

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**THE UNITED STATES OF AMERICA**

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

**COMMONWEALTH OF PUERTO RICO**

Defendants,

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**INFORMATIVE MOTION TO  
SUBMIT THE MONITOR'S QUARTERLY REPORT**

TO THE HONORABLE COURT:

Today, the Monitor submits the Monitor's First Quarter Report for 2018. The report covers the months of January, February and March 2018. This report consists of an introductory statement by the Monitor, along with the compliance ratings tables and special reports by the Monitor's consultants.

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

**Respectfully Submitted,**

*s/ F. Warren Benton*

**F. Warren Benton**

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

**Certificate of Service**

I HEREBY CERTIFY that this 1<sup>st</sup> day of June 2018, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which will simultaneously serve notice of such filing to counsel of record to their registered electronic mail addresses.

Respectfully Submitted,

s/ F. Warren Benton

F. Warren Benton

Monitor

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

USACPR Monitoring Inc.

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## Monitor's Quarterly Report First Quarter 2018

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

The following is the Monitor's First Quarter Report for 2018. The report is in two parts – a narrative overview, along with a set of tables classifying the status of compliance with each provision. The report covers the months of January, February and March 2018.

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

Document Attachment A:	Consultant Report on Staffing Compliance
Document Attachment B:	Consultant Report on Classification
Document Attachment C:	Report on Incidents and Understaffing
Document Attachment D:	Protective Custody and Transitional Measures
Document Attachment E:	Consultant Report on Education
Document Attachment F:	Abuse Referrals Tracking Statistics
Document Attachment G:	Case Assessment Report
Document Attachment H:	Chronology of Site Visits

Attachment One: Table of Compliance Ratings

Respectfully Submitted,



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F. Warren Benton, Ph.D.  
Monitor

## Document Attachment A: Consultant Robert Dugan Reports on Staffing

### **S.A. 48: DCR Staff Youth Ratio 2018 First Quarter Report**

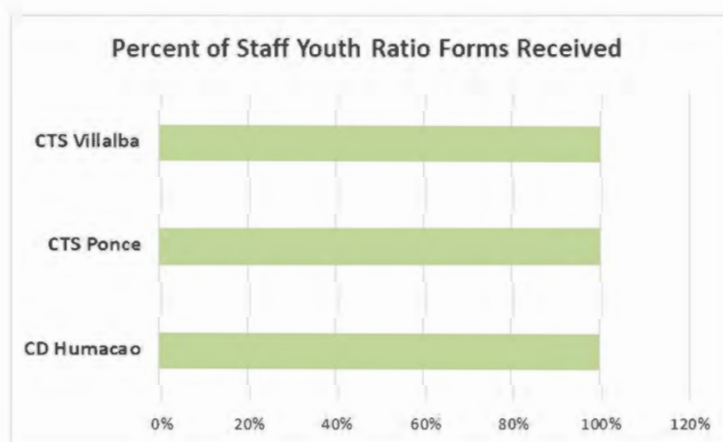
Prepared by Bob Dugan: Office of the Monitor

#### **Background:**

S.A. 48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using DCR facility generated weekly staff youth ratio forms. These forms are submitted to the Monitor's Consultant throughout the reporting quarter. DCR facilities daily shift by shift staffing and youth population for each operational housing module is reported, as well as any 1:1 supervision events, and the volume of staff that are required to work a double shift. The report provides information from Staff Youth Ratio forms that were provided to the Monitor's Consultant for the period of December 31, 2017 through March 31, 2018.

As of the Friday, April 13, 2018, the following forms were submitted:

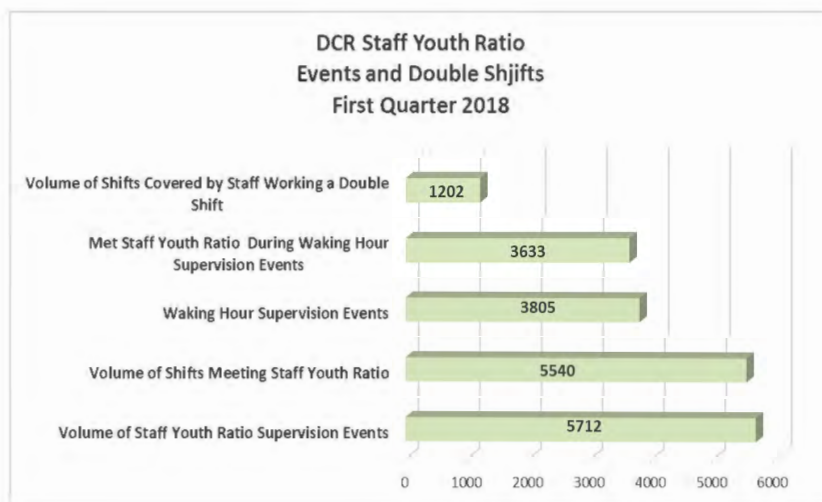
Facilities	Volume of Weeks of Staff Youth Ratio Forms Requested	Volume of Staff Youth Ratio Forms Received
CD Humacao	13	13
CD Ponce	13	13
CTS Villalba	13	13
<b>Totals</b>	<b>51</b>	<b>51</b>



DCR submitted a total of 51 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. The table displaying the dates that staff youth ratio forms were received is on the last page of this report. Detention youth population and Sumariados were detained in the Humacao facility for the first quarter reporting period.

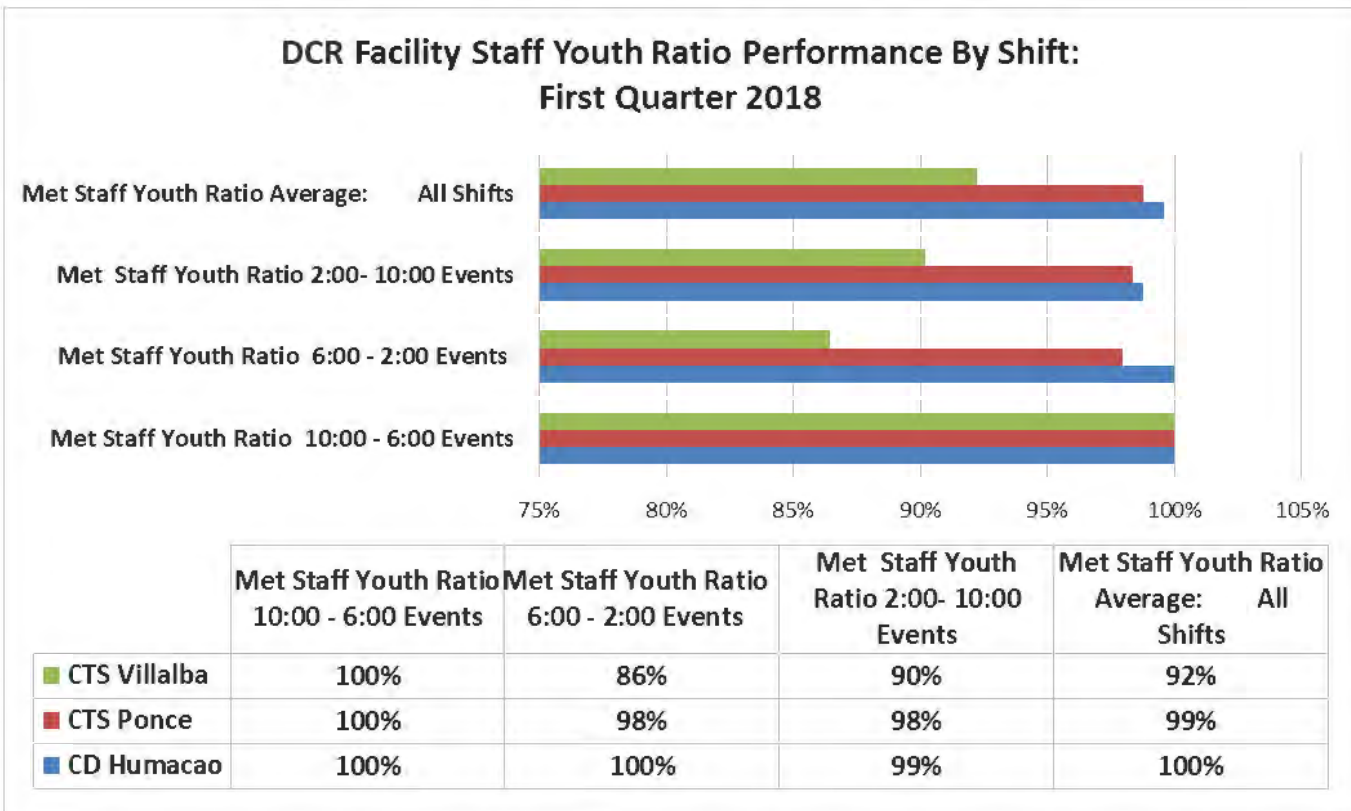
#### **DCR Staff Youth Ratio Performance:**

During the 2018 first quarter reporting period (December 31, 2017 through March 31, 2018), DCR documented a total of 5712 shift / unit events that required staff to youth supervision. This is a decrease of 899 staff youth supervision events from the fourth quarter of 2017 (6611 events). Of the 5712 shift / unit events, 5540 of the events (97%) were supervised with the required staff youth ratios, a 0% increase from the 97% of events supervised with the required staff youth ratios from the fourth quarter of 2017.



Of the 5540 staffing events meeting the required staff youth ratio, 1907 (34%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift.

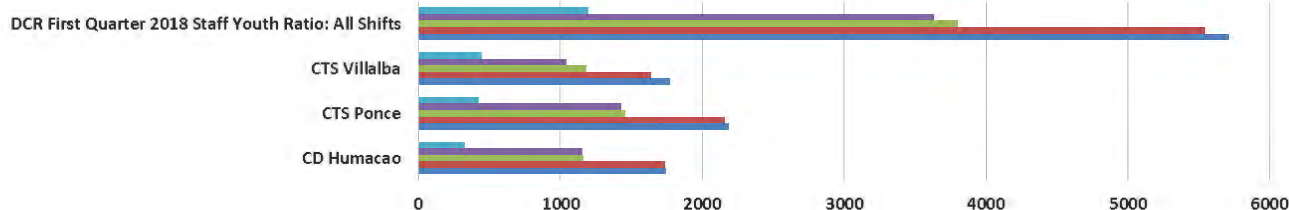
The chart and table below represent staff youth ratio performance by shift for the period (December 31, 2017 through March 31, 2018).



**Staff Double Shifts:**

For the 2018 first quarter, 1202 (21%) of the 5712 staff youth ratio events were covered by staff working a double shift. This is 10% increase of shifts requiring staff to work a double shift compared to the fourth quarter 2017 reporting period (712 events).

**DCR Staff Youth Ratio Events and Double Shifts:  
First Quarter 2018**



	CD Humacao	CTS Ponce	CTS Villalba	DCR First Quarter 2018 Staff Youth Ratio: All Shifts
Volume of Shifts Covered by Staff Working a Double Shift	329	428	445	1202
Met Staff Youth Ratio During Waking Hour Supervision Events	1156	1433	1044	3633
Waking Hour Supervision Events	1163	1460	1182	3805
Volume of Shifts Meeting Staff Youth Ratio	1741	2161	1638	5540
Volume of Staff Youth Ratio Supervision Events	1748	2188	1776	5712

The first quarter staff youth ratio performance was dependent on a significant and increased volume of double shifts. The 2017 fourth quarter volume of double shifts was 712, while the first quarter volume of double shifts was 1202. 21% of the staffing events were completed by staff working a double shift, an increase of 11% from the 2017 fourth quarter. A closer review identifies that the majority of double shifts occurred on weekends during the first and second shifts. The highest volume of non-compliant staff youth ratio events also occurred on weekends. As found in other juvenile correctional facilities, weekends are also characterized with less administrative, clinical, programming and support staff working on weekends.

DCR Facility First Quarter 2018	Volume of Non-Compliant Staffing Ratios on Weekends	Percentage of Non-Compliant Staffing Ratios on Weekends	Volume of Double Shifts on Weekends	Percentage of Double Shifts on Weekends
CD Humacao	0	0%	140	43%
CTS Ponce	20	74%	264	62%
CTS Villalba	94	68%	231	52%
DCR Totals	114	66%	635	53%

CTS Villalba, as a Level 4 and Level 5 treatment facility, had the largest volume of non-compliant staff youth ratio events on weekends (94) and overall (138), as well as highest volume of double shift events (445) for the first quarter. Additionally, it has been reported by CTS Villalba staff that the facility has a large number of vacancies on the facility master roster. This creates a precarious staffing profile for staff and youth alike.

The volume of non-compliant staffing ratios occurring on weekends, compounded by the volume of double shifts occurring on weekends, reflects the fragility of the DCR improved staff youth ratio performance. The long term financial impact of double shifting and overtime costs generated to meet staff youth ratio compliance appears to be unsustainable for both the agency and the Commonwealth. 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. Double shifting often leads to staff calling in sick call to avoid being required to double shift after their regularly scheduled shift.

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 2017	Second Quarter 2017	Third Quarter 2017	Fourth Quarter 2017	First Quarter 2018
Volume of Double Shifts	911	886	586	712	1202
Volume of Staffing Events	6800	6299	5489	6611	5712
Percentage of Double Shift Staffing Events	13%	14%	11%	11%	21%
Number of Facilities	5	6	4	4	3

#### **Waking Hours Youth Ratio Events:**

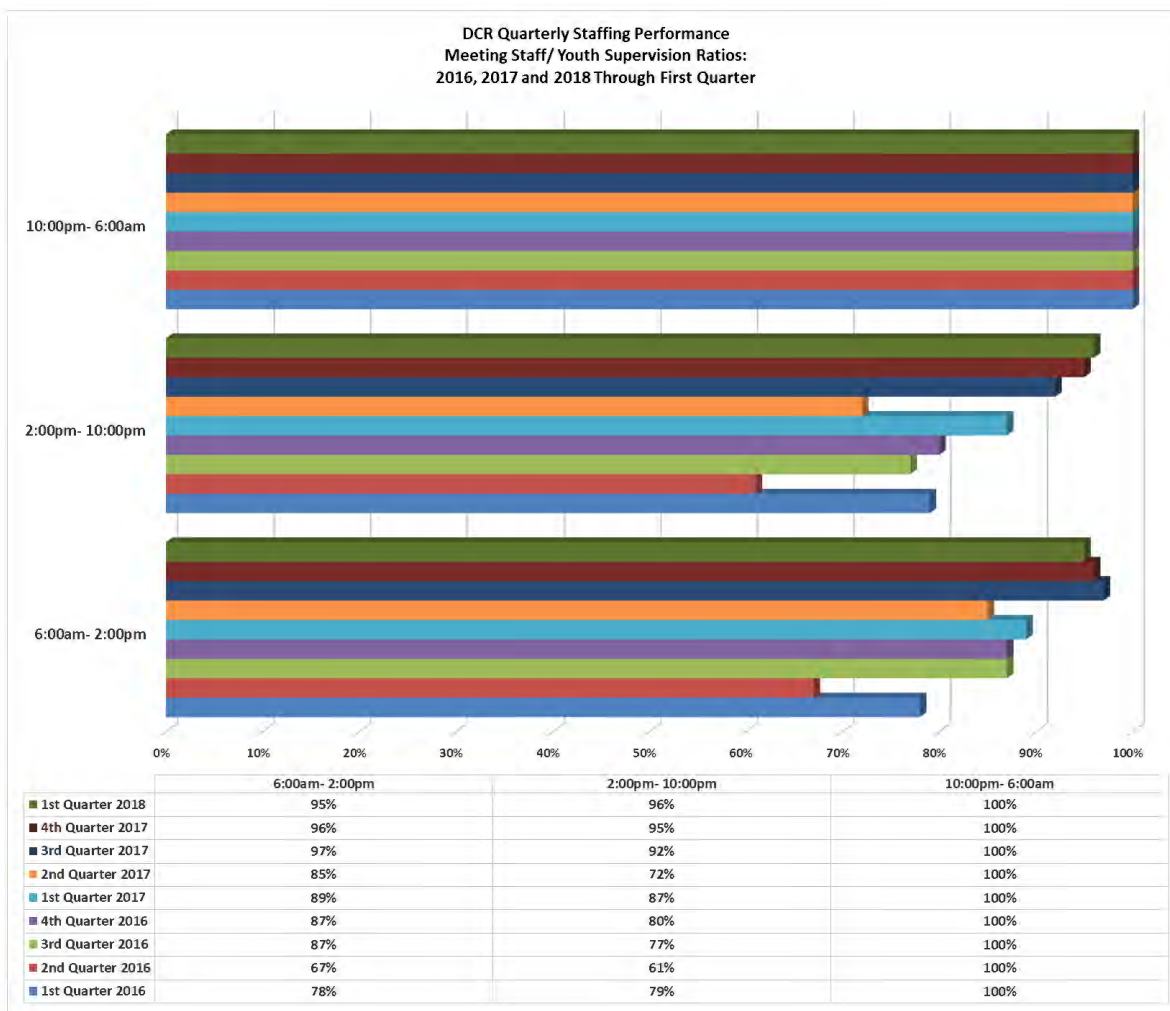
The tables below provides data relating to staff youth ratio events during waking hours for the first quarter of 2018. First quarter waking hour staff youth ratio of 95% is 1% lower than the prior quarter (96%).

