

United States Department of Justice

v.

Commonwealth of Puerto

Civil Action No: 3:94 –cv-02080 (ccc)

Monitor’s Third Quarterly Report

July 1 – September 30, 2018

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Certificate of Service

I HEREBY CERTIFY that this 5th day of December, 2018, I electronically filed the foregoing 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 Kim Tandy _____

Kim Tandy

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Introduction:

On July 1, 2018, the new Monitor began her transitional period with a ninety (90) day assessment period in order to 1) better understand and assess the remaining claims under Court supervision; 2) examine the current monitoring process and expert assistance being provided by the Monitoring Team; 3) gain a better understanding of the management, resources, human capital and operations of the defendant agencies in reaching full and faithful compliance; and 4) determine if more effective methods for monitoring and reporting could assist the Commonwealth in its efforts.

During these three months of transition, the Monitor made three visits to Puerto Rico to meet with the parties, NIJ staff and management, Department of Education staff and management, the Secretary of Department of Corrections and Rehabilitation, Monitoring staff and experts, and youth and staff in facilities. She visited each facility twice, touring with various staff to review physical plant, operation, programming and engagement with youth. She also addressed administrative matters relative to the development of the fiscal year budget, office space, contracts with experts, and determination of remaining funds in the Court account from prior years.

The Monitor convened a full day meeting on August 2 with the Monitoring team comprised of the five (5) existing Consultants and the Deputy Monitor to better understand their areas of focus, their perspectives on how to best assist the Commonwealth to achieve compliance, and how improvements in the monitoring and reporting process can be made. The Monitor conducted subsequent phone calls and emails with her team to determine how to improve upon the monitoring process, and ensure each aspect of the monitoring process can be supported by complete, reliable and timely information. Reporting on a quarterly basis should be as complete and accurate as possible so that the Commonwealth's continued good work toward compliance is fully recognized and documented, and that there is clear and concise information about the expectations for remaining areas to come into compliance.

The Monitor also reviewed thousands of pages of documentation from prior Monitoring reports, policies and procedures, Puerto Rican laws, reports on various aspects of operations, significant rulings in the case, and other relevant information on historical as well as current and remaining claims. She examined numerous reports and data collected and maintained at various levels within NIJ and shared with the Monitoring team. She also examined where information was lacking or had not been requested which may be important, and in some cases, requested special reports to provide more insight into certain subject matter areas.

The Monitor provided the parties with the opportunity to give written and verbal comments about how to improve the monitoring and reporting process. The information received was much appreciated. The reports should be beneficial to both sides, and should answer the critical questions both sides have about compliance issues.

The Monitor examined some of the challenges faced by the Monitoring team in how its work is done. Language barriers are frequently cited by those who are non-Spanish speaking. In order to assist in this area, the Monitor secured a translation service for translation on key documents, and purchased three licenses for Babylon translation software for non-Spanish speaking members of the team who need to routinely translate documents such as investigative reports, drafts of policies or procedures, or charts and graphs relative to operational aspects. While not a perfect translation, it provides a very valuable tool for quick and efficient review of necessary information.

Finally, in an attempt to streamline information and ensure accurate, thorough and timely access to information, the Monitor is creating a master chart for documentation needed on a daily, weekly, monthly, quarterly or other timeline. Hopefully, this process will be improved and streamlined by the end of this year.

New Reporting Format

This Third Quarterly Report for 2018 encompasses the findings, analysis and compliance ratings for remaining provisions of the Settlement Agreement based upon the work completed by the Monitor and her team of Consultants for the period of July 1 – September 30, 2018.

First, quarterly reports will contain an Executive Summary, added to provide a quick snapshot of the current issues remaining and the compliance ratings of each, as well as some highlights of the report. The current system of ratings will remain the same for now, however, the definition of noncompliance has been slightly modified to cover those instances where documentation has not been sufficiently provided to show that compliance in an area has been achieved. The # symbol, currently used to indicate that the Monitor has not yet determined if compliance has been achieved, will be phased out as much as possible. The Monitoring team should know whether there is compliance or not, and to make the appropriate findings¹. But it is also the Commonwealth's responsibility to provide the information which will support such determinations. Moving forward, the Monitor will propose improvements for the flow

¹ Note that the Monitor indicated to the parties that some paragraphs in the Settlement Agreement are difficult to understand and monitor. To the extent that these need clarification and further discussion before the Monitor can interpret whether compliance has been achieved, the # may remain in place.

of information so that the team can acknowledge progress as it is made, and ensure lack of documentation submission does not subvert that effort. A new system for compliance ratings will be put in to place for the Fourth Quarterly Report, and will be based upon overall ratings of Substantial Compliance, Partial Compliance, and Non-compliance.

The reporting format reorganizing the claims under five categories: Physical Plant, Policies and Procedures, Training and Resources, Protection from Harm, Mental Health and Substance Abuse Treatment, and Education and Vocational Services. Consultants will describe what efforts were made during the monitoring period to obtain information about the claims they are monitoring, including onsite visits to facilities, document review, functional or other team meetings, data and monitoring tools used, youth interviews or other means of information gathering. For each finding, a summary of results and analysis is provided, including any improvements or challenges during the quarter. Supplemental attachments are provided for some provisions where more detailed reports can be helpful. The third section details what is needed for full compliance, and what steps should be taken or are recommended. Where possible, the report details next steps, and notes who should be involved. The report also documents steps taken toward quality assurance and quality improvement, and what steps should be considered to ensure sustainability of compliance once reached. Each section also describes the sources of information upon which the expert relied in making his or her report.

These changes, while important, will not result in immediate access to all of the information desired by the parties. But it will create a process for overall improvement in how monitoring and reporting is done moving forward. The Monitor asked for two detailed reports from the Commonwealth relative to youth safety, one related to any use of force or other incidents by staff resulting to injury to youth, with special attention to the use of OC spray; the second related to youth on youth violence, including any injuries resulting in hospitalization, and detailing incidents involving the use of blades as weapons. Bob Dugan requested a third report on the management of contraband, and the methodology for how this is reported and analyzed. Beginning in October, the Monitoring team will require a more detailed analysis of Transitional Measures and Protective Custody decision making, and has asked that the information be provided retroactively for the third quarter as well. The Monitor reviewed in detail the provisions of Paragraph 78 to identify where gaps in information exist, and to develop a stronger methodology for verification of information, sampling of investigative reports, and youth input regarding the investigation process. Finally, the Monitor is preparing a Master Chart of which will clarify documentation needed for each area of monitoring, along with the frequency and timing of submission

A meeting with the parties and the Monitor during the final quarter of the year will further elaborate on changes in the monitoring and reporting process. As noted in this report, some of the provisions in the Settlement Agreement are outdated, subject to various interpretations, or may otherwise need clarification. It is time to scrutinize these provisions more closely so that there is no question about what will be needed to reach compliance.

Attached to this Report are several documents which support the compliance ratings made and provide additional information on remaining issues:

Attachment A: Paragraph 45 Time Table for Paragraph 31

Attachment B: Paragraph 45 Chart of Policy and Procedure Compliance

Attachment C: Paragraph 48 Staffing Analysis

Attachment D: Paragraph 52 Classification Report

Attachment E: Paragraph 79 and 80 Transitional Measures/Protective Custody
Analysis

Respectfully Submitted:

/s Kim Tandy

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EXECUTIVE SUMMARY

The Settlement Agreement requires that the Court retain jurisdiction of remaining claims “until such time as the Commonwealth has fully and faithfully implemented all requirements of the agreement and such full compliance has been maintained for one year.” (S.A. 103). The current system of compliance rating is divided into several categories. Each provision is listed in the table below, along with the compliance rating given by the Monitor and/or Monitor’s Consultants.

For this report, the current compliance rating system will remain in place. A new rating system will be used for subsequent reports, and will be discussed with the parties.

Policy Compliance:

This category is required by Paragraph 45 of the Settlement Agreement and requires NIJ to approve sufficient written policies and procedures which would achieve compliance if implemented.

Staffing Compliance:

Staffing compliance is required by Paragraph 48 of the Settlement Agreement and requires sufficient authorized and filled positions so that compliance can 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.

Resource Compliance:

Resource Compliance is required by Paragraph 43 of the Consent Order and requires that there are sufficient funds, equipment, supplies and space for achieving compliance.

Documentation Compliance:

Documentation Compliance is required by Paragraph 101 of the Settlement Agreement and means that there are procedures and forms in place and in use to document that compliance is being achieved or not. A “y” can be assigned when the documentation accurately shows non-compliance.

General Compliance:

General Compliance means the overall achievement of compliance with the provisions involved.

Compliance Ratings Defined:

Ratings include “Y” meaning that compliance has been achieved, “N” meaning compliance has not yet been achieved, or that the necessary documentation to show

compliance has not been provided to the Monitor. "I" meaning the monitoring provision is incomplete. The # symbol was phased out in this quarter.

Paragraphs in full compliance are noted as Y in the overall category. Three paragraphs (34, 35 and 37) were terminated this year as having reached full and faithful compliance.

Compliance Ratings By Category							
Parag. No.	Compliance Provision	Policy	Training	Staffing	Resources	Document	Overall
Physical Plant							
S.A. 31	Facilities conforming to Building Codes	Y	N	N	N	N	N
S.A. 34	Emergency Exit Door Keys	Y	Y	Y	Y	Y	Y
S.A. 35	Operable Exit Doors	Y	Y	Y	Y	Y	y
S.A. 37	Fire Safety Codes	y	Y	Y	Y	Y	y
Policies and Procedures, Training, and Resources							
C.O. 43	Sufficient funding for Implementation of C.O.	NA	NA	Y	N	N	N
S.A. 45	Agency Policy and Procedure Manual for all operations	I	I	Y	Y	I	N
S.A. 50	Training for current and new direct care staff	Y	Y	N	Y	N	N
Protection from Harm							
S.A. 48	Sufficient Direct Care Staff	N	N	Y	Y	N	N
Jan 2009 Para. 1	Reasonable Safety of Youth through Adequate Supervision	N	N	N	Y	Y	N
Parag 2	Sufficient Staff to Implement Decree and adequate supervision	N	N	Y	Y	Y	N
Parag 3	Training for social workers if direct care staff	NA	NA	NA	NA	NA	NA
Parag 4	Persons Hired to be Sufficiently Trained before deployed	N	Y	Y	Y	Y	N
Parag 5	Monthly submission of master roster	N	Y	Y	Y	Y	N

S.A. 52	Classification	N	N	Y	Y	N	N
S.A. 77	Use of Force	Y	N	Y	Y	Y	N
S. A. 78	Investigations into Alleged Abuse and Maltreatment of Youth	N	Y	Y	N	N	N
S.A. 79	Protection and Isolation	N	N	N	N	Y	N
S.A. 80	Conditions for youth in Protective Custody	N	N	N	NA	Y	N
Mental Health and Substance Abuse Treatment							
S.A. 59	Treatment Plans for youth with Substance Abuse problems	Y	Y	N	Y	Y	N
C.O. 29	Residential Mental Health Treatment Program	Y	Y	N	N	N	N
S.A. 36	Continuous Psychiatric and Psychological services	Y	N	N	Y	Y	N
S.A. 63	Reducing Risk of Suicide	Y	N	N	N	Y	N
S.A. 72	Emergency Psychotropic Medication	Y	N	Y	Y	Y	N
S.A. 73	Behavior Modification and Treatment Plans	Y	Y	Y	Y	Y	Y
Education and Vocational Services							
S.A. 81	Provision of Academic and Voc. Education to All Youth	N	N	Y	N	I	N
S.A. 86a.	Compliance with IDEA Requirements and Timeframes	N	N	Y	N	I	N
S.A. 86b.	Screening for youth with Disabilities	Y	Y	Y	Y	I	N
S.A. 87	Obtaining IEPs of Eligible Youth	Y	Y	Y	Y	I	Y
S.A. 90	Delivery of Specially Designed Instruction and Related Services	Y	N	Y	Y	I	N
S. A. 91	Qualified educational professionals and voc. Ed	Y	N	Y	Y	I	N
S.A. 93	Year Round Services for Youth with IEPs	Y	N	N	N	I	N
S.A. 94	Services to youth in isolation or other disciplinary settings	N	N	N	N	N	N
S.A. 95	Modification of IEPs	Y	Y	Y	Y	I	N

Highlights of Report

NIJ management and staff have worked hard to provide additional information requested by the office of the Monitor in preparation for this report. The Monitor requested three separate reports with data and analysis from the prior fiscal year of July 1, 2018 – June 2018. These reports provide a more detailed account of youth injuries, including those imposed by other youth, by staff, and through self-harm. They also track the investigation process for incidents related to abuse and institutional neglect, with particular attention drawn to the characteristics of these incidents and when and how they occur, as well as the outcomes of the investigative process. A third report details the problem of contraband, and the extent of injuries caused during this time as a result of youth gaining access to knives, blades and other sharp objects used to assault others.

These reports, as well as the discussion surrounding them, provide a more detailed examination of work to be done to improve safety and security for youth in NIJ facilities. Sixteen youth sustained serious injuries during this time, including several youth with serious injuries after being slashed by blades by other youth, often in the facial area. Several personnel were terminated this year as a result of abusive behavior or serious neglect of duties which resulted in injuries to youth. Youth safety issues will remain a top priority moving forward. Staff are working with the Monitor and her Consultants to further re-examine these trends and develop strategies to better track this information on a regular basis, and address deficiencies in security and contraband. No youth should have to fear for his or her safety while in the care and custody of NIJ.

Education services received much attention during this quarter, including the development of a protocol for monitoring the provisions for special education. A very positive meeting with DOE officials has helped to establish expectations for ongoing monitoring and involvement. Monitoring in the Fourth Quarter will begin the use of monitoring instruments developed to determine IDEA compliance as well as compliance with regular education.

The practice of isolating youth from others through transitional measures or protective custody decreased this quarter. Moving forward, staff have been asked to complete a more in-depth analysis of decision making leading to placement of youth on this status, as well as circumstances under which youth can be safely removed from this status. This information can help to inform changes in policy and practice which can separate youth safely but without placing them in an isolated status.

Finally, the Department of Corrections and Rehabilitation faces challenges in meeting the expectations of the Fiscal Management and Oversight Board, including operations within its three remaining juvenile facilities. The agency seeks to reduce costs over the next several years, and is proposing various options which can reduce the current per diem rate of more than \$600 per child. The Monitoring team has offered its assistance in working with the agency to determine how to best accomplish this goal while adhering to effective juvenile justice principles, and taking into consideration the existing population within NIJ facilities. We look forward to working with the agency in ways which will not set back the progress now being made toward compliance.

Compliance Ratings, Analysis and Recommendations

PHYSICAL PLANT - Curtiss Pulitzer

S.A. 31 Existing facilities expected to be occupied by juveniles beyond Fiscal Year 1996-1997 shall conform to applicable federal, state, and/or local building codes.						
Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	N	N	N	N	N
Description of Monitoring process during this period of time	<p>On September 4th and 5th, I toured Ponce, Villalba and Humacao accompanied by Javier Valentin, DCR's consulting architect, as well as Luis Ortiz, who oversees the physical plant for the juvenile facilities, Pedro Santiago, the DCR Fire Safety Office for all the juvenile facilities and Javier Burgos from the Monitor's Office. Mr. Valentin is developing the building codes analysis work, which includes ADA, to determine compliance with S.A. 31. During our tours Mr. Valentin and I discussed where potential code and ADA violations might exist and he made observations and took notes to add to his prior tours of the institutions.</p> <p>I also met with our functional team (same individuals with the addition of Aida Burgos) and Mr. Valentin the afternoon of September 5th to discuss the process and schedule for his deliverables for the analysis work.</p>					
Findings and Analysis	<p>During our tours, I was pleased to hear Mr. Valentin stated that there did not appear to be any major code violations. Some code and ADA issues that did surface, for example, included too long a travel distance to designated fire exits in Humacao, new rooms that were created by the agency by dividing up an existing larger space that may not meet the code requirements, several wood enclosures in dayrooms that will need to be replaced with fireproof materials, grade differentials from some fire exits in housing units that will either require ramps or re-grading, etc. Mr. Valentin is studying all violation issues and will develop a comprehensive report on all violations in the near future.</p>					
What is needed for full compliance? What steps are required and/or recommended?	<p>At the present time, Mr. Valentin is working on the various documents that will be part of the full report. The monitor's office has already received a draft of the first report explaining why certain chapters of the 43 chapters in the Puerto Rico Building Code are not applicable for his analysis. The primary document which is serving as the basis of the code analysis is the 2009 International Building Code cross referenced with Amendments per Division II of the 2011 Puerto Rico Building Code. The codes incorporate the relevant sections of the NFPA Life Safety Codes. In my meetings with Mr. Valentin and the Functional Team in June and in September, we discussed this first step in the analysis and reached consensus as to which provisions did not appear to be</p>					

	<p>relevant for compliance with SA 31. I am presently reviewing the report and will be scheduling a call with Mr. Valentin to share my comments on the report.</p> <p>The next steps in the analysis will be for Mr. Valentin to document the code and then ADA violations at the three existing facilities followed by recommendations as to what capital improvements will be needed to achieve full compliance as well as the projected costs for each recommend remedy.</p> <p>When the magnitude of compliance is fleshed out, a prioritization schedule will be developed along with potential timelines for compliance. Violations that affect Life Safety, and cannot be initially mitigated operationally, will have the highest priority for implementation. The financial resources available to DCR will become a key factor affecting a schedule for compliance at this juncture in the process.</p>
Priority Next Steps	See Attachment 1 in the Appendix for the time table for the work effort described above.
Quality Assurance Measures	There are no quality assurance measures other than the monitor’s office reviewing the documents developed by Mr. Valentin and touring the facilities with Mr. Valentin to view first hand where the code and ADA violations exist. This will occur once the violations are defined and explained.
Sources of Information upon which Consultant report and compliance ratings are based.	The documentation being developed by Mr. Valentin will be the primary source to determine the levels of compliance with the codes and regulations. The financial resources to rectify violations and achieve compliance will need to involve discussions with the Secretary of DCR as well as senior officials within DCR and the Commonwealth hierarchy responsible for funding the agency.

POLICIES AND PROCEDURES, TRAINING AND RESOURCES – Kim Tandy

S.A. 43 Until this order is fully implemented, Defendants shall submit to the Legislature of the Commonwealth each fiscal year a report wherein the required sums of money will be established so as to implement this Consent Order.						
Compliance Rating	Policies	Training	Staff	Resources	Documentation	Overall
	na	na	Y	N	N	N
Description of Monitoring process	The Monitor has not been provided with a detailed budget specific to NIJ for fiscal year 2018-19. She obtained a copy of the Fiscal Plan for Puerto Rico as submitted to the					

<p>during this period of time</p>	<p>Fiscal Oversight and Management Board for Puerto Rico released in September of 2018, and the October 23, 2018 updated plan. She also reviewed the FY 2019 budget submitted to the Governor of Puerto Rico. Additionally, some of the cost projections for needed repairs, replacement and security equipment have been sought and/or are being developed. These are described further below.</p>
<p>Findings and Analysis</p>	<p>The Commonwealth is required to submit a budget to the legislature each year which contains the “required sums of money” for implementation of the Consent Order, and subsequent Settlement Agreement. While not contained in agency policy, DCR, as all other agencies in the Commonwealth, is required to prepare and submit its budget to the legislature. While no in-depth analysis of the FY 19 budget has been done at this point by the Monitor, it is worth noting that such sums should provide adequate resources relative to staffing, physical plant, training and other resources necessary to achieve and sustain compliance.</p> <p>Three areas of concern are noted regarding resources and expenditures during this quarter based upon observations in facilities, discussions with NIJ staff, and members of the Monitoring team. First, the hurricanes caused damage to roofs in several areas, some of which have not been repaired. The leaky roofs, combined with several malfunctioning or non-functioning air conditioners, and the presence of mold, restrict facility directors’ ability to utilize some of the living units, or enable certain classrooms to be used during rainy weather.</p> <p>In the aftermath of the hurricanes in 2017 staff did an exemplary job in keeping youth safe, ensuring power and services remained in place, and repairing damage with a remarkably quick turnaround. This was in part due to the hard work and protocols that DCR put in place to improve maintenance within the facilities, as well as the staff dedicated full time to servicing and supporting juvenile facilities. But in September of 2018, many of these repairs have not yet been made in spite of numerous requests by those charged with physical plant maintenance and safety.</p> <p>Second, the lack of adequate support staff, including in the area of training and IT, makes documentation production, data collection and analysis, and timely, accurate and reliable information more difficult. This is not just an issue for monitoring, but the long term needs of the agency could benefit from greater resources in these areas. NIJ is encouraged to utilize IT and other support staff through DCR to enhance its ability to do tracking and reporting of other operational aspects now completed manually.</p> <p>Third, as noted elsewhere in this report, two of the three facilities do not have video cameras installed which can better document incidents, assist with investigations, and improve safe conditions for youth. Humacao lacks a color printer to aid in copying photographs of documented injuries. As a result of these limited resources, the quality of investigations is hampered, leading at times to incomplete or inconclusive factual findings about incidents. Such expenditures are essential tools to aid in keeping youth</p>

safe, and investigating incidents where youth may have been harmed by staff or other youth. Cameras have reportedly been approved for at least one of the facilities, there has been no time table submitted as to when these will be installed and operational. More discussion on this issue is found later in this report.

Finally, it should be noted that DCR has submitted plans to the Fiscal Oversight and Management Board of Puerto Rico to “rightsize Puerto Rico’s correctional facilities and footprint” and achieve cost reductions of \$353 million over the next five years. The Department of Corrections and Rehabilitation spends \$42 million in services offered to youth in the three existing NIJ facilities in Humacao, Villalba and Ponce. The reported average per diem noted is \$691.40, as compared to facilities in the United States with per diem rates of around \$280.

The Fiscal Plan indicates a plan to study the construction or rehabilitation and operation of a consolidated facility “through the modality of a private-public partnership,” noting an annual cost savings of \$19.4 million to be achieved beginning in FY 2022. Meanwhile, the report states that DCR is presently considering “externalizing “ services sooner, and is preparing a request for proposal intended for distribution in mid FY 2019, thereby realizing a cost savings by FY 2020. The plan notes that further cost savings from consolidations could occur to reduce the number of youth as appropriate, including early releases.

An updated Fiscal plan released on October 23, 2018 provides more detail on implementation milestones for the Department of Corrections and Rehabilitation on cost reductions. That report does not specifically discuss juvenile facilities, but it does anticipate changes in the delivery of correctional health care, and downsizing correctional staff. It is unclear whether these areas, or others, will have an impact on juvenile correctional operations.

The requirements of the Consent Order and Settlement Agreement will remain in place whether or not DCR privatizes its operation of juvenile facilities. DCR is strongly encouraged to engage with the Monitor and consultants about the benefits and disadvantages of such a move at this stage in the process. It is encouraging that DCR is willing to consider further cost savings measures such as reducing the number of youth further as appropriate, and considering early release options. We look forward to further discussions about this.

The Fiscal Plan also addresses how the Puerto Rico Department of Education can “right size” its education system relative to the declining number of students, and notes that PRDE must achieve a cost savings of \$35.6 million in personnel, and \$13.1 million in non-personnel in FY 2019. PRDE is slated to generate \$576 million in savings by FY 2023 as well as increasing the quality of services. It is unclear what impact, if any, this will have on PRDE’s compliance with the S.A. For example, the Fiscal Report notes a targeted student/teacher ratio of 14:1, rather than the current ratio of 11:1.

<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>DCR must ensure that its budget addresses adequate staffing, training, resources and physical plant requirements to fully comply with the provisions of the Consent Order and Settlement Agreement. A more in-depth discussion about the needed resources mentioned above should be held in the Fourth Quarter of 2018.</p> <p>To the extent that funding can be obtained from alternative sources to address physical plant, health and safety and/or emergency response situations, DCR is encouraged to seek out such sources.</p>
<p>Priority Next Steps</p>	<p>Review any plans for the privatization or facility closures within with the Monitor, as well as other long-term plans for cost reductions, as well as other DCR cost savings measures which can impact compliance.</p> <p>Provide the Monitor’s office with a plan for the implementation of repairs to roof and air conditioning units within housing units, classrooms and educational offices and other areas where operations may be interrupted, and/or safety and security may be compromised.</p> <p>Identify any other areas where additional funding is needed in order to comply with the Consent Order and Settlement Agreement which has not been identified in this report.</p>
<p>Sources of Information upon which Consultant report and compliance ratings</p>	<p>Fiscal Plan for Puerto Rico as submitted to the Fiscal Oversight and Management Board of Puerto Rico, September 7, 2018, found at http://www.aafaf.pr.gov/assets/pr-fiscal-plan-090718.pdf</p> <p>The New Fiscal Plan for Puerto Rico: Restoring Growth and Prosperity, as certified by the Financial Oversight and Management Board for Puerto Rico on October 23, 2018. Interviews with staff and consultants, found at http://www.aafaf.pr.gov/assets/new-fiscal-plan-pr-certified-fomb-10-23-18.pdf</p> <p>Report of malfunctioning air conditioning units, review of housing documents at Humacao</p>

S.A. 45 Within one year of the approval of the agreement by the Court, Defendants agree to provide an agency policy and procedure manual governing all operational aspects of the institutions. Within eighteen months of the approval of this agreement, Defendants shall further insure that the facilities are strictly operated within these policies and procedures and that all staff have been trained accordingly.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	I	I	Y	I	N	N

Description of Monitoring process during this period of time	The Monitor sought copies of existing policies and procedures in all remaining areas of the Settlement Agreement and Consent Order. Some of these have been translated into English where possible.						
Findings and Analysis	<p>The Monitor agrees that the agency maintains a policy and procedure manual as required by this provision, but has not been provided with an entire set of current policies and procedures. The prior rating of Y for compliance with policies and procedures for this provision inconsistent with the requirement that policies “must be sufficient to achieve compliance when implemented.”</p> <p>The Monitor created a chart of all remaining areas where existing provisions of the Settlement Agreement do not have approved policies and procedures, and has noted where polices are currently under review or awaiting final approval. Further discussion about policies and procedures are noted in other sections of this report as relevant. This chart is found in Appendix B.</p> <p>The Monitor’s office will limit its rating for this provision to the existing areas remaining in the Settlement Agreement. Progress made during this quarter on policies and procedures are noted throughout this report.</p>						
What is needed for full compliance? What steps are required and/or recommended?	<p>Approved policies and procedures should remain a priority in any area where the Monitor’s office has not yet approved of changes, and where policies do not adequately reflect the requirements of the Settlement Agreement and/or Consent Order.</p> <p>It is recommended that NIJ develop timeframes for the Monitor’s review of outstanding unapproved policies so that all remaining provisions can be finalized by June of 2019.</p>						
Quality Assurance Measures	Quality improvement policies should be explicit in ensuring that policies are reviewed annually and when otherwise necessary, and that staff are adequately trained on any new policies or policy amendments.						
<p>S.A. 50. Defendants shall ensure that current and new facility direct care staff are sufficiently well-trained to implement the terms of this agreement. Each direct care staff, whether current or new, shall receive at least forty (40) hours of training per year by qualified personnel to include, but not be limited to, the following areas: CPR (cardiopulmonary resuscitation); recognition of and interaction with suicidal and/or self-mutilating juveniles; recognition of the symptoms of drug withdrawal; administering medicine; recognizing the side-effects of medications commonly administered at the facility; HIV related issues; use-of-force regulations; strategies to manage juveniles' inappropriate conduct; counseling techniques and communication skills; use of positive reinforcement and praise; and fire prevention and emergency procedures, including the fire evacuation plan, the use of keys, and the use of fire extinguishers.</p>							
Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall	
	Y	Y	N	Y	N	N	

