

## New York City Department of Correction

### Young Adult ESH Compliance Audit – June 2018

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on May 8, 2018 allowing for the continued use of Enhanced Supervision Housing (ESH) for young adults (18 to 21 years old), the related variance conditions require a monthly audit on compliance with the following provisions of the Board's Minimum Standards:

- § 1-05(b) (Lock-in), specifically, the number of out-of-cell hours per person;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation); and
- § 1-02(c)(2) (Classification), specifically, the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

#### Audit Parameters

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) random dates each month. The scope of the audit encompasses only those housing units within ESH in which young adults are housed within the audit period. During this audit period, young adults were housed within up to six (6) ESH housing areas.

This audit report covers the following four (4) dates in the month of June 2018:

- June 1<sup>st</sup>
- June 6<sup>th</sup>
- June 12<sup>th</sup>
- June 20<sup>th</sup>

Additionally, on-site inspections of the ESH unit kiosks and typewriters were conducted on four (4) random dates:

- June 8<sup>th</sup>
- June 15<sup>th</sup>
- June 22<sup>nd</sup>
- June 29<sup>th</sup>

#### **§1-05(b) Lock-in**

A manual review of housing area logbooks was performed to determine whether seven (7) or fourteen (14) hours of out-of-cell time was afforded to the young adults based on their housing level. This audit report also provides individualized data related to each young adult's out-of-cell time during the reporting period.

#### **§1-08(f) Access to Courts and Legal Services, including Law Library**

A manual review of housing area logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were completed to determine if the kiosks and typewriters located within the various young adult ESH housing areas were operational.

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### §1-06 – Recreation

A manual review of housing area logbooks was conducted to determine whether one (1) hour of recreation was afforded.

### § 1-02(c)(2) (Classification), Provision of Programming

A manual review of programming attendance data was conducted to determine the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

#### Audit Findings

### §1-05(b) Lock-in

All young adults in ESH are afforded lock-out based on their housing level: seven (7) hours for Level I and Level II and fourteen (14) hours for Level III. On all four (4) dates institutional lock-out and lock-in was consistently recorded in the logbook for each of the levels.

#### Level I

Young adults in Level I are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level 1, based on a manual review of the logbook, on the dates audited. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.<sup>1</sup>

#### **June 1, 2018**

There were seven (7) young adults in Level 1; their out-of-cell times on this audit date were:

1. 4 hours 15 minutes
2. 6 hours
3. 2 hours 15 minutes
4. 4 hours 15 minutes
5. 1 hour 15 minutes
6. 7 hours
7. 3 hours 15 minutes

#### **June 6, 2018**

There were six (6) young adults in Level 1; their out-of-cell times on this audit date were:

1. 5 hours
2. 5 hours
3. 5 hours
4. 3 hours 15 minutes

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<sup>1</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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5. 5 hours 15 minutes
6. 1 hour 15 minutes

### June 12, 2018

There were four (4) young adults in Level 1; their out-of-cell times on this audit date were:

1. 3 hours 15 minutes
2. 5 hours 15 minutes
3. 5 hours 15 minutes
4. Young adult refused all afforded out-of-cell time

### June 20, 2018

There were four (4) young adults in Level 1; their out-of-cell times on this audit date were:

1. 9 hours
2. 7 hours
3. 9 hours

On this audit date, one (1) young adult was transferred out of ESH. Prior to his transfer, he refused all afforded out-of-cell time.

### Level II

Young adults in Level II are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level II, based on a manual review of the logbook, on the audit dates. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.<sup>2</sup>

### June 1, 2018

There were nine (9) young adults in Level II; their out-of-cell times on this audit date were:

1. 4 hours 25 minutes
2. 4 hours 45 minutes; young adult was out to court and as a result his out-of-cell time was affected
3. 4 hours 35 minutes
4. 7 hours
5. 4 hours 35 minutes
6. 7 hours 14 minutes
7. 6 hours 15 minutes
8. 6 hours 50 minutes
9. 1 hours 15 minutes

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<sup>2</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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### June 6, 2018

There were nine (9) young adults in Level II; their out-of-cell times on this audit date were:

1. 7 hours 30 minutes
2. 5 hours 15 minutes
3. 7 hours
4. 5 hours 15 minutes
5. 7 hours
6. 1 hour 45 minutes; young adult was out to court and as a result his out-of-cell time was affected
7. 7 hours 30 minutes
8. 3 hours 15 minutes
9. 1 hour 50 minutes; young adult was out to court and as a result his out-of-cell time was affected

### June 12, 2018

There were ten (10) young adults in Level II; their out-of-cell times on this audit date were:

1. 4 hours 35 minutes; young adult was out to court and as a result his out-of-cell time was affected
2. 3 hours 20 minutes
3. 7 hours 40 minutes
4. 7 hours 40 minutes
5. 7 hours 10 minutes
6. 7 hours 40 minutes
7. 6 hours 15 minutes
8. 7 hours
9. 7 hours
10. 7 hours 20 minutes

### June 20, 2018

There were nine (9) young adults in Level II; their out-of-cell times on this audit date were:

1. 3 hours 15 minutes
2. 6 hours 25 minutes
3. 1 hour; young adult was out to court and as a result his out-of-cell time was affected
4. 7 hours 30 minutes
5. 7 hours 30 minutes
6. 2 hours 45 minutes; young adult was out to court and as a result his out-of-cell time was affected
7. 3 hours
8. 4 hours 45 minutes; young adult was out to court and as a result his out-of-cell time was affected
9. 7 hours 10 minutes

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### Level III

Young adults in Level III are afforded fourteen (14) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level III, based on a manual review of the logbook, on the audit dates. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.<sup>3</sup>

#### **June 1, 2018**

There were one (2) young adults in Level 3; their out-of-cell times on this audit date were:

1. 11 hours 18 minutes
2. 14 hours 3 minutes

#### **June 6, 2018**

There was one (1) young adult in Level 3; his out-of-cell time on this audit date was eleven (11) hours and fifteen (15) minutes.

#### **June 12, 2018**

There was one (1) young adult in Level 3; his out-of-cell time on this audit date was fourteen (14) hours and six (6) minutes.

#### **June 20, 2018**

There were one (2) young adults in Level 3; their out-of-cell times on this audit date were:

1. 12 hours 23 minutes
2. 11 hours 23 minutes

### **§1-08(f) Access to Courts and Legal Services, including Law Library**

#### Law Library Coordinator

In ESH, there are four (4) Law Library Coordinators assigned to areas in which young adults are housed<sup>4</sup>. A manual review of the housing area logbooks reflected that the Law Library Coordinators were in these areas to provide assistance on all four (4) days audited.<sup>5</sup> On June 12<sup>th</sup>, due to a Law Library Coordinator's absence, three (3) housing areas were not provided an afternoon session of law library.

Except for the issues noted above, the duration of each Law Library Coordinator's time in ESH areas during the dates audited were in compliance with the provisions of Minimum Standards.

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<sup>3</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

<sup>4</sup> To facilitate the provision of legal services, within their assigned areas, Law Library Coordinators provide services to all inmates regardless of whether it's during the individual's lock-out period.

<sup>5</sup> This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

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On average, based on each Coordinator's schedule, on the dates audited, a Coordinator was available to assist young adults within the housing areas for approximately four (4) hours.

During the reporting period, on the dates audited, Law Library Coordinators provided assistance to one (1) to three (3) young adults per day. On some of the audit dates, it is noted that young adults did not request law library assistance.

#### Kiosks and Typewriters

During this audit period, young adults were housed within up to six (6) housing areas in ESH. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. During this reporting period, a kiosk and typewriter were operationalized in one (1) of the housing areas<sup>6</sup>.

During the audit period, some kiosks and typewriters were not operable within some housing areas.

#### Kiosks

On June 8<sup>th</sup> and June 22<sup>nd</sup>, kiosks were operational in five (5) of the six (6) young adult housing areas. On June 15<sup>th</sup>, kiosks were operational in four (4) of the six (6) housing areas. On June 29<sup>th</sup>, young adults were housed in five (5) housing areas, all of which had operational kiosks.

#### Typewriters

On June 8<sup>th</sup>, typewriters were operational in four (4) of the six (6) young adult housing areas. On June 15<sup>th</sup> and June 22<sup>nd</sup>, five (5) of the six (6) young adult housing areas had operational typewriters. On June 29<sup>th</sup>, all typewriters were operational within all five (5) housing areas.