During the first quarter, CD Humacao reported meeting the staff youth ratio in 99% of the waking hour staffing events. This rate is the highest amongst the three facilities operational during the quarter.

During the first quarter, CTS Villalba had the lowest volume of events meeting the staff youth ratio requirements during waking hours (88%). PUERTAS, housed in one of the housing modules within CTS Ponce, met the staff youth ratio for all shifts throughout of the 2018 first quarter reporting period.

DCR First Quarter 2018 Staff Youth Ratio During Waking Hour Shifts (6:00 - 2:00 and 2:00 - 10:00)	Waking Hour Supervision Events	Met Staff Youth Ratio During Waking Hour Supervision Events	Percentage of Events Meeting Staff Youth Ratio During Waking Hours	Volume of Shifts Covered by Staff Working a Double Shift	Percentage of Shifts Covered by Staff Working Double Shift	Percentage of Waking Hour Events Meeting Staff Youth Ratio During Waking Hours
<u>CD Humacao</u>	1163	1156	99%	329	19%	99%
<u>CTS Ponce</u>	1460	1433	98%	428	20%	98%
<u>CTS Villalba</u>	1182	1044	88%	445	25%	88%
DCR First Quarter 2018 Staff Youth Ratio: All Shifts	3805	3633	95%	1202	21%	95%

The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2016 through March 31, 2018:



The DCR 2018 first quarter performance in meeting Staff Youth Ratios during waking hours is as follows:

- 6:00 am – 2:00 pm shift: 95% of events, a 1% decrease from the fourth quarter of 2018 (96%)
- 2:00 pm – 10:00 pm shift: 96% of events, a 1% increase from the fourth quarter of 2018 (95%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the fourth quarter of 2018 (100%)

Of the 3805 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3633 of the events (95%) met the shift staff youth ratio requirements. The DCR 2018 first quarter Staff Youth Ratios compliance performance reflects a 1% decrease in staff youth ratio compliance from the fourth quarter reporting period, together with a significant increase in staff working double shifts.

### **Staffing and Injuries to Youth:**

During the first quarter, two events occurred, one on January 1 and one on January 11, at CD Humacao when youth were injured when the module or programming area was not staffed in compliance with the staff youth ratios. The first incident on January 1, involved one youth assaulting another youth in the module living area. Although two officers were assigned to the module with a youth population of ten, one officer was out of the module at the time of the assault. The second event on January 11 occurred in the History classroom, with one officer assigned to thirteen youth. In this incident one youth cut another youth on his face and back.

Although both incident events are very concerning, it cannot be stated unequivocally that the presence of the second officer required by the volume of youth could or would have prevented the assaults, nor did the absence of the second officer cause the assault. Assaults of both a serious and less serious nature occur with compliant ratios of staff to youth. Officers engaged in active behavior management and awareness of behavioral indicators of potential assault increases the probability of keeping youth safe.



**Policy and Documentation Requirements for Compliance DCR:**

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

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

Staff youth ratio compliance analysis consists of a review of the Master Roster. The Master Roster is an agency generated staffing roster-identifying posts, fixed posts, 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.

As of the Staffing Consultant site visits of February 6 and 7, 2018, DCR had not been able to implement the facility uniform staffing documentation requests. Absence of agency wide uniform staffing source documentation significantly limits the volume of validation sampling of facility daily youth population housing assignments, master roster, daily roster and mini-control logs that can be reviewed in the time available during a site visit. For purposes of the staffing quarterly report, weekly facility staff performance information is aggregated, analyzed and reported on the facility staff youth ratio forms that are provided to the Monitor's Office.

DCR has been working on development of agency staffing policy to procedurally require staffing assignment and documentation to prioritize operational compliance with the required staff youth ratios. The Monitor's consultant has reviewed and provided recommendations to agency staff policy drafts on the following dates: August 1, 2016; January 19, 2017; June 22, 2017; August 25, 2017; December 6, 2017; and February 15, 2018.

Although it was anticipated that the revised staffing policy would be approved and returned by to the Monitor's Staffing Consultant, DCR has yet to provide an update on the status of the staffing policy recommendations as of the production of the first quarter staffing report. As of the first quarter 2018 site visit, DCR continues a practice with facility Supervisors III and Supervisor IV that the daily facility roster should be completed for each shift with a priority of staffing 'from the inside (the modules) to the outside.' Operationalizing a final staffing policy will address this practice with policy and procedure.

DCR has been asked as to whether they would provide documentation as required by S. A. 48 January 2009 Stipulation Paragraph 5. On February 7, 2018, DCR indicated that they were working on a draft staffing report. The Monitor's consultant identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. No report was received for January, February or March 2018.

**DCR Agency 1:1 Supervision Events:**

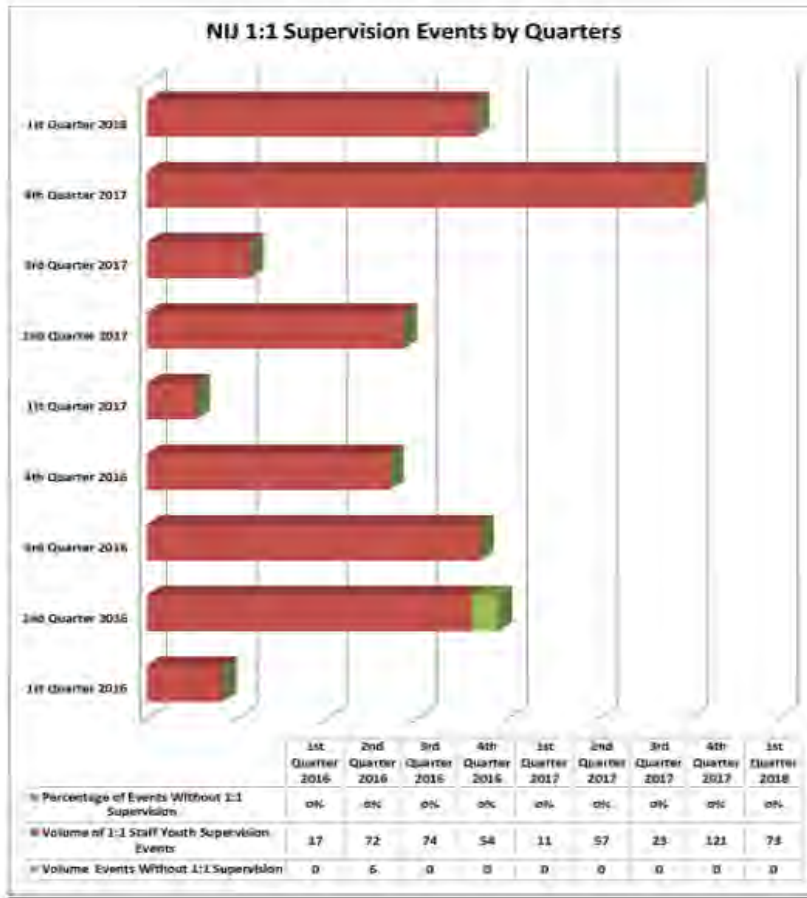
DCR reported successfully staffing all 1:1 supervision events for the 2018 first quarter.

The 2018 first quarter reporting period reflects the volume of 1:1 supervision events reported as 73 events:

- 17 events 1<sup>st</sup> Quarter 2016
- 72 events 2<sup>nd</sup> Quarter 2016
- 74 events 3<sup>rd</sup> Quarter 2016
- 54 events 4<sup>th</sup> Quarter 2016
- 11 events 1<sup>st</sup> Quarter 2017
- 57 events 2<sup>nd</sup> Quarter 2017
- 23 events 3<sup>rd</sup> Quarter 2017
- 121 events 4<sup>th</sup> Quarter 2017
- 73 events 1<sup>st</sup> Quarter 2018

Correspondingly, the 2018 first quarter volume of these events without required 1:1 supervision was reported as 0 events:

- 0 events 1<sup>st</sup> Quarter 2016
- 6 events 2<sup>nd</sup> Quarter 2016
- 0 events 3<sup>rd</sup> Quarter 2016
- 0 events 4<sup>th</sup> Quarter 2016
- 0 events 1<sup>st</sup> Quarter 2017
- 0 events 2<sup>nd</sup> Quarter 2017
- 0 events 3<sup>rd</sup> Quarter 2017
- 0 events 4<sup>th</sup> Quarter 2017
- 0 events 1<sup>st</sup> Quarter 2018

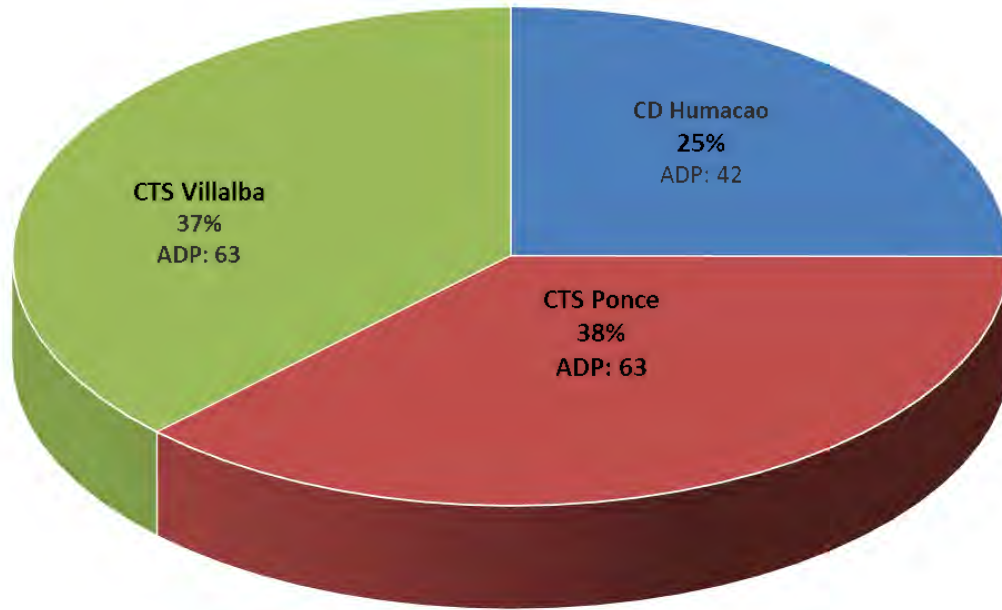


**DCR Average Daily Population:**

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

The table below displays each facility’s average daily population for the reporting period (December 31, 2017 through March 31, 2018), as well as the proportionate facility youth population that each facility contributes to the agency average daily population.

**Distribution of DCR Facility Population  
Average Daily Population  
First Quarter 2018**



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

**CD Humacao Staff Youth Ratio Analysis:**  
December 31, 2017 through March 31, 2018

**Detention Facility:** During the 2018 first quarter CD Humacao is designated as a detention facility and also maintained a Sumariados population.

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

**Percent of Forms Available:** 100%

**Volume of Weeks Analyzed:** 13 of 13 requested

- **Volume of Staff Youth Ratio Events:** 1748
- **Volume of Staffing Events with Staff Working a Double Shift:** 329 (19%)

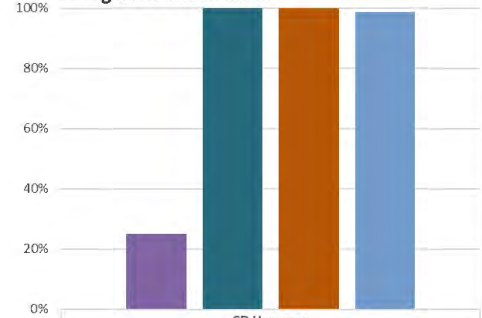
The first quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00 am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 100%, a 1% increase since the fourth quarter reporting period
- 2:00 pm – 10:00 pm: 99%, a 2% increase since the fourth quarter reporting period
- CTS Humacao represents 25% of the DCR institutional population.
- A facility site visit was conducted on 2/7/2018. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.

**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 91**

**Percentage of Staffing Events Meeting Staff Youth Ratio**

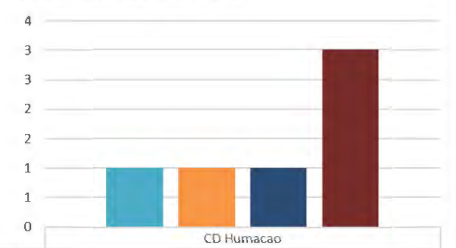


CD Humacao	
Percentage of DCR Agency Population	25%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%
Met Staff Youth Ratio 6:00 - 2:00 Events	100%
Met Staff Youth Ratio 2:00- 10:00 Events	99%

**3 youth supervision events for the first quarter of 2018**

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

**Supervision Events: 1:1**



CD Humacao	
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	1
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	1
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	1
Total Youth Assigned 1:1 Staff Youth Supervision Events:	3

### CTS Ponce Staff Youth Ratio Analysis:

December 31, 2017 through March 31, 2018

Treatment Level 2 and 3 and two PUERTAS housing modules.

CTS Ponce staff youth ratio is being analyzed as follows:

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

- Volume of Staff Youth Ratio Events: 2188
- Volume of Staffing Events with Staff Working a Double Shift: 428 (20%)

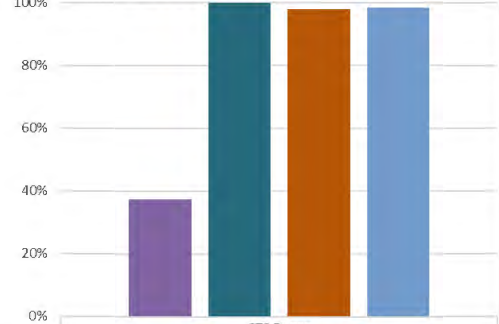
The first quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00 pm- 6:00 am: 100%, maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 98 %, the same percentage since fourth quarter reporting
- 2:00 pm – 10:00 pm: 98%, the same percentage since fourth quarter reporting
- CTS Ponce represents 38% of the DCR institutional population.
- The PUERTAS module met the staff youth ratio 100% of the first quarter shifts.
- A facility site visit was conducted on 2/6/2018. Observed module staffing and youth populations coincided with staff youth ratios as reported for that shift.