<p>Methodology for Monitoring this Quarter</p>	<p>Site visits by Victor Herbert occurred in the week of August 13, 2018. They included CTS Villalba, August 14; CTS Ponce, August 14, 2018; CD Humacao, August 16, 2018. An FT Meetings was held at DCR Headquarters, August 15. Victor Herbert did an observation of training on Mistreatment of Youth and Institutional Neglect.</p> <p>The Monitor has also received a copy of the Annual Report prepared by NIJ staff for the period of January 1 2017- June 30, 2018. She also met with Aida Burgos, Human Resource Director, to discuss training needs and compliance issues.</p>
<p>Findings and Analysis regarding compliance.</p>	<p>NIJ has policies regarding training which have been approved previously by the Monitor.</p> <p>NIJ submitted a report to the Monitor based upon training records from January 1, 2017- June 30, 2018. The report identified 79 officers who were inactive for training purposes, meaning they were away on extended leave (4-6 months), abandoned post, or were reassigned to facilities which do not house youth. The remaining 84% of officers, 419 in number, were available for training. This included 119 in the Humacao Detention Center, 129 in the Vallalba Social Treatment Center, and 162 in the Ponce Social Treatment Center. Nine (9) other staff were noted who do not provide direct services to youth.</p> <p>IDECARH developed, coordinated and provided a total of 16, 489 hours of training during the 18 months period, according to its report. Only 50% (208) of direct care staff completed 40 or more hours of training during that time, and an additional 20% (85) completed between 36-39 hours. Nineteen percent (19%) of direct care staff completed between 30-35 hours, and 11% completed less than 30 hours.</p> <p>The percentage of staff trained on various topics included:</p> <p>Emergency Key Control and Management (3 hours) - 409 staff (98%) CPR/AED/First Aid (6 hours) – 349 staff (83%) Management of Alleged Maltreatment and Institutional Neglect (4 hours) - 396 (95%) Youth Suicide Prevention (3 hours) – 411 staff (98%) Behavior Modification Program – (4 hours) – 377 (90%) Life Security – (6 hours) 389 (93%) Rules and Procedures of Use of Force – (3 hours) 303 (72%) Validating Rights and Duties – (4 hours) 409 (97%)</p> <p>It was noted that Physical health training related to recognition of symptoms of withdrawal of substances, administration of medication and their side effects, “among others” were not offered. Revisions are being made to the training of Rules and Procedures of Use of Force, alleged mistreatment and institutional neglect, and use of protective custody and students in special education.</p> <p>Victor Herbert observed a 4 hour training session on Mistreatment of Youth and Institutional Neglect on August 16. Participants included security personnel, teaching staff and a nurse. While all direct contact personnel should participate in this training, DCR maintains that only security personnel are required to attend as per the agreement and SA 50. 23 attended the session. The session was conducted by Minerva Vasquez of the</p>

	<p>investigative unit assisted by a social worker from Ponce and a senior security guard. The instructor employed an IDECARH Power Point presentation viewed previously in other institutions. She screened each slide reading content, providing comment and responding to questions. The session opened with a 30 item pre-test on the course material and ended with a repeat of the same item. There were group activities requiring analysis of select materials and group reporting.</p> <p>The Instructor started the session after the pre-test with a review of federal, local and policy demands concerning youth abuse. In addition to the implications for DCR, the items referred to both family and community abuse. The longest portion of the session focused on the reporting incident and clearly was the most compelling part of the training. Attendees eagerly reported their experience with abuse issues and the importance of getting the report correct, preserving evidence and finding witnesses willing to testify. At this point the teachers left the lesson as their lunch period was fixed from 12:00 to 1:00. The training continued with the security personnel and the last section was review and discussion of the pre- and post-test items.</p> <p>The lead instructor and her assistants were well-prepared, revealed awareness of the stipulation requirements and provided comment and response to the class concerns. As noted in other observations, there is a tendency to permit the more vocal participants to dominate the session flow. Involvement of the more reticent would improve if the instructors directed their questions and comments to specific students rather than simply accepting shouted replies. This pedagogic issue should be addressed in the DCR “train-the -trainer” program.</p> <p>The IDECAHR director also noted that she is without clerical assistance making completion of the report a serious challenge. The next report is from July of 2017 through December 2018.</p>
<p>What is needed to reach full and faithful compliance?</p>	<p>Training sessions in all SA 50 categories must be planned and provided throughout the coming year in order to increase compliance.</p> <p>Appropriate clerical support should be provided for the IDECAHR director to facilitate report preparation and compliance evidence.</p> <p>Institution directors must take steps to ensure their direct care staff attend the minimum requirement of 40 hours of the items contained in the stipulation. Directors should continue to work to identify those employees who are on their rosters but not actively employed in the facility to clarify their status of employment.</p> <p>The training policies note that 24 hours of training are provided to professional staff including teachers. Verification of this is needed for new teaching staff.</p> <p>NIJ should establish benchmarks to improve training compliance for each of the facilities, and create a system of quality assurance and quality improvement for training of staff.</p>

	<p>Continued six month reporting cycles are helpful tools to determine compliance, and should be completed at the end of December 2018, and at the end of June, 2019.</p>
<p>Priority Next Steps</p>	<p>During the Fourth Quarter, NIJ will create a series of metrics regarding its training program which will establish benchmarks for participation, indicators for quality of training, and alignment of annual training to the identified needs of the staff.</p> <p>An administrative position to support the training function is a high priority and should be requested during the fourth quarter to provide the appropriate level of resources and staffing.</p> <p>It is anticipated that if these two steps can be achieved during the Fourth Quarter, this paragraph may achieve full compliance and move into self-monitoring for a designated period of time.</p>
<p>Basis for findings and recommendations</p>	<p>Information garnered during this quarter and others consists of site visits to the institutions, meetings with the director, the education staff, students and security officers. Further detail arrives from the FT meeting currently attended by various department heads. This quarter also provided an opportunity to attend the youth mistreatment and institutional neglect training session.</p> <p>In addition to the instructors, comments from the attendees helped to better understand the quality of the training. Finally, self-reporting by NIJ staff was included in this report documenting the number of hours of training, trainings provided, and attendance rates of employees as well as percentages of attendance in each area of training.</p> <p>The findings and recommendations are also based upon the annual report submitted, and discussion with the Human Resource Specialist.</p>

PROTECTION FROM HARM – STAFFING (Bob Dugan)

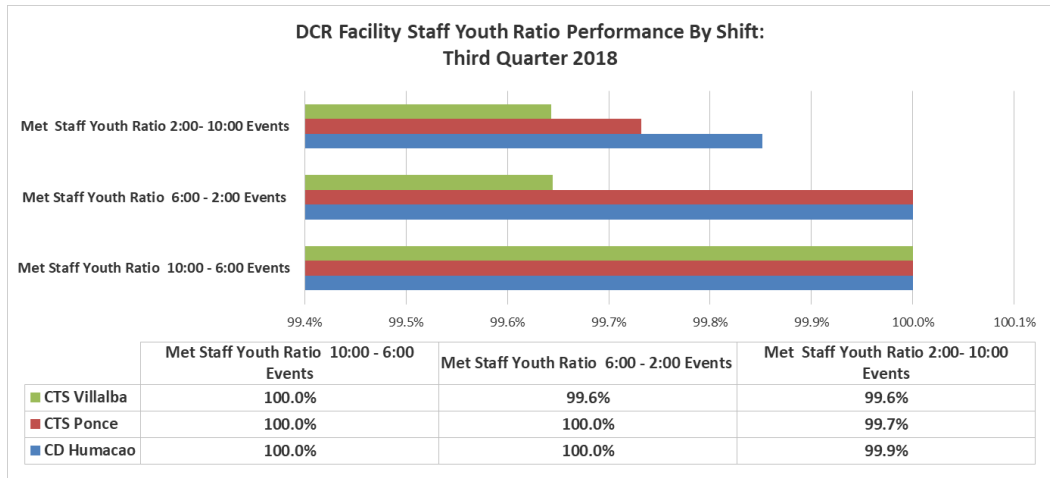
S.A. 48. Defendants shall ensure that the facilities have sufficient direct care staff to implement all terms of this agreement. Direct care staff supervise and participate in recreational, leisure and treatment activities with the juveniles. Compliance can be demonstrated in either of two ways.

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

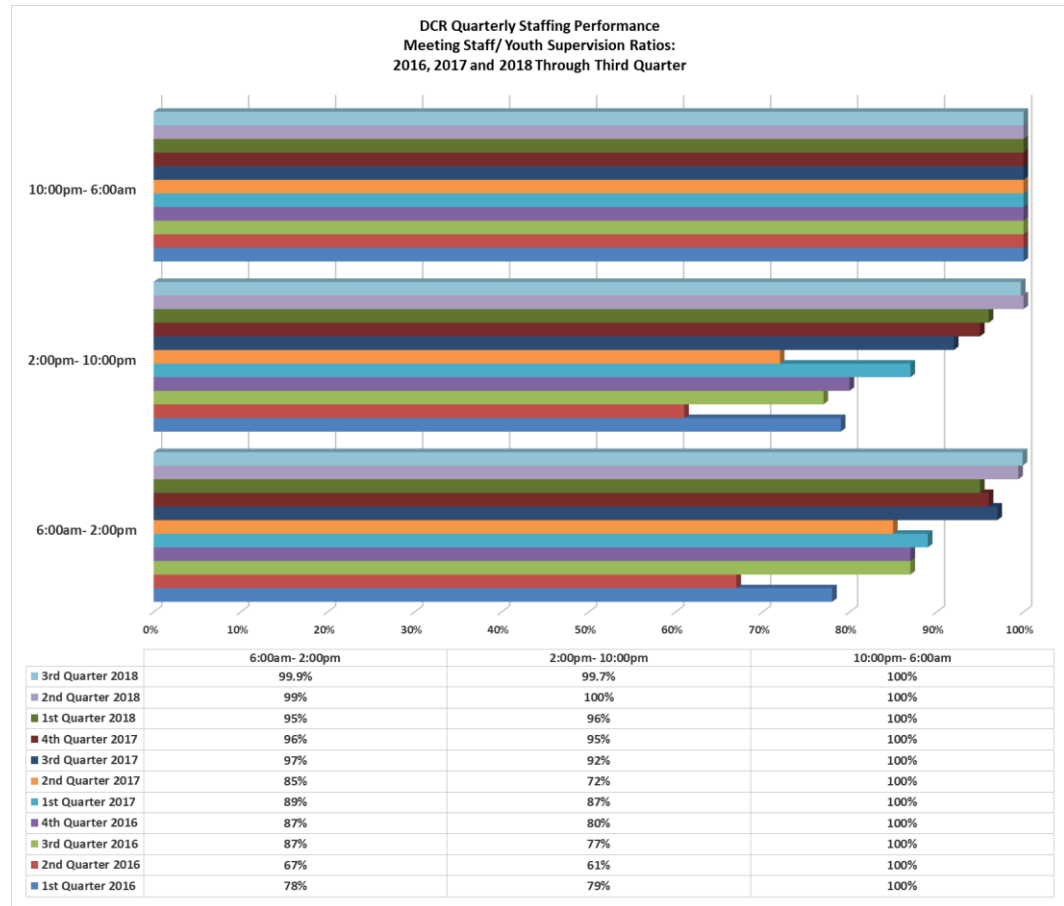
48.b Method Two: Defendants may develop, and submit to the court for approval, an alternate staffing roster for any facility in this case. The roster shall be based on a study that shall specify fixed posts and the assignment necessary to implement the terms of this agreement, taking into consideration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

The Commonwealth has the choice to demonstrate compliance according to method 48.a or 48.b. They have informed the Monitor that they do not intend to select method 48.b and that their legal position is that this language should be struck from the Settlement Agreement as superfluous.

Compliance Ratings	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	Y	Y	N	N
Description of Monitoring process during this period of time	<p>S.A. 48 Staff Youth Ratio monitoring compliance is analyzed on a quarterly basis using DCR facility generated weekly staff youth ratio forms. These forms are submitted to the Monitor’s Consultant throughout the reporting quarter. DCR facilities daily shift by shift staffing and youth population for each operational housing module is reported, as well as any 1:1 supervision events, and the volume of staff that are required to work a double shift. The compliance report provides information from Staff Youth Ratio forms that were provided to the Monitor’s Consultant for the period of July 1, 2018 through September 29, 2018.</p> <p>The Monitor's Consultant conducted site visits on August 21, 2018 to CTS Ponce and CTS Villalba and on August 22, 2018 to CD Humacao. On the afternoon of August 22, 2018 an Operational Functional Team meeting was held at the Monitor’s office.</p>					
Findings and Analysis	<p>DCR submitted a total of 39 facility staff youth ratio forms for the three facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. DCR has consistently provided all requested Staff Youth Ratio forms used for monitoring and reporting. Detention youth population and Sumaridos were detained in the CD Humacao facility for the third quarter reporting period.</p> <p>The chart and table below represent staff youth ratio performance by shift for the period (July 1, 2018 through September 29, 2018).</p>					



The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2016 through September 29, 2018:



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

- 6:00 am – 2:00 pm shift: 99.9% of events, a 0.5% increase from the second quarter of 2018 (99.4%)
- 2:00 pm – 10:00 pm shift: 99.7% of events, a 0.3% decrease from the first quarter of 2018 (100%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the first quarter of 2018 (100%)

Of the 3959 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3952 of the events (99.8%) met the shift staff youth ratio requirements. The DCR 2018 third quarter Staff Youth Ratios compliance performance reflects a 0.1% increase in staff youth ratio compliance from the second quarter reporting period, together with a reduction in the volume of staff working double shifts (796).

Waking Hours Youth Ratio Events:

The tables below provides data relating to staff youth ratio events during waking hours for the third quarter of 2018. Third quarter waking hour staff youth ratio of 99.69% is 0.2% higher than the prior quarter (99.6%).

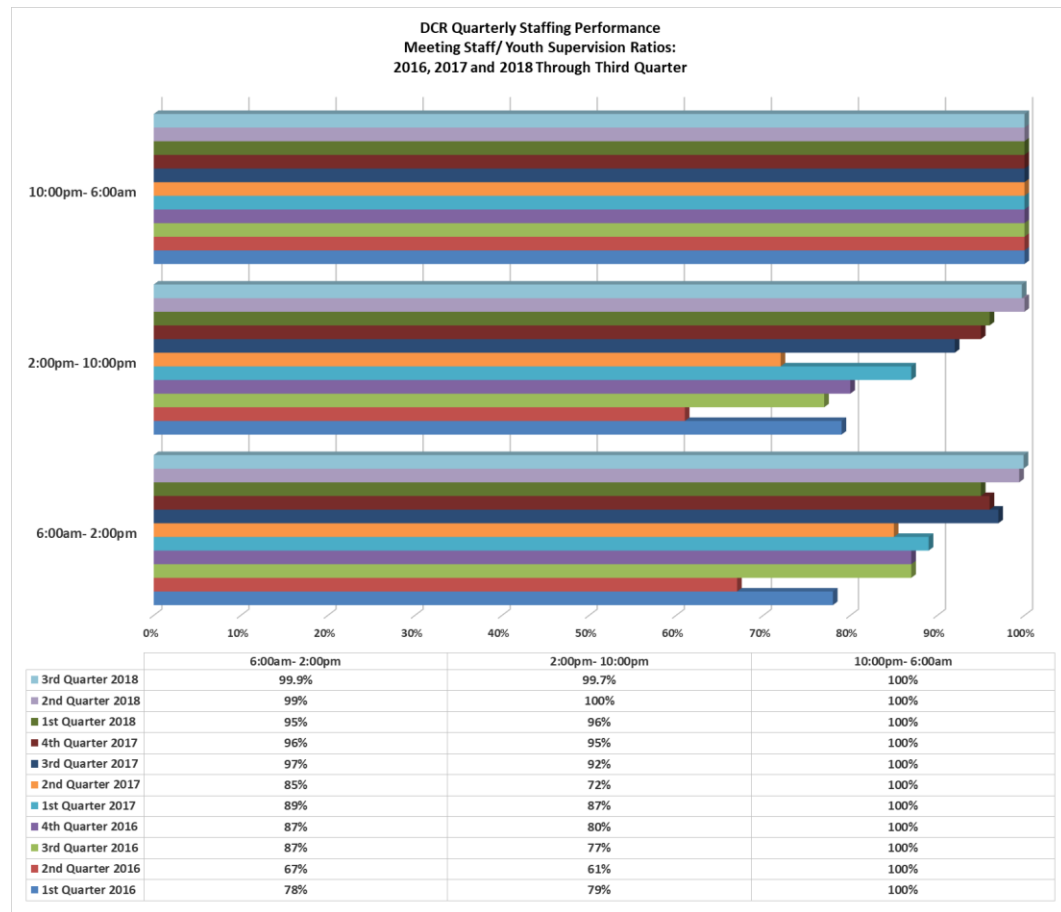
During the third quarter, CTS Ponce reported meeting the staff youth ratio in 100% of the waking hour staffing events, meeting the staff youth ratio in 2017 of 2018 events. This rate is the highest amongst the three facilities operational during the quarter. PUERTAS, housed in one of the housing modules within CTS Ponce, met the staff youth ratio for all shifts throughout of the 2018 third quarter reporting period.

CTS Villalba had the highest volume of events (4) not meeting the staff youth ratio requirements during waking hours (99.8%). All three facilities have reduced the percentage of shifts covered by staff working double shifts, while having the highest percentage of meeting the minimum required staff youth ratio.

- CD Humacao reduced percentage of shifts covered by staff working a double shift by 7%.
- CTS Ponce reduced percentage of shifts covered by staff working a double shift by 3%.
- CTS Villalba reduced percentage of shifts covered by staff working a double shift by 16%.

DCR Third 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
<u>CD Humacao</u>	1346	1345	99.9%	460	23%
<u>CTS Ponce</u>	1490	1488	99.9%	139	6%
<u>CTS Villalba</u>	1123	1119	99.6%	197	12%
DCR Third Quarter 2018 Staff Youth Ratio: All Shifts	3959	3952	99.8%	796	13%

The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2016 through September 29, 2018:



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- 2:00 pm – 10:00 pm shift: 99.7% of events, a 0.3% decrease from the first quarter of 2018 (100%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the first quarter of 2018 (100%)

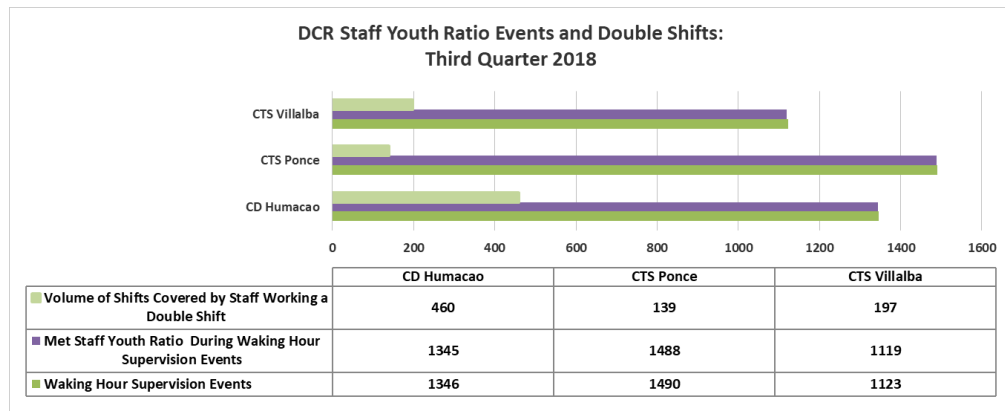
Of the 3959 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3952 of the events (99.8%) met the shift staff youth ratio requirements. The DCR 2018 third quarter Staff Youth Ratios compliance performance reflects a 0.1% increase in staff youth ratio compliance compared to the second quarter reporting period, together with a reduction in the volume of staff working double shifts (796).

Staff Double Shifts:

One of the major challenges that NIJ faces in meeting the requirements of S.A. 48 a, is the volume of double shifts that have been required to maintain the minimum required ratios.

Based on analysis of the submitted Staff Youth Ratio facility weekly forms, NIJ continues to document substantial compliance with meeting the minimum required staff youth ratios at all three facilities. Additionally, DCR reported successfully provided staffing for all twelve 1:1 supervision events which occurred during the 2018 third quarter.

For the 2018 third quarter, 796 (13%) of the 5935 staff youth ratio events were covered by staff working a double shift. This is 8% decrease of shifts requiring staff to work a double shift compared to the second quarter 2018 reporting period (1233 events).



The third quarter staff youth ratio performance was dependent on a significant but reduced volume of double shifts (796), eight percent less than the volume of double shifts compared to the second quarter.

A closer review identifies staff working double shifts occurred disproportionately on weekends during the first and second shifts. Although there was a very low volume of non-compliant staff youth ratio events (7) for the third quarter, all seven of these events occurred on weekends.

DCR Facility Third Quarter 2018	Volume of Non-Compliant Staffing Ratios	Volume of Non-Compliant Staffing Ratios on Weekends	Percentage of Non-Compliant Staffing Ratios on Weekends	Volume of Double Shifts	Volume of Double Shifts on Weekends	Percentage of Double Shifts on Weekends
CD Humacao	1	1	100%	460	142	31%
CTS Ponce	2	2	100%	139	69	50%
CTS Villalba	4	4	100%	197	99	50%
DCR Totals	7	7	100%	796	310	39%

The volume of double shifts occurring on weekends has contributed to a significant reduction in the volume of non-compliant staffing ratios occurring on weekends. 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. The outcome of double shifting for direct care staff can lead to a level of inattentiveness on the part of staff, which can negatively impact youth safety and potentially contribute to staff negligence in providing effective, safe and secure supervision to youth. 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 seven 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	Second Quarter 2018	Third Quarter 2018
Volume of Double Shifts	911	886	586	712	1202	1233	796
Volume of Staffing Events	6800	6299	5489	6611	5712	5816	5935
Percentage of Double Shift Staffing Events	13%	14%	11%	11%	21%	21%	13%
Number of Facilities	5	6	4	4	3	3	3

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

DCR has been working on development of agency staffing policy to procedurally require staffing assignment and documentation to prioritize operational compliance with the minimum 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, February 15, 2018 and June 16, 2018.

At the Functional Team Meeting held on August 22, 2018, members of the Operational Functional Team indicated that a policy had received agency approval and the Secretary’s signature. The Monitor’s Consultant, at the time of the meeting, and afterwards by

	<p>email, asked for a copy of the final approved staffing policy. As of the time of the production of this report the final approved staffing policy has not been provided.</p> <p>Although minimum staff youth ratios appear to be in substantial compliance to the requirements of S.A. 48a for the 2018 third quarter, absent an agency approved, Secretary signed policy, with the corresponding required staff training, S.A. 48a is found to be in non-compliance.</p>
Priority Next Steps	<p>Priority next steps required to find compliance for S.A. 48a are the following:</p> <ul style="list-style-type: none"> • Provide the Monitor's Consultant with a final electronic version of an agency approved, Secretary signed staffing policy. • Provide the Monitor's Consultant with the dates, attendees, and training materials, and pre and posttests of the staffing policy training that had been scheduled to occur on August 28 and 29, 2018. • Provide the Monitor's Consultant with electronic versions of each facilities the monthly/ cycle Master Roster.
Quality Assurance Measures	<p>For DCR, as well as the Monitor's Office, to effectively establish an effective quality assurance process to 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:</p> <ul style="list-style-type: none"> • Daily youth population list identify which youth are in which modules, designation of any youth on Protective Custody, Transitional Measures, Therapeutic Observation of Constant Watch. Additionally, daily trips and youth assigned to those trips should also be maintained in the daily population list. • The facility staff roster, displaying which staff has been assigned to which modules. It is critical that the form allows for clear documentation of officers assigned to each module as well as mini control. 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. <p>Staff youth ratio quality assurance 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,</p>

	<p>constant supervision, etc.). Mini-control logs are used to provide supplemental documentation of staff housing module assignments and staff and youth movement.</p> <p>Although DCR consistently provides weekly staff youth ratio forms, as of the Staffing Consultant site visits of August 21 and 22, 2018, DCR had not been able to implement the quality assurance facility staffing documentation requests uniformly at all three facilities. The absence of agency wide uniform staffing source documentation significantly limits the volume of quality assurance 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.</p> <p>During the August site visits, the Monitor’s Consultant demonstrated proposed quality assurance sampling of staffing documentation to facility compliance officers, identify strengths and weaknesses in existing facility practices. This process was shared with members of the Operational Functional Team at the Functional Team meeting on August 22, 2018. Future site visits will continue to incorporate quality assurance reviews of DCR staffing documentation. It is anticipated that as DCR continues to move toward compliance for S.A. 48a, facility compliance officers will execute the quality assurance analysis of policy and procedure compliance of facility staffing practices.</p> <p>The assessment of accuracy, reliability and comprehensive reporting of staffing documentation and practices is imperative to determine compliance of S.A. 48a.</p> <p>Although minimum staff youth ratios appear to be in substantial compliance to the requirements of S.A. 48a for the 2018 third quarter, absent an agency approved, Secretary signed policy, with the corresponding required staff training, and uniform facility quality assurance staffing documentation, S.A. 48a is found to be in non-compliance.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based</p>	<p>Weekly facility staff youth ratio workbooks are provided to the Monitor's Consultant throughout the quarter. Facility staff youth ratio workbook data is analyzed to assess facility and agency compliance in meeting the minimum required staff youth ratio as described in S.A. 48a.</p> <p>Site visits are used to review facility staffing source documentation, Master Rosters, Daily Rosters, mini control analyzed against the weekly facility staff youth ratio workbooks that are provided to the Monitor's Consultant.</p>

	Staffing practices, documentation and quality assurance discussions were conducted with facility compliance officers during site visits conducted on August 21 and 22, 2018. Daily roster and housing module staff youth ratios were observed and analyzed with strengths and weaknesses shared with facility compliance officers.					
January 2009 Stipulation Paragraph 1: All necessary steps shall be taken immediately to ensure the reasonable safety of youth by providing adequate supervision of youth in all facilities operated by, or on behalf of, the Defendants.						
Compliance Ratings	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	N	Y	Y	Y
Description of Monitoring process during this period of time	The Monitor's Consultant conducted site visits on August 21, 2018 to CTS Ponce and CTS Villalba and on August 22, 2018 to CD Humacao. On the afternoon of August 22, 2018 an Operational Functional Team meeting was held at the Monitor's office.					
Findings and Analysis	As with S.A. 48a, DCR has yet to provide the Monitor's Consultant with a final approved staffing policy. As of the 2018 third quarter, the Monitor and Monitor's Consultant are concerned that being in substantial compliance with the minimum staff youth ratios is not sufficient to assure youth safety. The most significant events upon which the Monitor's Consultant is basing this belief on the volume of cutting events that have occurred at DCR facilities, with the most recent one occurring on September 26, 2018 at CTS Villalba.					
What is needed for full compliance? What steps are required and/or recommended?	DCR has provided a January 2009 Stipulation Paragraph 5 report that describes the volume of staff by classification assigned to each of the three facilities. Analysis of the January 2009 Stipulation Paragraph 2 report can be found in the January 2009 Stipulation Paragraph 2 compliance report section. Facility minimum staff youth ratio is substantially compliant but does not necessarily equate that staffing provides adequate supervision to keep youth safe.					
Priority Next Steps	Further analysis of facility incident reports, specifically reviewing youth injuries, youth fights, youth assaults, youth self-harm, youth cutting events, youth on youth sexual assault, and staff on youth sexual assault is required to adequately assess youth safety.					
Quality Assurance Measures	Incident report analysis and quality assurance requires consensus on incident report characteristics and definitional compliance as well as comprehensive reporting. Although not part of the S.A. the installation of video systems in CD Humacao and CTS Villalba, while assisting in the assessment of investigations, would be a great asset in assessing youth safety, as well as the dynamics associated with youth incident reports and adequate staff supervision to assure youth safety.					

January 2009 Stipulation Paragraph 2: All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth, pursuant to Paragraph 48.

The requirement that 50 YSOs be hired each month was terminated by the Court on September 13, 2011 (Docket 991) No new YSOs were hired during the Third Quarter of 2018.

Compliance Ratings	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	Y	Y	Y	N

Description of Monitoring process during this period of time
 Monitoring of S.A. 48 January 2009 Stipulation Paragraph 2 occurs through review of the monthly staffing report provided by the DCR Human Resources Development and Training Institute. The report indicated that no new officers were appointed.

Findings and Analysis
 On October 10, 2018 the Monitor's Consultant received for the first time, an electronic copy of a staffing report in compliance with the reporting requirements of S.A. 48 January 2009 Stipulation Paragraph 5, dated October 5, 2018, covering a period as of September 30, 2018. No report was received for July or August 2018.

The stipulation requires, "All necessary steps shall be taken to provide sufficient direct care staff to implement the Consent Decree and adequately supervise youth." The provisions of this stipulation exceed the minimum staff youth ratio that is required in S.A. 48a, in that the language requires that the volume of direct care staff is needed to implement the Consent Decree and adequately supervise youth.

