

New York City Department of Correction

Young Adult ESH Compliance Audit – April 2018

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on November 14, 2017 allowing for the continued use of Enhanced Supervision Housing (ESH) for young adults (18 to 21 years old), the related variance conditions require the establishment of 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 seven (7) ESH housing areas.

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

- April 4th
- April 12th
- April 19th
- April 24th

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

- April 6th
- April 13th
- April 20th
- April 26th

§1-05 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.

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§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.

§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 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 (4) dates institutional lock-out and lock-in was consistently recorded in the logbook for each of the levels. Individualized data on an hourly basis related to each young adult's time in and out of their cell was not consistently recorded. On three (3) of the four (4) audit dates, individualized data was not properly recorded for four (4) young adults. Therefore, the total out-of-cell time for those young adults could not be calculated on three (3) audit dates.

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.¹

April 4, 2018

There were eleven (11) young adults in Level 1; their out-of-cell times on this audit date were:

1. 5 hours 15 minutes
2. 5 hours 15 minutes
3. 4 hours 15 minutes
4. 4 hours 30 minutes
5. 5 hours 3 minutes
6. 4 hours 15 minutes

¹ 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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On this audit date, four (4) young adults refused all afforded out-of-cell time. In addition, one (1) young adult's out-of-cell time could not be calculated as one (1) housing area had not maintained the new facility logbook capturing individualized lock-in\lock-out time.

April 12, 2018²

There were ten (10) young adults in Level 1; the out-of-cell times for those present on this audit date were:

1. 1 hour
2. 2 hours
3. 5 hours
4. 1 hour; young adult was out to court for a portion of the day and as a result, his out-of-cell time was affected
5. 2 hours
6. 4 hours 15 minutes
7. 6 hours 10 minutes
8. 7 hours
9. Young adult refused all afforded out-of-cell time.

One (1) young adult was out to court for the duration of the day and as a result his out-of-cell time was not included in the out-of-cell time reporting.

April 19, 2018

There were fourteen (14) young adults in Level 1; the out-of-cell times for those present on this audit date were:

1. 5 hours
2. 7 hours
3. 1 hour
4. 5 hours
5. 7 hours
6. 3 hours
7. 3 hours
8. 4 hours 15 minutes
9. 2 hours
10. 1 hour
11. 7 hours
12. 7 hours

Two (2) young adults refused all afforded out-of-cell time.

April 24, 2018

There were twelve (12) young adults in Level 1; the out-of-cell times for those present on this audit date were:

² Out-of-cell time on this audit date was affected by a housing area lockdown during a portion of one (1) tour.

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1. 6 hours
2. 6 hours
3. 5 hours 28 minutes
4. 6 hours
5. 7 hours 15 minutes
6. 4 hours 43 minutes
7. 5 hours
8. 4 hours
9. 3 hours 35 minutes

On this audit date, two (2) young adults refused all afforded out-of-cell time. One (1) young adult was out to court for a portion of the day and as a result, his out-of-cell time was affected as reflected above. In addition, due to incomplete data, one (1) young adult's total out-of-cell time could not be calculated.

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.³

April 4, 2018

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

1. 7 hours
2. 8 hours 5 minutes
3. 8 hours
4. 7 hours 22 minutes
5. 4 hours 15 minutes
6. 3 hours 30 minutes
7. 6 hours 25 minutes
8. 6 hours 25 minutes
9. 6 hours 25 minutes

On this audit date, one (1) young adult was out to court for a portion of the day and as a result, his out-of-cell time was affected as reflected above.

April 12, 2018

There were eleven (11) young adults in Level II; the out-of-cell times for those present on this audit date were:

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

³ 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. 7 hours
6. 7 hours
7. 4 hours
8. 7 hours
9. 7 hours

On this audit date, due to incomplete records, one (1) young adult's out-of-cell time could not be calculated. In addition, two (2) young adults were out to court for a portion of the day and as a result, their out-of-cell times was affected as reflected above.

April 19, 2018

There were eight (8) young adults in Level II; their out-of-cell times on this audit date were:

1. 7 hours
2. 4 hours 15 minutes
3. 6 hours
4. 7 hours 20 minutes
5. 4 hours 55 minutes
6. 4 hours 45 minutes
7. 5 hours 35 minutes
8. 5 hours 5 minutes

April 24, 2018

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

1. 7 hours 2 minutes
2. 7 hours 3 minutes
3. 7 hours 15 minutes
4. 6 hours 15 minutes
5. 6 hours 15 minutes
6. 6 hours
7. 8 hours 20 minutes
8. 8 hours 30 minutes
9. 8 hours 20 minutes
10. 8 hours 30 minutes

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.⁴

⁴ 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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April 4, 2018

There was one (1) young adult in Level III on this audit date. Due to conflicting data, his total out-of-cell time could not be calculated.