Volume of Weeks Analyzed: 13

Volume of Days Analyzed: 91

Percentage of Staffing Events Meeting Staff Youth Ratio

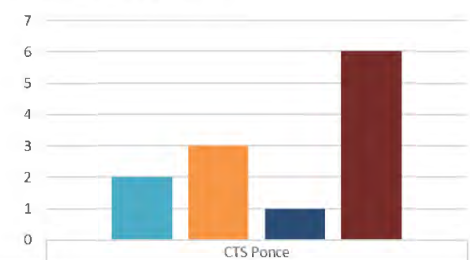


Category	Percentage
Percentage of DCR Agency Population	38%
Met Staff Youth Ratio 10:00 - 6:00 Events	100%
Met Staff Youth Ratio 6:00 - 2:00 Events	98%
Met Staff Youth Ratio 2:00- 10:00 Events	98%

6 youth 1:1 supervision events for the first quarter of 2018

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

Supervision Events: 1:1



Category	Count
Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	2
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	3
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	1
Total Youth Assigned 1:1 Staff Youth Supervision Events:	6

### CTS Villalba Staff Youth Ratio Analysis:

December 31, 2017 through March 31, 2018

**Treatment Level 4 and 5 Facility:**

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

Percent of Forms Available: 100%

Volume of Weeks Analyzed: 13 of 13 requested

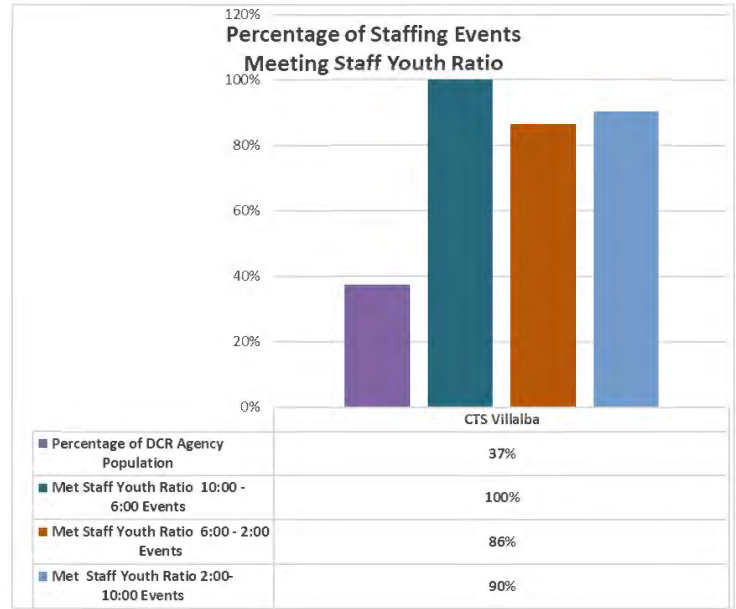
- Volume of Staff Youth Ratio Events: 1776
- Volume of Staffing Events with Staff Working a Double Shift: 445 (25%)

The first quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% required staff youth ratio
- 6:00 am – 2:00 pm: 86%, a 5% decrease since fourth quarter reporting
- 2:00 pm – 10:00 pm: 90%, a 2% increase from the fourth quarter reporting
- CTS Villalba represents 37% of the DCR institutional population.
- A facility site visit was conducted on 2/6/2018. Observed module staffing was non-compliant, as one of two staff members assigned to a module was eating outside of the module without proper relief.

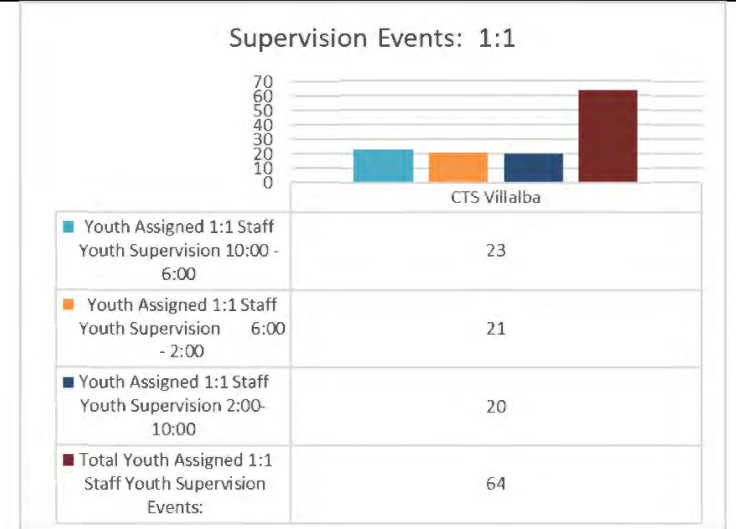
**Volume of Weeks Analyzed: 13**

**Volume of Days Analyzed: 91**



**64 youth 1:1 supervision events for the first quarter of 2018**

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



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

<u>Date</u>	<u>CD Humacao</u>	<u>CTS Ponce</u>	<u>CTS Villalba</u>
December 31 - January 6, 2018	1/13/2018	1/13/2018	1/13/2018
January 7 - 13, 2018	1/22/2018	1/22/2018	1/22/2018
January 14 - 20, 2018	1/30/2018	1/30/2018	1/30/2018
January 21 - 27, 2018	2/25/2018	2/25/2018	2/25/2018
January 28 - February 3, 2018	2/25/2018	2/25/2018	2/25/2018
February 4- 10, 2018	2/25/2018	2/25/2018	3/8/2018
February 11- 17, 2018	3/8/2018	3/8/2018	3/8/2018
February 18- 24, 2018	3/8/2018	4/9/2018	3/8/2018
February 25 - March 3, 2018	3/15/2018	4/9/2018	4/9/2018
March 4 - 10, 2018	3/15/2018	4/9/2018	4/9/2018
March 11- 17, 2018	4/9/2018	4/10/2018	4/9/2018
March 18-24, 2018	4/10/2018	4/10/2018	4/11/2018
March 25- March 31, 2018	4/10/2018	4/10/2018	4/10/2018
	13	13	13
<b>Volume of Forms Submitted</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

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

<u>Dates of Reporting Period</u>	<u>CD Humacao</u>	<u>CTS Ponce</u>	<u>CTS Villalba</u>	<u>Totals</u>
December 31 - January 6, 2018	44	58	62	164
January 7 - 13, 2018	49	59	62	170
January 14 - 20, 2018	37	61	61	159
January 21 - 27, 2018	42	64	61	167
January 28 - February 3, 2018	39	62	67	168
February 4- 10, 2018	32	66	66	164
February 11- 17, 2018	39	65	65	169
February 18- 24, 2018	42	66	65	173
February 25 - March 3, 2018	42	66	63	171
March 4 - 10, 2018	42	67	63	172
March 11- 17, 2018	42	63	63	168
March 18-24, 2018	48	63	61	172
March 25- March 31, 2018	51	62	62	175
<b>Totals</b>	<b>549</b>	<b>822</b>	<b>821</b>	<b>2192</b>
<b>Percentage of All Agency Population</b>	<b>25.05%</b>	<b>37.50%</b>	<b>37.45%</b>	<b>100%</b>
<b>Average Daily Population</b>	<b>42</b>	<b>63</b>	<b>63</b>	<b>169</b>

## Document Attachment B: Classification Report

### **S.A. 52: DCR Classification 2018 First Quarter Report:**

Prepared by Bob Dugan: Office of the Monitor: April 2018

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

### **Background:**

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

### **Training and Staff Development:**

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

Training session sign in sheets and presentation slides have been provided to the Monitor’s Consultant. As of the time of this report the Monitor’s Consultant has not attended training. A review of the training slides appears to be a comprehensive coverage of the required content to implement the classification instrument. The Monitor’s Consultant did not have the opportunity to participate in the training, but will attempt to attend if another training session is offered.

As of the time of this report the Monitor’s Consultant has not had an opportunity to review the application of the electronic record classification instrument. The electronic record classification instrument is used by agency social workers to score the administration of the detention and treatment classification instruments. The electronic application auto-scores the youth classification score predicated upon social worker entries.

### **DCR Classification Policy:**

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

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

- CD Bayamon: Detention populations classified as low, moderate or intensive



- CTS Humacao: Treatment Level 5
- CTS Villalba: Treatment Level 4 and detention populations
- CTS Ponce: Treatment Level 3 and 2

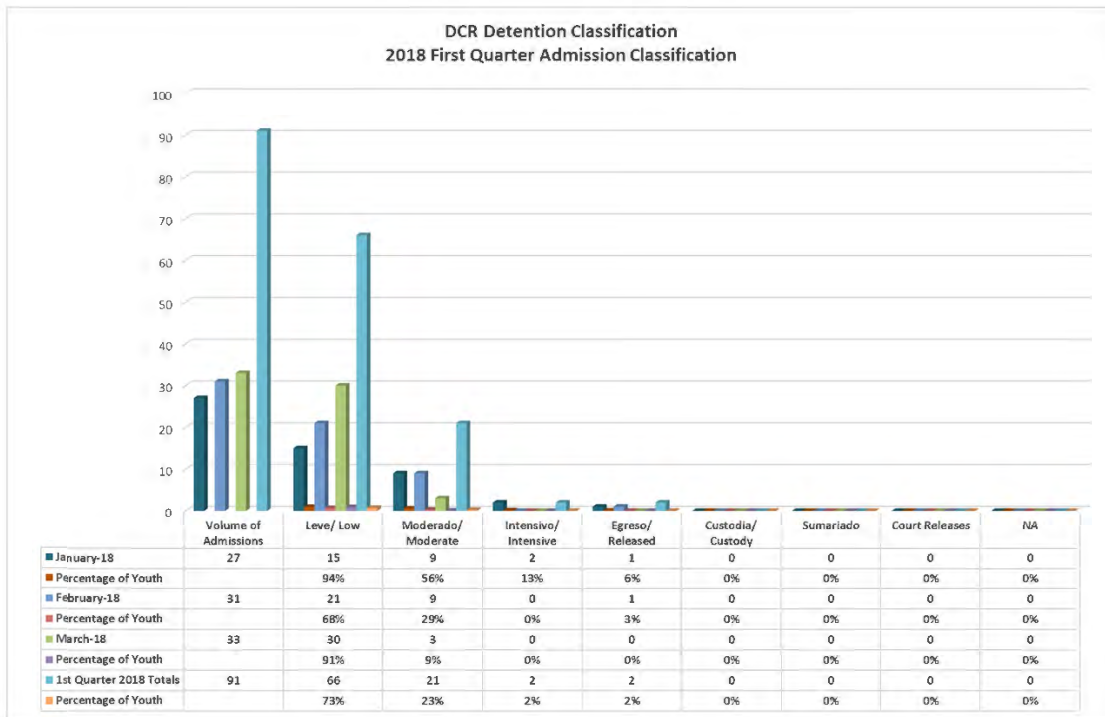
The Administrative Order appears to have covered critical operational processes of ongoing implementation of the classification process and youth facility assignment.

As of the end of the fourth quarter of 2017, considering facility closures and youth classification population reassignments, DCR has been notified that the Administrative Order needs to be revised and incorporated into agency approved policy to reflect current facilities and classification assignments. The agency also needs to stipulate as to when an annual review of the classification instrument will occur and the manner in which it will be accomplished.

During the 2018 first quarter Functional Team meetings, the Monitor’s consultant identified that the agency did not appear to have implemented an administrative override process to either the detention or treatment classification processes and scores. A classification administrative override is required when facility and or module classification assignment needs to be changed based on prevailing needs and circumstances of a youth history, mental health, and offense or supervision requirements. The requirement for an administrative override process to the classification process was addressed often by the Monitor’s consultant during the classification development process. An administrative override process must be addressed in agency approved classification policy. As of the production of the first quarter Classification Report the Monitor’s consultant has not received an agency approved classification policy.

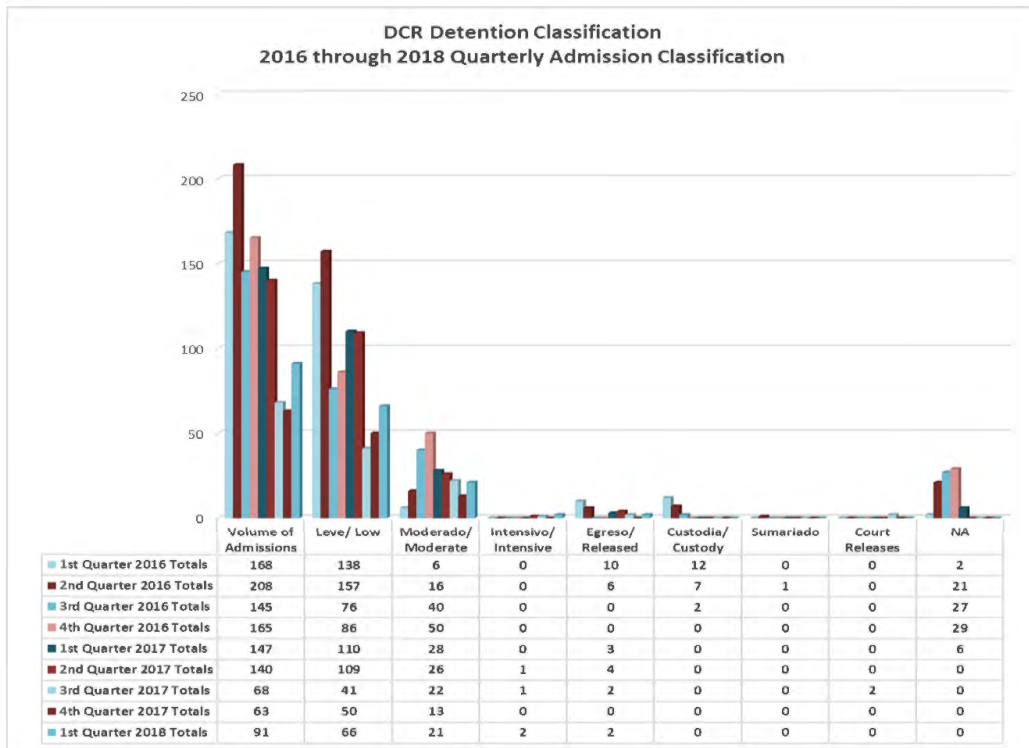
**First Quarter: January 1- March 31, 2018: DCR Detention Admission Classification:**

The 2018 first quarter is the twenty-third quarter that DCR has produced Detention Admission Classification data to be included in the Quarterly Report. All detention youth are now housed at CD Humacao.



For the first quarter, there were 91 admissions of which 66 (73%) were classified as low; 21 (23%) were classified as moderate; and 2 (2%) were classified as intensive.

Detention classification documentation provided to the Monitor’s consultant on a monthly basis, indicates youth have been consistently classified and assigned to a housing module that corresponds to their detention classification level. A review of facility and housing module assignments at the time of first quarter site visits (February 6 and 7, 2018) reflects that youth are consistently assigned to the facility and housing module that matches their levels of treatment classification.



**First Quarter: January 1- March 31, 2018: Committed Classification:**

DCR has provided committed classification documentation since January 2014. Committed classification has been reported on since the 2016 fourth quarter.