The volume of staff reported in the September 2018 S.A. 48 January 2009 Stipulation Paragraph 5 report appear to be adequate to supervise the youth population as indicated in the table below:

Facility	OSJ I	OSJ II	OSJ III	OSJ IV	Total	Inactive	Net Volume of Staff	Appointments 8/2018	Facility Population 9/28/2018
CD Humacao	118	5	8	1	132	15	117	0	45
CTS Ponce	139	16	7	3	165	16	149	0	49
CTS Villalba	119	10	6	1	136	17	119	0	56
Other DCR Facilities	40	4	4	1	49	3	46	0	NA
Officials by Level	416	35	25	6	482	51	431	0	150

On August 22, 2018 at the Operational Functional Team meeting, the Monitor and Monitor's Consultant requested that DCR provide a report on contraband as a result of concern over the volume of youth assaults by cutting with sharp objects. On approximately October 4, 2018, DCR provided the Monitor with five Excel workbooks and one Word document, capturing data about contraband. An analysis of the submitted documents reveals that two of the documents, one Word document, and one Excel document, were duplicates of other submitted files. The file reviewed the events as identified in the table below:

	Contraband Submittal	Volume of Reported	Contraband: Sharp Objects
	4 Tabla Notificación Material Ocupado (Contrabando)1	37	20
	5 Copy of Copy of Tabla Notificación Material Ocupado (Contrabando) ABRIL 20181	11	10
	6 Copy of Copy of Tabla Notificación Material Ocupado (Contrabando) febrero 20181	7	6
	9 Tabla Notificación Material Ocupado (Contrabando) Humacao1	10	9
	Totals	65	45
	<p>Although it is difficult to provide context to the contraband file submittal, sixty-nine percent (69%), forty-five (45) of the contraband events reported were contraband that was categorized as sharp objects.</p> <p>The volume of youth assaulted by youth with blades or sharp objects is very concerning to the Monitoring Team. The Monitor's Consultant is not naïve as to the type of youth and corresponding behavior being housed in DCR facilities, but nevertheless are concerned as to whether staff can effectively manage youth behavior, critical events and contraband. As the agency youth population has decreased, it has left a population, as in other youth correctional agencies, that presents serious behavior management, educational and mental health needs, requiring skillful direct care staff and effective programming to create a safe and secure facility.</p> <p>The Monitor's Team is analyzing how to better assess characteristics of incident reports to accurately assess the volume of events occurring impacting youth safety and adequate staff supervision of youth.</p>		
What is needed for full compliance? What steps are required and/or recommended?	DCR has yet to submit a final, Secretary signed, agency staffing policy. Additionally, the staffing policy was to have corresponding training sessions for staff to take place on August 28 and 29, 2018. As described in earlier sections of the compliance report, training attendance, training materials, and pre and post test results are needed by the Monitor's Consultant to assess procedural compliance with the stipulation.		
Priority Next Steps	<p>A priority next step will be to assess DCR IT capacity to provide an electronic incident report module within the electronic record keeping process. In the interim, the Monitor's Consultant will develop a Excel contraband workbook for consideration of implementation by DCR to allow for more efficient analysis of contraband reporting.</p> <p>Additionally, the Monitor and Monitor's Consultant will initiate dialogue with DCR to better understand stipulation requirements to assess whether the existing volume of direct care staff is "sufficient" to "adequately supervise youth". Although there appears</p>		

	to be a sufficient number of direct care staff, there appears to be a significant need for staff skill development as well as programming to assure “adequate youth supervision”.					
Quality Assurance Measures	The critical next steps for quality assurance measures is to develop consensus over critical terms of this stipulation. Agreement on the importance of the accuracy and reliability of data, consensus on definitional compliance of terminology, and comprehensive reporting of events and incident event characteristics are essential for effective quality assurance measures.					
Sources of Information upon which Consultant report and compliance is based	Reports that were used for analysis of this compliance ratings were the January 2009 Stipulation Paragraph 5 report for September 2018 and the DCR submitted contraband reports.					
<p>January 2009 Stipulation Paragraph 3: Defendants will include as direct care staff all social workers assigned to its institutions, once such staff receive forty (40) hours of pre- service training, pursuant to Paragraph 49 of the Consent Decree. The same shall also receive annual training as direct care staff, pursuant to Paragraph 50 of the Consent Decree.</p> <p><i>The Commonwealth has decided not to employ this provision to enhance coverage. However, the provision remains as a future option. Unless and until the Commonwealth determines that they want to apply this provision, the Monitor’s Office will not Monitor the provision. The choice to not implement this provision is not non-compliance. The struck part of the provision references a provision that has been terminated.</i></p>						
<p>January 2009 Stipulation Paragraph 4: All persons hired to comply with Paragraph 48 shall be sufficiently trained, pursuant to Paragraph 49 of the Consent Decree, before being deployed. Defendants shall deploy all duly trained direct care staff, pursuant to Paragraph 49, to juvenile facilities in a timely manner.</p> <p><i>The struck part of the provision references a provision that has been terminated.</i></p>						
Compliance Ratings	Policies	Training	Staffing	Resources	Documentation	Overall
	N	Y	Y	Y	Y	N
Monitoring process during this period of time	There were no new appointments to the agency during the third quarter reporting period, nor has there been any new appointments in the last several years.					
<p>January 2009 Stipulation Paragraph 5: On the fifth day of every thirty-day period commensurate with the Order approving this Stipulation, Defendants shall submit a report to the Monitor and the United States providing the following: a. the number of current direct care staff, by position classification, at each facility; b. the number of qualified direct care staff hired during the previous period; c. the number of hired direct care</p>						

staff in the previous period who were hired and have received pre-service training, pursuant to Paragraph 49; and d. the juvenile facilities where the direct care staff who were hired in the previous quarter and have received pre-service training, pursuant to Paragraph 49, have been deployed or assigned.

The struck part of the provision references a provision that has been terminated.

Compliance Ratings	Policies	Training	Staffing	Resources	Documentation	Overall
	N	Y	Y	Y	Y	N
Description of Monitoring process during this period of time	Monitoring of S.A. 48 January 2009 Stipulation Paragraph 5 occurs through review of the monthly staffing report provided by the DCR Human Resources Development and Training Institute. At the Operational Functional Team meeting on August 22, 2018, the Monitor's Consultant requested that the report be provided as soon as possible. Additionally, the Monitor's Consultant identified that the S.A. 48 January 2009 Stipulation Paragraph 5 report needed to correspond to each facilities Master Roster staff volume.					
Findings and Analysis	<p>On October 10, 2018 the Monitor's Consultant received for the first time, an electronic copy of a staffing report, dated October 5, 2018, covering a period as of September 30, 2018. The report provided the following:</p> <ul style="list-style-type: none"> a. the number of current direct care staff, by position classification, at each facility; b. the number of direct care staff that are inactive c. the number of direct care staff that were appointed in August 2018 <p>The following report was submitted by DCR:</p>					

05-OCTUBRE-2018



DEPARTAMENTO DE CORRECCION Y REHABILITACION
 SECRETARIA AUXILIAR DE RECURSOS HUMANOS Y RELACIONES LABORALES
 INSTITUTO DE DESARROLLO Y CAPACITACION DE RECURSOS HUMANOS

INFORME ORDEN DEL 8 ENERO 2009
 PARRAFO 48 (30 Septiembre 2018)

Centro	OSJ I	OSJ II	OSJ III	OSJ IV	TOTAL	INACTIVOS	NOMBRADOS Agosto 2018
Centro de Detención de Humacao	118	5	8	1	132	15	0
Centro de Tratamiento Social de Ponce	139	16	7	3	165	16	0
Centro de Tratamiento Social de Villalba	119	10	6	1	136	17	0
Nivel Central y Otras facilidades DCR	40	4	4	1	49	3	0
OFICIALES SERVICIOS JUVENILES POR NIVEL	416	35	25	6	482	51	0

*Información base de datos IDECARH al 30 septiembre 2018

PREPARADO POR:


 AIDA BURGOS ROSARIO, MPA
 ESPECIALISTA EN RECURSOS HUMANOS II

No reports were received for July or August of 2018.

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

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

- Submit a January 2009 Stipulation Paragraph 5 staffing report to the Monitor's Consultant on or about the fifth day of the month
- The inactive (inactivos) staff identified for each facility should be identified by classification type;
- The report should contain the number of qualified direct care staff hired during the previous period (month);
- The juvenile facilities where the direct care staff who were hired in the previous quarter have been deployed or assigned.

Priority Next Steps

Since this is the first time that DCR has produced this report, DCR needs to continue to provide this report on a consistent basis. Additionally, in order to assess the accuracy and reliability of the S.A. 48 January 2009 Stipulation Paragraph 5 report, DCR needs to provide to the Monitor's Consultant an electronic version of the facility monthly/cycle Master Rosters.

<p>Quality Assurance Measures</p>	<p>Upon receipt of the monthly facility Master Roster, a comparative analysis will occur with the S.A. 48 January 2009 Stipulation Paragraph 5 report to assess the accuracy and reliability of the report matching the data from the facility Master Rosters.</p> <p>Ultimately, the Monitor's Consultant would request that DCR, upon production of the S.A. 48 January 2009 Stipulation Paragraph 5 report, would stipulate that the numbers presented in the report correspond to the volume of staff and corresponding classifications for each facility's Master Roster.</p>
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PROTECTION FROM HARM – CLASSIFICATION (Bob Dugan)

<p>S.A. 52: At both the detention phase and following commitment, Defendants shall establish objective methods to ensure that juveniles are classified and placed in the least restrictive placement possible, consistent with public safety. Defendants shall validate objective methods within one year of their initial use and once a year thereafter and revise, if necessary, according to the findings of the validation process.</p>						
Compliance Ratings	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	Y	Y	N	N
<p>Description of Monitoring process during this period of time</p>	<p>Site visits were conducted on August 21 and 22, 2018. CTS Ponce and CTS Villalba were visited on August 21 and CD Humacao was visited on August 22. An Operational Functional Team meeting was held on the afternoon of August 22.</p> <p>During site visits facility youth population classification and housing assignments were provided for all three facilities. Throughout the quarter, and in the previous twenty-five quarters, NIJ has provided detention and committed classification documentation, with corresponding youth facility assignments and assessed levels of treatment. NIJ facility and housing assignments have been found to consistently correspond to youth's assessed levels of classification and treatment.</p>					
<p>Findings and Analysis</p>	<p>Background: NIJ has demonstrated significant commitment to progressing toward compliance on S.A. 52 over the last several years. NIJ 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 <i>Instruments for Youth in Custody (ICI)</i> and the <i>Instrument Risk Index (ICR)</i>. 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 a operational manual and initial training of staff. The validation study identified the instruments for youth in custody as the ICI, NIJ now refers to the youth in custody</p>					

electronic classification instrument as the “ICC”. Likewise, the validation study identified the instrument risk index for detention youth as the ICR, NIJ now refers to the youth in detention electronic classification instrument as the “ICD”.

Detention Classification: Detention youth are placed at CD Humacao, are administered the detention classification instrument (ICD) within twenty-four hours of admission and placed in a housing module corresponding to their classification level. For the third quarter, there were 78 admissions of which 64 (82%) were classified as low; 13 (17%) were classified as moderate; 0 (0%) were classified as intensive; and 1 (1%) was not able to be classified since he was released from Court.

Detention classification documentation has been provided to the Monitor’s consultant for each month of the quarter. Detention classification documentation indicates youth have been consistently classified and assigned to a housing module that corresponds to their assessed detention classification level. A review of facility and housing module assignments at CD Humacao at the time of third quarter site visit (August 22, 2018) reflected that youth were consistently assigned to the facility and housing module that matched their levels of classification.

Over the period of the last eleven quarters, the first quarter of 2016 through the third quarter of 2018, of NIJ detention admission classification, seventy-one percent (71%) of youth have been classified as low risk. NIJ appears to have an opportunity to explore with law enforcement, community providers and the court system, whether the development of alternatives or diversion from detention placement may exist for many of the youth in this classification level. Exploration of this best practice could result in a detention population reduction and potential for budgetary savings.

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

Each month, NIJ provides to the Monitor’s consultant a classification workbook that provides data for analysis of the monthly committed classification process. Youth who are committed to the custody of NIJ are placed in the Residential Evaluation Module (MER) for evaluation, classification (ICC) and ultimately placement in the facility with the corresponding treatment level as determined by the Division of Evaluation and Classification Team.

NIJ has produced a monthly facility population and levels of treatment verification report for each month of the third 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 and classification based on assessed treatment level.

The youth's institutional assignment and housing module placement is reviewed to assess if it corresponds to the level of classification treatment. For the third quarter of 2018, all the reviewed committed institutional assignments are consistent with the level of classification 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 the CTS Ponce and CTS Villalba site visits on August 21, 2018, youth housing module assignments were uniformly consistent with institutional assignment and assessed classification levels of treatment.

NIJ assigns committed Level 2 and Level 3 youth to CTS Ponce. CTS Ponce also houses the two PUERTAS housing modules. NIJ assigns committed Level 4 and Level 5 youth to CTS Villalba. For the third quarter the following institutional assignments and levels of treatment were made:

Facility	Level of Treatment	Number of Youth
CTS Ponce	Level 2	2
CTS Ponce	Level 3	4
PUERTAS	Mental Health	0
CTS Villalba	Level 4	5
CTS Villalba	Level 5	3

At the time of the third quarter report, although the Monitor's Consultant has reviewed numerous versions of draft classification policies. NIJ has yet to produce a final agency policy that identifies by policy and procedure a process to 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.

On July 19, 2018, NIJ submitted to the Monitor's Consultant classification data purported to meet the requirement of an annual validation of objective methods of classification.

	<p>The data presented as was not accepted by the Monitor’s Consultant as meeting the requirement of the provision, in that it only reported aggregate classification levels by month, with an absence of analysis to validate the effectiveness and integrity of the classification methodology.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Although numerous versions of classification policies have been reviewed by the Monitor’s Consultant, NIJ is yet to submit a final draft version nor an agency approved version of the classification policies. Two critical components that need to be addressed in the classification policy and procedure is override process to the electronic classification score and corresponding levels and inclusion of a process to conduct an annual validation of the objective methods used in the classification processes and revise the classification process if the validation findings indicate revisions are required.</p> <p>On July 19, 2018, the Monitor’s Consultant provided NIJ with the recommended components that need to be addressed in classification policies relative to an annual validation review:</p> <ul style="list-style-type: none"> • An annual validation process be addressed in the classification policy for both custody and detention; • The annual validation process should address classification procedural compliance; • Assessment of the validity of the detention and custody objective methods used in the period covered by the annual review; • Variance from procedural compliance; • Analysis of compliance to timelines of classification processes as described in policy and procedure; • Assessment of the supervision and evaluation process used to assure that social workers who are administering the detention and custody classification instruments are effectively and accurately implementing the instruments; • Based on the assessment of supervision and evaluation process address any need for additional training or changes required to classification policy and procedure; • Documentation of the issues that are identified in the “Flexibilizaciones, Maximizaciones, and Traslados” (Flexibilizations, Maximizations, and Transfers) reclassification processes would also support a comprehensive annual validation process. <p>Resources needed to address S.A. 52 compliance is identification of exactly who is responsible for production of an agency approved, final comprehensive classification policy for both detention and committed populations inclusive of a process to conduct annual validation review of the objective methods used in the classification process. Secondly, NIJ needs to implement the annual review of the classification methodology, with production of a report that describes the validation process, findings</p>

	<p>of the validation review, and any revisions required of the classification instruments or procedures because of the annual review findings.</p> <p>Although classification training has been provided by NIJ at the time of the implementation of the classification process, upon production of a final agency approved classification policy, training sessions should be scheduled for all staff impacted by the policy.</p> <p>Upon completion of the annual reviews of the classification methodology, any validation findings that result in changes to policy, procedure or practice need to be documented and addressed through training sessions.</p> <p>The Monitor's Consultant will want to attend these trainings or any other scheduled training relative to the classification processes. Currently, the Monitor's Consultant is not aware of any scheduled classification training.</p> <p>The metrics established for compliance of this provision are the following:</p> <ul style="list-style-type: none"> • A final agency approved classification policy and procedure, inclusive of a process requirement for annual classification methodology validation, findings, and revisions that are necessary • Production of annual review of validation of classification objective methods and findings • Continued production of monthly detention and committed classification data. • 100% of detention youth are classified and assigned to appropriate housing modules, unless prior release by the Court • 100% of committed youth are classified and assigned to appropriate facilities and housing modules, consistent with their assigned classification treatment levels
Priority Next Steps	<p>The priority next steps toward compliance is for NIJ to produce a final agency approved detention and committed classification policy and procedure, inclusive of the requirement for an annual review of the validation of the objective methods of the classification instruments and processes. Subsequent training sessions of agency approved policies needs to be scheduled. Upon completion of an annual validation, if there are revisions that are necessary, the revisions should be addressed in training sessions.</p> <p>It is hoped that NIJ will be able to prioritize the classification policy production and initiate an annual review of the validation of the objective methods of the classification instruments and processes during the fourth quarter.</p>
Quality Assurance Measures	<p>NIJ effectively documents the results of both detention and committed classification processes and youth classification, levels of treatment and corresponding housing module assignments. Monthly documentation of detention and committed classification is consistently provided to the Monitor's Consultant.</p>

	<p>Incorporation of the annual review of the validation of the objective methods of the classification instruments, processes and findings will systematize quality assurance into the classification processes.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based (may be repetitive somewhat with first category of what you did, but this is more of what you relied upon for your findings and recommendations)</p>	<p>Monthly classification documentation for youth who have been classified for detention and committed youth is provided to the Monitor's Consultant. Monthly, NIJ provides the Monitor's Consultant facility youth population and classification reports. During site visits, the Monitor's Consultant obtains facility youth population documentation that identifies youth housing module populations and classification levels of treatment.</p> <p>For the third quarter, there were 78 admissions of which 64 (82%) were classified as low; 13 (17%) were classified as moderate; 0 (0%) were classified as intensive; and 1 (1%) was not able to be classified since he was released from Court.</p> <p>Detention classification documentation provided to the Monitor's consultant monthly, indicates youth have been consistently classified and assigned to a housing module that corresponds to detention classification level. A review of facility and housing module assignments at CD Humacao at the time of third quarter site visit (August 22, 2018) reflected that youth were consistently assigned to the facility and housing module that matches their levels of treatment classification.</p> <p>For the third quarter of 2018, all the reviewed committed institutional assignments are consistent with the level of treatment scores and level assignments as reported in the monthly committed classification reports. Youth committed classification levels and institutional housing assignments are reviewed for consistency during site visits. During the CTS Ponce and CTS Villalba site visits on August 21, 2018, youth housing assignments were uniformly consistent with assessed classification levels of treatment and corresponding facilities.</p> <p>NIJ assigns committed Level 2 and Level 3 youth to CTS Ponce. CTS Ponce also houses the two PUERTAS housing modules. NIJ assigns committed Level 4 and Level 5 youth to CTS Villalba.</p> <p>At the production of the third quarter classification report, NIJ has not produced a final agency approved classification policy, nor an annual review of the validation of the objective methods of the classification instruments, processes and findings. Upon production of the classification policies and procedures and the annual validation findings, corresponding training will be required.</p>

PROTECTION FROM HARM – USE OF FORCE (David Bogard)

<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>						
Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	N	Y	Y	Y	N
Description of Monitoring process during this period of time	<p>One element of monitoring this provision included visits from September 12-13 to each facility to examine incident reports for use of force cases and reviewed same with institutional management and compliance staff. At each facility I reviewed incident reports, and in the case of Ponce, I also viewed videos for all QTD incidents as of that date. At Ponce, I reviewed incident reports and videos of 4 of the 8 use of force incidents occurring during the quarter with institutional and monitoring staff. At Villalba I reviewed 8 incident reports of the 8 use of force incidents reported during the quarter. And at Humacao, I reviewed 3 incident reports of the 3 use of force incidents reported during the quarter. With the benefit of new translation software and DCR sending translatable MS WORD documents, I also reviewed 8 OISC investigations of use of force incidents to determine whether the investigations were thorough and comported with the requirements of ¶178 and a screening worksheet that I designed. I also reviewed DCR’s weekly spreadsheet reports of use of force incidents and multiple descriptive data elements for same including names of youth involved, locations, types of force employed, injuries sustained by youth, medical services provided, etc. I also reviewed a table and updates developed by UEMNI listing all OISC and UEMNI investigations of use of force and other allegations and the status of such reports and any corrective actions taken against staff for confirmed mistreatment or maltreatment.</p> <p>Monitoring also included receipt of and careful review of the newly updated use of Force Policy 9.18 and review of more than 10 OISC Use of Force investigations.</p>					
Findings and Analysis	<p>The overall number of use of force incidents this quarter (19) is higher than last quarter’s 10, but close to the average (mean) for the past four quarters (Q4/17- Q3/18). This quarter’s 19 UOF incidents occurred as follows: Humacao (3); Villalba (8); Ponce (8). The volume of OC use (23) is skewed by one large scale incident at Humacao on September 6 in which 16 youth were sprayed. And the volume of physical restraints increased this quarter to 47, the highest number since Q4-17, which was an outlier due to one youth (J.S.), at Ponce, being involved in 16 of 23 use of force/physical restraint incidents among the three facilities. According to data reported by the facilities, all 21 injuries were due</p>					

to the underlying incidents (i.e., the fight between youth in which staff intervened) and 12 of 21 injuries were attributable to the September 6 Humacao incident.

A serious challenge is presented by the recent increases in youths assaulting officers and having shanks or blades hidden on their person. While this could prove to be a factor in increased use of OC as a means to protect staff and youth from harm that could more likely result from direct physical restraint, there is no evidence to suggest that it is occurring.

I continue to be impressed with the actions of staff at Ponce whose use of force is typically, per ¶77 criteria, justifiable and non-punitive, and routinely used to provide safety to other youth and to maintain control of an area in which youth are fighting with each other. Through my reviews of video, I have observed officers to be generally very patient with youths, particularly those with mental health difficulties, and measured with their responses. I have also repeatedly observed officers placing themselves between youths who were engaged in violent confrontations at significant risk to themselves and without the use of force. Unfortunately, there are also exceptions, e.g., a very bad incident involving many youths and staff (four of whom were ultimately terminated) in the Ponce gym in January 2018. It is more difficult to assess the actions of staff at Humacao and Villalba without the benefit of cameras and I must typically rely on review of reports and discussion with facility management staff, and where referred, on the findings of OISC investigations.

In virtually all incidents, all staff who used force or were witnesses prepared thorough reports using the check boxes and narrative components of the Incident Report form, with reviews by supervisors' part of that package and Cernimiento reviews by directors and compliance staff to determine whether 284 referrals would be made. While there are of course inconsistencies in the quality and thoroughness with which officers complete the Incident Reports, they are generally well done and are responsive to the requirements of the provision, which are reflected in the form itself. Supervisors do constantly work with staff to improve the quality of such reports. The reports typically provide adequate explanations and justifications for the amount and type of force used, consistent with policy and this provision, including pre and post use weights of any OC canisters that are deployed.

When youth bring an allegation of excessive or unnecessary force to staff, usually to social workers, a 284 is immediately generated. Supervisors continue to try to encourage line staff to avoid canned phrases so as to provide better descriptions of actual force used.

When OC is deployed, incident reports and medical notes and investigations showed that decontamination occurred promptly and all youth in any incident are taken to the

	<p>infirmary to be examined and treated if necessary. As has been the pattern for several years, OC continues to be used disproportionately at Humacao as compared to the other facilities: in this quarter 2 of 3 incidents and 21 total youth affected of the 23 sprayed system wide. It is not clear whether OC is routinely employed in a manner consistent with the requirements of Policy 9.18 and this is something that OISC investigations need to more consistently examine and will be an important ¶77 compliance issue.</p> <p>The current training materials are from 2015 and need some updating to reflect the August 2018 version of policies 9.18 (use of force) and 9.10 (reporting); IDECAH has indicated that updates are in progress. That said, the materials in use are sound and generally reflective of current policy. The Deputy Monitor attended a training session in 2017 and found it to be excellent.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>The Monitor’s Consultant reviewed and provided comments/edits on DCR’s 2017 draft version of the 9.18 Use of Force Policy. The Monitor was advised on 8/23/18 that DCR completed and signed the updated policy on August 6 (with an effective date of September 16, 2018), albeit without final review by the Monitor’s Consultant. That said, it represents a significant improvement over the prior version and includes a substantial amount of elements requested by USDOJ and the Monitor’s Consultant some time ago. The new policy is good and represents a sound foundation for guidance to employees and accountability.</p> <p>The Monitor received from DCR on February 8, 2018 evidence of use of force training completion by all staff. The Deputy Monitor previously reviewed training curricula and attended training sessions and found them to appropriately reflect the terms of this provision as well as policy. DCR must now adjust the lesson plan to reflect the new use of force policy. All staff receive 3 hours annually and OC updates (including hands-on exercises) when a new brand or type of OC is to be used.</p> <p>The enhanced quality of OISC use of force investigations over the past several months is a positive step to aid in better understanding of what actually occurred in incidents; the reports are very thorough and now include findings and evidence to reasonably conclude that allegations are corroborated or are not. The investigations do need to ultimately document whether force was used or reported consistent with specific references to Policy 9:18 and 9.10. And employee accountability (as was displayed in the case of the January Ponce incident), is vital to serve as specific and general deterrence against staff violating use of force policy and training.</p> <p>Although not a requirement of ¶77, installation of cameras at Humacao and Villalba would greatly enhance youth and staff safety in many respects, including serving as a deterrent to unsafe behavior by staff and youth and allowing for far greater employee accountability via enhanced investigations. And while seemingly a minor issue, the unavailability of color printer cartridges needs to be corrected as it diminishes the</p>

	<p>quality of photos of injuries that are taken after incidents and used by OISC in the investigations.</p> <p>An additional measure would be very helpful—conversion of handwritten incident reports into electronic files in order to allow for capturing data from the reports.</p> <p>Full compliance will require evidence that policies and training are sound, and accurate and comprehensive reporting occurs routinely and that use of force incidents are handled in a manner consistent with policy and training.</p>
<p>Priority Next Steps</p>	<p>Next steps to achieve compliance are updating of P77 training to reflect August version of the policy; training all staff in any changes to Policy 9.18; QA and Monitor’s review to determine that use of force incidents are being handled in compliance with Policy and training, examining how OC is being used (is it aerosol or foam and is it sprayed in the air when group fights are occurring?), and whether the OC and other force is being used in compliance with Policy 9.18.</p>
<p>Quality Assurance Measures</p>	<p>DCR has recently produced a QA report in which they analyzed several quantitative aspects of use of force and also identified some measures that will be taken to enhance compliance efforts; this is an excellent first step. Unfortunately, there are many questions about the definitional compliance, accuracy and reliability of the data presented in DCR’s initial QA efforts. A prime example is use of the term “physical aggression” which appears to be used interchangeably to include youth on youth incidents, staff on youth uses of force, and staff on youth force that is not part of a reported incident. QA efforts should review whether force is being used consistent with specific requirements and provisions of Policy 9.18 and reported consistent with Policy 9.10.</p>

PROTECTION FROM HARM – INVESTIGATIONS (Kim Tandy, Javier Burgos)

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

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	Y	Y	N	N	N
Description of Monitoring process during this period of time	<p>During this monitoring cycle, the Monitor reviewed prior reports and tables used to document compliance, met with staff from OISC and UEMNI to walk through their process, and reviewed the documents they produce as part of their investigations into abuse and institutional maltreatment. The Monitor also had numerous discussions with the Consultant team and the deputy monitor about how best to improve the monitoring for this paragraph.</p> <p>The policies and procedures for Chapter 13 govern this provisions, and have been reviewed by the Monitor for compliance to this section.</p> <p>The Monitor requested a special report in August of 2018 detailing the prior 12 months of data regarding youth on youth violence, staff on youth incidents resulting in injury, and results of investigations, including serious injuries, actions taken against youth and staff, and any remedial steps which have been taken.</p> <p>The Monitor also reviewed the content of several investigations for use of force and other matters, as well as various documents and reports which are generated as a result allegations of abuse, and which are incorporated into Chapter 13.</p>					
Findings and Analysis	<p>The policies are divided in three sections, and include the analysis of referrals of abuse and/or institutional neglect by UEMNI (Policy No 13.2.1); immediate prevention actions regarding serious allegations (Policy No. 13.2.2); and final determinations on referrals of abuse and/or institutional neglect (Policy 13.2.3). There are also child abuse and neglect reporting forms, a table of definitions and classification of incidents, and an analysis of incidents reported of alleged institutional abuse which determines if the incident should be reported as abuse and/or institutional neglect.</p> <p>NIJ routinely provides training to staff on Management of Investigations Regarding Abuse and Institutional Neglect. For the last reporting period, a reported 95% of direct care staff attended this four hour training block.</p> <p>The following tables summarize statistics about case management for the past four quarters. The primary source of the information is the case tracking records maintained by NIJ along with other records such as the underlying individual case reports and records.</p> <p>The first table summarizes general information about incidents events. An incident event may generate many incident reports, but this table counts a multiple-report incident as a single event.</p> <p>Incident Tracking by Quarter involving Harm to Youth</p>					

A. General Measures by quarter	1st	2nd	3rd	4th
A.1 Average Monday 1st Shift count of youth	170	168	158	
A.2 Number of incident events	94	41	45	
A.3 Number of youth-to-youth incident events	25	16	13	
A.4 Incident events involving use of force by staff	13	7	14	
A.5 Incident events with suicide act, ideation, or gesture	3	9	2	
A.6 Incident events w/ self-mutilation act, ideation, or gesture	24	10	5	

The number of incident events (A.2) from second to third quarter rose slightly from 41 to 45.