April 12, 2018

There were no young adults in Level III on this audit date.

April 19, 2018

There were no young adults in Level III on this audit date.

April 24, 2018

There were no young adults in Level III on this audit date.

§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 housed⁵. A manual review of the housing area logbooks reflected that the Law Library Coordinators were in these areas⁶ to provide assistance on all four (4) days audited.⁷ However, on one (1) of the audit dates, April 12th, due to inconsistencies between the law library and housing area logbook recordings, it can not be determined whether the Coordinators were in two (2) of the individual housing areas during one (1) tour. In addition, on that audit date, with the provision of law library assistance, the Coordinator remained in one of the housing areas for an extended period of time and as a result did not have sufficient time to provide assistance in one (1) housing area. Corrective action was taken, instructing Coordinators to more evenly allocate sufficient time to circulate among all their assigned housing areas.

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. 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 five (5) young adults per day. On some of the audit dates, it is noted that young adults did not request law library assistance.

⁵ 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.

⁶ Due to a housing area lockdown during one (1) tour on one (1) of the audit dates, Coordinators were unable to provide assistance within that housing area for that portion of the day.

⁷ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

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Kiosks and Typewriters

During this audit period, young adults were housed within up to seven (7) housing areas⁸ in ESH.

Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. During the audit period, all available kiosks were operable, however some of the typewriters were not operable within some of the housing areas. On two (2) of the inspection dates, April 13th and April 26th, three (3) of the five (5) young adult housing areas had operational typewriters. On the other (2) two inspection dates, April 6th and April 20th, typewriters were operational in a minimum of two (2) 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.⁹ On one (1) of the audit dates, April 24th, one (1) of the five (5) housing areas, based on a manual review of the housing area logbooks, 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). Programming is 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.¹⁰ During this audit period improvements were noted in programming data recording. However, there remained a number

⁸ In one (1) of the housing areas, there is no kiosk or typewriter, individuals housed in this area are provided with access to kiosks and typewriters in closest proximity to their housing area.

⁹ On three (3) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

¹⁰ 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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of instances, noted below, where due to incomplete data recording, individualized program participation could not be calculated. Corrective action will continue to facilitate proper recording.

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

April 4, 2018¹¹

On this audit date, up to four (4) hours and thirty (30) minutes of programming was offered to the young adults housed within the seven (7) young adult ESH housing areas, labelled A-G.

- ❖ A: No Programming was not offered that day.
- ❖ B: 2 hours and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier due to a scheduled staff meeting, programming was not offered. As a result, two (2) young adults were not afforded programming.
 - There were three (3) young adults housed in this area; for the remaining one (1) young adult, his hours of program participation was:
 1. 19 minutes; young adult refused the majority of programming offered.
- ❖ C: 1 hour of programming was offered in the afternoon in one (1) of the two (2) tiers. Due to a facility alarm, scheduled programming was delayed.
 - There were five (5) young adults housed in this area; of those present during programming on this audit date, their hours of program participation were:
 1. 1 hour;
 - Due to incomplete recording, the total hours of program participation for two (2) young adults could not be calculated. One (1) young adult was out to court during afforded programming and as a result did not participate in programming on this audit date. In addition, one (1) young adult was not offered programming that day as he was housed in the other tier where programming was not offered.
- ❖ D: Due to facilitator absence, reduced programming hours of 2 hours and 50 minutes was offered.
 - There were five (5) young adults housed in this area; their hours of program participation were:
 1. 2 hours
 2. 2 hours 20 minutes
 3. 2 hours
 4. 2 hours 30 minutes
 5. 2 hours
- ❖ E: 4 hours and 30 minutes of programming was offered. 2 hours and 30 minutes in the morning session and 2 hours in the afternoon session.
 - There were five (5) young adults housed in this area. Of the five (5) young adults, four (4) young adults participated in programming; their hours of program participation were:
 1. 50 minutes
 2. 1 hour
 3. 15 minutes

¹¹ 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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4. 45 minutes
 - One (1) young adult refused to participate in all afforded programming.
- ❖ F: 4 hours of programming was offered.
 - There was one (1) young adult housed in this area. Due to conflicting data, his total hours of program participation could not be calculated.
- ❖ G: 2 hours and 30 minutes of programming was offered.
 - There was one (1) young adult housed in this area; he participated in 1 hour and 30 minutes of programming and refused any additional programming.