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

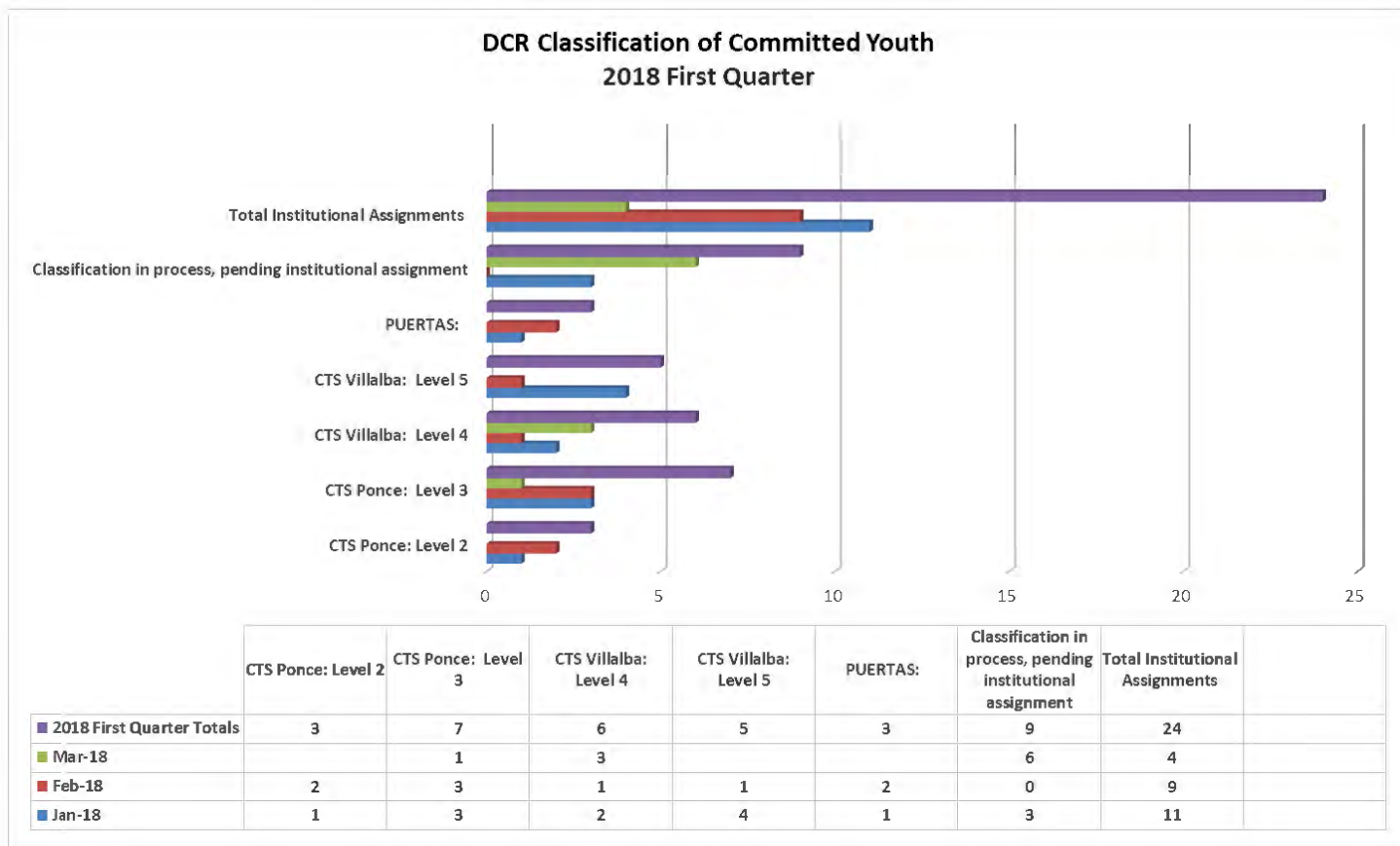
PROCESO DE CLASIFICACIÓN DE JÓVENES CON CUSTODIA ENTREGADA										
Nombre del Menor	# Exp. DEC	Fecha Entrega de Custodia	Fecha Ingreso al Módulo de Evaluación	Fecha Discusión Caso	Nivel de Tx. Adjudicado de acuerdo a Puntuación en Escala	Institución Asignada	Fecha Autorización Traslado	Fecha Admisión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

Youth who are committed to the custody of DCR are placed in the Residential Evaluation Module (MER) for evaluation, classification and ultimately placement in the facility with the corresponding treatment level as determined by the Division of Evaluation and Classification Team.

DCR has produced a monthly facility population and levels of treatment verification report for each month of the first quarter of 2018. The report identifies each facility, youth name, assigned housing module and youth classification level of treatment. The submitted reports document consistency and compliance with youth facility assignment as described in the Classification Administrative Order.

The youth’s institutional assignment is reviewed to assess if it corresponds to the level of treatment score. For the fourth quarter of 2017, all the reviewed institutional assignments are consistent with the level of treatment scores and level assignments as reported in the monthly classification reports. Youth classification levels and institutional housing assignments are reviewed for consistency during site visits. During site visits on February 6 and 7, youth housing assignments were uniformly consistent with assessed classification levels of treatment and corresponding facilities.

DCR assigns committed Level 2 and Level 3 youth to CTS Ponce. CTS Ponce also houses the two PUERTAS housing modules. DCR assigns committed Level 4 and Level 5 youth to CTS Villalba.



Document Attachment C:  
Incidents and Understaffing report

<b>Date</b>	<b>Case Number</b>	<b>Facility</b>	<b>Shift</b>	<b>Summary</b>	<b>Ratio</b>
Jan. 1	18-001	CTS Humacao	Morning	Allegedly, the youth G. Phillips was hit by the youth J. Domínguez at least 7 times in his ribs, left side. The alleged aggressor used his knees to hit George. The incident occurred in the common area of Living Unit II, Module A while the victim was on Transitional Measure. Infirmary notes shows that, 5 days after the incident, the youth still had pain in the affected area.	2 officers, 10 juveniles (1 officer was out of the module)
Jan. 11	18-002	CTS Humacao	Afternoon	In this case the teacher E. Díaz saw when the youth A. Muñoz was assaulted (cut in his face and back) by the youth J. McCloud. The incident occurred in the school area, History classroom. The victim was taken to an emergency room for stitches.	1 officers, 13 juveniles

## Document Attachment D: Protective Custody and Transitional Measures Record Review

### First Quarter 2018 Protective Custody and Transitional Measure Record Review:

The First quarter 2018 site visit occurred on February 6-7, 2018. While there were additional cases that arose after those dates in the quarter, they were reviewed on April 24-25 (in the second quarter) and will be addressed in the next quarterly report. The following cases were assessed against all the criteria of S.A. 79 and S.A. 80.

All first quarter Protective Custody and Transitional Measure events occurring during the quarter or active at the time of the facility site visit were reviewed. The table below, organized by facility, displays the date of case study reviews, facility, identification of either Protective Custody or Transitional Measure, youth initials, starting and ending date of status and duration of status.

#### Ponce:

No Transitional Measure nor Protective Custody events had occurred during the first quarter at the time of our site visit on Tuesday, February 6, 2018.

#### Villalba

<b>Date of Review</b>	02/06/18
<b>Facility:</b>	CTS Villalba
<b>Name of Youth:</b>	GDV
<b>Isolation Status:</b>	Transitional Measures
<b>Starting Date of Status:</b>	12/08/17
<b>Ending Date of Status:</b>	01/24/18
<b>Total Days of Status:</b>	<b>48</b>

#### Humacao

<b>Date of Review</b>	02/07/18	02/07/18	02/07/18
<b>Facility:</b>	CD Humacao	CD Humacao	CD Humacao
<b>Name of Youth:</b>	GRO	George R Ortiz Phillips	Yadiel Iglesias Izquierdo
<b>Isolation Status:</b>	Transitional Measures	Transitional Measures	Transitional Measures
<b>Starting Date of Status:</b>	01/02/18	01/13/18	01/24/18
<b>Ending Date of Status:</b>	01/04/18	01/17/18	Not Ended as of Date of Review
<b>Total Days of Status:</b>	<b>3</b>	<b>5</b>	

**S.A. 80 Protective Custody Record Assessment:**

No Protective Custody events had occurred during the first quarter at the time of our site visit on Tuesday, February 6 and 7, 2018.

**S.A. 79 Protection and Isolation Record Assessment:** All four youth on transitional measure status were assessed for the S.A. 79 protection and isolation criteria.

Date of Review	02/06/18	02/07/18	02/07/18	02/07/18				
Facility:	CTS Villalba	CD Humacao	CD Humacao	CD Humacao				
Name of Youth:	GDV	GRO	GOP	YII				
Isolation Status:	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures				
Starting Date of Status:	12/08/17	01/02/18	01/13/18	01/24/18				
Ending Date of Status:	01/24/18	01/04/18	01/17/18	Not Ended as of Date of Review				
Total Days of Status:	48	3	5		<b>Table Scoring Summary</b>			
SA 79 Components					No	Yes	Yes/ Limited	NA
the juvenile poses a serious and immediate physical danger to himself or others?	Yes	Yes	Yes	Yes	0	4	0	0
Were other less restrictive methods of restraint tried and failed?	Yes	Yes	Yes	Yes	0	4	0	0
Was the isolation cells suicide resistant ?	No	No	No	No	4	0	0	0
Did the facility director or acting facility director approve the placement ?	Yes	Yes	Yes	Yes	0	4	0	0
Was youth afforded living conditions approximating those available to the general juvenile population ?	Yes	Yes	Yes	Yes	0	4	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 ?	Yes	Yes	Yes	Yes	0	4	0	0
Was juvenile seen by a masters level social worker within three (3) hours of being placed in isolation?	No	No	No	No	4	0	0	0
within eight (8) hours of being placed in isolation?	No	No	No	No	4	0	0	0
Was juvenile seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation?	No	Yes	Yes	No	2	2	0	0
Was youth seen by his/her case manager as soon as possible ?	Yes	Yes	Yes	Yes	0	4	0	0
Was youth seen by his/her case manager at least once every twenty-four (24) hours thereafter?	No	Yes	No	No	3	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 ?	Yes	Yes	Yes	NA	0	3	0	1
Is there a log (or other documentation) kept which contains:			Yes	Yes	0	2	0	0
daily entries on each juvenile in	Yes	Yes	Yes	Yes	0	4	0	0
the date and time of placement in isolation,	Yes	Yes	Yes	Yes	0	4	0	0
who authorized the isolation,	Yes	Yes	Yes	Yes	0	4	0	0
the name of the person(s) visiting the juvenile,	Yes	Yes	Yes	Yes	0	4	0	0
the frequency of the checks by all staff,	Yes	Yes	Yes	Yes	0	4	0	0
the juvenile's behavior at the time of the check,	Yes	Yes	Yes	Yes	0	4	0	0
the person authorizing the release from isolation	Yes	Yes	Yes	Yes	0	4	0	0
the time and date of the release	Yes	Yes	Yes	Yes	0	4	0	0
Are the following revoked or limited?								
safety	No	No	No	No	4	0	0	0
crowding	No	No	No	No	4	0	0	0
health	No	No	No	No	4	0	0	0
hygiene	No	No	No	No	4	0	0	0
food	No	No	No	No	4	0	0	0
education	NA	NA	NA	Yes/ Limited	0	0	1	1
recreation	Yes/ Limited	No	Yes/ Limited	Yes/ Limited	1	0	3	0
access to courts	No	No	No	No	4	0	0	0

A review of the S.A. 79 protection and isolation compliance table reflects that the cases reviewed consistently met all log documentation criteria; youth were consistently seen by case managers as soon as possible; consistent random minimum fifteen-minute room 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 placement expeditiously. Record review of protection and isolation criteria was not met for the following elements in all or the majority of the cases reviewed:

- 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 cohabituate” 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 cohabituate” description.
- There are no designated cells used for TM or PC room confinement and thus there are cells at Ponce and Humacao used for that purposes that are not sufficiently suicide resistant.
- The youth was not seen by a psychologist within eight (8) hours of being placed in isolation.
- The youth was not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation.
- Youth were not seen by a master’s level social worker within three hours of being placed in isolation.
- The youth was not seen by his/her case manager at least once every twenty-four (24) hours thereafter.



## Document Attachment E: Education Report

### **Site Visits 1st Quarter January 2018 Victor Herbert Monitor's Consultant for Education and Training**

**General Note:** This was to be a report of a combined site visit by the monitor's consultant for education and training and the Department of Justice. Unfortunately, the government shutdown resulted in DOJ's cancelling their participation until a future date.

**Education Issues:** The second semester of the 2017-2018 school year began on January 10, 2018.

**CTS Humacao:** As predicted in the December 2017 site visit, Humacao is now an entirely detention institution. All the detention youths except a small group of detention girls reside here while the former CTS residents transferred to Villalba. The population is now 42 divided into three groups: in detention, evaluation and the *sumariados* from Villalba. The latter group awaits a transfer to a CTS site, assignment to the DCR adult system or a return to the community. There are 18 special education students included in the population. Since the conversion to detention only occurred on December 18, neither IEPs nor student files have been requested from the community schools. Based on the experience at Bayamon, the former CD location, it is unlikely that the documents would arrive before the students are sent to the next place. Nevertheless, staff prepares an "institutional" file listing services required for each based on identification provided through MIPE. Since there is no COMPU scheduled, the services are focused on educational requirements and the related services from the USMIC staff. School leadership believes this is the most effective way to proceed although there are 4 residents currently in detention for more than 4 weeks. On a positive note, the Humacao staff decided to schedule the education program as if it were still a CTS facility. This leads to a full day of instruction for all students including academic, physical education and vocational shops. This is a definite improvement over the plan employed at Bayamon. There is a small group of students who have completed the 4<sup>th</sup> year but they are permitted to participate in one of the 3 vocational programs: baking, woodworking and barbering. There continues to be a vacancy in social studies because the teacher-in-charge has that license but does not instruct. She noted that the administrative load with a total detention population is significantly higher than that of CTS and is in need of additional support staff. The compliance officer who attended the meeting indicated that the load on guards is actually less as students tend to be more independent of the others during their time there unlikely to form groups similar to those in CTS. There were no students in either protective custody or transitional measures. Staff was curious about a future DOJ visit since they had prepared for it but there was no information available about that. Finally, the teacher-in-charge, one of 3 academic teachers among the DCR group with permanence, urged the agency to bring equality to the teaching staff by extending permanency following a fixed period of probation. Teacher employed by the Department of Education, vocational and special educational, already have permanence and reported during the August, 2017 delayed opening of the schools. DCR acknowledged that they are developing a proposal to equalize teacher staff.

**CTS Villalba:** The numbers in Villalba also changed from the previous quarter as a result of the transfer of the detention youth to Humacao and the reception of the custodial residents from Humacao. There are now 68 level 4 and 5 in attendance. 13 are at the elementary level, 24

have completed 4<sup>th</sup> year and the remainder at the secondary school category. There are 11 students listed as special education. Although the second semester began on time, there remains a science teacher vacancy and 2 Title One positions in English and Spanish. The school director was out of the building and the teacher-in-charge noted that they are not offering the ethics course as a substitution for vocational education as there are no detention students in the institution. Although time was lost as a result of the hurricanes, staff did not believe the school year would be extended as in the community schools. The agency director of education confirmed that explaining that the DCR institutions were back much quicker than the other public schools with light and water loss. One feature of the adult education curriculum followed in the institutions is that time lost can be recouped quickly since it is measured in hours and not months or semesters. The level of mental health service continues to improve with 2 psychologists assigned 2 days each per week. There is only one youth in transitional measures but he has his 4<sup>th</sup> year completed and does not require further instruction according to DCR policy.