Mental Health Incidents – Including 284 Reports

Not all incident events involve conduct that warrants an abuse investigation. The subset of incidents involving suicidal acts, ideation, or gestures, or self-mutilation acts, ideation or gestures is found in Table B. Many of these do not warrant abuse allegations. Such incidents should be tracked for monitoring under Paragraph 63 by the Mental Health Consultant to ensure that they meet the requirements of that section. If a 284 report is filed, implicating possible abuse by a staff member or other, the case also moves through the investigative route.

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

B.12 Cases requiring sutures	1	1	0	
B.13 Cases requiring hospitalization	0	0	0	
B.14 Cases leading to death	0	0	0	
B.15 Self-Mutilation Cases with a 284 report filed	3	2	2	

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 45 (A.2) incident events in most recent quarter, 7 (B.1 plus B.10) involved suicide and self-mutilation incidents.

During the third quarter, two of the incidents involving self-mutilation resulted in a 284 report being filed. One case involving suicidal gestures or ideation resulted in a 284 case being filed.

This information should be received and monitored by the Mental Health expert to ensure that appropriate protocols have been followed, and data provided here should match what is provided to that expert for purposes of Paragraph 63. Back up documentation to determine if appropriate responses were made should be examined. For cases that result in a 284 investigation, it is important that the Mental Health monitor also examine the results of those investigations.

Responses to Abuse Referrals

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

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

C.12 Staff-to-Youth with External Care	1	1	3	
C.13 Staff-to-Youth Sexual	3	2	0	
C.14 Staff-to-Youth Sexual with Injury	0	0	0	
C.15 284 Incident Events with administrative actions	21	25	27	
C.16 284 Incident Events with report by end of shift	17	22	27	
C.17 Level 1 Investigations complete within 20 days	0	4	3	
C.18 SOU (Special Operations) interventions	4	1	2	
C.19 SOU events with 284 reports	4	1	1	
C.20 284 with Item 5 completed	20	25	27	
C.21 284 with Staffing Compliance	17	22	25	
C.22 Percent 284 cases with staffing compliance	81%	88%	93%	

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

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

Of the 27 housing unit events with item 5 checked in the report (C.20), 25 (93%) (C.22) took place when there was compliance with staffing provisions.

The small number of Level One incident reports are generally reviewed on site by David Bogard and Javier Burgos. There has been an inconsistent approach to monitoring Level 2 investigations for compliance beyond self-reporting. David Bogard receives at least some of these investigations when completed, and reviews them for compliance against a set of criteria previously developed to ensure the quality of the investigative process. Other incident reports which do not involve use of force, suicidal or self-mutilation ideation or behavior, have not been reviewed consistently sought and reviewed by the monitoring team against a set of standard criteria.

Initial Case Management Measures Taken

D. Initial Case Management Measures	1st	2nd	3rd	4th
D.1 284 percent with admin actions	100%	100%	100%	
D.2 284 per cent completed by end of shift	81%	88%	100%	
D.3 284 Level 1 Investigation Complete Within 20 days	100%	100%	100%	

Investigations Referred to OISC

E. OISC	1st	2nd	3rd	4th
E.1 Cases Referred from this quarter	21	21	24	
E.2 Received by OISC Within 24 hours	18	16	22	
E.3 Completed by OISC Within 30 workdays	20	21	15	
E.4 Complete during the next quarter, but within 30 days	0	0	0	
E.5 Cases Not Completed by OISC Within 30 days.	1	0	3	
E.6 Percent of OISC cases completed within 30 days	95%	100%	88%	
E.7 Completed Cases Returned for Further investigation	0	0	0	
E.8 Percent of cases returned for further investigation	0%	0%	0%	
E.9 Further Investigation Completed	0	0	0	
E.10 Cases this quarter incomplete, including further investigation	1	0	2	
E.11 Percent of cases from this quarter not yet completed	5%	0%	12%	

During the quarter 24 cases were investigated and 22 were completed in the 30 days period for a 88% timely completion rate.

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

F. Administrative Determinations for 284 Cases	1st	2nd	3rd	4th
F.1 Cases with youth discipline referrals	9	15	44	
F.2 Cases with youth discipline actions	7	9	36	
F.3 Cases with youth no discipline actions	2	6	5	
F.4 Cases Staff/youth with determinations	6	23	11	
F.5 Cases recommending personnel actions	17	20	7	

Because 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 44 youth cases referred for disciplinary action (C.1) with referrals as 284-cases, 36 (F.2) disciplinary actions were imposed; no disciplinary action was taken in 5 cases (F.3.)

Of the 11 cases involving staff/youth incidents, 11 determinations were made (F.4) and of these 7 were recommendations for personnel actions. (F.5) This is down significantly from the first and second quarter, but may also be a reflection of earlier cases which have been pending.

Prosecutorial Determinations for 284 Cases

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

The information above has been consistently provided by NIJ to the Monitor's office on a quarterly basis. Additional charts which track compliance with procedural aspects of the policies have also been provided, however, some of this information is not independently verified through file reviews, interviews or other sources at this time. There is also little analysis of facility comparisons, or trends regarding fluctuation of numbers and rates.

The Monitor requested additional information and analysis from NIJ for the fiscal year 2017-18 tracking referrals of alleged abuse and institutional neglect. The report, submitted 10/10/18 to the Monitor included the following analysis:

- A total of 90 cases were filed, of which 79 were Level Two, and 11 were Level 1.
- There were 35 incidents between minors, of which 16 youth sustained serious injuries
- There were 55 incidents between staff and youth, and 22 incidents where injuries were sustained
- The most frequent occurrences were in the living modules (39) followed by individual rooms (13), school (11), and bathrooms (9). Eighteen (18) additional incidents occurs in corridors, housing and inner courtyard, admissions, emergency room and on the tennis court.
- The breakdown of cases by facility were:
 - Villabla (30 cases, 24 Level II and 6 Level 1)
 - Ponce – (29 cases, 27 Level II and 2 Level 1)
 - Humacao (24 cases, 22 Level II and 2 Level 1)
 - Bayamon – (7 cases, 6 Level II and 1 Level 1)
- Incidents most often occurred on second shift (44), then first shift (35) and third shift (7). Four incidents did not specify.
- The type of incident most occurring was physical aggression (61 cases, with 27 between staff/youth and 34 among youth), followed by institutional neglect (23 cases).
- Five cases had the intervention of the UOE in which there were use or force.
- Twenty two (22) allegations of excessive use of force cases were investigated and completed during that time. Of those the following determinations were made:
 - 15 close and archive
 - 2 suspensions from employment
 - 2 pending criminal investigation
 - 1 corrective action/criminal investigation
 - 1 letter of reprimand
 - 1 dismissal of employees (5 employees involved regarding incident at Ponce January 26)

To NIJ's credit, the report was accompanied by a plan for corrective action. Included in this plan was additional training for direct care staff regarding the management of critical incidents, a request for technical assistance to the Department of Justice and Police of Puerto Rico for the purposes of maintaining a continuum of training to personnel working in each of the institutions as manager, and monthly meetings with institutional heads for discussion of needs and events requiring special attention. The report also recognized the need for

	<p>implementation of policies and procedures regarding monitoring, quality control and evaluations, and more clearly establishing lines of supervision.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Moving forward, it is important that the Monitoring team obtain and review documentation at several important points:</p> <ul style="list-style-type: none"> ○ Incident reports should be digitalized and easily accessed by category. The Monitor team now gets abuse reports sporadically which arise from incidents categorized as either Level 1 or Level 2. They are hand written in part. Getting these in digitalized form will make them more consistent, reliable, and easy to access as part of the online system, and will also save paper. ○ Incident reports that are “diverted” to the mental health team should be sent to the Mental Health Consultant so that she can determine whether the appropriate procedures were in taken, and review back up documentation. ○ Incident reports that involve use of force or acts of aggression by staff should be reviewed by David Bogard, along with the appropriate backup documentation. ○ Incident reports that involve other matters, such as youth on youth violence, should be reviewed by the Monitor and Javier Burgos, along with the appropriate backup documentation. ○ UEMNI investigations, and those done by OISC, when completed, should be sent to the Monitor at the end of each month. For those involving mental health incidents, the Mental Health Consultant should review as well as the Monitor. For those involving use of force incidents, David Bogard should review to determine whether the investigation followed required policies and practices. For other incidents, the Monitor and Javier Burgos will review to determine whether the required policies and practices were followed. <p>This paragraph plays an important role in protect youth from harm NIJ facilities. The frequency and rate of incidents where youth sustain injury, whether by other youth, staff or themselves, should be closely monitored as an indicator of whether safe conditions are present in facilities. To the extent that such injuries are the result of possible abuse or neglect, the response of NIJ in conducting thorough, timely and consistent investigations is critical. Monitoring the response to abuse and neglect allegations requires not only a review of the procedural requirements for such investigations, but also whether investigations provide sufficient detail from key witnesses, utilize videotaped footage effectively, and pursued other peripheral issues that emerged during the course of the initial inquiry. Findings should appear reasonable and the basis for the conclusions should be clearly identified among the evidence.</p> <p>Investigations which are insufficient to produce accurate findings of an allegation’s truthfulness can place youth at significant risk of harm. When investigations do not substantiate an allegation which is true, youth lose faith in the process which is designed to</p>

	<p>protect them, and staff are not held accountable for their behavior, increasing the likelihood that such behavior will be repeated.</p> <p>It has been repeatedly noted that there are no stationary cameras at Humacao and Villalba which can record incidents as they occur, and well as providing protection for youth and staff in critical areas. There are no portable cameras which can used in the event of a critical incident to record the conduct of staff and youth, or other intervening circumstances. Videotaped footage of incidents can greatly aid in the quality of investigations, and provide credible evidence to support the allegations of youth, as well as to protect staff as well from unfounded allegations. OISC investigators have noted that cameras are an essential tool to doing a proper investigation.</p>
<p>Priority Next Steps</p>	<p>Establish with UEMNI and OISC procedures for timely document submission to the Monitor's office of incident reports and completed investigation on a monthly basis. The quality of investigations will be an important aspect of monitoring in the future under this provision.</p> <p>Creating an online case management system which can track incidents through all stages could enhance the ability of staff to create better reporting and analysis. A sample created by Bob Dugan for this purpose will be examined to determine if this can be used, or if the current system can be enhanced for this purpose.</p> <p>Provide the Monitor with details regarding the corrective action steps which were outlined in response to the special report provided in September. Specifically, this should include:</p> <ul style="list-style-type: none"> • Training developed for direct are staff regarding the management of critical incidents including the curriculum for such training, and a time table for implementation • A request for technical assistance to the Department of Justice and Police of Puerto Rico for training of institutional managers; and • A plan for monthly meetings with institutional heads for discussion of needs and events requiring special attention; specifically, this should include circumstances which have led to or are likely to lead to ongoing incident involving abuse and institutional neglect; and • A description of what measures will be taken to implement policies and procedures regarding monitoring, quality control and evaluations, as well as establishing more clear lines of supervision.
<p>Quality Assurance Measures</p>	<p>The Monitor is not aware of QA which has been done in this area.</p>

PROTECTION FROM HARM – USE OF ISOLATION (David Bogard)

S.A. 79. Juveniles shall be placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others and only after less restrictive methods of restraint have failed. Isolation cells shall be suicide resistant. Isolation may be imposed only with the approval of the facility director or acting facility director. Any juvenile placed in isolation shall be afforded living conditions approximating those available to the general juvenile population. Except as provided in ¶ 91 of this agreement, juveniles in isolation shall be visually checked by staff at least every fifteen (15) minutes and the exact time of the check must be recorded each time. Juveniles in isolation shall be seen by a masters level social worker within three (3) hours of being placed in isolation. Juveniles in isolation shall be seen by a psychologist within eight (8) hours of being placed in isolation and every twenty-four (24) hours thereafter to assess the further need of isolation. Juveniles in isolation shall be seen by his/her case manager as soon as possible and at least once every twenty-four (24) hours thereafter. A log shall be kept which contains daily entries on each juvenile in isolation, including the date and time of placement in isolation, who authorized the isolation, the name of the person(s) visiting the juvenile, the frequency of the checks by all staff, the juvenile's behavior at the time of the check, the person authorizing the release from isolation, and the time and date of the release. Juveniles shall be released from isolation as soon as the juvenile no longer poses a serious and immediate danger to himself or others.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	N	N	Y	N
Description of Monitoring process during this period of time	<p>The Monitor and Monitor’s Consultant visited each of the three facilities on August 21-22. There were no youths on TM status as of the days of the site visits and only one PC at Humacao. Four TM record reviews were completed at Villalba and three TM and one PC record reviews were completed at Humacao. The following third quarter Transitional Measure events occurred after the August site visit and consequently did not have record reviews: two at CD Humacao; one at CTS Ponce; and one at CTS Villalba.</p> <p>The reviews were conducted to assess facts relevant to 20 criteria set forth in this provision and those in ¶180. A FT meeting was conducted on August 22 during which there was extensive discussion concerning this provision, including management of youth who are in confinement before the Treatment Committee can make a recommendation to the director, means to enhance documentation of such placements, how to integrate clinical notes into the TM and PC case files, the Monitor’s request to place policy development on hold until QA measures are accomplished, etc.</p> <p>Activities this quarter also included receipt and analysis of weekly TM and PC data concerning numbers of placements and compiling this data into quarterly spreadsheets, quarterly tables showing overall and individual youth compliance with 20 elements of ¶179 criteria, and rolling quarterly tables.</p> <p>The Monitor’s physical plant consultant has also been coordinating with DCR staff regarding development of a schedule to complete installation of new vents and door hinges that are necessary to meet the ¶179 suicide resistant requirements for youth held</p>					

	<p>in confinement. DCR staff has committed to completing an assessment and developing a schedule to complete the work.</p>
Findings and Analysis	<p>The number of PC assignments in confinement/isolation remained extremely low as it has been for the past four quarters (1), although the Monitor’s consultants believe that some youths designated as TM should properly be considered as PC, if a recommended policy change was instituted. The 11 TM placements in the third quarter was significantly lower than that in the previous quarter (18) and equal to or lower than the numbers in the Fourth quarter 2017 (24) and the First Quarter of 2018 (11). The number of quarterly PC placements has been either 1 or 3 in each of the past five quarters going back to the third quarter of 2017.</p> <p>There is extensive documentation available concerning the requirements of this provision when TM and PC youth are in room confinement/isolation. In the case of the seven youth on TM status and one on PC status who were isolated/confined this quarter, a review of the 20 criteria set forth in the provision revealed consistent compliance as follows: 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 safety checks were conducted; living conditions approximating those available to the general juvenile population; and the facility director or acting facility director reviewed and approved the placements expeditiously.</p> <p>Documentation revealed compliance deficiencies for the following elements:</p> <ul style="list-style-type: none"> • Although there was adequate documentation justifying the one PC placement due to documented safety risks, for the seven youth placed on TM separation/isolation, there is inadequate documentation concerning the actual reasons underlying the conclusions about the youth posing “a serious and immediate physical danger to himself or others.” The current explanation of “inability to cohabitate” is not adequate to justify isolation as required by this criterion, although there are instances in which a significant risk does, in fact, exist but is insufficiently documented and supported beyond the “inability to cohabitate” description. • There is inadequate documentation to determine if “...other less restrictive methods of restraint was tried and failed.” • Although there has been some progress made by DCR physical plant staff, the cells in which TM and PC youth were separated/isolated were not suicide resistant due to potential dangers associated with vents and door hinges which can be used to tie ligatures. • The youth were not seen by a psychologist within eight (8) hours of being placed in isolation. • The youth were not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation.

	<ul style="list-style-type: none"> • The youth were not seen by a master’s level social worker within three hours of being placed in isolation. • The youth were not seen by his case manager at least once every twenty-four (24) hours thereafter. <p>Challenges that still remain include implementing measures to achieve the desired safety goals without having to resort to any form of isolation and also reducing its duration, or mitigating the impact of isolation through additional time out of cells, education and programs.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and ¶79. A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments provided by the Monitor’s Consultant on February 28. While DCR has expressed a desire to continue to prepare new versions of the TM (17.20) and PC (17.19) policies, the Monitor has requested that DCR wait until the results of the QA process (see below) are available and can inform the content of revised documents and practices.</p> <p>Compliance with this provision would require documentation that all or the majority of placements of TM and PC youth in isolation satisfy the 20 criteria set forth in ¶79 as well as the eight criteria specifically required in ¶80 in the case of PC youth. For those youth on PC status that are not separated in a form of isolation, only the ¶80 requirements will apply.</p>
<p>Priority Next Steps</p>	<p>Completion of the QA study Decision Making questionnaire (see below), agreement on a definition of “isolation,” development of new policies driving TM and PC and improved performance relative to isolation cases meeting ¶79 criteria are the most critical next steps to advance compliance. It is also imperative that there be a rethinking of TM versus PC criteria such that youth who are vulnerable to assault would typically be considered PC. In addition, there must be a general understanding that TM and PC status does not automatically invoke ¶79—that happens only when the youth is placed in “isolation” in order to carry out the status’ safety requirements.</p>
<p>Quality Assurance Measures</p>	<p>The Monitor has recently provided DCR with a Decision Making spreadsheet questionnaire and a SA 79 and 80 Checklist for all TM and PC youth in the 3rd quarter and all such events moving forward. This QA effort will be used to help quantify the reasons that those measures are being imposed, which should lead to a better understanding of how or whether the use of these precautionary tools can be reduced.</p> <p>DCR has also responded to a request from the Monitor for QA analysis for TM and PC in a 9/27/18 letter in which the agency reviewed 2017-18 data regarding the numbers of placements in each facility; the duration of such placements; the number of youths in TM/PC needing special education; the number with learning and other disabilities; the</p>

	<p>number who have been engaged in self-harm activities; etc. The agency also began to identify the precipitating factors resulting in TM/PC placement, although no numbers were attached to that effort. While there are some apparent date discrepancies with figures available to the Monitor, this QA effort is a very positive beginning point for analysis.</p> <p>While the Monitor’s data does not necessarily match that included in DCR’s QA report (see DCR letter to Monitor 9/27/18), there were important findings identified by DCR’s QA efforts concerning youth placed on TM and PC:</p> <ol style="list-style-type: none"> 1- Of 50 total initial placements, 84% were TM and 16% were PC; 2- The average duration of youth in TM or PC was 10.4 days (Humacao); 14.6 days (Villalba); 13.3 days (Ponce); 3- 51% of youth placed on TM/PC were assigned Special education status; 4- 51% of youth placed on TM/PC were identified as having learning, emotional or other disabilities; 5- 75% of youth on TM/PC had mental health histories including self harm or “physical aggression” behavior while on TM/PC status; 6- DCR identified many precipitating factors for youths requiring TM/PC placement that are borne out of daily relationships with peer groups, including: absence of structured process; poor decision making, poor impulse control, negative leadership, is an aggressor or victim, special education status or mental health conditions; and; 7- DCR identified many precipitating factors for youths requiring TM/PC placement that are borne out of organizational factors, including: organizational culture, poor case management by intervention teams, absence of programs responsive to the youths’ needs, need for staff training in intervention strategies.
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PROTECTION FROM HARM – PROTECTIVE CUSTODY (David Bogard)

S.A. 80. The terms of this agreement relating to safety, crowding, health, hygiene, food, education, recreation and access to courts shall not be revoked or limited for any juvenile in protective custody.						
Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	N	NA	Y	N
Description of Monitoring process during this period of time	The Monitor and Monitor’s consultant visited each of the three facilities on August 21-22. A record review were completed at Humacao on 8/22/18 for the one youth on PC status who was restricted to his room. The reviews was conducted to assess facts relevant to 20 criteria set forth in ¶179 and the 8 in ¶1 80. A FT meeting was conducted on August 22 during which there was extensive discussion concerning this provision,					

	<p>including management of youth who are in confinement before the Treatment Committee can make a recommendation to the director, means to enhance documentation of such placements, how to integrate clinical notes into the TM and PC case files, the Monitor's request to place policy development on hold until QA measures are accomplished, etc.</p> <p>Activities this quarter also included receipt and analysis of weekly PC data concerning numbers of placements and compiling this data into quarterly spreadsheets, quarterly tables showing overall and individual youth compliance with 20 elements of ¶179 criteria and eight PC requirements.</p> <p>The Monitor's physical plant consultant has also been coordinating with DCR staff regarding development of a schedule to complete installation of new vents and door hinges that are necessary to meet the ¶179 suicide resistant requirements for PC and TM youth restricted to their rooms. DCR staff has committed to completing an assessment and developing a schedule to complete the work.</p>
Findings and Analysis	<p>The number of youth assigned to PC status and placed in isolation continued to remain very low, with only one such placement in the 3rd Quarter and averaging only two placements a month in the past four quarters. The Monitor has reason to believe that some youths designated as TM should properly be considered as PC because they are separated solely for their protection from potential harm caused by others. This would require a policy change to effectuate.</p> <p>There is extensive documentation available concerning the requirements of this provision when PC youth are in room confinement or isolation. In the case of the one youth on PC status (in Humacao) this quarter, a review of the 20 criteria set forth in the provision revealed consistent compliance as follows:</p> <ul style="list-style-type: none"> • The youth was placed in isolation because he was in immediate physical danger; log documentation was excellent; he was seen by a case manager as soon as possible; consistent random minimum fifteen-minute room safety checks were conducted; living conditions approximate those available to the general juvenile population; the facility director or acting facility director reviewed and approved the placement expeditiously, and the youth who had been on PC status for 66 days as of the date of the file review, remained on PC status as of the end of the quarter so it cannot be determined whether he was released from isolation as soon as he was no longer in immediate danger from others. <p>However, documentation revealed compliance shortfalls for the following elements:</p> <ul style="list-style-type: none"> • There is inadequate documentation to determine if "...other less restrictive methods of restraint was tried and failed." • Although there has been some progress made by DCR physical plant staff, the cells in which the youth was separated/isolated was not suicide resistant due to

	<p>potential dangers associated with vents and door hinges which can be used to tie ligatures.</p> <ul style="list-style-type: none"> • 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. • The youth was not seen by a master’s level social worker within three hours of being placed in isolation. • The youth was not seen by his case manager at least once every twenty-four (24) hours thereafter. <p>Concerning the eight criteria specifically included in ¶180, findings were as follows:</p> <p>There was no revocation or limitation as it related to: safety; crowding; health; hygiene; food; or access to courts. There were some limits to recreation, most often on weekends. Also, while the one youth was not eligible for education, the long-standing practice has been for youth on PC to receive education services on a one-on-one basis for 20 minutes per subject in contrast with the full school day for other youths.</p> <p>Challenges that still remain include implementing measures to achieve the desired safety goals without having to resort to any form of isolation and also reducing its duration, or mitigating through additional time out of cells, education and in programs.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and ¶179. A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments provided by the Monitor’s Consultant on February 28. While DCR has expressed a desire to continue to prepare new versions of the TM (17.20) and PC (17.19) policies, the Monitor has requested that DCR wait until the results of the QA process (see below) are available and can inform the content of revised documents and practices.</p> <p>As things currently stand, compliance with this provision would require documentation that all, or the majority of placements of PC youth who are housed in confinement/isolation satisfy the 20 criteria set forth in ¶179 in addition to the eight criteria specifically required in ¶180.</p>
<p>Priority Next Steps</p>	<p>Completion of the QA study Decision Making questionnaire (see below), agreement on a definition of “isolation,” development of new policies driving TM and PC and improved performance relative to isolation cases meeting ¶179 criteria are the most critical next steps to advance compliance. It is also imperative that there be a rethinking of TM versus PC criteria such that youth who are vulnerable to assault would typically be considered PC. In addition, there must be a recognition in policy and discussions of compliance that while PC status must be within the requirements of ¶180 criteria, it does not automatically invoke ¶179—that happens only when the youth is placed in “isolation”</p>

	<p>in order to carry out the status' safety requirements (which is typically the case at this time). There is also a need for additional teacher resources to provide eligible youth in PC confinement/isolation status with a full day of education.</p>
<p>Quality Assurance Measures</p>	<p>The Monitor has recently provided DCR with a Decision Making spreadsheet questionnaire and a SA 79 and 80 Checklist for all TM and PC youth in the 3rd quarter and all such events moving forward. This QA effort will be used to help quantify the reasons that those measures are being imposed, which should lead to a better understanding of how or whether the use of these statuses can be reduced. It will also inform new policies to be developed.</p> <p>DCR has also responded to a request from the Monitor for QA analysis for TM and PC in a 9/27/18 letter in which the agency reviewed 2017-18 data regarding: the numbers of placements in each facility; the duration of such placements; the number of youths in TM/PC needing special education; the number with learning and other disabilities; the number who have been engaged in self-harm activities; etc. The agency also began to identify the precipitating factors resulting in TM/PC placement, although no numbers were attached to that effort. While there are some apparent date discrepancies with figures available to the Monitor, this QA effort is a very positive beginning point for analysis.</p> <p>While the Monitor's data does not necessarily match that included in DCR's QA report (see DCR letter to Monitor 9/27/18), there were important findings identified by DCR's QA efforts concerning youth placed on TM and PC:</p> <ol style="list-style-type: none"> 1- Of 50 total initial placements, 84% were TM and 16% were PC; 2- The average duration of youth in TM or PC was 10.4 days (Humacao); 14.6 days (Villalba); 13.3 days (Ponce); 3- 51% of youth placed on TM/PC were assigned Special education status; 4- 51% of youth placed on TM/PC were identified as having learning, emotional or other disabilities; 5- 75% of youth on TM/PC had mental health histories including self harm or "physical aggression" behavior while on TM/PC status; 6- DCR identified many precipitating factors for youths requiring TM/PC placement that are borne out of daily relationships with peer groups, including: absence of structured process; poor decision making, poor impulse control, negative leadership, is an aggressor or victim, special education status or mental health conditions; and; 7- DCR identified many precipitating factors for youths requiring TM/PC placement that are borne out of organizational factors, including: organizational culture, poor case management by intervention teams, absence of programs responsive to the youths' needs, need for staff training in intervention strategies.

MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT – Dr. Miriam Martinez

S.A. 59. Defendants, specifically the Department of Health (ASSMCA), shall provide an individualized treatment and rehabilitation plan, including services provided by AIJ psychiatrists, psychologists, and social workers, for each juvenile with a substance abuse problem.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	Y	N	Y	Y	N

Description of Monitoring process during this period of time

The mental health monitor visited CTS Ponce on August 27, 2018, CTS Villalba and Humacao on August 28, 2018 and the DCR Division of Evaluation and Classification (DEC), Juvenile Facilities on the 29th of August. Javier Burgos accompanied me on all visits. During the visits a total of 11 youth were interviewed and meetings were held with the Directors of the sites as well as with the mental health staff that were available. An unannounced visit was performed at DCR Division of Evaluation and Classification (DEC), Juvenile Facilities to specifically follow up on adherence to policies and procedures for admission into PUERTAS Ponce. On August 28th a phone conference was held with Kelvin Merced, Raul Cepeda, Jose Colon, Kim Tandy and Javier Burgos with respect to minor JR who the mental health monitor identified as needing to be hospitalized for medical reasons. Reviews of electronic medical records of youth, phone conferences with DCR leadership.

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

Policies and procedures exist for this provision and have been approved by the mental health monitor.