April 12, 2018¹²

On this audit date, up to four (4) hours and thirty (30) minutes of programming was offered to the young adults housed within the five (5) housing areas, labelled A-E.

- ❖ A: No programming was offered due to Counselor absence.
- ❖ B: No programming was scheduled.
- ❖ C: 2 hours programming was offered in one (1) of the two (2) tiers. In the other tier no programming was not offered. As a result, one (1) young adult was not offered programming on this audit date.
 - There were five (5) young adults housed in this area; for the remaining four (4) young adults:
 1. Due to incomplete recording, the total hours of program participation for three (3) young adults could not be calculated.
 2. One (1) young adult refused to participate in all afforded programming.
- ❖ D: Due to a housing area lockdown scheduled programming could not be provided. One (1) young adult in this housing area received 30 minutes of programming as part of his support team review.
- ❖ E: 4 hours and 30 minutes of programming was offered; 2 hours and 30 minutes in the morning session and 2 hours in the afternoon session.
 - There were four (4) young adults housed in this area. Of those present during programming on this audit date; their hours of program participation were:
 1. 1 hour 10 minutes
 2. Two (2) young adults refused to participate in all afforded programming.
 - One (1) young adult was out to court during programming.

April 19, 2018¹³

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the four (4) housing areas, labelled A-D.

- ❖ A: No programming was scheduled.
- ❖ B: No programming was offered due to Counselor absence.
- ❖ C: 5 hours of programming was offered.

¹² 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.

¹³ 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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- There were seven (7) young adults housed in this area; their hours of program participation were:
 1. 5 hours
 2. 5 hours
 3. 5 hours
 4. 2 hours 50 minutes
 5. 2 hours
 6. 5 hours
- Due to conflicting data, the total hours of program participation for one (1) young adult could not be calculated.
- ❖ D: 4 hours and 30 minutes of programming was offered; 2 hours and 30 minutes in the morning session and 2 hours in the afternoon session.
 - There were five (5) young adults housed in this area; their hours of program participation were:
 1. 45 minutes
 2. 1 hour 40 minutes
 3. 30 minutes
 - One (1) young adults was out to school during programming. In addition, one (1) young adult refused all afforded programming.

April 24, 2018¹⁴

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

- ❖ A: No programming was offered due to Counselor absence.
- ❖ B: No programming was scheduled.
- ❖ C: 2 hours of programming was offered in one (1) of the two (2) tiers. In the other tier programming was not offered. As a result, one (1) young adult was not afforded programming.
 - There were five (5) young adults housed in this area; the remaining four (4) young adults hours of program participation were:
 1. 1 hour 30 minutes
 2. 1 hour
 3. 1 hour 30 minutes
 4. 1 hour 30 minutes
- ❖ D: 5 hours of programming was offered
 - There were six (6) young adults in the housing area, their hours of program participation were:
 1. 2 hours
 2. 2 hours
 3. 2 hours
 4. 2 hours
 5. 2 hours

¹⁴ 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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- On this audit date, one (1) young adult did not participate in afforded programming due to security reasons.
- ❖ E: 4 hours and 30 minutes of programming was offered; 2 hours and 30 minutes in the morning session and 2 hours in the afternoon session.
 - There were five (5) young adults housed in this area; for those present on this audit date their hours of program participation were:
 1. 10 minutes; young adult refused to participate in the majority of programming offered
 2. Young adult refused to participate in all afforded programming.
 - One (1) young adult was out to court during programming. In addition, two (2) young adults were noted as attending school during programming hours.

Audit Recommendations

During this audit period, previously identified issues related to proper and complete data recording of out-of-cell time and programming and the provision of recreation were noted. The following recommendations and corrective action is suggested:

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

- As noted in this report, based on a logbook review, on one (1) of the audit dates, one (1) housing area was not afforded recreation. An investigation was conducted into this matter and corrective action has been taken. ESH Captains must ensure that all areas are afforded recreation and that it be 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.
- Instruct law library coordinators to more evenly allocate sufficient time to circulate among all assigned housing areas.
- 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.

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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 time, by participant;
 - Delineating the reason for participants' absences;
 - Explaining reason for sessions' cancellations;
- Designate supervisory staff to review programming attendance documentation and related information to ensure that programming hours and participation is recorded on a daily basis.
 - Establish a system to correct deficiencies in a timely manner.