When kiosks or typewriters were not operable within specific housing areas, young adults were provided with access to kiosks and typewriters in closest proximity to their housing area.

#### **§1-06 – Recreation.**

Institutional recreation was afforded to young adults present in ESH on three (3) of the four (4) days audited<sup>7</sup>. On one (1) of the audit dates, June 12<sup>th</sup>, based on a manual review of the housing area logbooks, one (1) housing area was not afforded recreation. An investigation was conducted and corrective action has been taken to ensure the provision of recreation.

#### **§ 1-02(c)(2) (Classification), Provision of Programming**

Young adults in ESH are placed in housing units exclusively with other young adults (18 to 21 years old) or in blended units co-mingled with adults (22 years old and older).<sup>8</sup> Programming is

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<sup>6</sup> This housing area did not previously have an operational kiosk or typewriter; individuals housed in this area were provided with access to kiosks and typewriters in closest proximity to their housing area.

<sup>7</sup> On three (3) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

<sup>8</sup> Young adults who are eighteen years old are not housed in ESH blended units with adults (22 years old and older).

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provided to all young adults. In the young adult exclusive housing area within ESH, tablets are utilized in the provision of programming. When young adults collect their tablets, they also have the opportunity to request an additional component of programming during that time. In addition, in the young adult exclusive housing area, on days when support programming staff are present, young adults may request individualized counseling while other programming components are being held. In the blended housing areas, the provision of programming is provided to each tier separately through two programming sessions. Occasionally, the hours of programming afforded may vary by tier within a housing area.

The audit reviewed programming attendance data on each of the four (4) dates to ascertain the number of programming hours offered to each young adult and the number of hours each young adult participated in programming. Program participation hours is based on the number of hours each young adult chooses to participate in programming. The data reflects the young adults present in the housing area during programming on each audit date.<sup>9</sup>

Listed below is the number of programming hours offered based on housing area.

#### June 1, 2018<sup>10</sup>

On this audit date, up to four (4) hours and twenty-five (25) minutes of programming was offered to the young adults housed within the six (6) young adult ESH housing areas, labelled A-F.

- ❖ A: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
  1. There were two (2) young adults housed in this area. For those present during programming on this audit date, their hours of program participation were:
    - 1 hour; young adult refused to participate in any additional programming
    - young adult was out to court during programming
- ❖ B: No programming was scheduled.
- ❖ C: 1 hour of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
  1. There were three (3) young adults housed in this area. Of the three (3) young adults, one (1) young adult participated in programming; his hours of program participation was one (1) hour. The remaining two (2) young adults were not afforded programming that day as they were housed in the other tier where programming was not scheduled.
- ❖ D: 4 hours and 25 minutes of programming was offered.

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<sup>9</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

<sup>10</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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1. There were three (3) young adults housed in this area; their hours of program participation were:
  - 3 hours 35 minutes
  - 2 hours 50 minutes
  - 2 hours 15 minutes

E: No programming was offered due to Counselor absence.

F: 1 hour of programming was offered: 1 hour of programming for participants in the morning session. Programming was not scheduled in the afternoon.

1. There were two (2) young adults housed in this area; both young adults participated in twenty-five (25) minutes of programming and refused to participate in any additional programming.

#### June 6, 2018<sup>11</sup>

On this audit date, up to three (3) hours and twenty five (25) minutes of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: No programming was scheduled.
- ❖ B: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
  1. There were four (4) young adults housed in this area; their hours of program participation were:
    - 2 hours
    - 15 minutes; young adult refused to participate in any additional programming
    - 2 hours 30 minutes
    - 1 hour; young adult refused to participate in any additional programming
- ❖ C: No programming was offered due to Counselor attendance at a meeting.
- ❖ D: 3 hours and 25 minutes of programming was offered.
  1. There were three (3) young adults housed in this area; their hours of program participation were:
    - 2 hours 20 minutes
    - 2 hours 50 minutes
    - 2 hours 15 minutes
- ❖ E: No programming was offered due to Counselor attendance at a meeting.

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<sup>11</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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- ❖ F: 2 hour and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
  1. There was one (1) young adult housed in this area, he was in school during programming.