***CTS Ponce:*** The current population is 64 with 9 assigned to Puertas, 9 young women and 14 in special education. All receive vocational education except the 5 detention girls. An experimental vocational exploration program from the previous semester did not work as well as intended. A new plan is being developed that would include these opportunities but is not yet in place. The DCR education director suggested it would be in place shortly. There are no teacher vacancies and the school offers a full-day of instruction. There were no PC or TM students reported. As noted in other institutions, the level of USMIC service has increased significantly from the period of transition to the new company. Nevertheless, there continues to be an issue around certification of related services as listed in the IEP. It was discussed during the FT Meeting and DCR pledged to resolve the issues within a month. Representatives from PPCM attended the meeting and agreed to coordinate with DCR. Students with 4<sup>th</sup> year completion participate in vocational shops on a part time basis and others engage in facility clean up and maintenance.

**Functional Team Meeting:** The meeting took place at DCR Headquarters and was to be part of the DOJ review which was cancelled. The agenda include both education and training.

***Education Issues:***

1. Vacancies: DCR will seek to resolve the vacancies listed above. While all agree that the Humacao decision to continue as if it were still a CTS rather than CD location is an excellent proposal, there are some budget challenges that may prevent vacancy resolution. This is not the case for the other vacancies.
2. Vocational Education: Although DCR and the monitor continue to disagree about whether an ethics course could replace traditional vocational education, both agree that the current staff situation in the reduced number of facilities eliminates the need for a substitution. The one exception is among the Ponce CD young women but DCR will take steps to integrate them into at least 2 of the 4 shop programs.
3. Teacher Equality: A continuing refrain about how DOE and DCR teachers are treated differently resulted in a proposal to bring all the same benefits. Details have to be established further but the intent is to resolve the complaint.

4. 4<sup>th</sup> Year Students: All recognize that it would be a positive step to develop educational or vocational opportunities for this growing population. Nevertheless, as suggested previously, this recommendation is outside the stipulations of the agreement.
5. Certification of Mental Health and Other Related Services: As noted above, there is some confusion in the 3 institutions resulting from differing approaches among education and USMIC staff. This will be addressed and remedied shortly.

***Training Issues:***

1. After a calculation of how much training time was lost to the hurricanes and their aftermath, it became clear that the Steps to Compliance document submitted earlier would have to be revised. Since a clear schedule could not be established at the meeting, DCR requested time to re-visit and propose changes. The monitor's consultant agreed.
2. CPR: With an extension of the proposed compliance schedule, it became clear that CPR training will fall out of compliance. There continues to be a concern about annual or bi-annual training responsibility although stipulation 50 states that it should be done every year. This was also tabled for further study.

***Functional Team Issues:***

These agreements and plans were drafted in August 2017. It needs to be updated because implementation was impaired by the storms.

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

6. IDECAHR agrees to maintain a complete library of curriculum and other instruction material for all course work offered in accord with SA 50 subject to review by all parties.
7. IDECAHR will provide training calendars for the entire 18 months with notation of revision, cancellation and/or re-schedule. The calendars will indicate time and place of the training, SA 50 topics, length of the instruction period and the instructor.
8. IDECAHR notes that current levels of instruction far exceed the specific topics listed in SA 50 but agrees that additional training will not replace the items listed under the rubric “to include but not be limited to.”
9. IDECAHR will provide the names, titles, qualifications and positions whether as employees of DCR/NIJ or as outside instructors of “qualified personnel” offering the various courses.
10. IDECAHR or DCR/NIJ officials will provide a rationale for the reduction in CPR training or request a change in the language. It is should be noted that the stipulation does not address CPR certification but rather annual training. Nevertheless, if direct care staff achieves certification from the Red Cross or other approved agencies licensed to certify, copy of the certificates will be stored in the IDECAHR office.
11. While PREA regulations arrived after the language for SA 50 was approved, PREA should be considered an integral component of the stipulation.
12. All documents in support of the compliance memorandum will be housed in IDECAHR or the DCR/NIJ central office. They will be available to all parties for review and requests for random samplings by all parties will be addressed with dispatch.
13. DCR/NIJ will establish firm disciplinary action in the case of direct care personnel who do not participate in the SA 50 training.
14. IDECAHR will continue to investigate instruction delivery platforms other than the traditional in class instruction solely available at the moment.
15. The Monitor’s consultant agrees to compose a draft compliance memorandum shortly after December 31, 2017 for review and revision by all parties.

## Document Attachment F: Abuse Referrals Tracking Report

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

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

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

<b>A. General Measures</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
A.1 Average Monday 1st Shift count of youth	210	184	174	170
A.2 Number of incident events	49	40	89	94
A.3 Number of youth-to-youth incident events	10	24	37	25
A.4 Incident events involving use of force by staff	10	17	30	13
A.5 Incident events with suicide act, ideation, or gesture	12	5	1	3
A.6 Incident events w/ self-mutil. act, ideation, or gesture	16	6	17	24

The number of incident events (A.2) increased from 40 to 94 in the past 6 months.

Not all incident events involve conduct that warrants an abuse investigation. The subset of incidents involved possible abuse are summarized in table C.

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

<b>B. Mental Health Record Information</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
B.1 Suicidal incidents, ideation or gestures	12	5	1	3
B.2 Number of individual youth referenced	10	4	1	3
B.3 Cases involving ideation only	11	2	1	1
B.4 Cases involving suicide gesture	1	3	0	0
B.5 Cases involving suicide intention	0	0	0	1
B.6 Cases w/ ambulatory treatment	12	5	1	1
B.7 Cases with hospitalization	0	0	0	2
B.8 Cases leading to death	0	0	0	0
B.9 Suicide Cases with 284 report filed	0	0	0	1
B.10 Self-mutilations incidents, ideation or gestures	4	1	16	25
B.11 Number of individual youth referenced	3	1	8	17
B.12 Cases requiring sutures	0	0	1	1
B.13 Cases requiring hospitalization	0	0	1	0
B.14 Cases leading to death	0	0	0	0
B.15 Self-Mutilation Cases with a 284 report filed	0	0	1	3

The above cases come from mental health records. NIJ has implemented a screening procedure and instrument that diverts the investigation of some incidents from the Paragraph 78 process to a recently developed mental health process. Of the 94 (A.2) incident events in most recent quarter, 28 (B.1 plus B.10) involved suicide and self-mutilation incidents.

The number of self-mutilation incidents has increased from 1 to 25 during the past 6 months.

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

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

<b>C. 284 Incidents</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
C.1 284 Incident Events	11	28	16	21
C.2 Level One Incident Events	1	4	2	0
C.3 Level Two Incident Events	10	24	14	21
C.4 Referrals to OISC	11	24	14	21
C.5 Youth-to-Youth Incidents	0	9	5	5
C.6 Youth-to-Youth Injuries	0	5	4	4
C.7 Youth-to-Youth with External Care	0	4	0	3
C.8 Youth-to-Youth Sexual	0	0	1	0
C.9 Youth-to-Youth Sexual w/ Injury	0	0	0	0
C.10 Staff-to-Youth Incidents	11	19	11	16
C.11 Staff-to-Youth Injuries	2	3	5	8
C.12 Staff-to-Youth with External Care	0	0	1	1
C.13 Staff-to-Youth Sexual	2	4	0	3
C.14 Staff-to-Youth Sexual with Injury	0	0	0	0
C.15 284 Incident Events with administrative actions	11	28	16	21
C.16 284 Incident Events with report by end of shift	10	27	13	17
C.17 Level 1 Investigations complete within 20 days	1	4	2	0
C.18 SOU (Special Operations) interventions	0	0	0	4
C.19 SOU events with 284 reports	0	0	0	4
C.20 284 with Item 5 completed	10	26	16	20
C.21 284 with Staffing Compliance	9	26	12	17
C.22 Percent 284 cases with staffing compliance	81%	93%	75%	81%

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

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

<b>D. Initial Case Management Measures</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
D.1 284 percent with admin actions	100%	100%	100%	100%
D.2 284 per cent completed by end of shift	91%	96%	81%	81%
D.3 284 Level 1 Investigation Complete Within 20 days	100%	100%	100%	100%

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

<b>E. OISC</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
E.1 Cases Referred from this quarter	11	24	14	21
E.2 Received by OISC Within 24 hours	10	23	11	18
E.3 Completed by OISC Within 30 workdays	10	14	8	20
E.4 Complete during the next quarter, but within 30 days	0	0	0	0
E.5 Cases Not Completed by OISC Within 30 days.	1	10	6	1
E.6 Percent of OISC cases completed within 30 days	91%	58%	57%	95%
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	1	3	6	1
E.11 Percent of cases from this quarter not yet completed	9%	12%	43%	5%

During the quarter 14 cases were investigated but only 8 were completed in the 30 days period for a 57% timely completion rate. This might be due to disruptions resulting from the hurricanes.

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



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

<b>F. Administrative Determinations for 284 Cases</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
F.1 Cases with youth discipline referrals	2	26	9	9
F.2 Cases with youth discipline actions	2	23	4	7
F.3 Cases with youth no discipline actions	0	3	5	2
F.4 Cases Staff/youth with determinations	5	10	4	6
F.5 Cases recommending personnel actions	11	2	8	17

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

Of the 21 cases (C.1) with referrals as 284-cases, 6 (F.2) were referred for disciplinary actions and 2 (F.3) were the subject to discipline actions for youth involved.

<b>G. Prosecutorial Determinations for 284 Cases</b>	<b>17-2nd</b>	<b>17-3rd</b>	<b>17-4th</b>	<b>18-1st</b>
G.1 Cases received by PRDOJ	0	1	1	0
G.2 Cases with decision not to prosecute	4	0	3	0
G.3 Cases with referral for prosecution	0	0	0	0
G.4 Cases pending determinations	1	2	0	0

## Document Attachment G: Case Assessment Table October - December 2017

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

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

The six parts are:

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

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

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

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

The first table relates to initial incident reporting.

<b>Case Assessment Instrument – Section A – Initial Reporting</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
A.1 Was the incident reported to the appropriate supervisor or designated person by the end of the shift during which the reporter became aware of the incident?	Y-16	The percentage for this report is 100%. The percentage in the last report was 100%. In this reporting period 16 Level II cases were evaluated to complete Section A.
A.2 Were appropriate administrative actions taken to protect the victim(s)?	Y-16	The percentage for this report is 100%. The percentage in the last report was 100%.
A.3 If injury was suspected, was the victim promptly evaluated for injury by health care personnel?	Y-16	The percentage for this report is 100%. The percentage in the last report was 95%.
A.4 If there was physical evidence, was the evidence documented and preserved?	Y-2, N/A-14	The percentage for this report is 100%. The percentage in the last report was 50%. <b>Improved Compliance</b>
A.5: Was the incident correctly classified?	Y-15, *N-1	The percentage for this report is 94%. The percentage in the last report was 100%. *Case 17-069
A.6 Was the 284 report forwarded to the Police Department, the Department of Family Services, and the Department of Corrections Administration within 24 hours?	Y-12, *N-3, Blank-1	The percentage for this report is 80%. The percentage in the last report was 85%. *Cases 17-070, 17-072, 17-073
A.7 If it was classified as a level 2 incident, was OISC notified within 24 hours?	Y-8, *N-6	The percentage for this report is 57%. *Cases 17-61, 17-062, 17-066, 17-067, 17-070, 17-072
A.8 Were youths suspected as perpetrators separated from the victim(s)?	Y-14, N/A-1, Blank-1	The percentage for this report is 100%. The percentage in the last report was 100%.
A.9 Did the 284 accurately list all youth and staff witnesses?	Y-10, *N-2, N/A-4	The percentage for this report is 83%. The percentage in the last report was 47%. *Cases 17-067, 17-075 <b>Improved Compliance</b>
A.10 Did all staff witnesses complete an incident report before the end of shift?	Y-15, N/A-1	The percentage for this report is 100%. The percentage in the last report was 83%.
A.11 If there was timeliness non-compliance, was related to shortage of investigative or supervisory staffing?	N-13, N/A-3	The percentage for this report is 100%. The percentage in the last report was 100%. The N answer isn't a negative factor.
A.12 At the location of the incident at the time of the incident, was staffing compliant with Settlement Agreement requirements?	Y-14, N/A-2	The percentage in this report is 100%. The percentage in the last report was 89%.

<b>Case Assessment Instrument – Section B – Police and Prosecutorial Investigation</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
B.1 Was the 284 report received by the PRDP within 24 hours of the time recorded as the point of knowledge of the incident?	–	Information from the PRPD was not provided.
B.2 Did PRPD investigators determine that physical evidence, if any was appropriately preserved?	–	
B.3 If prosecutors communicated an intent to proceed criminally, and if NIJ was informed to delay any compelled interview of the subject until the criminal investigation was completed, did NIJ comply with the instruction?	–	
B.4 Were PRPD expectations met for timeliness in completing the investigation?	–	
B.5 Was completion of the PRPD investigation documented?	–	The PRPD conducts initial investigations in all Level II cases. The numbers answering this question were provided by NIJ-DCR, the Office of the Court Monitor did not have enough information to verify them.

<b>Case Assessment Instrument – Section C – Facility Level I Investigation</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
C.1 If there were potential injuries, did the investigation include photographs of visible injuries?	–	In this reporting period no Level I cases were selected.
C.2 Was there a personal interview of the victim(s) with a record of the questions and answers?	–	
C.3 Was there a personal interview of the alleged perpetrator(s) with a record of the questions and answers?	–	
C.4 Was physical evidence, if any, preserved and documented?	–	
C.5. If the incident was classified as Level I, was the investigation completed within 20 calendar days?	–	
C.6 Was the completion of the investigation documented in the tracking database?	–	
C.7 If there was timeliness non-compliance, was related to shortage of staffing?	–	

Case Assessment Instrument – Section D – OISC Investigation		
NOTE: Completed only for Level II cases.		
Assessment Criterion	Status Y/N/NA	Comment
D.1 If the case was a Level II case, was the referral received by OISC within 24 hours?	Y-8, *N-6	The percentage for this report is 57%. The percentage in the last report was 75%. *Cases 17-061, 17-062, 17-66, 17-067, 17-070, 17-072 In this reporting period 14 cases were evaluated. <b>Reduced Compliance</b>
D.2 Did OISC complete (and transmit to AIJ and the PRDOJ) an investigation within 30 calendar days of the receipt of the initial referral by OISC?	Y-9, *N-5	The percentage for this report is 64%. The percentage in the last report was 50%. * Cases 17-064, 17-066, 17-067, 17-070, 17-071
D.3 Did the investigation meet OISC's standards for investigation quality?	Y-14	The percentage for this report is 100%. The percentage in the last report was 100%. OISC has been using an investigation format developed by the Monitor's Office to uniform their investigations. This format was updated in October 2016. On April 2018 the Monitor's Office designed a new form to evaluate OISC's investigations.
D.4 Did the investigation provide a description of the alleged incident, including all involved persons and witnesses and their role?	Y-14	The percentage for this report is 100%. The percentage in the last report was 100%.
D.5 Did the investigation provide a description and assessment of all relevant evidence?	Y-14	The percentage for this report is 100%. The percentage in the last report was 100%.
D.6 Did the investigation provide proposed findings of fact?	–	Defendants and Monitor's consultants will be discussing a new approach to evaluate this section of the provision.
D.7 If there was timeliness non-compliance, was it related to shortage of OISC staffing?	N-5, N/A-9	No comments
D.8 DELETED		

<b>Case Assessment Instrument – Section E – Case Tracking and Outcomes</b>		
<b>Note:</b> This section is to be completed by the official responsible for the Tracking Records required by Paragraph 78.h. The underlying facts may come from other offices and agencies, and the questions concern what is known and documented in the tracking records.		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
E.1 At the time of the assessment of this case with this instrument, was the tracking database complete for this case?	Y-16	The percentage for this report is 100%. The percentage in the last report was 100%. NIJ-DCR already has an electronic data base for Level II cases but a manual system to document Level I cases.
E.2 Was the initial investigation (284) received at NIJ within 24 hours?	Y-12, *N-3, Blank-1	The percentage for this report is 80%. The percentage in the last report was 85%. *Cases 17-070, 17-072, 17-073
E.3 Was the Level 1 facility investigation completed within 20 days?	–	This reporting period no Level I cases were selected.
E.4 If the incident was serious (involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile) do the tracking records document that OISC was notified and the case referred within 24 hours?	Y-8, *N-6	The percentage for this report is 57% *Case 17-061, 17-062, 17-066, 17-067, 17-070, 17-072 In this reporting period 16 Level II cases were received and evaluated however, 14 cases were investigated by OISC and two were reclassified as Level I.
E.5 DELETED		
E.6 Did NIJ reached an administrative determination concerning the case which is documented in the tracking records?	Y-16	The percentage for this report is 100%. The percentage in the last report was 100%. Administrative determinations are taken through the process at facility level and at DCR central offices if applicable. The data base system only documents Level II cases however all incidents are investigated and documented.
E.7 If the case was a Level 2 case, do the tracking records document review by PRDOJ prosecutors leading to a prosecutorial determination as to whether to prosecute or not?	N-16	Prosecutors use to base their determination on the investigations conducted by the PRPD not on OISC or NIJ investigations. However, DCR investigations are always available and in some cases also considered by the prosecutors.
E.8 If there was timeliness non-compliance, was it related to shortage of staffing?	N-16	The percentage for this report is 100%. The percentage in the last report was 100%.

