necessary.</p> <p>Documentation should be developed to indicate when alternative school settings are used and to justify the need for these alternative settings based upon institutional security issues</p>

	Ensure that each facility has at least two areas set up to provide alternative settings for youth in TM/PC measures, and that adequate teaching staff are available to ensure services for a full school day.
Quality Assurance Measures	No QA has been reviewed for this provision but the Monitor will review a draft by June 1.
Sources of Information upon which Consultant report and compliance ratings are based	Review of policies and procedures relative to education Discussion with education staff Review of tracking form regarding removals due to security or other instances.
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.	
Compliance Rating	Partial Compliance
Description of Monitoring process during this period of time	See above for discussion of this section.
Findings and Analysis	See discussion above.
What is needed for full compliance? What steps are required and/or recommended?	<p>There are a number of indicators that a youth's IEP is inappropriate or ineffective. Student goals and objective may be vague and unmeasurable. The IEP may be inadequate to address identified deficits in the student's multi-faceted evaluation. Needed accommodations may be missing, or related services may not be included when necessary. The needs of the youth may simply change based upon any variety of circumstances.</p> <p>Good data must be kept on student goal achievement, and should reflect student progress for meeting IEP goals, and receiving academic benefit from instruction provided. Student files reviewed indicated that reviews are completed every 10 weeks on students, and information on progress is sent to parents. This practice, when done consistently, provides the youth and parents with good benchmarks the for year, but should also provide indicators for when IEPs may need to be modified.</p> <p>Supervision of IEPs and data collection should provide indicators of whether such progress is being achieved with each student. PRDE must have a system of providing oversight of special education teachers to monitor their development of IEPs, as well as progress and benchmarks achieved.</p>

Priority Next Steps	<p>The Monitor will identify with education staff examples of modified IEPs outside of the annual review based upon changes in circumstances, or an IEP which was otherwise not meeting student needs.</p> <p>The Monitor will also review with the Department of Education the review and oversight mechanisms of special educators to identify ineffective IEPs.</p>
Quality Assurance Measures	<p>The Monitor has not reviewed proposed QA provisions but will do so by June 1.</p>
Sources of Information relied upon	<p>Review of policies and procedures.</p>