There appear to be sufficient resources for the generation of individualized treatment plans. The mental health monitor was impressed with the multidisciplinary staff at the DEC dedicated to reviewing youth for PUERTAS and to classification/placement. The reviews are thorough and well documented in accordance with policies and procedures. However, the mental health monitor has repeatedly expressed a need for an increased number of psychiatric hours to fully implement the plan from the perspective of mental health and psychiatric services. As reported previously, Psychiatrists need time to at a minimum:

- adequately psychiatrically assess youth
- review medications the youth may be on
- confer with medical and mental health providers
- attend multidisciplinary planning meetings
- order and read lab results
- intervene in crisis (suicide attempts, self-mutilation)
- timely documentation
- attend court or reply to judges’ requests as needed

	<p>The youth require that their psychotropic medications be continuously monitored and that any related lab work be ordered and reviewed ASAP for the proper medical follow-up to be delivered in a seamless, time sensitive and clinically sound manner.</p> <p>The mental health monitor has requested careful review of the PCPS contract for the provision of mental health services as the turnover with this company has led to instability in psychiatric services. Moreover, with the turnover in staff, newly hired staff are less experienced with some having little to no training in forensic service. Continuously hiring new staff also requires time to train on all policies and procedures, including suicide prevention, assessment and documentation.</p> <p>The recommendation is to hire at a minimum 1.5 FTE psychiatrist to cover all 3 facilities, manage crisis, review labs, participate in multidisciplinary meetings, etc.</p>
Priority Next Steps	The priority is to provide more psychiatric coverage as recommended above.
Quality Assurance Measures	The mental health monitor recommended in March of 2016 the establishment of a Quality Assurance team for self-monitoring. This has yet to be realized in part due to the constant changes in leadership within NIJ.
Sources of Information upon which Consultant report and compliance ratings are based.	<p>On 8/29/2018 I made an unannounced site visit to the DCR Division of Evaluation and Classification (DEC), Juvenile Facilities to specifically follow up on adherence to policies and procedures for admission into PUERTAS Ponce. The Director of the unit, Maria Del Carmen was gracious and welcoming introducing me to the entire staff including the team that decides on the classification of the youth, those that review the request for placement in PUERTAS and the Social Workers who investigate and pull together all information for treatment. Supervisors of the Teams, Maria Del Carmen, Javier and I met in a conference room where we could review paper as well as pull up electronic records. A demonstration of where to find documents was given. Two cases were reviewed in depth. Policies and procedures were adhered to. Forms (two) from PUERTAS policies and procedures were filled out, referred by the psychiatrist or the psychologist. Next a discussion of the case is held. Staff from the DEC then do an analysis of the entire case and email out for a multidisciplinary case conference. A record of the invite to the case conference is kept in the paper chart as are all forms and documentation of the analysis, conference and recommendations. The analysis of the case is presented in writing and verbally. All on the agenda (education, social work, psychiatrist, psychologist, etc.) are expected to and do participate on the call so that everyone's view point is heard. A list of all youth considered for PUERTAS (also part of the policies and procedures) was provided to the mental health monitor. The DEC keeps a list of who enters PUERTAS as well as who leaves. The mental health monitor was invited to participate in 2 upcoming case conferences. On September 4th an email with documentation relating to 3 youth were sent to the mental health monitor as</p>

	requested. All was reviewed and was in line with expectations related to policies and procedures that were approved by the monitor and in place.
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C.O. 29: Defendants shall establish an adequate residential mental health treatment program which provides services in accordance with accepted professional standards for juveniles confined in the facilities in this case who are attempting to commit suicide and/or who are inflicting harm upon themselves and/or any other juvenile in need of such services as determined by the juvenile’s interdisciplinary mental health team, which includes a qualified psychiatrist. This residential treatment program will house up to forty-eight (48) juveniles from Commonwealth facilities. The residential treatment program will be established in an area that meets professional standards regarding safe physical areas for suicidal and/or self-mutilating juveniles.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	Y	N	N	N	N

Description of Monitoring process during this period of time	<p>A meeting took place with Mr. Alamar Sastre together with the mental health monitor, Javier Burgos, Kelvin Merced and Dr. Rohena on 8/27/2018 to discuss updates on plans for the number of proposed beds. The monitor requested a methodology and proposal in the 4th quarter of 2017 during the functional team meeting for PUERTAS given that the census has dropped overall. On August 8th, a response was provided with a rationale for the percentage of beds given the overall population. We discussed the two PUERTAS units, one more psychiatrically acute than the other as well as the criteria, policies and procedures for PUERTAS that this monitor worked to put in place. We concluded that DCR was committed to having any youth who needed PUERTAS placed in PUERTAS and that therefore, given the current census that the language in C.O. 29 could be changed to read up to 30 beds as each module in PUERTAS can hold up to 15 youth.</p> <p>As to the quality and type of services offered in PUERTAS, Giovanni requested that I meet with him, Efrain Vazquez , the Director of Social Work Services and Carlos Delgado the Director of Education Services. We met the morning of 8/27/2018. They have discussed among themselves and were seeking my input into the idea of moving all of the schedule for core educational classes to the morning, beginning the day ½ hour earlier. This would leave the afternoon for other essential and mandated educational services such as for OT and recreational services and allow for substance abuse and mental health services. Part of the issue is that youth are pulled from core educational class time to receive mental health services. The youth thus miss valuable core classroom time. If the mental health staff come in a bit later, the youth could have their services, individual and group after essential core classes. The mental health monitor asked if all educational requirements would be met in the hours being proposed and</p>
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	<p>was assured that this would meet all regulations for education. We discussed who would need to approve this proposal and how to implement. A list of proposed therapeutic groups and activities was shown to the mental health monitor which would be revised given our discussion. Giovanni has preliminarily discussed with DCR leadership, Jose Colon and Raul Cepeda. Next step would be a meeting with the Department of Education to get approval as well as meeting with the mental health leadership staff/contractors. This plan would be for all sites, not just Ponce. The mental health monitor approves of this plan as it would maximize the availability of the youth to meet with therapeutic staff with minimal disruption to classroom time.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>The site visit to the DEC mentioned above indicated that policies and procedures co-created and approved by DCR and the mental health monitor in 2016 are being adhered to. In order to be in full compliance, the programming needs to be more robust as stated in previous reports and the provision needs to be changed as stated above given that the census is significantly lower than when this case began.</p>
<p>Priority Next Steps</p>	<p>Next steps are for (1) the Monitor to review the mental health monitor's and DCR's recommended language change as 48 beds at this time would mean a third of the youth (given that the census is at about 140 including girls and those that are already in PUERTAS) would need intensive mental health services. (2) For the Director of the PUERTAS program to implement more intensive and clinically relevant programming. Time frame for both should be about 6 months.</p>
<p>Quality Assurance Measures</p>	<p>See above. In addition, the mental health monitor learned that there is a quality improvement initiative underway with several in leadership including Kelvin Merced.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based (may be repetitive somewhat with first category of what you did, but this is more of what you relied upon for your findings and recommendations)</p>	<p>During this quarter, materials were reviewed that the Director of PUERTAS provided displaying new approaches to groups, interventions and time of delivery of care. Meetings and phone calls were held with staff and administrators to discuss and prepare for the site visit. Five youth in PUERTAS were interviewed and the DEC was observed. DEC Documentation was reviewed. Mental health staff were interviewed. Five youth were interviewed in Ponce PUERTAS. Two of the youth (Y. and J.) stated that they were told that they had to first see the psychologist following their placing a "sick call." When I asked them why they would have to see their psychologist or psychiatrist before seeing the medical doctor, they both stated that they did not know. Both were complaining of physical symptoms and wanted to see the medical doctor.</p> <p>All youth stated that they were seeing mental health staff regularly for substance abuse, mental health, social work and psychiatric services. Youth also reported that they were receiving OT services. Four youth stated that they were not getting group incentives, 3 reported that this was due to the minor JR not going to school. Notably the three youth who reported not getting group incentives due to JR's behavior all felt that they were being blamed for JR's behavior and all flatly denied doing anything to contribute to JR's behavior and symptoms. All three described something being wrong with JR and stated "Jose's eyes go up into his head. Something is wrong with him." "It looks like half his</p>

	<p>body went to sleep. He has a headache that won't go away." "He went to hospital but they tell him nothing is wrong with him." All appeared genuinely worried about JR. A detailed review of JR, my concerns and intervention were sent to DCR in an incident report following my site visit. An official investigation is underway as a result of what the mental health monitor observed and reported.</p> <p>Two psychologists from Ponce PUERTAS contracted through PCPS were also interviewed. Both stated that they felt they had sufficient hours to provide mental health services and document and both reported that there was no problem when requesting more hours if needed as long as it was justified. Both psychologists stated that they participate in weekly multidisciplinary meetings. Only one of the meetings was attended by the psychiatrist about one time per month. Both psychologists stated that they were being paid on time recently. That this was an improvement. I was not able to interview the psychiatrist as he arrived close to the evening when I was already involved in getting JR to the hospital. The psychiatrist and I mainly focused our brief discussion on JR.</p>					
<p>C.O. 36. Within 120 days of the filing of this Consent Order, Defendant Juvenile Institutions Administration shall provide continuous psychiatric and psychology service to juveniles in need of such services in the facilities in this case either by employing or contracting with sufficient numbers of adequately trained psychologists or psychiatrists, or by contracting with private entities for provision of such services. The continuous psychiatric and psychological services to juveniles in need of such services 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>						
Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Total
	Y	N	N	Y	Y	Overall
Description of Monitoring process during this period of time	See above.					
What is needed for full compliance? What steps are required and/or recommended ?	<p>Policies and procedures are in place for the provision of psychological and psychiatric services, including substance abuse services. These have been reviewed previously and approved by the mental health monitor and include policies and procedures for assessment, suicide intervention, behavior modification, psychiatric services and assessment for PUERTAS program.</p> <p>As stated above, the mental health monitor has recommended that the psychiatric coverage be brought up to 1.5 FTE to cover all 3 facilities.</p>					

	Stability in the mental health staff is crucial for the seamless delivery of quality care. Continuous need for training of new staff due to turnover leads to potential gap in services and compliance with policies and procedures – for example, new staff interviewed last year (a psychiatrist and psychologist) did not know where the standardized mental health assessment was located in the electronic medical record or how to administer and interpret it. Furthermore, new staff have to be trained on protocols related to suicide prevention, management of crisis, and behavior modification. For full compliance, all mental health staff must be trained on all policies and procedures. Psychiatric staff need to be available to provide all services listed above. All mental health staff have to be available to deliver all mental health services per plan of care and available to case be available for multidisciplinary conferences as needed.
Priority Next Steps	The priority is to provide more psychiatric coverage as recommended above.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based	Site visits, meetings with mental health staff, phone conferences with administrators and mental health staff, review of materials and documentation. Review of documentation includes a staffing chart for each facility with the name, discipline of mental health staff, the hours contracted vs. hours actually worked. The mental health monitor has requested this be provided again, especially in light of the turn-over of mental health staff.

S.A. 63. For each juvenile who expresses suicidal or self- mutilating ideation or intent while incarcerated, staff shall immediately inform a member of the health care staff. Health care staff shall immediately complete a mental health screening to include suicide or self-mutilation ideation for the juvenile. For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist shall immediately examine the juvenile. The juvenile, if ever isolated, shall be under constant watch. Defendants shall develop written policies and procedures to reduce the risk of suicidal behavior by providing screening for all juveniles at all points of entry or re-entry to AIJ's facilities and/or programs and by providing mechanisms for the assessment, monitoring, intervention and referral of juveniles who have been identified as representing a potential risk of severe harm to themselves. Treatment will be provided consistent with accepted professional standards.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	N	N	N	y	N
Description of Monitoring process during this period of time	With respect to S.A. 63, the mental health monitor visited CTS Ponce on August 27, 2018 and met with Kelvin Merced, Giovanni Alomar, Dr. Rohena (PCPS) and Javier Burgos (Monitor’s office) was also present. The goal of this meeting was to spend time discussing provisions and what is needed for compliance. We discussed the term “immediate” as the mental health monitor had requested in fourth quarter of 2017 that					

	a definition for “immediate” be proposed for the provision given the policies and procedures.
What is needed for full compliance? What steps are required and/or recommended?	<p>Policies and procedures are in place, have been reviewed and approved by the mental health monitor. The mental health monitor did point out, however, that the policies and procedures do not match up with this provision as in the provision, the psychologist can intervene in the time frame indicated as “immediate.” Charts reviewed indicate that screens are used when a youth expresses suicidal ideation, intent or has self-destructive/self-mutilation behaviors.</p> <p>During discussion on the 27th of August 2018, agreed that if the youth expresses suicidal ideation, the psychiatrist or psychologist would interview the youth within 24 hours. The sentence above would be amended to read: <i>For each juvenile for whom the screening indicates active suicidal or self-mutilating intent, a psychiatrist or clinical psychologist shall immediately (within 24 hours) examine the juvenile.</i> This change is consistent with standard professional practice as licensed clinical psychologists can effectively evaluate the minor for hospitalizations, risk precautions and suicide watch protocol.</p>
Priority Next Steps	The proposed change needs to be considered by all parties and approved. The provision may need to be changed, and/or the interpretation of such.
Quality Assurance Measures	See above.
Sources of Information upon which Consultant report and compliance ratings are based.	There have been ongoing discussions regarding this provision and the word “immediate” with NIJ and DCR administrators, staff and attorneys both parties (NIJ and DOJ). In December of 2017, during the functional team meeting, an agreement was made to try and better define the word immediate.

S.A. 72. All juveniles receiving emergency psychotropic medication shall be seen at least once during each of the next three shifts by a nurse and within twenty-four (24) hours by a physician to reassess their mental status and medication side effects. Nurses and doctors shall document their findings regarding adverse side effects in the juvenile's medical record. If the juvenile's condition is deteriorating, a psychiatrist shall be immediately notified.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
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	Y	N	Y	Y	Y	N
Description of Monitoring process during this period of time	With respect to S.A. 72, as described in previous reports, the mental health monitor has not found evidence in chart reviews of use of emergency use of psychotropic medications. The mental health monitor requested documentation for use of psychotropic medication July 2017 – July 2018. Kelvin Merced provided documentation, signed by the nurses of two institutions (Ponce and Villalba) for July 2017 to September 2018 which indicated no use of psychotropic medication. July and August 2018 months for Humacao were also provided and indicated no use of psychotropic medication. In addition, while on site visit, the mental health monitor accompanied by Javier Burgos spoke to nurses and were shown where emergency psychotropic medication, the medication (injectable) was kept and evidence that it had not been used.					
What is needed for full compliance? What steps are required and/or recommended?	There are policies and procedures in place for the use of psychotropic medications which have been reviewed and approved by the mental health monitor. The mental health monitor would like to have evidence for 2018 – 2019 in writing to determine compliance.					
Priority Next Steps	Next step is to request from DCR documentation for 2018-2019. This will be requested by the mental health monitor in 6 month increments – August 1, 2018 – Feb 28, 2019 and March 1, 2019 to August 1, 2019.					
Quality Assurance Measures	See above.					
Sources of Information upon which Consultant report and compliance ratings are based.	Interviews were held with administrative and clinical staff, including the psychiatrist.					

S.A. 73. Defendants, specifically AIJ, shall design a program that promotes behavior modification by emphasizing positive reinforcement techniques. Defendants, specifically AIJ, shall provide all juveniles with an individualized treatment plan identifying each juvenile's problems, including medical needs, and establishing individual therapeutic goals for the juvenile and providing for group and/or individual counseling addressing the problems identified. Defendants, specifically AIJ, shall implement all individualized treatment plans.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	Y	Y	Y	Y	Y

<p>Description of Monitoring process during this period of time</p>	<p>This quarter the mental health monitor had telephone conferences with Giovanni Alomar and Kelvin Merced in addition to in person discussions during site visits. Discussions were also held with the Monitor, Kim Tandy, and member of the DOJ team including attorneys and the DOJ consulting psychiatrist. Chart reviews included reviewing the plan of care for evidence of objectives and implementation of behavior modification. The mental health monitor also reviewed written evidence of the curriculum, staff training, and receipt of incentives by the youth and interviewed youth during the site visit in August at all three facilities.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Policies and procedures for Behavior Modification have been reviewed and approved by the mental health monitor as previously reported. Staff have been trained and evidence of the training signed by the staff have been provided to the mental health monitor.</p> <p>Documentation has been adequate and indicates compliance with the policies and procedures and with the individual plans of care.</p> <p>The manner and extent to which NIJ provides and implements individualized treatment plans that covers the required elements is discussed in previous reports filed by the mental health monitor. Policies and procedures are in place and adhered to. Detailed chart reviews indicate consistent individualized treatment plans that cover the required elements of health, mental health, education and spiritual. The treatment plans have the required goals, objectives, type of service, method, modality and duration listed. Documented mental health notes have been reviewed and consistently show an adherence to the mental health and behavioral modification treatment plan elements (i.e. 2X per week individual or group psychotherapy). Chart reviews over the years have pointed out problems that have been addressed. The mental health chart review monitoring tool has been shared with DOJ as has examples of results of chart reviews. In addition, the MH monitor has sat with DOJ to demonstrate where in the records the mental health monitor reviews treatment plans that cover the required elements. In addition,</p> <p>On 8/29/2018 I made an unannounced site visit to the DCR Division of Evaluation and Classification (DEC), Juvenile Facilities to specifically follow up on adherence to policies and procedures for admission into PUERTAS Ponce. The Director of the unit, Maria Del Carmen was gracious and welcoming introducing me to the entire staff including the team that decides on the classification of the youth, those that review the request for placement in PUERTAS and the Social Workers who investigate and pull together all information for treatment. Supervisors of the Teams, Maria Del Carmen, Javier and I met in a conference room where we could review paper as well as pull up electronic records. A demonstration of where to find documents was given. Two cases were reviewed in depth. Policies and procedures were adhered to. Forms (two) from PUERTAS policies and procedures were filled out, referred by the psychiatrist or the psychologist. Next a discussion of the case is held. Staff from the DEC then do an analysis of the entire case and email out for a multidisciplinary case conference. A record of the invite to the case conference is kept in the paper chart as are all forms and documentation of the analysis, conference and recommendations. The analysis of the case is presented in writing and verbally. All on the agenda (education, social work,</p>

	<p>psychiatrist, psychologist, etc) are expected to and do participate on the call so that everyone's view point is heard. A list of all youth considered for PUERTAS (also part of the policies and procedures) was provided to the mental health monitor. The DEC keeps a list of who enters PUERTAS as well as who leaves. The mental health monitor was invited to participate in 2 upcoming case conferences. On September 4th an email with documentation relating to 3 youth were sent to the mental health monitor as requested. All was reviewed and was in line with expectations related to policies and procedures that were approved by the monitor and in place.</p> <p>The mental health monitor has reviewed plans of care within electronic medical records for the past two years. The records have consistently indicated a plan for behavior modification for youth in treatment facilities (not in Bayamon or now Humacao when youth are still in detention). Policies and procedures were provided, reviewed, discussed and approved. A request for training materials was made, delivered, reviewed and approved. In addition, the mental health monitor has interviewed youth each quarter that she has been on site for the past two years and each time, there has been consistency in the youth understanding what is behavior modification – both group and individual. Improvements were made in communicating incentives tied to behavior for the youth over the course of this monitor's involvement. The mental health monitor has also attended multidisciplinary behavior modification meeting and has interviewed staff at each site visit.</p> <p>Lastly, the mental health monitor requested proof of incentives being delivered and received written documentation of youth signing off on incentives they were given. In short, there is evidence that an adequate behavior modification plan is in place with a point and level system, evidence that staff have been trained, evidence of documented delivery of care and of incentives. The mental health monitor will continue to work with staff so that no cost incentives can be used more with youth (more time on phone with family, outdoor time, jobs outdoors, etc., a special trip or walk, etc.)</p> <p>Positive reinforcement is emphasized in the 44 page training slides and materials provided by NIJ and reviewed by the mental health monitor. As mentioned, proof of training signed off by providers was provided to the monitor.</p>
Priority Next Steps	<p>The mental health monitor will continue to review records and will perform another site visit in the first quarter of 2019 to review continued compliance with this provision. The mental health monitor recommends 6 month of self-monitoring for full compliance (expected June of 2019).</p>
Quality Assurance Measures	<p>See above.</p>
Sources of Information upon which Consultant report and	<p>The mental health monitor has reviewed plans of care within electronic medical records for the past two years. The records have consistently indicated a plan for behavior modification for youth in treatment facilities (not in Bayamon or now Humacao when youth are still in detention). Policies and procedures were provided, reviewed, discussed and approved. A request for training materials was made, delivered, reviewed</p>

<p>compliance ratings are based.</p>	<p>and approved. In addition, the mental health monitor has interviewed youth each quarter that she has been on site for the past two years and each time, there has been consistency in the youth understanding what behavior modification is – both group and individual. Improvements were made in communicating incentives tied to behavior for the youth over the course of this monitor’s involvement. The mental health monitor has also attended multidisciplinary behavior modification meeting and has interviewed staff at each site visit. Lastly, the mental health monitor requested proof of incentives being delivered and received written documentation of youth signing off on incentives they were given. In short, there is evidence that an adequate behavior modification plan is in place with a point and level system, evidence that staff have been trained, and evidence of documented delivery of care and of incentives. The mental health monitor will continue to work with staff so that no cost incentives can be used more with youth (more time on phone with family, outdoor time, jobs outdoors, etc., a special trip or walk, etc.)</p>
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SPECIAL EDUCATION AND VOCATIONAL TRAINING –Kim Tandy, Victor Herbert

<p>Section XIII: Educational and Vocational Services – General Population</p> <p>S.A. 81 Defendants, specifically the Department of Education, shall provide academic and/or vocational education services to all juveniles confined in any facility for two weeks or more, equivalent to the number of hours the juvenile would have received within the public education system. Specifically, this education shall be provided 5 (five) days per week, 6 (six) hours per day, 10 (ten) months per year. 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>						
Compliance Rating	Policies N	Training N	Staffing Y	Resources N	Documentation I	Overall N
<p>Methodology for Monitoring this Quarter</p>	<p>The Monitor met on August 20th at NIJ Central office with representatives from Defendants Department of Education and NIJ. Included in this meeting were Carlos Delgado, Miguel Segura, and Aida Burgos from NIJ, and Wanda Cabrera (Secretary for Alternative Education), Daiber Carrion (Director of Compliance for Special Education), Nathalia Ramos (SAEE) Eliezer Ramos (Sec. Asoc.for Special Education) and Hector Sanchez (Secretary for Alternative Education) from the Department of Education. Involvement by Department of Education at the highest levels was helpful to the discussion regarding compliance, and the requirements for sufficient documentation.</p> <p>The Monitor conducted site visits to Ponce and Villalba on August 21, and Humacao on August 22. She met with Carlos Delgado at each of these facilities to review the system of record keeping for teacher and student attendance by month, list of education staff, school calendar, special education schedule by teacher, student programs by student, alternative education list of contact hours by student, log sheets completed and signed daily by students. She also toured classrooms for both regular and vocational education,</p>					

	<p>although vocational classes had not yet begun and the teachers were in training on the dates of the visit.</p> <p>Department of Education staff provided a demonstration of My Education Portal (MIPE), an online system operated by the Department of Education to and also explained the Student Information System (SIS) online program which registers all students in Puerto Rico.</p> <p>The Monitor sought documents in some cases for the 2016-17 and 2017-18 school year to have a more complete picture of whether or not compliance with certain provisions has been achieved, but without documentation being provided to substantiate compliance. She received copies of the following documents, which have been translated from Spanish:</p> <ul style="list-style-type: none"> Policies and Procedures for Special Education 20.2 Policies and Procedures for General Education and Recreational Services 20.1 Memorandum of Understanding between NIJ and Department of Education regarding the delivery of education services in NIJ facilities Documents pertaining to compliance for student assessment for academics upon entry into detention Documents pertaining to student enrollment and attendance (2016-17, 2017-18 years and 2018-19) Lists of all students by facility for 2016-17, 2017-18, and 2018-19 with designation of special education students List of all education personnel with documentation of certifications for 2016-17, 2017-18, and for special education teachers for 2018-19 Education personnel class schedules for 2016-17 and 2017-18, and for 2018-19 Intake and Assessment materials used at Humacao to determine education levels List of youth who were identified and evaluated for special education while at NIJ My Information Portal (MIPE) manual Student Information Services manual School calendar year for 2018-19 <p>The Monitor also reviewed the Consolidated State Plan, Title 1, Part D document signed on January 12, 2018 by Julia Kelcher, Secretary of the Department of Education in Puerto Rico, and submitted to the United States Department of Education</p> <p>Comments are also included from Victor Herbert from a monitoring visit completed August 13 – 16 of 2018.</p>
<p>Findings and Analysis</p>	<p>The current structure for education services in NIJ facilities splits responsibilities between the Department of Education, which provides special education teachers, Title</p>

I, and vocational education staff, and the Department of Corrections and Rehabilitation, which provides academic and library staff. The discussion in August with both DOE and DCR administrators suggests that DOE will be taking on responsibility for all provisions and that a new Memorandum will be put into place detailing the responsibilities of both agencies.

The language in S.A. 81 requires the Department of Education to provide these services. As such, compliance regarding educational and vocational education for youth confined 2 weeks or more, five days per week, 10 months per year, is the responsibility of the Department of Education. The requirement of providing qualified teachers logically also falls on the Department of Education based upon this responsibility. NIJ is required to provide adequate educational materials and space for instruction.

The current Memorandum of Understanding must be modified to reflect these responsibilities between the two entities and to redefine the relationship as DOE assumes full responsibility for the delivery of educational services.

Policy 20.1 Educational and Recreational Services provides for regular and vocational services to youth in detention and in social treatment centers. It was approved and signed for implementation on July 6, 2016. The policies identify the process for an initial interview, acquiring records, and within 5 days, diagnostic testing in Spanish and Mathematics. The policy does not indicate that a full school day is provided for youth confined for two weeks or more.

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

The school calendar for 2018-19 began August 13 for students and runs through June 7th. School calendars for each facility document a schedule daily from 8:00 a.m. through 3:00, including one hour for lunch. Schedules for history, Spanish, English, science, math, and physical education are noted. Schedules for Title I, special education, library, and vocational classes are also noted. A separate schedule for elementary classes 1-8 is also included in the master schedule for all three facilities.

The number and characteristics of students at the beginning of the 2018-19 school year, as documented by summary information of enrollment of educational services, as well as individual schedules of students, is noted for each of the 3 facilities.

For the Months of August/September – Villalba (54 youth)

- 30 youth, ranging in age from 17-20 were enrolled in one or another education program, with six being in elementary programs, 24 being in secondary education classes
- 23 students completed their 4th year; all were enrolled in a vocational class

- 4 were students with IEPs
- All students were enrolled in vocational education

The 4th year residents, while not required to continue their education, participate in vocational shops, work tours in the institution and self-improvement activity. During the visit a 2-day seminar sponsored by Inter-Americana University focused on higher education and other career options. There are 5 shops available:

- computer science,
- barbering,
- pastry baking,
- horticulture
- woodworking for both regular and special education students.

According to Victor Herbert, a modified school schedule ran from 8:00 AM until 12:10 PM due to teacher vacancies. DCR/NIJ informed staff that the vacancies would be filled within 2 weeks. Vacancies included teachers of English, mathematics, science, Title One and the school director. Once filled, the schedule will return to a full day from 8:00 AM until 3:00PM.

According to Victor Herbert, the special education teacher stated that the delivery of related services by the USMIC team met or exceeded the COMPU recommendations in the IEPs. She noted that they expected a second psychologist assignment shortly.

For the months of August/September - CTS Ponce

- 21 were enrolled in education programs through 12th grade, including 4 in elementary programs
 - 15 have completed their 4th year but were receiving vocational programming
 - Of 21 students, six (6) were female and 15 were male; all youth who had completed 12th year are male
 - No female students were in detention
- 9 students are certified for special education with all IEPs revised in the prior semester

The 4th year residents, while not required to continue their education, participate in vocational and other programs similar to those in Villalba and they also have opportunities to provide community service in the community. There are 4 shops available:

- business management
- barbering
- pastry baking
- woodworking.

For the Months of August/September - CD Humacao:

- 29 youth were receiving educational services through grade 12, including 9 who were receiving elementary school services in August. In September,
- All youth from grades 8 – 12 were receiving vocational education
- 16 students were 4th year completers, and all received vocational educational classes
- 15 special education youth in August of the twenty four (24) are noted as having received special education services; 9 additional special education students were noted as “Inactive”
- 24 special education students in September of 51 total are noted as receiving special education services; the remaining 27 are noted as “I” for inactive. In some cases, youth remained in detention only a short time.

As reported by Victor Herbert, there were vacancies among the education staff including a social studies, elementary and physical education teachers. There is also a vacancy in the library and in Title One. In spite of the vacancies, the institution did not reduce the schedule as in Villalba and Ponce. Over all, the teacher-in-charge reported that this was one of the best school openings in several years and fully expected the vacancies filled shortly.