<b>Case Assessment Instrument – Section F – Monitor’s Office Assessment</b>		
<b>Assessment Criterion</b>	<b>Status Y/N/NA</b>	<b>Comment</b>
F.1 Does the Monitor’s Office confirms the timeliness facts as asserted in Page A?	Y-16	The percentage in this report is 100%. The percentage in the last report was 100%. In this reporting period 16 cases in section A were received and evaluated.
F.2 Does the Monitor’s Office confirms the timeliness facts as asserted in Page B?	–	Information from the PRPD was not provided.
F.3 Does the Monitor’s Office confirms the timeliness facts as asserted in Page C?	–	During this reporting period no Level I cases were selected for evaluation. Two Level II cases were reclassified as Level I.
F.4 Does the Monitor’s Office confirms the timeliness facts as asserted in Page D?	Y-14	The percentage in this reporting period is 100%. The percentage in the last report was 100%. In this period 14 Level II cases were evaluated.
F.5 Does the Monitor’s Office confirms the timeliness facts as asserted in Page E?	Y-16	The percentage in this report is 100% and confirms timeless facts in section E. The percentage in the last report was 100%.
F.6 Does the Monitor's Office confirms the investigation quality as asserted in page B?	–	The Monitor Office cannot evaluate the quality of PRPD investigations without additional information. In this reporting period information from the PRPD was not provided.
F.7 Does the Monitor's Office confirms the investigation quality as asserted in page C?	–	The Monitor Office cannot evaluate the quality of facilities’ investigations without additional information. In this reporting period no Level I cases were selected for evaluation.
F.8 Does the Monitor's Office confirmed the investigation quality as asserted in page D?	–	The Monitor Office cannot evaluate the quality of OISC investigations without additional information. Monitor office has received a couple of investigations completed following new guidelines suggested by consultant David Bogard. Monitor’s Office consultant designed a new form to evaluate OISC’s investigations.



## Document Attachment H: Site Visit Chronology

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

Jan. 16, 2018:	Deputy Monitor Javier Burgos visited CD Humacao.
Jan. 22, 2018:	Consultant Víctor Herbert visited CD Humacao.
Jan. 23, 2018:	Consultant Víctor Herbert visited CTS Villalba.
Jan. 24, 2018:	Consultant Víctor Herbert visited CTS Ponce.
Jan. 24, 2018:	Deputy Monitor Javier Burgos visited CTS Ponce.
Jan. 24, 2018:	Deputy Monitor Javier Burgos visited CTS Villalba.
Jan. 29, 2018:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Ponce.
Jan. 29, 2018:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CTS Villalba.
Jan. 30, 2018:	Consultant Curtiss Pulitzer and Deputy Monitor Javier Burgos visited CD Humacao.
Feb. 6, 2018:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CTS Ponce.
Feb. 6, 2018:	Consultants David Bogard, Bob Dugan and Deputy Monitor Javier Burgos visited CTS Villalba.
Feb. 7, 2018:	Consultants David Bogard, Bob Dugan and Deputy Monitor visited CD Humacao.
Feb. 28, 2018:	Deputy Monitor Javier Burgos visited CTS Ponce.
Mar. 1, 2018:	Deputy Monitor Javier Burgos visited CD Humacao.
Mar. 5, 2018:	USDOJ Team and Deputy Monitor Javier Burgos visited CTS Ponce.

Mar. 6, 2018: USDOJ Team and Deputy Monitor Javier Burgos visited CTS Villalba.

Mar. 8, 2018: USDOJ Team and Deputy Monitor Javier Burgos visited CD Humacao.

Mar. 20, 2018: Deputy Monitor Javier Burgos visited CD Humacao.

Mar. 27, 2018: Deputy Monitor Javier Burgos visited CD Humacao.

Mar. 30, 2018: Deputy Monitor Javier Burgos visited CTS Ponce.

Mar. 30, 2018: Deputy Monitor Javier Burgos visited CTS Villalba.

**THE UNITED STATES OF AMERICA**

Plaintiff,

v.

CIVIL ACTION NO. 94-2080 CC

**COMMONWEALTH OF PUERTO RICO**

Defendants,

Monitor's Compliance Ratings  
First Quarter 2018

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

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

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 34.</b> In order to properly equip and swiftly evacuate the facilities in the event of a fire or other emergency, in each facility, Defendants shall provide sufficient staff with appropriate keys to unlock exit doors in all buildings occupied by juveniles. The keys shall be color coded and notched or otherwise readily identifiable. Defendants shall also store a backup set of emergency keys at a place accessible at all times to staff on duty on all shifts.</p>	Y	Y	Y	#	Y	Y	<p>The DCR Fire Safety Officer has revised the procedures for emergency key control based on the review by the monitor's office. These procedure were just updated again in January 2018 and await translation at this time.</p> <p>There have been ongoing weekly simulations at Humacao to determine whether staffing is sufficient to manually unlock housing room doors and exit doors within two minutes, in compliance with current life safety codes. Humacao's fire safety officer has run these simulations to address the requirements of this provision while, at the same time, providing informal training opportunities for staff. The Monitor's Consultant has continued to review the weekly simulation documentation for Humacao, and this data provides clear evidence that Humacao's housing units can be safely evacuated in less than two minutes. The room doors at Villalba and Ponce are electronically controlled and the mini-controls are always staffed by an officer who can release both the exit and room doors.</p> <p>DCR has completed the process of color coding and notching emergency keys and storing them in accessible secure locations for staff access on all shifts.</p> <p>In April 2017, the Monitor's Consultant conducted a compliance assessment tour that revealed that compliance has been achieved with only a few minor corrections required. While staff training on the requirements of this provision have been completed according to the DCR Fire Safety officer, additional documentation to support the evidence of staff training has yet to be submitted.</p> <p>A termination motion was filed on 3/6/2018 (Docket #1272) and a report will be submitted separately in response to the motion.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 35.</b> Defendants agree that designated exit doors in all facilities will be maintained in operable condition and shall be readily unlocked in case of an emergency.</p>	Y	Y	Y	#	Y	Y	<p>DCR has vastly improved its ability to maintain operable exit doors from living units that can be readily unlocked in emergency situations.</p> <p>DCR is now documenting on a weekly basis its monitoring and inspections made by the fire safety officers at each facility documenting that all exit doors are maintained in operable condition and can be readily unlocked. The process for documentation has been agreed to with the Monitor and Functional team and documentation began in August 2014. The Monitor's office has observed this documentation being utilized at all the facilities and in practice and is satisfied with the progress of compliance. The monitor is also waiting for additional training curriculum documentation. A draft Roadmap for this provision was completed in consultation with the Functional Team and was presented to USA for comments. The Monitor's Office received those comments and also shared them with the functional team members. In the most recent quarterly site visits to the three facilities, there were no issues observed in spot checking emergency exit doors in the housing units. In addition, the Monitors' Office reviewed the most recent quarterly inspection reports and found them to be complete and demonstrated compliance with this stipulation. These inspections even continued during the immediate aftermath of the hurricane.</p> <p>In addition, DCR has submitted to the monitor's offices a summary spreadsheet of all the exit door tests showing the data in summary form through July 2017. The data for operating exit doors in a manual mode in living areas, which is the worst-case scenario covers the period of June 2017 through July 2017 and summarizes the weekly inspection forms that the monitor's office has been continually reviewing. The timeframes are well within acceptable life safety requirements, with a systemic average of 15 to 16 seconds. The Commonwealth is continuing to collect this data.</p> <p>While staff training on the requirements of this provision has been completed according to the DCR Fire Safety officer, additional documentation to support the evidence of staff training has yet to be submitted.</p> <p>A termination motion was filed on 3/6/2018 (Docket #1272) and a report will be submitted separately in response to the motion.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 37.</b> AIJ policy shall ensure safety for juveniles and staff by requiring compliance with fire safety code requirements. Specific emergency plans shall be developed and copies made available to staff members. There shall be ongoing training programs and emergency procedures shall be reviewed and updated annually.</p>	Y	Y	Y	#	Y	Y	<p>DCR has supplied documentation that emergency procedures are reviewed and updated annually. Documentation has also been provided showing that copies of the emergency plans are available to staff at all facilities. The documentation received certifies that emergency plans have been made available to staff at the institutions for 2016 and part of 2017.</p> <p>While staff training on the requirements of this provision have been completed according to the DCR Fire Safety officer, additional documentation to support the evidence of staff training has yet to be submitted.</p> <p>A termination motion was filed on 3/6/2018 (Docket #1272) and a report will be submitted separately in response to the motion.</p>



Provision	P	S	R	T	D	G	Comment
<b>Policies and Procedures</b>							
<p>S.A. 45. Within one year of the approval of this agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement by the Court, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.</p>	Y	I	I	#	#	N	<p>The Monitor agrees that the agency maintains a policy and procedure manual as required by this provision, although whether it governs all aspects of running the facilities as required has not yet been confirmed. Moreover, in the rest of this table, policies and procedures are rated as a compliance problem for many of the provisions in this case. See the compliance rating in Column T, which identifies when a training deficiency is a factor in compliance. While having developed and routinely updated a manual is a factor in compliance, the provision also clearly requires that the facilities be strictly operated within these policies and this implementation requirement's scope and accuracy have not yet been established.</p>

revision	P	S	R	T	D	G	Comment
Staffing							

<p><b>S.A. 48.</b> Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.</p> <p><u>48.a Method one:</u> Defendants may provide documentation of consistent supervision by not less than one (1) direct care worker to eight (8) juveniles during day and evening shifts and not less than one (1) direct care worker to sixteen(16) juveniles during normal sleeping hours.</p> <p><u>48.b Method Two:</u> Defendants may develop, and submit to the court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignment necessary to implement the terms of this agreement, taking into consideration the physical configuration and function of spaces, the classification and risk profiles of youths involved, the incident patterns in the settings involved, the routine availability in the settings of other categories of staff, and the overall number of direct care positions necessary to consistently achieve the coverage proposed. Once a plan is approved for a facility, defendants shall document the employment of the necessary overall numbers of direct care staff, and the ongoing deployment of such staff in accordance with the plan.”</p>	<p>N</p>	<p>N</p>	<p>N</p>	<p>N</p>	<p>Y</p>	<p>N</p>	<p>The Commonwealth has the choice to demonstrate compliance according to method 48.a or 48.b. They have informed the Monitor that they do not intend to select method 48.b and that their legal position is that this language should be struck from the Settlement Agreement as superfluous. The Monitor agrees.</p> <p>For the First Quarter of 2018, the staffing performance data below reflects the staff youth ratio forms that were received and analyzed. The staff youth ratio performance is the highest level of staff ratio compliance in the 33 quarters that have been documented in Staff Youth Ratio Quarterly Reports.</p> <p>6:00 am- 2:00 pm shift: 95% of events, a 1% decrease since the Fourth Quarter reporting period.                  2:00 pm- 10:00 pm shift: 96% of events, a 1% increase since the Fourth Quarter reporting period.                  10:00 pm- 6:00 am shift: 100% of events, a 0% increase since the Fourth Quarter reporting period.</p> <p>DCR had a significant increase in the volume of staff working a double shift for the quarter (1202). The volume of non-compliant staffing ratios occurring on weekends, compounded by the volume of double shifts occurring on weekends, reflects the fragility of the DCR improved staff youth ratio performance. The long-term financial impact of double shifting and overtime costs generated to meet staff youth ratio compliance appears to be unsustainable for the Commonwealth.</p> <p>The Monitor’s consultant continues to work with the parties to identify necessary documentation expectations for compliance, including an agency approved, trained and implemented staffing policy and a monthly staffing report. The Monitor’s consultant has reviewed draft policies on the following dates: August 1, 2016; January 19, 2017; June 22, 2017; August 25, 2017; December 6, 2017; and February 15, 2018.</p> <p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA</p>
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<p><b>January 2009 Stipulation Paragraph 1:</b> All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.</p>	Y	N	N	N	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations Sections 115.313, 115.364. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p>
<p><b>January 2009 Stipulation Paragraph 2:</b> All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48.</p>	N	N	N	N	N	N	<p>The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991)</p> <p>No new YSOs were hired during the First Quarter of 2018.</p>
<p><b>January 2009 Stipulation Paragraph 3:</b> Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre-service training, <del>pursuant to Paragraph 49 of the Consent Decree</del>. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.</p>	#	#	#	#	#	#	<p>The Commonwealth has decided not to employ this provision to enhance coverage. However, the provision remains as a future option. Unless and until the Commonwealth determines that they want to apply this provision, the Monitor’s Office will not Monitor the provision. The choice to not implement this provision is not non-compliance. The <del>struck</del> part of the provision references a provision that has been terminated.</p>
<p><b>January 2009 Stipulation Paragraph 4:</b> All persons hired to comply with Paragraph 48 shall be sufficiently trained, <del>pursuant to Paragraph 49 of the Consent Decree</del>, before being deployed. Defendants shall deploy all duly trained direct care staff, <del>pursuant to Paragraph 49</del>, to juvenile facilities in a timely manner.</p>	#	#	#	#	#	#	<p>The phrases in this provision that refer to Paragraph 49 are struck because that provision has been terminated.</p>
<p><b>January 2009 Stipulation Paragraph 5:</b> 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 <del>and have received pre-service training, pursuant to Paragraph 49</del>; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter <del>and have received pre-service training, pursuant to Paragraph 49</del>, have been deployed or assigned.</p>	N	N	N	N	N	N	<p>The <del>struck</del> part of the provision references a provision that has been terminated.</p> <p>The report was not provided during the First Quarter of 2018, nor has the Commonwealth provided it since the initiation of the stipulation.</p> <p>On February 7, 2018 DCR indicated that they were working on a draft document. The Monitor’s consultant identified that the staffing documented in the report should accurately reflect the volume of staff identified in each facility master roster. No report was received for March 2018.</p>