#### June 12, 2018<sup>12</sup>

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: 1 hour of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
  1. There were two (2) young adults housed in this area. For those present during programming; their hours of program participation were:
    - 20 minutes
    - young adult was out to court during programming
- ❖ B: No programming was scheduled.
- ❖ C: No programming was scheduled.
- ❖ D: 5 hours of programming was offered.
  1. There were three (3) young adults housed in this area: their hours of program participation were:
    - 5 hours
    - 3 hours
    - 5 hours
- ❖ E: 2 hours and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
  1. There was one (1) young adult housed in this area and he refused to participate in all afforded programming.
- ❖ F: 1 hour and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
  1. There was one (1) young adult housed in this area. He participated in one (1) hour and twenty (20) minutes of programming.

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<sup>12</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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June 20, 2018<sup>13</sup>

On this audit date, up to five (5) hours and thirty (30) minutes of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: No programming was scheduled.
- ❖ B: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
  1. There were four (4) young adults housed in this area; for those present on this audit date, their hours of program participation were:
    - 1 hour; young adult refused to participate in any additional programming.
    - 15 minutes; young adult refused to participate in any additional programming.
    - 30 minutes; young adult refused to participate in any additional programming.
    - young adult was out to court during programming.
- ❖ C: 1 hour and 45 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled. As a result, one (1) young adult was not offered programming on this audit date.
  1. There were four (4) young adults housed in this area; for the remaining three (3) young adults their hours of program participation were:
    - 1 hour; young adult refused to participate in any additional programming

Two (2) young adults were out to court during programming.
- ❖ D: 5 hours and 30 minutes of programming was offered.
  1. There were three (3) young adults in the housing area; their hours of program participation were:
    - 4 hours
    - 4 hours 30 minutes
    - 4 hours
- ❖ E: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
  1. There was one (1) young adult housed in this area, he refused to participate in all offered programming.
- ❖ F: 2 hours and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
  1. There were two (2) young adults housed in this area; their hours of program participation were:

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<sup>13</sup> On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return.

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- 2 hours
- 2 hours

#### Audit Recommendations

Over the last six months, the Department has conducted monthly audits of young adult ESH housing areas. These audits have served to identify and address issues related to the provision of mandated services and programming. During this audit period, issues related to recreation and the provision of law library services were identified. As noted in this report corrective action has been taken in regards to recreation. The below recommendations are provided to facilitate consistent and complete recording across all audit areas.

#### Lock-in/Lock-out

- To facilitate the accurate and consistent recording of lock-in/lock-out in the ESH “lock-in/out” logbook and individualized data, provide all ESH unit staff with training on proper logbook entry and related procedures.
- Designate unit captains or higher ranking officers with the responsibility of reviewing the ESH “lock-in/out” logbook daily to ensure consistent logbook recording and that the required lock-out time is being afforded. Based on such review, institute corrective action as needed.
- Ensure that lock-in/out logbooks are maintained in the housing areas.

#### Recreation

- ESH Captains should ensure that all areas are afforded recreation and that it has been properly noted in each housing area logbook.

#### Law Library Services

- Direct the law library coordinators to sign in and out of the housing area logbooks for all tours.
- To facilitate the maintenance and operation of the kiosks and typewriters in the housing areas, instruct designated facility and law library staff to check on a daily basis that all typewriters and kiosks are operational. When a typewriter or kiosk is identified as in need of repair, facility administration in coordination with the Director of Law Libraries should ensure that repairs are conducted in a timely manner.
  - During this audit, some kiosks and typewriters were identified as inoperable.

#### Programming

- To facilitate complete and consistent recording of both programming hours offered and individualized data related to hours of participation, program counselors and external providers are directed to provide more comprehensive individualized outcomes, by:
  - Verifying on a daily basis which young adults are housed in each ESH blended housing area and updating information accordingly;
  - Recording of program start and end times, by participant;
  - Delineating the reason for participants’ absences;

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- Designate supervisory staff to review programming attendance documentation and related information to ensure that programming hours and participation is recorded on a daily basis, that deficiencies are corrected in a timely manner and that young adults' program participation is accurately reflected and any programmatic overlap explained.