Since there are still 3 vocational programs left from when Humacao was a CTS site, all students participate including the special education group. Vocational Education includes:

- Pastry Baking
- Woodworking
- Barbering

It is unclear from the records received as to whether youth at Humacao youth are receiving education within two weeks of arrival.

Independent verification from youth regarding schedules and services provided will be sought during the next quarter.

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

Each of the three facilities have multiple classrooms for students engaged in regular and special education as well as vocational services. Classrooms seem adequate for students to have small classes based upon subject, and in some cases, grade levels (i.e. elementary level students). Each of the facilities has at least 3 vocational education rooms which were inviting, seemingly well stocked, and were engaging students. While the Monitor did not inquire about the adequacy of educational materials specifically during the August visit, no obvious shortfalls were noted during the tour of classrooms.

A concern has been raised about classroom availability at Villalba when the weather is rainy. Leaking roofs may prevent some classrooms from being used, and could

ultimately lead to space shortages, and/or potential security issues if youth cannot be adequately separated. Roof problems are also apparent in gym facilities, and use is restricted during rainy days. Resources will be examined more fully during the fourth quarter.

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

The Monitor reviewed a list of instructional staff and their certifications and subject matter expertise for each of the three facilities. They include:

Facility	Humacao	Ponce	Villalba
Secondary Education Cert	6	2	1
Elementary Education Cert.	3	5	5
Special Education	2	1	1
Physical Education	2	1	1
English	1	1	1
Mathematics	1	1	1
Social Studies	1	Vacant	1
Spanish	1	1	1
Science	1	1	1
Vocational ed.	3	3	4
Library	1	1 vacant	1
Social Worker	1 vacant	1 vacant	1 vacant
Counselor `	1 vacant	1 vacant	1 vacant
Evaluator	2 (one vacant)	1	1
Title I	2 vacant	3 vacant	3 vacant
Director	1	Vacant	Vacant
General Office		1	1

Vacancies at the time of this report include only a social studies instructor at Ponce and the Directors at Villalba and Ponce. Three instructors had a provisional certificate in their respective content areas, each valid for a three year period ending either in 2019 or 2020. Special Education teachers met the requirements as “highly qualified” within the meaning of the IDEA, Title 20 § 1401 (10).

Special education, vocational education, Title I, counselors, and social workers are also noted, as well as library staff and the directors. Vacancies at the time this information are noted in these categories above.

	<p>It was also noted for the month of August that the 8 youth at Villalba received only 50 minutes of special education service each five days per week. Three (3) youth at Ponce did not receive any special education services during August. All were labeled as SLD. The notations for the frequency of services from special education instructors is inconsistent among the three facilities. For Humacao and Ponce, the notation is simply "5 x week," while at Villalba, the notation for all students is "5 days/50 minutes." Whether Villalba students get this every week is not noted. Providing the same 50 minutes to all students for special education calls into question whether the provision of specially designed instruction is individually designed by student or afforded in the same manner to all students</p> <p>NIJ Policy 4.1 requires the Training Division to coordinate and implement a master plan of training for staff development, including orientation and pre-service training of a minimum of 24 hours for treatment staff who are new. By definition, treatment staff includes teachers, social workers, counselors, and school principals.</p> <p>Training records, while partially received, must reflect that all new educational staff receive 24 hours of training by NIJ. In addition, Policy 4.1 requires that staff training needs be assessed in operational areas (including education and social work), and that such areas, in conjunction with the Division of Training, design training according to need. While not included in Policy 20.1, the Department of Education also requires annual training for its special education instructors, usually for one week prior to the beginning of the school year.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>The Department of Education should assume responsibilities for the delivery of all educational services, as well as providing sufficient qualified teachers. This should be reflected in the Memorandum of Understanding between the two agencies.</p> <p>The Monitor received policies and procedures from NIJ and the Department of Education relative to general and vocational education in August. These have been transcribed and reviewed by the Monitor, and were resubmitted to NIJ, to distribute to DOE, on September 17 with comments and recommendations.</p> <p>To meet the requirements of this paragraph, the policies must require that youth being held in secure confinement for two weeks or more will be provided with a full school day equivalent to what they would receive in the public education system. Currently, the policies include evaluation through an initial interview to gather academic information within 24 hours, review of initial interview information and securing of records, and administration of diagnostic testing within 5 business days for Spanish and Mathematics. Further diagnostic testing is completed after 30 days, or when the youth's custody "is handed over to the state." Meanwhile, there is a class program designed for the student to receive a general education aimed at strengthening basic skills. The policy should be</p>

explicit as to when youth begin those classes, and that it is no longer than two weeks after admission.

This policies must also ensure that youth in protective custody or transitional measures who are eligible for education services will receive the required 6 hours per day, five days per week, 10 months of the year. The current policy of youth receiving 20 minutes of class per basic subject, while perhaps an improvement over prior practices, is insufficient to meet the inclusive language of this paragraph.

Well qualified staff should include verification not only of certifications, but also of training for new educational staff, and training required by the Department of Education and coordinated between the Division of Training and NIJ educational services. Additionally, a staff training needs assessment for education staff should be produced, as well as a training plan for the 2018-19 school year based upon that assessment. Training records of education staff (including ancillary staff) should be documented and provided as evidence of training requirements.

While the Monitor has received some records of training of individual educational staff, training records on all education staff should be provided which meet the requirements of Policy 4.1.

All classrooms should be functional and able to maintain educational programming. Roof repairs should be completed where needed to avoid disruption to educational services. While this was raised as an issue at Villalba, any roof leaks also identified at Ponce and Humacao in classroom areas should be addressed as soon as possible.

Compliance will continued to be measured by the following metrics:

- 1) All students confined for more than two weeks in any facility must receive educational services five days per week, 6 hours per day, 10 months per year should be provided through the Department of Education. Programs must include academic and/or vocational services, and documentation must include student enrollment and attendance forms, documentation of student schedules, and indications of regular and/or special education programming.
- 2) Educational staff providing core classes, special education teachers, and vocational education instructors must be employed and in place to provide instruction at the start of each school year. Educational staff must have the appropriate certifications for the content they teach.
- 3) Monthly attendance by essential educational staff should remain at 90% or higher in each facility. Classes should not be disrupted or cancelled as a result of teacher absence.

	<p>4) Instructional materials for academic and vocational classes must be sufficient to provide meaningful instruction and opportunities.</p> <p>5) Classrooms must be sufficient to accommodate all specific content areas, vocational education, and elementary student classes. Any classrooms not able to be utilized as a result of physical plant problems such as leaking roofs must be identified and a plan for correction must be in place. Facilities for physical education must be available and usable.</p> <p>6) New educational staff must attend the required 24 hours of NIJ training annually; training records must be maintained and produced;</p> <p>7) Additional training based upon assessed needs for educational staff must be identified, provided, and documented in staff training records.</p>
<p>Priority Next Steps</p>	<p>NIJ and DOE should provide revisions back to the Monitor regarding Paragraph 20.1 which incorporate language regarding the initiation of full school days within 14 days after youth are incarcerated in one of the facilities, and require a full school day for youth in PC and TM status.</p> <p>NIJ must coordinate training records of education staff with DOE, and verify that new staff for 2018-19 have received the required 24 hours of NIJ training, that other required DOE training has been provided, and that an assessment of training needs has been created and will be implemented for the 2018-19 year.</p> <p>DOE and NIJ should continue to provide an update to the Monitor regarding negotiations to move all services under the DOE and to create a new Memorandum of Understanding between the two agencies.</p>
<p>Quality Assurance Measures</p>	<p>The Monitor is encouraged by the documentation that is kept and provided relative to many of the provisions of this paragraph.</p> <p>Efforts at quality assurance must also come from the DOE relative to the delivery of service, and/or must be incorporated into the Memorandum of Understanding.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based.</p>	<p>Meetings at all 3 facilities with Carlos Delgado to view available classrooms, teacher rosters and attendance, list of students, attendance logs, and documentation regarding intake of new students.</p> <p>Examination of school calendar</p> <p>Review of applicable policies and procedures</p> <p>Examination of other documents as listed above</p>

S.A. 86 Defendants, specifically the Department of Education, shall abide by all mandatory requirements and time frames set forth under the Individuals with Disabilities Education Act, 20 USC §§ 1401 et seq. Defendants shall screen juveniles for physical and learning disabilities. The screening shall include questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	Y	Y	I	N
Description of Monitoring process during this period of time	See notes above regarding monitoring process and visits. For this provision, the Monitor also walked through the screening process with Carlos Delgado at Humacao for new intakes, and reviewed the instruments used to determine educational background, testing and past special education status					
Findings and Analysis	<p>This section provides a general requirement that compliance with the IDEA is necessary in order to meet compliance requirements of this section. The specific provisions for monitoring have not been detailed in prior recent reports, likely making this section more difficult to monitor effectively. For purposes of complying with the IDEA, as well as initial screening of youth for disabilities, this provisions has been broken down into 5 sections as noted below:</p> <p>1) Mandatory requirements of the Individuals with Disabilities Education Act</p> <p>a) Child Find</p> <p>Students with disabilities typically represent a large percentage of youth in correctional facilities, yet are often not identified as needing specially designed instruction. According to the United States Department of Education, a letter written to educational colleagues estimates that nearly one third of youth in correctional facilities require special education services, ranging from 9 to 78% across jurisdictions.² Proper identification of students in these settings is too often inadequate, and may take a back seat to other basic educational requirements and other correctional priorities.</p> <p>The Monitor sought information from DOE regarding the number of youth entering facilities who were identified as needing services, and subsequently evaluated for specially designed instruction. DOE is responsible for ensuring that Child Find provisions to locate and identify youth who may be eligible for special education are met, but must work collaboratively with NIJ instructional staff to ensure that adequate mechanisms are in place to identify when youth are appropriate for referrals.</p>					

² U.S. Department of Education, Office of Special Education and Rehabilitative Services, Dear Colleague letter, Dec. 5, 2014.

The DOE produced information from the 2016-17 school year noting that four youth were identified and evaluated, resulting in eligibility in three of the four cases. (One case appeared pending at year end and it is uncertain if that youth remained in NIJ facilities). In 2017-18, six youth were identified and evaluated for special education, and all six were found to be in need of special education services. This is a very positive sign that screening mechanisms in place and the vigilance of education staff are being attentive to signs that youth may have unidentified disabilities.

b) Evaluation of youth with suspected disabilities

DOE has an obligation to ensure that youth with suspected disabilities, and those in need of periodic re-evaluation, receive thorough multi-faceted evaluations which stretch across areas of concern as well as the identification of student strengths. "Such evaluations are critical to provide comprehensive information needed to develop individualized education plans, including accommodations and related services where needed.

The Monitor will be conducting file reviews in the fourth quarter of 2018 to review a sampling of special education files, including compliance documentation regarding evaluations.

c) Provision of specially designed instruction and related services

A review of youth files will be conducted during the 4th quarter to examine youth eligibility, present levels of academic achievement and functional performance, consideration of special factors such as communication needs, behavior and/or visual impairment, measurable annual goals and/or short term objectives/benchmarks, student supports for academic and nonacademic activities, and transitional services planning, behavior interventions plans, related services, and extended school year.

d) Procedural safeguards

A review of student files will be conducted during the 4th quarter to examine compliance with parental notification and consent provisions, requirements of IEP meetings, and parent rights.

Special education files appear to be maintained on all students. The monitor has reviewed various forms and procedures used for special education students. To what extent this documentation is completed thorough and consistently has not been determined; however, such review will be part of the monitoring of individual files.

The MIPE system can provide compliance reports which document many of the compliance related issues noted above which will be done manually at this time. The Department of Education is working with the Monitor to create a program which can provide compliance reports on all special education students. While this may not measure quality of information provided in IEPs, which must continue to be monitored, it will be a helpful tool and can be used as a quality assurance measure for DOE.

	<p>2) Screening of juveniles for physical and learning disabilities</p> <p>This paragraph also requires that the Defendants screen juveniles for physical and learning disabilities, including “questions about whether the juvenile has been previously identified by the public school system as having an educational disability, previous educational history, and a sufficient medical review to determine whether certain educational disabilities are present, such as hearing impairments, including deafness, speech or language impairments, visual impairments, including blindness, mental retardation, or serious emotional disturbances adversely affecting educational performance.”</p> <p>Youth are screened at detention using an education questionnaire to determine prior educational placements, previous involvement in special education, and academic achievement. Diagnostic testing is completed within five school days and school records are requested and obtained. Physical disabilities are noted, including visual problems, speech problems, use of medication, hearing problems, and orthopedic problems. Recommendations for testing are made including for hearing impairment, psychological, occupational therapy neurological examination, psychiatric, visual, health and/or a Woodcock Munoz.</p> <p>The Monitor will review a sampling of these screenings performed on youth admitted at Humacao during the Fourth Quarter.</p>
<p>What is needed for compliance to be achieved?</p>	<p>A review of policies and procedures was completed by the Monitor and sent to Defendants on September 17th, 2018 with recommendations noted to bring these policies into compliance with this provision of the Settlement Agreement. The policies should accurately reflect the requirements within IDEA as to time frames and procedure to locate, identify, evaluate and provide specially designed instruction to eligible youth, as well as the procedural safeguards guaranteed to parents and youth.</p> <p>Training requirements for special education teachers should incorporate the requirements under IDEA and should include NIJ screening procedures.</p> <p>File reviews during the 4th quarter should reflect that students are receiving the necessary free and appropriate public education required by the IDEA, and that educational services provide opportunities for students to receive academic benefits.</p> <p>All students must be properly screened within five (5) days of arrival at Humacao, and appropriate testing provided to determine if they should be referred for an evaluation, and to determine an appropriate education program.</p>
<p>Priority Next Steps</p>	<p>DOE and NIJ should provide a response back during the 4th quarter to draft recommendations with the policies and procedures for this section</p>

	DOE should develop a compliance tool using MIPE to determine that all procedural requirements for following IDEA procedural safeguards are in place. This tool can be used on a continued basis for monitoring this provision, as well as for QA.												
Quality Assurance Measures	The MIPE compliance report, when developed, could be a valuable tool incorporating the provisions within the Monitoring Due Process Checklist into a quarterly report.												
Sources of Information upon which Consultant report and compliance ratings	Interviews with NIJ and DOE staff, and MIPE programming staff Documentation review of policies and procedures Report from DOE regarding all youth who have been identified and evaluated upon arrival within NIJ facilities for IDEA eligibility												
S.A. 87. If a juvenile has been previously identified as having an educational disability, Defendants shall immediately request that the appropriate school district provide a copy of the juvenile's individualized education plan ("IEP"). Defendants shall assess the adequacy of the juvenile's IEP and either implement it as written if it is an adequate plan or, if the IEP is inadequate, rewrite the plan to make it adequate, and then implement the revised IEP.													
Compliance Rating	<table border="1"> <thead> <tr> <th>Policies</th> <th>Training</th> <th>Staffing</th> <th>Resources</th> <th>Documentation</th> <th>Overall</th> </tr> </thead> <tbody> <tr> <td>Y</td> <td>Y</td> <td>Y</td> <td>Y</td> <td>I</td> <td>Y</td> </tr> </tbody> </table>	Policies	Training	Staffing	Resources	Documentation	Overall	Y	Y	Y	Y	I	Y
Policies	Training	Staffing	Resources	Documentation	Overall								
Y	Y	Y	Y	I	Y								
Description of Monitoring process during this period of time	The monitor reviewed the procedures and forms at Humacao for requesting documentation on youth from prior school districts. This includes the youth's cumulative file as well as the youth's IEP and prior evaluations. Additionally, the Monitor reviewed the MIPE system which contained special education information throughout the island on students who are eligible for special education services.												
Findings and Analysis	<p>Appropriate policies are in place to require that records of the youth's IEP are obtained immediately from the appropriate district. Records must be requested within 10 business days after the screening is done and the youth has indicated he or she has an IEP. The youth is enrolled in school within 72 hours.</p> <p>Two systems have been put in place electronically for securing regular and special education records of students. The Department of Education has been operating MIPE (My Education Portal) since 2012. Students eligible for special education are registered in this system, and any district, including the schools within NIJ facilities, can pull these records on a student they receive within their school. Access is available immediately. This ensures that services can be seamless and that there is no delay in obtaining the appropriate information to continue the student's educational programming. Some students, however, may have files that are "inactive" due to disruption in the youth's education.</p>												

	<p>The Student Information System (SIS) similarly provides student information on all youth registered for school in Puerto Rico, and interplays with MIPE. NIJ facilities in August were not yet on line with SIS, but should be in the near future. This will enable them to quickly obtain student records quickly upon admission and can aid in appropriate placement and services.</p> <p>The policies require that IEPs be reviewed and updated at least once annually and more often when necessary. Annual updated IEPs were noted during Mr. Herbert's monitoring visit. The Monitor will ensure compliance with this the policy has been during the 4th quarter file review and youth interviews.</p> <p>The requirements of this provision appear to be in compliance. Whether and to what extent they are followed will remain part of the monitoring process through the 2018-19 school. A review of files will ensure that the appropriate documentation is maintained in each of the files.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Appropriate screening of youth to determine if they have an IEP must be done on all youth coming into NIJ facilities.</p> <p>For youth with IEPs, files must be accesses "immediately" through MIPE so that educational services can begin for the youth no later than 72 hours</p> <p>Cumulative files must be requested manually on students from their local schools within 10 days, but hopefully sooner. When SIS comes on line, such files should be accessed "immediately," no longer than within 72 hours.</p> <p>All special education files should contain a records of annual IEP reviews, and other reviews of the IEP done during the year as needed.</p>
<p>Priority Next Steps</p>	<p>Continued efforts should be made to ensure that NIJ facilities come on line with SIS to gain immediate access to all student files</p> <p>A compliance report created through MIPE by DOE IT staff will enable Quality Assurance measures to be made regarding the annual and other periodic review of IEPs.</p>
<p>Quality Assurance Measures</p>	<p>Education QA tools have not been reviewed by the Monitor</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based</p>	<p>Review of screening and evaluation materials completed at Humacao Review of documentation used to request and follow up on records Review of MIPE and SIS systems Discussions with DOE and NIJ education staff</p>

S.A. 90. Defendants shall provide appropriate services for juveniles eligible for special education and related services. Defendants shall provide each such juvenile with educational instruction specially designed to meet the unique needs of the juvenile, supported by such services as are necessary to permit the juvenile to benefit from the instruction. Defendants shall coordinate such individualized educational services with regular education programs and activities.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	N	Y	Y	I	N
Description of Monitoring process during this period of time	See above					
Next Steps	<p>During the fourth quarter, the Monitor will complete a sampling of file reviews in each of the three facilities. Determination of adequate documentation can be made after such review is completed.</p> <p>Complete training records of educational staff should be provided to the Monitor for 2018-19 to ensure compliance with training.</p>					

S.A. 91. Qualified professionals shall develop and implement an IEP reasonably calculated to provide educational benefits for every juvenile identified as having a disability. When appropriate, the IEP shall include a vocational component.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	N	Y	Y	I	N
Description of Monitoring process during this period of time	The Monitor reviewed the qualifications, including records of certifications, for special education staff. A review of all youth schedules for regular and special education students was completed, including vocational education classes.					
Findings and Analysis	<p>The policies and procedures require that qualified special education staff must be hired to provide services to youth with IEPs. Policy 20.1 specifies that the Educational Service Program “will promote the utmost academic, vocational and recreational potential of youth through the four main areas of Service (Academic, Vocational, Special Education and Title I, Part D Program) ...”</p> <p>No additional changes to policy are necessary for this provision.</p> <p>Staff responsible for the development of IEPs are the special education instructors, who are training in working with students with disabilities and the creation of IEPs. An</p>					

	<p>adequate number of special education staff are employed in each of the three facilities. Resources appear adequate to provide IEP services to youth. DOE should provide information regarding training provided to special education teachers employed at NIJ facilities regarding IEP development and implementation.</p> <p>IEPs are contained in the MIPE file as well as hard copies of files in each institution. The quality IEPs will be reviewed during the 4th quarter by the Monitor.</p> <p>A review of the special education student schedules in each facility indicates that with the exception of 4 elementary school students at Humacao, all special education students were enrolled in vocational classes.</p> <p>A review of student files during the fourth quarter will verify if appropriate documentation is maintained.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>The monitor believes that the policies and procedures, training, staff and resources are available to ensure that this provision is in compliance. A system of documentation has been created which is thorough and which appears to follow the requirements under IDEA for the creation and implementation of IEPs. A determination of whether such documentation is properly maintained will require student file reviews to be completed.</p> <p>The provision of vocational education is incorporated into policy and, while not mandatory in all cases, has been an integral part of providing more robust educational services for youth in NIJ and is offered consistently.</p> <p>Whether and to what extent compliance is achieved will depend upon whether this provision is consistently and adequately followed over the next year.</p>
<p>Priority Next Steps</p>	<p>Ongoing monitoring over the next year will ensure that all provisions in place are being implemented fully and faithfully.</p>
<p>Quality Assurance Measures</p>	<p>The Monitor has not reviewed any QA measures.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based</p>	<p>All youth schedules including the provision of vocational instruction provided Review of Policies and procedures Review of system of documentation maintained in student files</p>
<p>S.A. 93 Services provided pursuant to IEPs shall be provided year round. Defendants shall ensure that juveniles with educational disabilities receive a full day of instruction five (5) days a week.</p>	

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	Y	N	N	N	N	N
Description of Monitoring process during this period of time	The Monitor requested that DOE provide evidence of any year round services provided through Extended School Services (ESS) and reviewed the policy in place for such.					
Findings and Analysis	<p>Year round school services to special education students must be provided to students who “prior to the corresponding evaluations, require this service in order to avoid falling back in their academic skills and performance.” (See policy 20.2 Section V)</p> <p>Extended school year services have not been provided to any students in the last school year, according to information received from the Department of Education.</p> <p>DOE must ensure that extended school year services are available if necessary, to provide youth with a free and appropriate public education. IEP teams must consider whether youth during IEP reviews, based upon whether such services may be necessary for the youth’s IEP to be properly implemented and for the youth to receive a free and appropriate public education.</p> <p>The fact that no youth received such services does not indicate non-compliance. A further review of IEP reviews will provide an indication of whether extended school services are considered and provided as necessary.</p>					
What is needed for full compliance? What steps are required and/or recommended?	<p>Policies are already in place which address the need for Extended School Services. The Monitor will continue to work with education providers to determine:</p> <ol style="list-style-type: none"> 1) if special education instructors are properly trained to identify youth who may need Extended School Services; 2) whether sufficient education staff are available to provide this service year round or as indicated by the need for extended school services; and 3) that proper documentation within IEPs is noted indicating that consideration has been given as to whether the youth should receive Extended School Services. 					
Priority Next Steps	Extended School Service provisions will be discussed during the fourth quarter with education staff to determine the best plan to achieve the compliance measures noted above					
Quality Assurance Measures	No QA measures have been reviewed by the Monitor for this provision.					

Sources of Information upon which Consultant report and compliance ratings are based	Review of response from DOE regarding the provision of ESS services Review of Policy 20.2
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S.A. 94. Juveniles shall not be excluded from services to be provided pursuant to IEPs based on a propensity for violence or self-inflicted harm or based on vulnerability. Juveniles in isolation or other disciplinary settings have a right to special education. If required for institutional security, services provided pursuant to IEPs may be provided in settings other than a classroom.

Compliance Rating	Policies	Training	Staffing	Resources	Documentation	Overall
	N	N	N	N	N	N
Description of Monitoring process during this period of time	<p>The Monitor has reviewed the policies and procedures for both regular education and special education. She has discussed this provision with other members of the Monitoring Team in conjunction with paragraphs 79 and 80, which have similar provisions.</p> <p>A review of data during 2018 regarding youth in transitional measures and protective custody, as well as expert reports regarding the provision of education services was completed.</p>					
Findings and Analysis	<p>There are three sections to Paragraph 94 which must be monitored:</p> <ol style="list-style-type: none"> 1) Whether youth who have an IEP are excluded from services based upon a propensity for violence or self-inflicted harm or based on vulnerability. 2) Whether youth in “isolation or other disciplinary settings” are provided the right to special education services; and 3) Whether educational services provided pursuant to an IEP occurring in settings outside of the classroom are required for institutional security. <p>The policies and procedures do include language regarding exclusion from services in 1) above, but do not address the other two provisions sufficiently. Recommendations were submitted to NIJ and DOE regarding this section on September 17, 2018.</p> <p>Exclusion of youth from services on the basis of a propensity for violence, self-inflicted harm or vulnerability does not appear to be tied specifically to youth who are isolated or in protective custody or transitional measures, although certainly it would include these</p>					

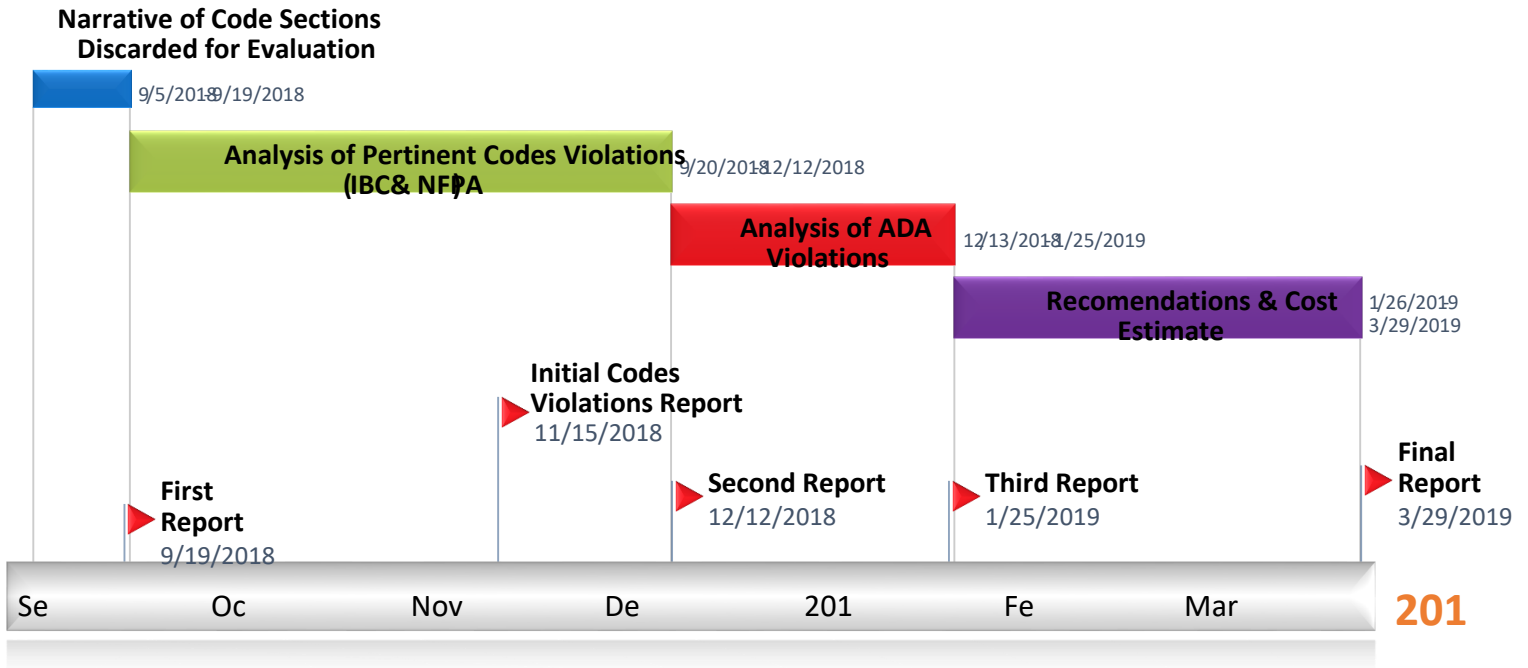
	<p>youth. Youth may also be excluded from services through removal from classes or “suspension” of services because of behavior or other circumstances. Removal from a youth’s IDEA required placement for ten (10) days or more may constitute a change in placement which would necessitate the convening of an IEP team. Returning youth back to their unit for behavior related issues, regardless of how it is labelled, may constitute such removal.</p> <p>To be clear, there has been no evidence provided that such removals are occurring, and there is no policy which addresses removals or “suspensions.” The Monitor will seek clarification of this during the fourth quarter monitoring, and examine relevant documentation.</p> <p>Youth placed in transitional measures or protective custody and who have IEPs must be provided special education services under this provision, as well as the more comprehensive requirements of paragraphs 79 and 80. Documentation of a full school which comports with the youth’s IEP must be provided for those youth who are identified as special education students.</p> <p>Finally, youth with IEPs may receive services outside of the regular classroom if such is required for institutional security. This is a viable option for those youth in TM or PC status who cannot attend school regular classrooms, but who must receive a full school day and the services contained within their IEP. The Monitor will seek information during the fourth quarter as to whether alternatives to regular classrooms are being used for youth in PC or TM status. Inclusion in a regular classroom should be considered in all cases, but where a youth cannot be safely maintained in that setting, documentation must explain the institutional security concern which justified the alternative setting.</p>
<p>What is needed for full compliance? What steps are required and/or recommended?</p>	<p>Policies and procedures must address the need for youth with IEPs to receive a full school day regardless of whether they are in PC, TM or other disciplinary status. Similarly, documentation must be required by policy to justify alternative settings outside of the classroom when necessary for institutional security. Education staff must be sufficient to ensure that these youth are receiving a full school day.</p> <p>While no policy exists which permits the exclusion of youth from school due to a propensity for violence, self harm or vulnerability, NIJ must document when such instances occur as a result of security issues, staffing shortages, or other incidents. It is critical that education staff work collaboratively with security staff to ensure that youth are not excluded from services. Youth with IEPs are entitled to certain procedural safeguards when excluded from school 10 or more days during the school year, as this would constitute a disciplinary change of placement.</p> <p>Compliance requires the staff training, resources, and documentation regarding the provision of education to special education students regardless of behavior, with</p>

	verification and justification of any alternative settings used for education for these students as a result of institutional security issues.												
Priority Next Steps	<p>Identify whether students are being excluded from classes for full day or partial days as a result of conduct, whether violence related, self-harming behavior, or as a result of vulnerability.</p> <p>Develop a tracking mechanism to ensure that if youth are removed from school as a result of behavior, self-harm or vulnerability, documentation is provided to indicate why such removal was necessary.</p> <p>Documentation should be developed to indicate when alternative school settings are used and to justify the need for these alternative settings based upon institutional security issues</p>												
Quality Assurance Measures	No QA has been reviewed for this provision.												
Sources of Information upon which Consultant report and compliance ratings are based	<p>Review of policies and procedures relative to education</p> <p>Discussion with education staff</p>												
S.A. 95. When an IEP is ineffective, Defendants shall timely modify the IEP.													
Compliance Rating	<table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th>Policies</th> <th>Training</th> <th>Staffing</th> <th>Resources</th> <th>Documentation</th> <th>Overall</th> </tr> </thead> <tbody> <tr> <td>Y</td> <td>Y</td> <td>Y</td> <td>Y</td> <td>I</td> <td>N</td> </tr> </tbody> </table>	Policies	Training	Staffing	Resources	Documentation	Overall	Y	Y	Y	Y	I	N
Policies	Training	Staffing	Resources	Documentation	Overall								
Y	Y	Y	Y	I	N								
Description of Monitoring process during this period of time	See above for discussion of this section.												
Findings and Analysis	<p>The Monitor will review case files of youth with IEPs as well as interviews with youth who are receiving special education services.</p> <p>If DOE can create a compliance report through MIPE, additional IEP reviews can be included in this as an indicator of how often IEPs are modified in addition to their annual review.</p>												
What is needed for full compliance?	There are a number of indicators that a youth's IEP is inappropriate or ineffective. Student goals and objective may be vague and unmeasurable. The IEP may be inadequate to address identified deficits in the student's multi-faceted evaluation. Needed accommodations may be missing, or												