Provision	P	S	R	T	D	G	Comment
<b>Training</b>							
<p><b>S.A. 50.</b> Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.</p>	Y	#	#	#	#	N	<p>Compliance tables documenting training within the agency as required in this stipulation have not been submitted to the Monitor since 2011, despite repeated requests.</p> <p>Training sessions scheduled in both the 3<sup>rd</sup> and 4<sup>th</sup> quarters were cancelled following hurricane destruction on the Island. They resumed in December 2017.</p> <p>Prior to the hurricane IDECAHR provided additional detail about the compliance plan for this stipulation. The timeline was to extend from July 2016 to the end of December 2017 and achieve a 90% or higher compliance threshold for all components of the training offered to active direct contact security staff. By the first quarter 2018, no documentation was submitted to demonstrate this level of compliance. IDECAHR stated that they have already achieved 100% compliance for CPR because they are only required to offer training every 2 years rather than annually as written in the stipulation. The monitor's consultant stated that DCR would either have to request a language change for the stipulation. Earlier, the lead DCR attorney requested that the monitor's consultant prepare a document listing steps to compliance with this provision; the document was submitted and attached to the 3<sup>rd</sup> Quarter QR.. The 4<sup>th</sup> quarter FT meeting, at which the proposed compliance plan was to be reviewed and a decision made whether a new calendar needed to be established, was cancelled. To date, there has been no formal DCR response to the proposed compliance plan document.</p> <p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. A review of the training sessions during the quarter revealed that PREA training is being offered within the institutions.</p>
<b>Classification</b>							

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 52.</b> At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.</p>	Y	Y	#	Y	N	N	<p>DCR, with the support of consultants, has conducted a validation study of the classification process for detention and committed and detention youth.</p> <p>DCR has conducted a classification validation study on committed and detention youth. The validation study was assessed for agency impact, piloted and was implemented in June 2016. An Administrative Order describing implementation of the Instruments of Classification in Custody and Instruments of Classification in Detention has been trained and operationalized</p> <p>The Classification Administrative Order needs to be revised and incorporated into policy to reflect current facility classification assignments and types. Upon policy approval, the agency needs to assess training requirements and annual policy revision timeline.</p> <p>The Classification policy requires implementation of a procedure for administrative override of the classification score and facility/module assignment when prevailing special needs and circumstances dictate.</p> <p>Monitor's consultant continues to work with the parties to identify and obtain necessary classification compliance documentation.</p> <p>Documentation has been provided for the classification of youth for detention, as well as for committed youth, for the First Quarter of 2018.</p> <p>For the first quarter there were 91 detention admissions, of which 76(73%) were classified as low; 21 (23%) were classified as moderate; and 2 (2%) were classified as intensive.</p> <p>For the First Quarter of 2018, there were 24 committed youth institutional assignments based on the Instruments of Classification in Custody:  CD Humacao  CTS Villalba (Treatment Level 5: 6 youth);  CTS Villalba (Treatment Level 4: 5 youth);  CTS Ponce (Treatment Level 2: 3 youth)  CTS Ponce (Treatment Level 3: 7 youth);  CTS Ponce, PUERTAS; 3 youth).  Pending Placement: 6 youth were pending treatment facility placement as of March 31, 2018.</p>

Provision	P	S	R	T	D	G	Comment
<b>Mental Health and Substance Abuse Treatment</b>							
<p><b>S.A. 59.</b> 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.</p>	Y	#	#	#	#	N	<p>Per CPR leadership as reported in Functional Team meeting, Policies previously in place are continuing in force. Hours contracted versus hours provided for mental health services are being reviewed for consistency in delivery. Further documentation of contracted hours vs. hours delivered have been requested by the Mental Health Monitor and were not received in this first quarter of 2018. Mental Health Monitor has expressed concern over number of hours contracted for psychiatric coverage – especially due to the fact that the psychiatrists have to review records, assess patients, order and monitor medications, request and review laboratory reports, consult with multidisciplinary team, be available for crisis and consultation as well as to participate on review teams. We have had the disruption of the Hurricane and the breakdown of communication as the transition to PCPS occurred. This has delayed this work considerably. More time is needed to assess overall adequacy of staffing, resources and training of new staff. The Mental Health Monitor met with the functional Team fourth quarter of 2017 and discussed recommended strategy to determine the adequate number of beds given the current census; DCR committed to present a proposal regarding reasonable number of beds. This has yet to be received. Policies and Procedures for PUERTAS have been previously reviewed and accepted by Monitor. Staffing and Resources for PUERTAS at this time appear adequate, however more time is needed to review training and consistency of staffing and services over time (contracted hours vs. hours served by the mental health staff).</p>
<p><b>C.O. 29:</b> 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.</p>	Y	#	Y	#	Y	#	
<p><del><b>C.O. 34.</b> Within 160 days of the filing of this Consent Decree, Defendants shall train all staff whose responsibilities include supervision of the juveniles regarding the effective recognition of suicidal and/or self-mutilating behaviors.</del></p>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<del>Y</del>	<p>This provision was terminated by the Court on March 30, 2017.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>C.O. 36.</b> . 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.</p>	Y	#	#	#	#	N	Policies and Procedures have been previously received, reviewed and accepted by Mental Health Monitor. See above regarding review of mental health staff contracted hours vs. hours delivered. More time is needed to validate whether contracted psychiatric and psychological hours are being provided with associated services.
<p><b>S.A. 63.</b> For each juvenile who expresses suicidal or self-mutilating ideation or intent while incarcerated, staff shall immediately inform a member of the health care staff. Health care staff shall immediately complete a mental health screening to include suicide or self-mutilation ideation for the juvenile. For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist shall immediately examine the juvenile. The juvenile, if ever isolated, shall be under constant watch. Defendants shall develop written policies and procedures to reduce the risk of suicidal behavior by providing screening for all juveniles at all points of entry or re-entry to AIJ's facilities and/or programs and by providing mechanisms for the assessment, monitoring, intervention and referral of juveniles who have been identified as representing a potential risk of severe harm to themselves. Treatment will be provided consistent with accepted professional standards.</p>	Y	N	N	#	#	N	Psychiatrists are not immediately available to examine juveniles who have self-mutilated and/or expressed suicidal ideation. We are having on-going discussions regarding the term "immediately" in reference to the psychiatrist (i.e. within what time frame).
<p><b>S.A. 72.</b> All juveniles receiving emergency psychotropic medication shall be seen at least once during each of the next three shifts by a nurse and within twenty-four (24) hours by a physician to reassess their mental status and medication side effects. Nurses and doctors shall document their findings regarding adverse side effects in the juvenile's medical record. If the juvenile's condition is deteriorating, a psychiatrist shall be immediately notified.</p>	Y	#	#	#	#	#	While there is an appropriate policy in place, the Mental Health Monitor has thus far seen no evidence that emergency psychotropic medications have been utilized. The Mental Health Monitor requires more time to adequately assess whether there are any instances of emergency psychotropic medications and, if so, whether the requirements of this provision were followed. The Mental Health Monitor will request on-going monthly reports of emergency psychotropic medications and will review records for evidence of compliance with this provision.



Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 73.</b> Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.</p>	Y	Y	Y	#	Y	#	<p>Policy and procedures were received, reviewed and accepted by Monitor. Documentation of behavior modification services is consistent with plan of care. Monitor has been able to sit in on multidisciplinary discussion of youth with respect to behavior modification. Mental Health Monitor has requested and received documentation of incentives delivered to youth. Youth consistently report receiving individual and group incentives although less so by youth in higher levels. The latter may be as a result of incentives not delivered due to the behavior of the individual or group in, for example, level 5. As reported in last quarter, the Mental Health Monitor is awaiting a training log as evidence of compliance.</p> <p>The Monitor's consultant is planning to develop a Compliance Memorandum after receipt of first quarter 2018 information regarding training.</p>

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

Provision	P	S	R	T	D	G	Comment
<p>S.A. 77. In no event is physical force justifiable as punishment on any juvenile. The use of physical force by staff, including the use of restraints, shall be limited to instances of justifiable self-defense, protection of self and others, to maintain or regain control of an area of the facility, including the justifiable protection of significant property from damage; and prevention of escapes; and then only when other less severe alternatives are insufficient. A written report is prepared following all uses of force and is submitted to administrative staff for review. When force, including restraint, is used to protect a youth from self, this must be immediately referred to the medical area for medical and mental health evaluation and any necessary treatment.</p>	N	#	I	Y	Y	N	<p>Overall, use of force incidents decreased from the previous quarter (from 23 to 15). Incidents occurred as follows: Humacao (0); Villalba (10); Ponce (5). The volume of OC use increased significantly this quarter, particularly at Villalba, where it was used in 7 of 10 incidents. That said, OC was not used at all at Humacao this quarter. According to data reported by the facilities, there were no reported injuries to youth caused by use of force, although there are discrepancies between what the facilities are reporting and what UEMNI reports; we are attempting to identify the source of the discrepancies.</p> <p>During site visits in February and April 2018, the Monitor’s consultant reviewed 4 use of force videos at Ponce. Review of these videos revealed some potentially non-compliant uses of force that require further investigation.</p> <p>Review of Q-1 use of force incidents reveals that much of the power struggles and associated violence among youth leaders that previously occurred at Humacao have now shifted to Villalba with the changes in classification. There were three incidents involving 9 or more youths and four instances of youth cutting other’s faces, although these did not involve uses of force. There were also several instances of alleged excessive force by UOE members that are under investigation.</p> <p>The Monitor’s Consultant reviewed multiple use of force incident reports, and they appeared to have been completed properly and timely by all officers who used or observed force (one Ponce incident in the gym had 26 incident reports) and there was evidence of supervisory review on all reports. Ultimately, <i>accuracy</i> must be determined in some cases via investigations. We identified 8 incidents that were addressed in 284s involving allegations of force that may have been non-compliant. These allegations were referred for investigation, although review of these investigations has not yet been completed by the Monitor.</p> <p>The Monitor received from DCR on February 8, 2018 evidence of use of force training completion; DCR maintains a use of force policy, although it is in need of review and revision. The Deputy Monitor has previously reviewed training curricula and attended training sessions.</p> <p>The Monitor’s Consultant reviewed and provided comments/edits on DCR’s 2017 draft version of the 18-02: Use of Force Policy. <del>A Compliance Review Report dated April 2018, after the draft was released in March, Page 17</del> should be revised by DCR during the 2nd quarter.</p>

Provision	P	S	R	T	D	G	Comment
<b>Abuse and Maltreatment Investigation and Management</b>							
<p><b>S.A. 78.a</b> Defendants shall take prompt administrative action in response to allegations of abuse and mistreatment, including steps to protect and treat the victim, steps to preserve evidence and initiate investigation, steps to isolate, separate, and sanction youth and/or staff involved in misconduct or criminal conduct. Defendants' policies, procedures, and practices shall clearly define all incidents that must be reported, to include, at a minimum, allegations of: abuse, mistreatment, neglect, and excessive use of force, inappropriate use of restraints, sexual misconduct, and assaults. Defendants shall provide for confidential means of reporting suspected abuse and mistreatment, without fear of retaliation for making such report.</p>	Y	N	N	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA. Policies have been updated to comply with this provision.</p> <p>Evidence was preserved in 100% of applicable cases sampled. (Case Assessment A.4)</p> <p>Suspected youth were separated from their victim(s) in 100% of the cases assessed. (Case Assessment A.8) Additional information about compliance can be found in the case assessment tables in the main report.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 78.c</b> Within 24 hours of knowledge of a potential abuse incident, the report shall be transmitted to the Commonwealth Police for investigation, the Department of Family Services for statistical reporting, the Department of Corrections, and the AIJ administration. For serious incidents involving allegations of: abuse; neglect; excessive use of force; death; mistreatment; staff-on-juvenile assaults; injury requiring treatment by a licensed medical practitioner; sexual misconduct; exploitation of a juvenile's property; and commission of a felony by a staff person or juvenile, the AIJ administration shall also notify SAISC within 24 hours of knowledge of the potential incident, and 1 hour for any juvenile death, and SAISC shall conduct an administrative investigation.</p>	Y	Y	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>The Commonwealth Police do not fully respond to the Monitor's information requests for case analysis information. There are reports provided for about half of the cases, and much information is missing.</p> <p>Cases were promptly referred to OISC in 57% of sampled cases based on OISC records. (Case Assessment D.1) This is a reduction in compliance compared to the prior quarter.</p> <p>The conduct and completion of the investigations is assessed in P78.e below.</p>
<p><b>S.A.78.d</b> Within 24 hours, AIJ shall prepare and forward a copy of each incident report together with the AIJ preliminary investigation to the Police Department, the Department of Family Services, the Department of Corrections, and the AIJ Administration. Every 30 calendar days, AIJ, SAISC and the Commonwealth Police shall report to the Defendant Department of Justice and AIJ the status of each investigation including final determinations and associated administrative and criminal actions. Defendants shall implement appropriate policies, procedures, and practices to ensure that incidents are promptly, thoroughly, and objectively investigated. AIJ, SAISC, and Defendant Department of Justice shall consult throughout an investigation. If Defendant Department of Justice indicates an intent to proceed criminally, any compelled interview of the subject staff shall be delayed until Defendant Department of Justice concludes the criminal investigation, but all other aspects of the investigation shall proceed. Defendant Department of Justice shall review and investigate allegations of serious incidents following a preliminary investigation by the Puerto Rico Police Department.</p>	N	#	#	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>Indicators of compliance with the provision include measures within the Abuse Referrals Tracking Report and the Case Assessment Table, both in appendices in the main report. These indicators are showing consistent improvement.</p> <p>The Monitor's Office has not recently reviewed compliance with the interview compulsion provision.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 78.e</b> Administrative investigations of serious incidents shall be conducted by SAISC and completed within 30 days of SAISC's receipt of the referral. Administrative investigation of incidents classified as less serious may be conducted internally by appropriate facility staff and shall be completed within 20 days of witnessing or discovering an incident.</p>	Y	#	#	#	N	N	<p>For the most recent quarter, 57% of OISC case investigations were completed within 30 days. (Abuse Tracking Statistics E.5 and E.6)</p> <p>100% of Level One case investigations were completed within 20 days at the facilities. (Abuse Tracking Statistics D.3)</p>
<p><b>S.A. 78.f</b> Defendants shall implement investigation standards in conformance with applicable law, including, at a minimum: photographing visible injuries; preserving and analyzing evidence; conducting separate, face-to-face, private interviews of the alleged victim, perpetrator, and all possible witnesses, with a record of the questions and answers. Whenever there is reason to believe that a juvenile may have been subjected to physical sexual abuse, the juvenile shall be examined promptly by outside health care personnel with special training and experience in conducting such assessments.</p>	N	N	Y	N	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as "PREA" is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>There is an internal process to review investigation quality. No formally-adopted standards have been submitted to the Monitor's Office. Training may be insufficient if the policies are not in place which would be the topic of the training.</p> <p>DCR has recently adopted a very structured investigation report template for use of force cases addressing standards set forth in this provision and in others. It is considering revising and adapting the template for non-use of force investigations. The Monitor supports this concept, although it is essential that proposed findings be included in all such reports, which is not currently the case.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 78.g</b> Every administrative investigation shall result in a written report explicitly providing: a description of the alleged incident, including all involved persons and witnesses and their role; a description and assessment of all relevant evidence; and proposed findings. Defendants shall ensure that there are sufficient numbers of demonstrably competent staff to timely complete competent and thorough administrative investigations. Responsibilities of investigators shall be clearly designated.</p>	N	N	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>For the most recent quarter, 95% of OISC case investigations were completed within 30 days. (Abuse Tracking Statistics E.5 and E.6) . There continues to be inconsistency regarding the inclusion of proposed findings in investigation reports and the Monitor is continuing to work with DCR in this regard.</p> <p>There is an internal process to review investigation quality and the Monitor and Deputy Monitor are reviewing the instrument that was developed and is used. No formally-adopted standards have been submitted to the Monitor’s Office. Training may be insufficient if the policies are not in place which would be the topic of the training.</p>
<p><b>S.A. 78.h</b> AIJ shall conduct case management, for tracking which includes identification of findings and outcomes and dates of stages of case processing, and for oversight of further administrative actions including analysis to identify and implement corrective actions designed to avoid recurrence of incidents. At the conclusion of an administrative investigation, SAISC shall provide copies of the investigation report to AIJ and Defendant Department of Justice. AIJ’s quality assurance personnel shall analyze the report and, as appropriate, identify corrective action to address operational, systemic, or other problems identified in the report and ensure that such action is taken.</p>	Y	Y	Y	#	N	N	<p>This provision requires policies, actions and/or conditions that are also required by Part 115 of Title 28 of the Code of Federal Regulations. While compliance with these regulations, also known as “PREA” is not required by the Consent Order and Settlement Agreement, the status of compliance with the PREA regulations is relevant in assessing compliance with this provision. The fact that the provision remedies are similar to those required by federal regulations also supports a conclusion that the remedies are narrowly tailored as required by the PLRA.</p> <p>The rating for Staffing and Policy Compliance is “Y” because staffing and policy is sufficient for the Commonwealth to produce this report. The Monitor believes that the remaining area where additional monitoring and documentation is needed is the quality assurance assessment described in the third sentence.</p>