<p>What steps are required and/or recommended?</p>	<p>related services may not be included when necessary. The needs of the youth may simply change based upon any variety of circumstances.</p> <p>Good data must be kept on student goal achievement, and should reflect student progress for meeting IEP goals, and receiving academic benefit from instruction provided.</p> <p>Supervision of IEPs and data collection should provide indicators of whether such progress is being achieved with each student.</p>
<p>Priority Next Steps</p>	<p>The Monitor will identify with education staff examples of modified IEPs outside of the annual review based upon changes in circumstances, or an IEP which was otherwise not meeting student needs.</p> <p>The Monitor will also review with the Department of Education the review and oversight mechanisms of special educators to identify ineffective IEPs.</p>
<p>Quality Assurance Measures</p>	<p>The Monitor has not reviewed any QA provisions.</p>
<p>Sources of Information upon which Consultant report and compliance ratings are based</p>	<p>Review of policies and procedures.</p>

Attachment A:

Timetable for S.A. 31 Code Violations



Attachment B:

Paragraph 45 Review of Remaining Areas of Policy and Procedure Noncompliance

Kim Tandy, Monitor

Paragraph	Description	Rating	Notes regarding status of compliance
C.O. 43	Sufficient funding for Implementation of C.O.	NA	There is no policy in place which determines the amount necessary for sufficient funding to implement the Consent Order (and subsequent Settlement Agreement).
S.A. 45	Agency Policy and Procedure Manual for all operations	I	Compliance for this paragraph will be achieved when all other provisions have completed policies and procedures. The policies and procedures must, by definition, be sufficient to achieve full compliance when implemented.
S.A. 50	Training for current and new direct care staff	Y	Completed
Protection from Harm			
S.A. 48	Sufficient Direct Care Staff	N	DCR has yet to submit a final, Secretary signed, agency staffing policy.
Jan 2009 Para. 1	Reasonable Safety of Youth through Adequate Supervision	NA	DCR has yet to submit a final, Secretary signed, agency staffing policy.
Parag 2	Sufficient Staff to Implement Decree and adequate supervision	N	DCR has yet to submit a final, Secretary signed, agency staffing policy.
Parag 3	Training for social workers if direct care staff	NA	DCR has yet to submit a final, Secretary signed, agency staffing policy.
Parag 4	Persons Hired to be Sufficiently Trained before deployed	N	DCR has yet to submit a final, Secretary signed, agency staffing policy.
Parag 5	Monthly submission of master roster	N	DCR has yet to submit a final, Secretary signed, agency staffing policy.
S.A. 52	Classification	N	Bob Dugan provided recommendations on July 18, 2018 to bring the existing policies into compliance. Necessary changes must include annual review of the validation of objective methods of classification instruments and processes
S.A. 77	Use of Force	Y	Completed and signed Third Quarter of 2018.
S. A. 78.	Investigations of Abuse and Institutional Neglect	Y	Completed
S.A. 79	Protection and Isolation	N	On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and ¶179. A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments

			provided by the Monitor's Consultant on February 28. While DCR has expressed a desire to continue to prepare new versions of the TM (17.20) and PC (17.19) policies, the Monitor has requested that DCR wait until the results of the QA process are available and can inform the content of revised documents and practices.
S.A. 80	Conditions for youth in Protective Custody	N	On 12/6/17, DCR committed to revising current TM and PC policies to reflect the requirements of this provision and ¶179. A draft policy for TM and PC was provided to the Monitor on February 6, 2018 and comments provided by the Monitor's Consultant on February 28. While DCR has expressed a desire to continue to prepare new versions of the TM (17.20) and PC (17.19) policies, the Monitor has requested that DCR wait until the results of the QA process are available and can inform the content of revised documents and practices.
Mental Health and Substance Abuse Treatment			
S.A. 59	Treatment Plans for youth with Substance Abuse problems	Y	Completed
C.O. 29	Residential Mental Health Treatment Program	Y	Completed
S.A. 36	Continuous Psychiatric and Psychological services	Y	Completed
S.A. 63	Reducing Risk of Suicide	Y	Completed
S.A. 72	Emergency Psychotropic Medication	Y	Completed
S.A. 73	Behavior Modification and Treatment Plans	Y	Completed
Education and Vocational Services			
S.A. 81	Provision of Academic and Voc. Education to All Youth	N	The Commonwealth provided its most recent copy of policies and procedures, dated and signed on July 6, 2016. 20.1 General Description of Educational and Recreational Services to the Monitor in August of 2018. The Monitor's office has provided a review and comment on these policies, which were resubmitted to the Commonwealth (to be distributed to the Department of Education) on September 17 th . The policies are good overall, but lack requirements regarding training of education staff, and appropriate services to youth in TM and PC. The Monitor has not received a date by which to expect the Commonwealth's response and revisions.

S.A. 86a.	Compliance with IDEA Requirements and Timeframes	N	The Commonwealth provided its most recent copy of policies and procedures, dated and signed on July 5, 2016. 20.2 Special Education Program to the Monitor in mid-August of 2018. The Monitor's office has provided a review and comment on these policies, which were resubmitted to the Commonwealth (to be distributed to the Department of Education) on September 17 th . The policies do not provide sufficient detail about the Commonwealth's responsibility regarding some IDEA key components and timeframes. The Monitor has not received a date by which to expect the Commonwealth's response and revisions.
S.A. 86b.	Screening for youth with Disabilities	Y	Completed
S.A. 87	Obtaining IEPs of Eligible Youth	Y	Completed
S.A. 90	Delivery of Specially Designed Instruction and Related Services	Y	Completed
S. A. 91	Qualified educational professionals and voc. Ed	N	Recommendations were provided by the Monitor in September of 2018.
S.A. 93	Year Round Services for Youth with IEPs	Y	Completed
S.A. 94	Services to youth in isolation or other disciplinary settings	N	Policy 20.2 indicated only that "no youth will be excluded from the services because they show behavior or tendency to violence, self-mutilation or lack of positive adjustment." The current policies do not contain appropriate services to youth in TM or PC status. The Monitor has not received a date by which to expect the Commonwealth's response and revisions. Policies for TM and PC must also reflect the required services.
S.A. 95	Modification of IEPs	Y	Completed

APPENDIX C: Paragraph 48 Staffing Analysis

S.A. 48: DCR Staff Youth Ratio 2018 Third Quarter Report

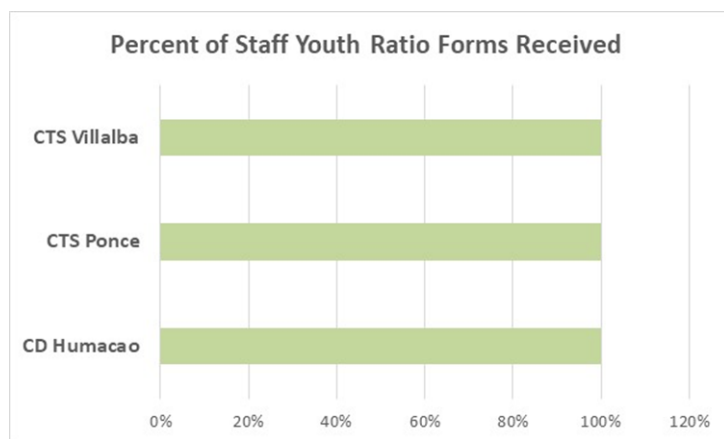
Prepared by Bob Dugan: Office of the Monitor

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 July 1, 2018 through September 29, 2018.

As of the Friday, October 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
Totals	39	39



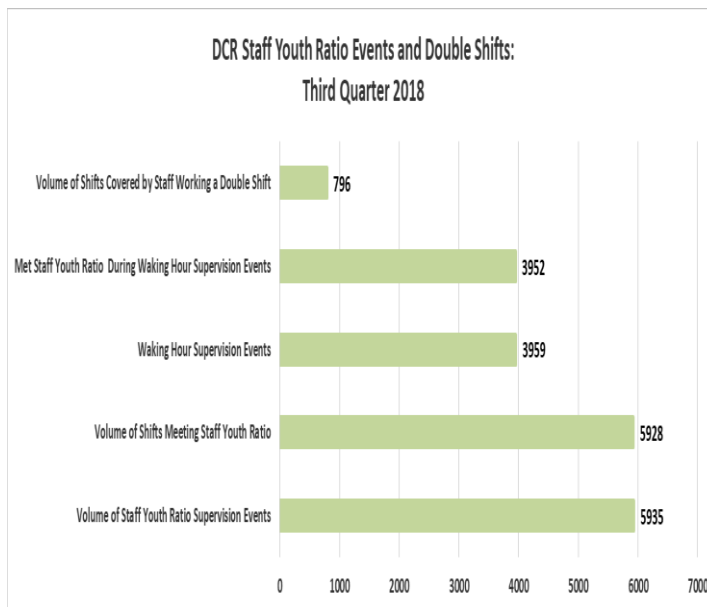
DCR submitted a total of 39 facility staff youth ratio forms for the three facilities requiring staff youth ratios, allowing for 100% of the staff youth ratio forms being available for analysis. DCR has consistently provided all requested Staff Youth Ratio forms used for monitoring and reporting. The table displaying the dates that staff youth ratio forms were received is on the last page of this report. Detention youth population and Sumaridos were detained in the CD Humacao facility for the third quarter reporting period.

DCR Staff Youth Ratio Performance:

During the 2018 third quarter reporting period (July 1, 2018 through September 29, 2018), DCR documented a total of 5935 shift / unit events that required staff to youth supervision. This is an increase of 119 staff youth supervision events from the second quarter of 2017 (5816 events).

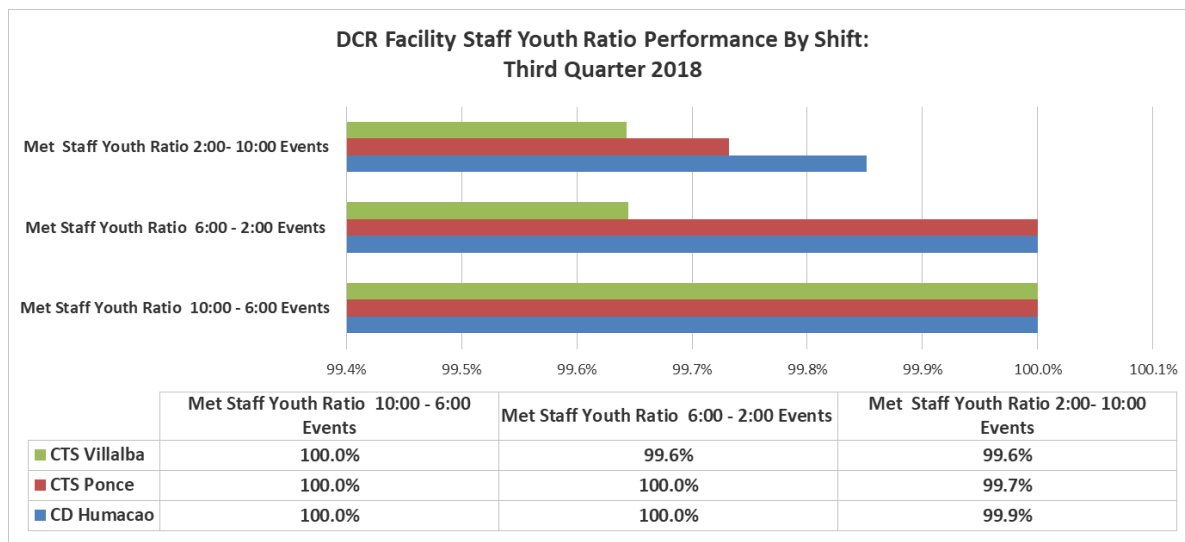
Of the 5935 shift / unit events, 5928 of the events (99.9%) were supervised with the minimum required staff youth ratios, a 0.2% increase from the 99.7% of events supervised with the minimum required staff youth ratios from the second quarter of 2018.

Of the 5928 staffing events meeting the minimum required staff youth ratio, 1976



(33%) of the staffing events occurred on the 10:00 PM – 6:00 AM shift and 3959 events occurred during waking hours.

The chart and table below represent staff youth ratio performance by shift for the period (July 1, 2018 through September 29, 2018).



Waking Hours Youth Ratio Events:

The tables below provides data relating to staff youth ratio events during waking hours for the third quarter of 2018. Third quarter waking hour staff youth ratio of 99.69% is 0.2% higher than the prior quarter (99.6%).

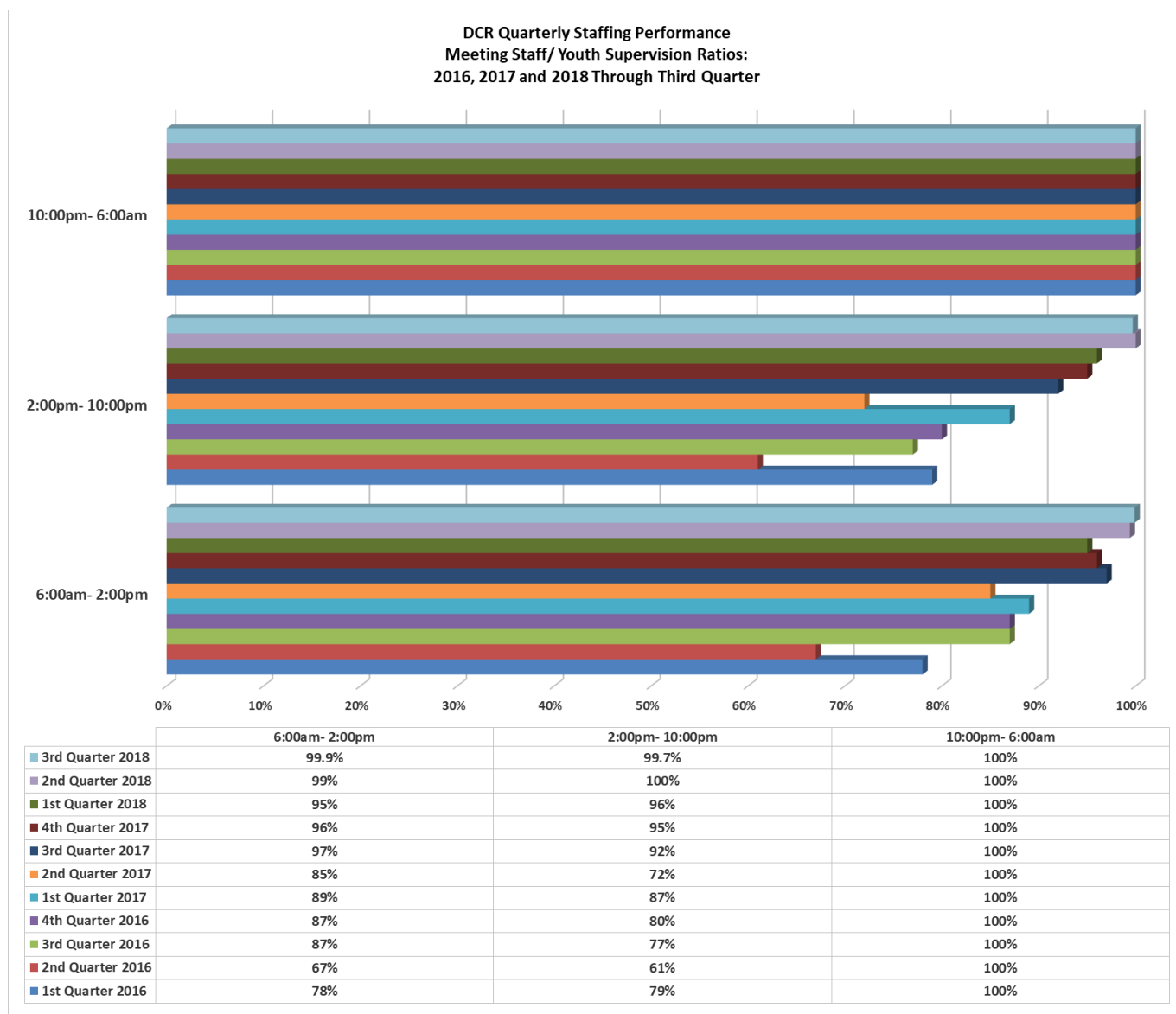
During the third quarter, CTS Ponce reported meeting the staff youth ratio in 100% of the waking hour staffing events, meeting the staff youth ratio in 2017 of 2018 events. This rate is the highest amongst the three facilities operational during the quarter. PUERTAS, housed in one of the housing modules within CTS Ponce, met the staff youth ratio for all shifts throughout of the 2018 third quarter reporting period.

CTS Villalba had the highest volume of events (4) not meeting the staff youth ratio requirements during waking hours (99.8%). All three facilities have reduced the percentage of shifts covered by staff working double shifts, while having the highest percentage of meeting the minimum required staff youth ratio.

- CD Humacao reduced percentage of shifts covered by staff working a double shift by 7%.
- CTS Ponce reduced percentage of shifts covered by staff working a double shift by 3%.
- CTS Villalba reduced percentage of shifts covered by staff working a double shift by 16%.

DCR Third 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
		Waking Hour Supervision Events	Waking Hour Supervision Events			
CD Humacao	1346	1345		99.9%	460	23%
CTS Ponce	1490	1488		99.9%	139	6%
CTS Villalba	1123	1119		99.6%	197	12%
DCR Third Quarter 2018 Staff Youth Ratio: All Shifts	3959	3952		99.8%	796	13%

The following chart represents the DCR agency Staff Youth Ratio averages by shift for 2016 through September 29, 2018:



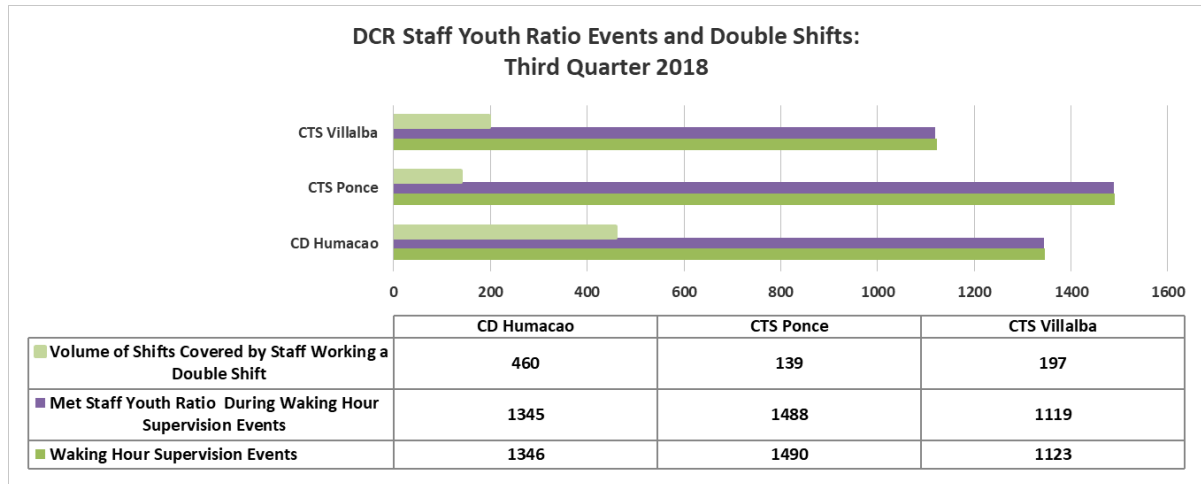
The DCR 2018 third quarter performance in meeting Staff Youth Ratios during waking hours is as follows:

- 6:00 am – 2:00 pm shift: 99.9% of events, a 0.5% increase from the second quarter of 2018 (99.4%)
- 2:00 pm – 10:00 pm shift: 99.7% of events, a 0.3% decrease from the first quarter of 2018 (100%)
- 10:00 pm – 6:00 am shift: 100% of events, a 0% increase from the first quarter of 2018 (100%)

Of the 3959 waking hour supervision events (6:00 – 2:00 and 2:00 – 10:00 shifts) 3952 of the events (99.8%) met the shift staff youth ratio requirements. The DCR 2018 third quarter Staff Youth Ratios compliance performance reflects a 0.1% increase in staff youth ratio compliance compared to the second quarter reporting period, together with a reduction in the volume of staff working double shifts (796).

Staff Double Shifts:

For the 2018 third quarter, 796 (13%) of the 5935 staff youth ratio events were covered by staff working a double shift. This is 8% decrease of shifts requiring staff to work a double shift compared to the second quarter 2018 reporting period (1233 events).



The third quarter staff youth ratio performance was dependent on a significant but reduced volume of double shifts (796), eight percent less than the volume of double shifts compared to the second quarter.

A closer review identifies staff working double shifts occurred disproportionately on weekends during the first and second shifts. Although there was a very low volume of non-compliant staff youth ratio events (7) for the third quarter, all seven of these events occurred on weekends.

DCR Facility Third Quarter 2018	Volume of Non-Compliant Staffing Ratios	Volume of Non-Compliant Staffing Ratios on Weekends	Percentage of Non-Compliant Staffing Ratios on Weekends	Volume of Double Shifts	Volume of Double Shifts on Weekends	Percentage of Double Shifts on Weekends
CD Humacao	1	1	100%	460	142	31%
CTS Ponce	2	2	100%	139	69	50%
CTS Villalba	4	4	100%	197	99	50%
DCR Totals	7	7	100%	796	310	39%

The volume of double shifts occurring on weekends has contributed to a significant reduction in the volume of non-compliant staffing ratios occurring on weekends. 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. The outcome of double shifting for direct care staff can lead to a level of inattentiveness on the part of staff, which can negatively impact youth safety and potentially contribute to staff negligence in providing effective, safe and secure supervision to youth. 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 seven 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	Second Quarter 2018	Third Quarter 2018
Volume of Double Shifts	911	886	586	712	1202	1233	796
Volume of Staffing Events	6800	6299	5489	6611	5712	5816	5935
Percentage of Double Shift Staffing Events	13%	14%	11%	11%	21%	21%	13%
Number of Facilities	5	6	4	4	3	3	3

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 minimally 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 Quality Assurance Documentation Requirements for Compliance:

DCR has been working on development of agency staffing policy to procedurally require staffing assignment and documentation to prioritize operational compliance with the minimum 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, February 15, 2018 and June 16, 2018.

At the Functional Team Meeting held on August 22, 2018, members of the Operational Functional Team indicated that a policy had received agency approval and the Secretary's signature. The Monitor's Consultant, at the time of the meeting, and afterwards by email, asked for a copy of the final approved staffing policy. As of the time of the production of this report the final approved staffing policy has not been provided.

For DCR, as well as the Monitor's Office, to effectively establish an effective quality assurance process to 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 quality assurance 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.

Although DCR consistently provides weekly staff youth ratio forms, as of the Staffing Consultant site visits of August 21 and 22, 2018, DCR had not been able to implement the quality assurance facility staffing documentation requests uniformly at all three facilities. The absence of agency wide uniform staffing source documentation significantly limits the volume of quality assurance 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.

During the August site visits, the Monitor's Consultant demonstrated proposed quality assurance sampling of staffing documentation to facility compliance officers, identify strengths and weaknesses in existing facility practices. This process was shared with members of the Operational Functional Team at the Functional Team meeting on August 22, 2018. Future site visits will continue to incorporate quality assurance reviews of DCR staffing documentation. It is anticipated that as DCR continues to move toward compliance for S.A. 48a, facility compliance officers will execute the quality assurance analysis of policy and procedure compliance of facility staffing practices.

The assessment of accuracy, reliability and comprehensive reporting of staffing documentation and practices is imperative to determine compliance of S.A. 48a. Although minimum staff youth ratios appear to be in substantial compliance to the requirements of S.A. 48a for the 2018 third quarter, absent an agency approved, Secretary signed policy, with the corresponding required staff training, and uniform facility quality assurance staffing documentation, S.A. 48a is found to be in non-compliance.

January 2009 Stipulation Paragraph 5: At the Functional Team Meeting on August 22, 2018, the Monitor's Consultant asked DCR representatives to provide documentation to meet the requirements of this stipulation. No reports were received for July or August of 2018. The Monitor's Consultant asked for an electronic copy of each facility Master Roster to assess the accuracy and reliability of the Master Roster in relative to the data provided in the January 2009 Stipulation Paragraph 5 report. On October 10, 2018, DCR provided a document that meets the requirements of January 2009 Stipulation Paragraph 5. The Monitor's consultant identified that the staffing documented in the report should reflect the volume of staff identified in each facility master roster. As of the production of the quarterly report, DCR has not provided the Monitor's Consultant with electronic versions of each facility's Master Roster. Consequently, the Monitor's Consultant can not attest to the accuracy and reliability of the numbers provided in the DCR January 2009 Stipulation Paragraph 5 report.