Provision	P	S	R	T	D	G	Comment
<p><del>S.A. 78.i</del> Any employee, staff member or contractor who is criminally charged for offenses involving the abuse or mistreatment of juveniles, excessive force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending. Defendants may take additional administrative actions as they deem appropriate.</p>	Y	Y	Y	Y	Y	Y	This provision was terminated by the Court on March 30, 2017.
<p><del>Separation Order, of December 4, 2006:</del> Any employee, staff member, or contractor who is criminally charged in the future for offenses involving the abuse or mistreatment of juveniles, excessive use of force on juveniles, sexual misconduct with juveniles, or any other offense relating to the safety and welfare of juveniles, shall be immediately separated from having contact with detained or committed juveniles, including the removal of any such person from exercising supervisory authority over any staff in AIJ facilities, while the criminal investigation or process is pending.</p> <p><del>For any criminal proceeding that is filed in the future, the same information shall be provided to the Monitor and the United States within fifteen (15) days after its filing.</del></p> <p><del>The order also required two reports to be filed by December 19, 2006. These were filed at the time.</del></p>	Y	Y	Y	Y	Y	Y	This provision was terminated by the Court on March 30, 2017.



Provision	P	S	R	T	D	G	Comment
<b>Protection and Isolation</b>							
<p><b>S.A. 79.</b> Juveniles shall be placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others and only after less restrictive methods of restraint have failed. Isolation cells shall be suicide resistant. Isolation may be imposed only with the approval of the facility director or acting facility director. Any juvenile placed in isolation shall be afforded living conditions approximating those available to the general juvenile population. Except as provided in ¶ 91 of this agreement, juveniles in isolation shall be visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time. Juveniles in isolation shall be seen by a masters level social worker within three (3) hours of being placed in isolation. Juveniles in isolation shall be seen by a psychologist within eight (8) hours of being placed in isolation and every twenty-four (24) hours thereafter to assess the further need of isolation. Juveniles in isolation shall be seen by his/her case manager as soon as possible and at least once every twenty-four (24) hours thereafter. A log shall be kept which contains daily entries on each juvenile in isolation, including the date and time of placement in isolation, who authorized the isolation, the name of the person(s) visiting the juvenile, the frequency of the checks by all staff, the juvenile's behavior at the time of the check, the person authorizing the release from isolation, and the time and date of the release. Juveniles shall be released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others.</p>	N	Y	I	#	Y	N	<p>The number of TM designated and PC youth during this quarter has typically remained at 1-2 at any given time, with a total of only 11 placements for TM and one for PC during the quarter as of our February site visit, only four TM events had occurred). The duration of such statuses typically ranges from 1 day to a few weeks.</p> <p>There is extensive documentation available concerning the requirements of this provision.</p> <p>The Monitor's Consultants continue the process of assessing- against the criteria set forth in this provision- the circumstances and conditions of confinement of any youth on transitional measures and protective custody who are generally confined to their rooms. each of 4 Transitional Measure events occurring during the 1st quarter as of the time of the February facility site visit was reviewed, and the results of that evaluation are included as a separate report in this Quarterly Report.(there were no PC events as of that time). While we found compliance with 16 of 21 criteria, five areas of non-compliance currently are: not all youths placed pose a serious and immediate physical danger to self or others; not all cells <i>potentially</i> used for confinement at Ponce and Humacao are sufficiently suicide resistant; most youths are not seen by masters level social worker within 3 hours; most youths are not seen by psychologist within 8 hours or every 24 hours thereafter; not all youths are seen by a case manager every 24 hours.</p> <p>On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and P80 and making necessary adjustments to practice accordingly. A draft policy for TM was provided to the Monitor in February 2018 and was promptly returned to DCR with broad comments; DCR has proposed to discuss revised policies at the Monitor's April site visit although policy drafts have not been completed for review at that time or since.</p> <p>The rating for Resources Compliance was changed from Undetermined to Inapplicable due to a re-evaluation of the criteria's definitions.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 80.</b> The terms of this agreement relating to safety, crowding, health, hygiene, food, education, recreation and access to courts shall not be revoked or limited for any juvenile in protective custody.</p>	N	Y	I	N	Y	N	<p>See above discussion for P 79 and separate report on Transitional Measures and Protective Custody.</p> <p>We once again reviewed current policy and practices against the eight criteria for protective custody set forth in this provision. As has been the case in previous quarters the only services that were found to be <i>limited</i> (none were revoked) in comparison with general population youth were recreation (on weekends) and education. DCR Policies 17.19 (PC) currently establish 20 minutes of individual instruction per subject as the standard for education for these youth and while this amount of one-on-one education <i>may</i> be the equivalent of that offered to other youth in classroom settings, this equivalence for compliance purposes has not been stipulated to by the parties. There is extensive documentation available concerning the requirements of this provision, including the aforementioned non-compliant education requirement.</p> <p>On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and making necessary adjustments to practice accordingly. Report. A draft policy for TM was provided to the Monitor in February 2018 and was promptly returned to DCR with comments; DCR has proposed to discuss revised policies at the Monitor's April site visit. Revised drafts of these two policies are still not completed.</p>

Provision	P	S	R	T	D	G	Comment
<b>Education and Vocational Services</b>							
<p><b>S.A. 81.</b> Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juveniles would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. AIJ shall provide adequate instructional materials and space for educational services. Defendants shall employ an adequate number of qualified and experienced teachers to provide these services.</p>	#	N	N	I	N	N	<p>The 2017-2018 school opening was delayed for two weeks but was followed by a full schedule soon afterwards in each institution. Except for CD students and those in protective custody or transitional measures, DCR offers a 5 day a week, 6 hours per day for ten months in each school within the sites. That schedule continued into the first quarter of 2018.</p> <p>Vocational opportunities are available in the CTS institutions for all students. During the first quarter site visit, the Humacao teacher-in-charge reported that all CD students also receive vocational education e.g., barbering, baking and wood working, in instead of the civics class (which DCR and DOE previously proposed as a substitute for traditional vocational education but which was rejected by the Monitor). Earlier the CD female students were also receiving vocational classes at CTS Ponce where they are now housed. Nevertheless, the first quarter site visit revealed that 4 of the 5 detention students, certified for special education, were no longer participating in the vocational shops.</p>
<p><b>S.A. 86a.</b> 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 <u>et seq.</u> Defendants shall screen juveniles for physical and learning disabilities.</p>	#	N	N	N	N	N	<p>The Monitor, consultants, and DCR officials continue to study the most effective way to develop an instrument for periodic case reviews and assess stipulation compliance. During this quarter, staff continued to report that related services as required in the special education IEP were improved. In Ponce, a form coordinates both the prescribed services and the delivery. Directors in the two other institutions said they would look into employing that form as well. This step had not been implemented by the first quarter, 2018.</p> <p>Compliance with 86a requires compliance with 86b.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 86b.</b> The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.</p>	#	N	N	I	N	N	<p>Special education files list various instruments employed to determine the educational, mental and physical needs of the students. There is little evidence that the areas identified here are addressed at admission and subsequently re-evaluated in annual reviews. Staff indicated that they are not able to provide for hearing loss, vision issues, including blindness, and other serious emotional disturbances affecting educational performance. They routinely refer students with these issues to outside agencies.</p> <p>The Monitor's consultants and DCR officials continue to study the most effective way to develop an instrument for periodic case reviews and assess stipulation compliance.</p> <p>Compliance with 86b requires compliance with 86a.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 87.</b> If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.</p>	#	N	N	I	N	N	<p>Compliance with the first part of the stipulation remains high in that the agency institutions routinely request IEPs and special education files from the community public schools. The request is frequently ignored or results in late delivery preventing compliance with the second part requiring assessment of the documents' adequacy. This is particularly the case in the detention institutions (now Humacao for boys and Ponce for girls). Rather than pursue the IEP and special education file from the prior community school, the DCR special education staff develop temporary institutional documents, which will travel with the youth after classification and assignment. DCR's response to this issue is that they have no authority over the community schools and that is a responsibility of the Department of Education for the Commonwealth. It should be noted that the DOE is part of the consent decree and should take steps to implements terms of the agreement as they relate to DCR youth and the requirement that a student's special education file, including the IEP, follows reasonably quickly after the youth's transfer into the DCR sites. During the first quarter FT Meeting, the DCR interim education director reported that DOE had a plan that would result in their being much more involved in the education delivery for DCR. He did not have details to share but believed he would know more in the next quarter.</p> <p>The Monitor's Consultant, routinely during site visits examines the special education files of newly arrived certified special education youth to determine that the institution took steps to obtain them from the community; secondly to review and evaluate the documents and finally rewrite the IEP if deemed inadequate. He also indicated that in cases where detention continues beyond two weeks, letters to obtain prior IEPs should be sent to the community schools.</p> <p>The Monitor, consultants, and DCR officials continue to study the most effective way to develop an instrument for periodic case reviews and assess stipulation compliance.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 90.</b> Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.</p>	#	N	N	I	N	N	<p>Since all special education students are mainstreamed with those not certified, they receive the equivalent adult education as the others except for those in protective custody or in transitional measures. This consists of a 6 hour day, 5 days a week for 10 months. The monitor's consultant does not acknowledge adult education as delivered in the institutions adequate to the needs of the DCR youth. The DOJ officials who reviewed the DCR education practices during the quarter shared some of their findings with the monitor's consultant. While they agreed that adult education might not be the best curriculum for the DCR youth, they asked if a series of upgrades in delivery might render adult education more suitable. The monitor's consultant agreed to include the question in the next FT meeting.</p> <p>See note to S.A. 81 as to the appropriateness of adult education. See note to S.A. 94 about protective custody and transitional compliance. See note to S.A. 87 about the development of a mental health/special education assessment.</p> <p>There are no educational services offered to special education or other students who have completed the 4<sup>th</sup> year, as DCR does not consider them part of the agreement. The DCR education director agreed that this policy should be re-examined and indicated he would prepare some recommendation for 4<sup>th</sup> year completers in the next quarter. He noted that some participate in vocational shops with instructor permission. Since the FT meeting was not held, those recommendations have not been delivered to date.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 91.</b> Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.</p>	#	N	Y	I	N	N	<p>Certified special education teachers provide education services to youth. For the 4<sup>th</sup> quarter, vocational opportunities were available in each institution. The monitor's educational consultant maintains that civics/ethics cannot be reasonably be considered vocational education. Based on the school director's report in Humacao and Ponce where CD students are housed, they are now receiving traditional vocational education in addition to the ethics class. Although female detention students in CTS Ponce did participate in vocational classes during the 1st Quarter 2018, 4 of the 5 certified special education students were no longer attending the shops.</p> <p>While improvement in the delivery of related services to certified special education students is clear in the DCR institutions, there continue to be communications issue where those who recommend the services do not know when and how those services are offered. With the exception of the social worker, mental health personnel rarely participate in the COMPU, which prepares and recommends implementation of the IEP.</p> <p>Previously, an assessment process started with the education and mental health consultants evaluating the qualification of professionals to develop and implement the IEP. It was not completed due to the resignation of the previous mental health consultant and the termination of mental health personnel in place before the new PPCP contract was approved. The change in the vocational opportunities also weakens the possibility but it will be reviewed in the next FT meeting in April 2018.</p> <p>See note in reference to related services such as mental health and substance abuse in SA 87.</p>
<p><b>S.A. 93.</b> Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.</p>	#	N	N	I	N	N	<p>The summer camp program did not offer credit-bearing opportunities during the 2016-2017 school year. The program for the coming summer was not available for review during the first quarter. Although credit bearing opportunities could meet the need to extend the school year for some special education students, DCR/NIJ does not believe there are any who meet the prerequisites for year round education; the monitor's consultant disagrees that there are no such students.</p> <p>The Monitor and consultants are working with DCR officials to develop an instrument for periodic case reviews to more fully document the level of compliance with this provision.</p>

Provision	P	S	R	T	D	G	Comment
<p><b>S.A. 94.</b> Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.</p>	#	N	N	I	N	N	<p>Ongoing reviews of services provided for youth in transition or protective custody, showed that youth are not receiving services comparable to youth who are not in isolation. This has not changed to date (See also comments for S.A. 90 and SA 80).</p>
<p><b>S.A. 95.</b> When an IEP is ineffective, Defendants shall timely modify the IEP.</p>	#	Y	Y	I	N	N	<p>All special education positions remain filled for the 2017-2018 school year and are expected to remain so until the end of the 2018 semester. Special education and vocational teachers are DOE employees and, unlike the DCR teachers, have job permanence and additional benefits. The increased role of DOE in DCR could extend these conditions to all educational staff as has been strongly recommended both by the Monitor's prior and current education consultants.</p> <p>The delayed opening of the schools during the last three years negatively affects all students, including those in special education. See note about the delivery of special services in SA 86.</p> <p>A systematic assessment has not yet been completed by the Commonwealth and provided to the Monitor's Office for review.</p>
<b>Funding and Implementation</b>							
<p><b>C.O. 43</b> Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the required sums of money will be established so as to implement this Consent order.</p>	I	I	N	I	N	N	<p>The Commonwealth legal position is that the required report is the agency budget request. The budget request is not routinely provided to the Monitor or the United States.</p> <p>It is also not established that the budget identifies the "required sums of money" to "implement the order."</p> <p>The budget has been, in fact, insufficient to implement the requirements of the decree. There are many provisions in non-compliance with category "R" specified as one of the factors. These are provisions where lack of resources is a factor in non-compliance.</p> <p>Monitor's consultants are prepared to work with parties to identify necessary compliance documentation expectations for a Roadmap.</p>