05-OCTUBRE-2018



DEPARTAMENTO DE CORRECCION Y REHABILITACION
SECRETARIA AUXILIAR DE RECURSOS HUMANOS Y RELACIONES LABORALES
 INSTITUTO DE DESARROLLO Y CAPACITACIÓN DE RECURSOS HUMANOS

INFORME ORDEN DEL 8 ENERO 2009
PARRAFO 48 (30 Septiembre 2018)

Centro	OSJ I	OSJ II	OSJ III	OSJ IV	TOTAL	INACTIVOS	NOMBRADOS Agosto 2018
Centro de Detención de Humacao	118	5	8	1	132	15	0
Centro de Tratamiento Social de Ponce	139	16	7	3	165	16	0
Centro de Tratamiento Social de Villalba	119	10	6	1	136	17	0
Nivel Central y Otras facilidades DCR	40	4	4	1	49	3	0
OFICIALES SERVICIOS JUVENILES POR NIVEL	416	35	25	6	482	51	0

*Información base de datos IDECARH al 30 septiembre 2018

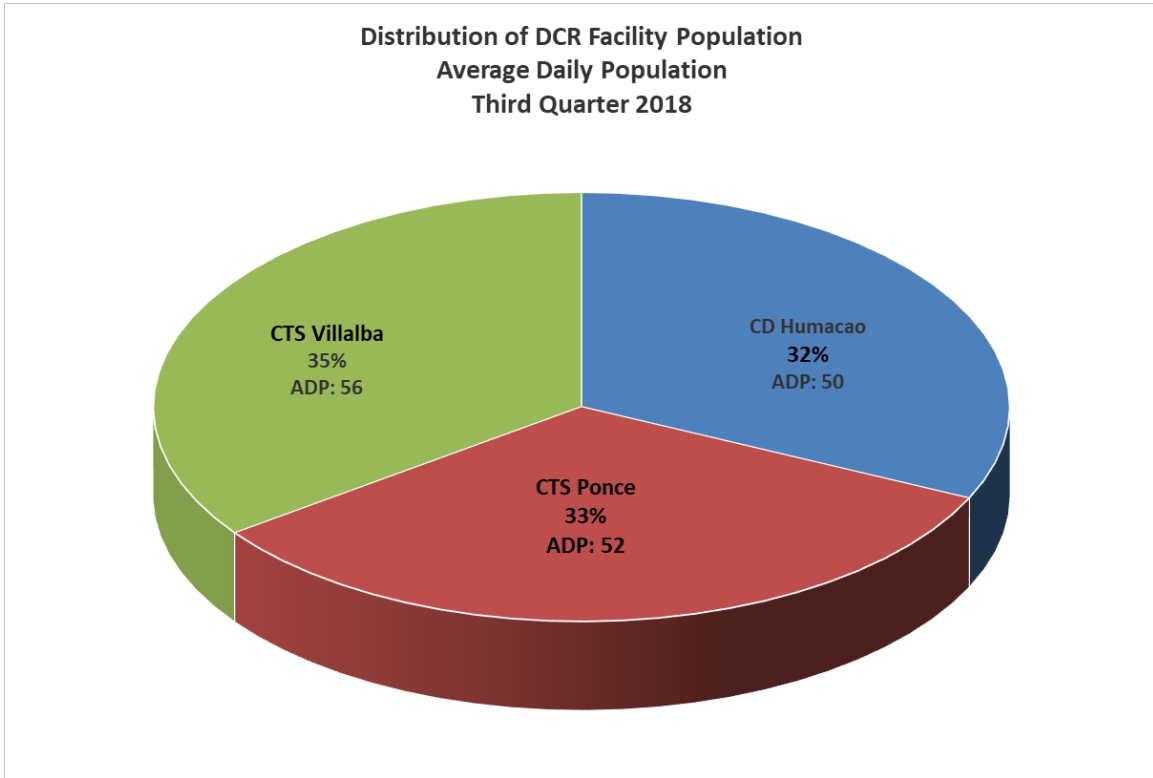
PREPARADO POR:


 AIDA BURGOS ROSARIO, MPA
 ESPECIALISTA EN RECURSOS HUMANOS II

CR Average Daily Population:

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

The table below displays each facility's average daily population for the reporting period (July 1, 2018 through September 29, 2018), as well as the proportionate facility youth population that each facility contributes to the agency average daily population.



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

CD Humacao Staff Youth Ratio Analysis:

July 1, 2018 through September 29, 2018

Detention Facility: During the 2018 third 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: 2018
- Volume of Staffing Events with Staff Working a Double Shift: 460 (23%)

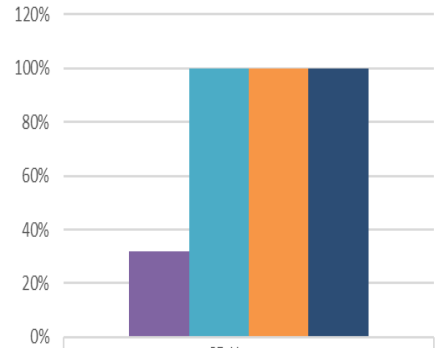
The third quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00 am: maintained 100% minimum required staff youth ratio
- 6:00 am – 2:00 pm: 100%, a 0.3% increase since the second quarter reporting period
- 2:00 pm – 10:00 pm: 99.9%, a 0.4% increase since the second quarter reporting period
- CTS Humacao represents 32% of the DCR institutional population.
- A facility site visit was conducted on 8/22/2018. 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 Staffing Youth Ratio

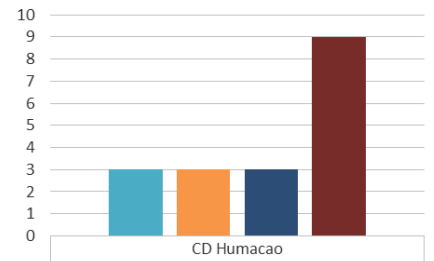


Percentage of DCR Agency Population	32%
Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100.0%
Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	100.0%
Percentage of Time Met Staff Youth Ratio 2:00- 10:00	99.9%

9 youth supervision events for the third quarter of 2018

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

Supervision Events: 1:1



Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	3
Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	3
Youth Assigned 1:1 Staff Youth Supervision 2:00- 10:00	3
Total Youth Assigned 1:1 Staff Youth Supervision Events:	9

CTS Ponce Staff Youth Ratio Analysis:

July 1, 2018 through September 29, 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: 2233
- Volume of Staffing Events with Staff Working a Double Shift: 139 (6%)

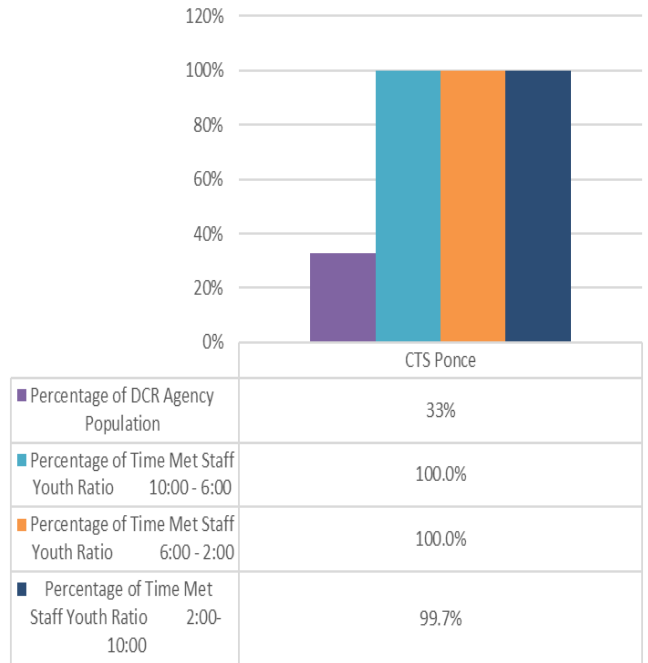
The third quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00 pm- 6:00 am: 100%, maintained 100% minimum required staff youth ratio
- 6:00 am – 2:00 pm: 100%, maintained 100% minimum required staff youth ratio
- 2:00 pm – 10:00 pm: 99.7 %, a 0.3% decrease since second quarter reporting
- CTS Ponce represents 33% of the DCR institutional population.
- The PUERTAS module met the staff youth ratio 100% of the third quarter shifts.
- A facility site visit was conducted on 8/21/2018. 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

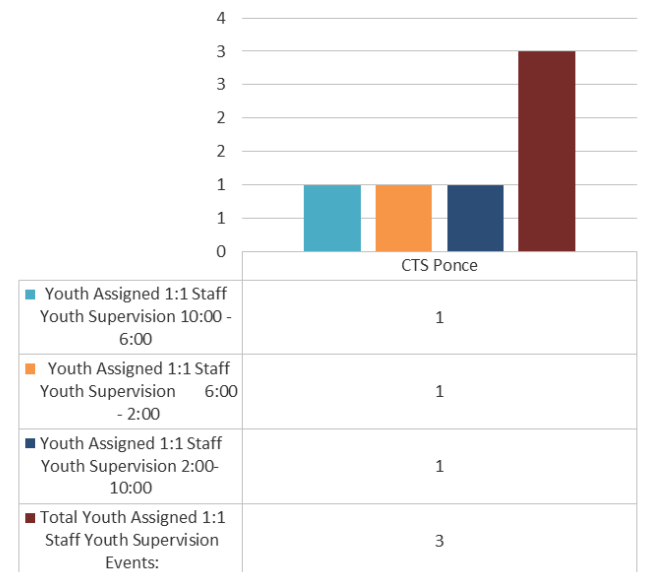
Percentage of Staffing Events Meeting Staffing Youth Ratio



3 youth 1:1 supervision events for the third quarter of 2018

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

Supervision Events: 1:1



CTS Villalba Staff Youth Ratio Analysis:

July 1, 2018 through September 29, 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: 1680
- Volume of Staffing Events with Staff Working a Double Shift: 197 (12%)

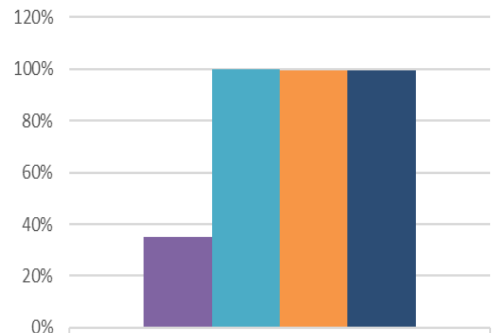
The third quarter of 2018 Staff Youth Ratio requirements display the following characteristics:

- 10:00pm- 6:00am: maintained 100% minimum required staff youth ratio
- 6:00 am – 2:00 pm: 99.6%, a 1% increase since second quarter reporting
- 2:00 pm – 10:00 pm: 99.8%, a 0.3% increase from the second quarter reporting
- CTS Villalba represents 35% of the DCR institutional population.
- A facility site visit was conducted on 8/21/2018. 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 Staffing Youth Ratio



CTS Villalba	
■ Percentage of DCR Agency Population	35%
■ Percentage of Time Met Staff Youth Ratio 10:00 - 6:00	100.0%
■ Percentage of Time Met Staff Youth Ratio 6:00 - 2:00	99.6%
■ Percentage of Time Met Staff Youth Ratio 2:00-10:00	99.6%

0 youth 1:1 supervision events for the third quarter of 2018

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

Supervision Events: 1:1



CTS Villalba	
■ Youth Assigned 1:1 Staff Youth Supervision 10:00 - 6:00	0
■ Youth Assigned 1:1 Staff Youth Supervision 6:00 - 2:00	0
■ Youth Assigned 1:1 Staff Youth Supervision 2:00-10:00	0
■ Total Youth Assigned 1:1 Staff Youth Supervision Events:	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>
July 1 - 7, 2018	7/13/2018	7/13/2018	7/13/2018
July 8 - 14, 2018	7/19/2018	7/19/2018	7/19/2018
July 15 - 21, 2018	7/27/2018	7/27/2018	7/27/2018
July 22 -28, 2018	8/9/2018	8/9/2018	8/9/2018
July 29 - August 4, 2018	8/10/2018	8/10/2018	8/10/2018
August 5 -11, 2018	8/17/2018	8/17/2018	8/17/2018
August 12 - 18, 2018	8/28/2018	8/28/2018	8/28/2018
August 19 -25, 2018	9/4/2018	9/4/2018	9/4/2018
August 26 - September 1, 2018	9/10/2018	9/10/2018	9/10/2018
September 2 - 8, 2018	9/21/2018	9/21/2018	9/21/2018
September 9 -15, 2018	9/21/2018	9/28/2018	9/28/2018
September 16 -22, 2018	9/28/2018	9/28/2018	9/28/2018
September 23 - 29, 2018	10/9/18	10/5/18	10/5/18
	13	13	13
Volume of Forms Submitted	100.00%	100.00%	100.00%

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>
July 1 - 7, 2018	43	58	56	157
July 8 - 14, 2018	45	56	56	157
July 15 - 21, 2018	49	56	55	160
July 22 -28, 2018	55	53	53	161
July 29 - August 4, 2018	59	53	53	165
August 5 -11, 2018	60	54	54	168
August 12 - 18, 2018	53	54	54	161
August 19 -25, 2018	47	51	56	154
August 26 - September 1, 2018	49	50	57	156
September 2 - 8, 2018	51	48	57	156
September 9 -15, 2018	49	47	58	154
September 16 -22, 2018	47	48	60	155
September 23 - 29, 2018	48	49	55	152
Totals	655	677	724	2056
Percentage of All Agency Population	32%	33%	35%	100%
Average Daily Population	50	52	56	158

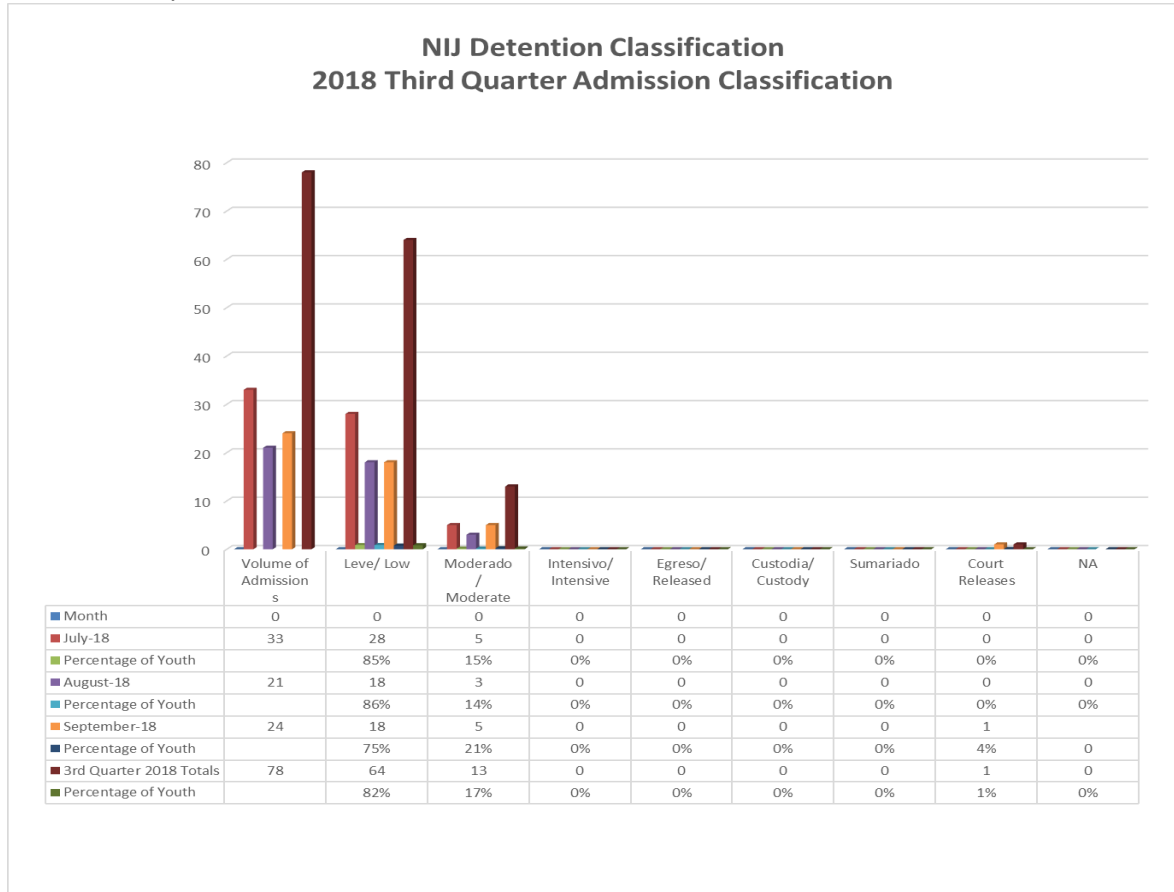
APPENDIX D:

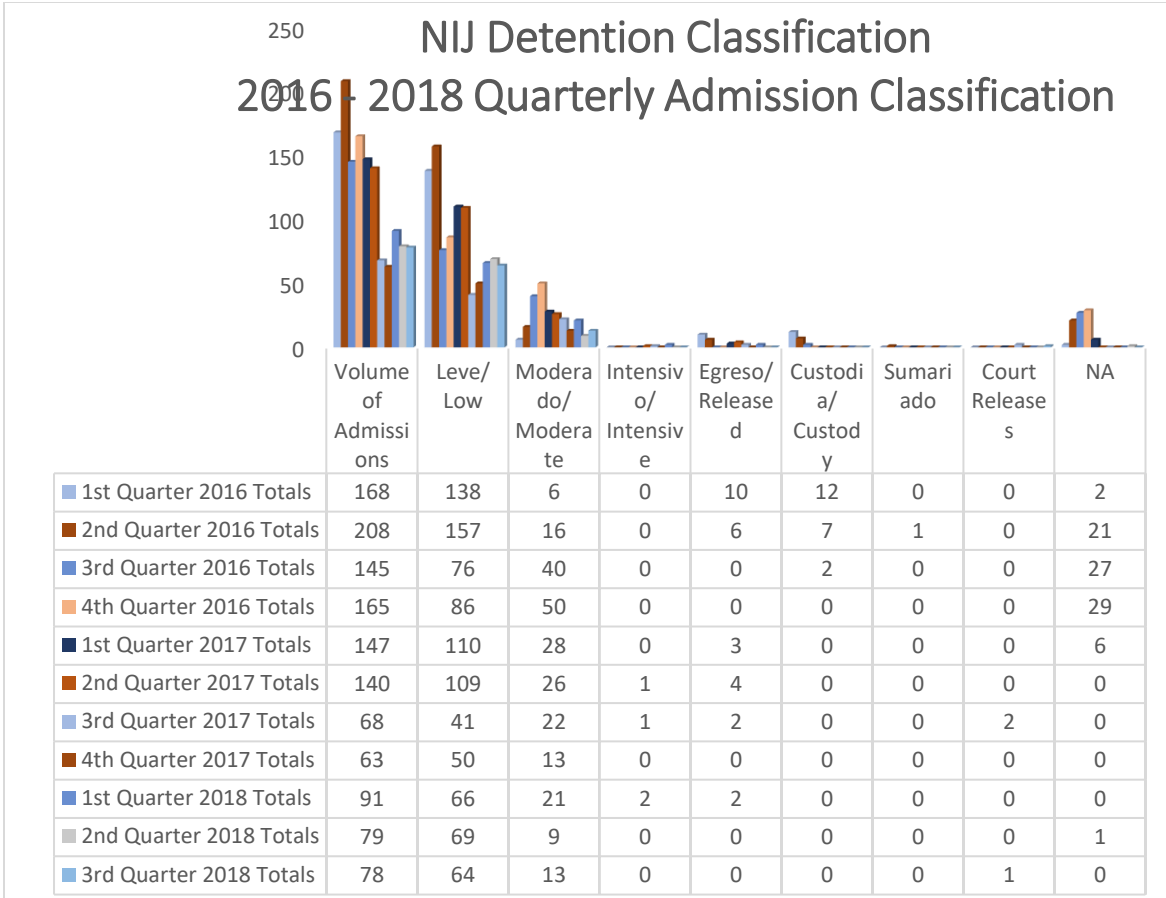
NIJ Classification 2018 Third Quarter Graphs Report

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

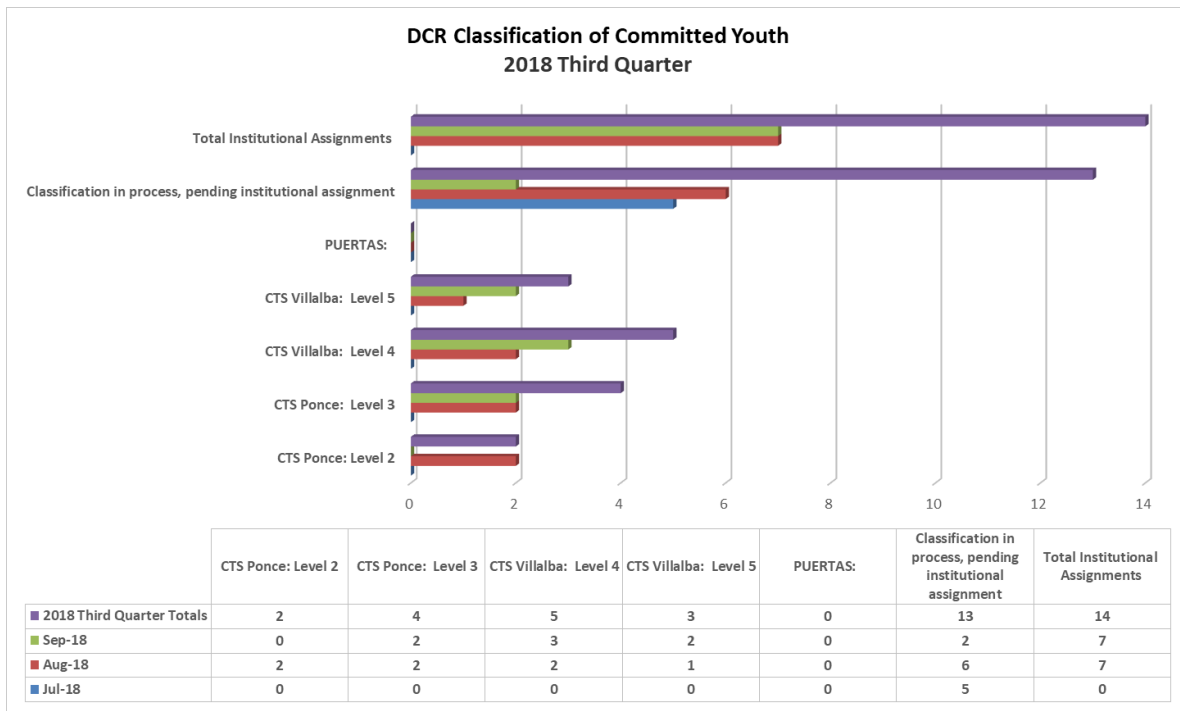
Third Quarter: July 1- September 30, 2018: NIJ Detention Admission Classification:

All detention youth are housed at CD Humacao.





Third Quarter: July 1 -September 30, 2018: Committed Classification:



APPENDIX E:

Third Quarter 2018 Protective Custody and Transitional Measure Record Review:
Submitted by Bob Dugan and David Bogard

Third quarter site visits occurred on August 21 and 22, 2018. During the August third second quarter site visits, the following volume and type of cases were assessed against all the criteria of S.A. 79 and S.A. 80.

Facility	Third Quarter Events Protective Custody	Third Quarter Events Transitional Measures	Record Reviews During Third Quarter Site Visit
CD Humacao	1	5	1 PC and 3 TM
CTS Ponce	0	1	0
CTS Villalba	0	5	4 TM
Third Quarter 2018 Totals	1	11	1 PC and 7 TM

All second quarter Protective Custody and Transitional Measure events that were not reviewed at the time of the June 2018 site visits, and events occurring during the third quarter or active at the time of facility site visits 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. The following third quarter Transitional Measure events occurred after the August site visit and consequently did not have record reviews: two at CD Humacao; one at CTS Ponce; and one at CTS Villalba.

CTS Ponce:

No third quarter Transitional Measure or Protective Custody record reviews.

CTS Villalba:

Date of Review	08/21/18	08/21/18	08/21/18	08/21/18
Facility:	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba
Name of Youth:	CVP	JP	ABO	YFF
Isolation Status:	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures
Starting Date of Status:	05/01/18	05/14/18	07/11/18	07/13/18
Ending Date of Status:	08/01/18	07/18/18	07/25/18	08/01/18
Total Days of Status:	93	66	15	20

CD Humacao:

Date of Review	08/22/18	08/22/18	08/22/18	08/22/18
Facility:	CD Humacao	CD Humacao	CD Humacao	CD Humacao
Name of Youth:	DGR	JRV	DPG	JGM
Isolation Status:	Protective Custody	Transitional Measures	Transitional Measures	Transitional Measures
Starting Date of Status:	6/18/18	06/25/18	07/13/18	08/19/18
Ending Date of Status:	Status Not Ended	07/03/18	7/18/2018	8/22/2018
Total Days of Status:	66	9	6	4

S.A. 80 Protective Custody Record Assessment:

One CD Humacao Protective Custody event was active at the time of the site visit on 8/22/2018. The Protective Custody event was assessed to the criteria of S.A. 80. Since Protective Custody youth are restricted to their rooms this event was also assessed against the criteria of S.A. 79.

S.A. 79 Protection and Isolation Record Assessment: Seven youth on transitional measure status and one youth on Protective Custody status were assessed for the S.A. 79 protection and isolation criteria.

Date of Review	08/21/18	08/21/18	08/21/18	08/21/18	08/22/18	08/22/18	08/22/18	08/22/18				
Facility:	CTS Villalba	CTS Villalba	CTS Villalba	CTS Villalba	CD Humacao	CD Humacao	CD Humacao	CD Humacao				
Name of Youth:	CVP	JP	ABO	YFF	DGR	JRV	DPG	JGM				
Isolation Status:	Transitional Measures	Transitional Measures	Transitional Measures	Transitional Measures	Protective Custody	Transitional Measures	Transitional Measures	Transitional Measures				
Starting Date of Status:	05/01/18	05/14/18	07/11/18	07/13/18	6/18/18	06/25/18	07/13/18	08/19/18				
Ending Date of Status:	08/01/18	07/18/18	07/25/18	08/01/18	NA	07/03/18	7/18/2018	8/22/2018				
Total Days of Status:	93	66	15	20	Status Not Ended as Date of Review	9	6	4	Table Scoring Summary			
SA 79 Components									No	Yes	Yes/Limited	NA
Was youth placed in isolation only when the juvenile poses a serious and immediate physical danger to himself or others?	No	No	No	No	Yes	No	No	No	7	1	0	0
Were other less restrictive methods of restraint tried and failed?	No	No	No	No	NA	No	No	No	7	0	0	1
resistant ?	No	No	No	No	No	No	No	No	8	0	0	0
Did the facility director or acting facility director approve the	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
Was youth afforded living conditions approximating those available to the general juvenile population ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	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	Yes	Yes	Yes	Yes	0	8	0	0
Was juvenile seen by a masters level social worker within three (3) hours of being placed in isolation?	No	No	No	No	No	No	No	No	8	0	0	0
Was juvenile seen by a psychologist within eight (8) hours of being placed in isolation?	No	No	No	No	No	No	No	No	8	0	0	0
Was juvenile seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation?	No	No	No	No	No	No	No	No	8	0	0	0
Was youth seen by his/her case manager as soon as possible ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
Was youth seen by his/her case manager at least once every twenty-four (24) hours thereafter?	No	No	No	No	No	No	No	No	8	0	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 ?	NA	Yes	No	Yes	Yes	Yes	Yes	Yes	1	6	0	1
Is there a log (or other documentation) kept which contains:												
daily entries on each juvenile in isolation,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
the date and time of placement in isolation,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
who authorized the isolation,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
the name of the person(s) visiting the juvenile,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
staff,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
the juvenile's behavior at the time of the check,	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
the person authorizing the release from isolation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
the time and date of the release	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	0	8	0	0
Are the following revoked or limited?												
safety	No	No	No	No	No	No	No	No	8	0	0	0
crowding	No	No	No	No	No	No	No	No	8	0	0	0
health	No	No	No	No	No	No	No	No	8	0	0	0
hygiene	No	No	No	No	No	No	No	No	8	0	0	0
food	No	No	No	No	No	No	No	No	8	0	0	0
education	NA	NA	NA	NA	NA	NA	NA	Yes/ Limited	0	0	1	5
recreation	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	Yes/ Limited	0	0	8	0
access to courts	No	No	No	No	No	No	No	No	8	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 cohabitare” 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 cohabitare” description.
- There is inadequate documentation to determine if “...other less restrictive methods of restraint was tried and failed”.
- The isolation cells were not suicide resistant for three NIJ facilities.
- Youth were not seen by a psychologist within eight (8) hours of being placed in isolation.
- Youth were not seen by a psychologist every twenty-four (24) hours thereafter to assess the further need of isolation.
- Youth were not seen by a master’s level social worker within three hours of being placed in isolation.
- Youth were not seen by his/her case manager at least once every twenty-four (24) hours thereafter.