

New York City Department of Correction

Young Adult ESH Compliance Audit – May 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 May 2018:

- May 3rd
- May 8th
- May 17th
- May 22nd

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

- May 4th
- May 11th
- May 18th
- May 24th

§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. Individualized data on an hourly basis related to each young adult's time in and out of their cell was not consistently recorded. On one (1) of the four (4) audit dates, individualized data was not properly recorded for three (3) young adults. Therefore, the total out-of-cell time for those young adults could not be calculated on that audit date.

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

May 3, 2018

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

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

On this audit date, one (1) young adult refused all afforded out-of-cell time.

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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May 8, 2018

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

1. 50 minutes; young adult refused the majority of afforded out-of-cell time.
2. 7 hours 45 minutes
3. 3 hours 45 minutes
4. 7 hours 56 minutes
5. 7 hours
6. 2 hours 15 minutes
7. 6 hours 15 minutes
8. 4 hours 15 minutes
9. 1 hour; young adult was out to court and as a result his out-of-cell time was affected
10. 1 hour 15 minutes

May 17, 2018

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

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

Three (3) young adults refused all afforded out-of-cell time. In addition, due to incomplete data, three (3) young adults' total out-of-cell time could not be calculated.

May 22, 2018

There were nine (9) young adults in Level 1; the out-of-cell times for those present on this audit date were:

1. 3 hours
2. 6 hours 15 minutes
3. 5 hours 15 minutes
4. 6 hours 30 minutes
5. 2 hours 20 minutes
6. 4 hours 15 minutes

Two (2) young adults refused all afforded out-of-cell time. In addition, one (1) young adult was out to court for a significant portion of the day, and as result, his out-of-cell time was not included in the out-of-cell time reporting.

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

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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.²

May 3, 2018

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

1. 4 hours 20 minutes
2. 7 hours
3. 7 hours 30 minutes
4. 7 hours 58 minutes
5. 4 hours 20 minutes
6. 7 hours
7. 2 hours 45 minutes
8. 1 hour 45 minutes
9. 3 hours 45 minutes

May 8, 2018

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

1. 8 hours
2. 7 hours
3. 7 hours
4. 8 hours
5. 7 hours
6. 3 hours 45 minutes
7. 7 hours 20 minutes
8. 7 hours 20 minutes
9. 7 hours 20 minutes

May 17, 2018

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

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

² 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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May 22, 2018

There were ten (10) young adults in Level II. Due to a housing area lockdown and the tier lock-out schedule, one (1) young adult was not afforded out-of-cell time and one (1) young adult's out-of-cell time was 6 hours.

For the remaining eight (8) young adults, their out-of-cell times on this audit date were:

1. 7 hours 30 minutes
2. 7 hours 10 minutes
3. 7 hours 10 minutes
4. 2 hours 40 minutes; young adult was out to court and as a result his out-of-cell time was affected
5. 6 hours 25 minutes
6. 7 hours 20 minutes
7. 7 hours 20 minutes
8. Young adult refused all afforded out-of-cell time

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.³

May 3, 2018

There was one (1) young adult in Level 3; his out-of-cell time on this audit date was 10 hours and 53 minutes.

May 8, 2018

There was one (1) young adult in Level 3; his out-of-cell time on this audit date was 13 hours and 28 minutes.

May 17, 2018

There was one (1) young adult in Level 3; his out-of-cell time on this audit date was 5 hours and 21 minutes. Due to a housing area lockdown during a portion of the day, out-of-cell time was reduced.

May 22, 2018

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

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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§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 housed⁴. A manual review of the housing area logbooks reflected that the Law Library Coordinators were in these areas⁵ to provide assistance on all four (4) days audited.⁶ However, on May 3rd, due to incomplete logbook entries, it cannot be determined whether the Coordinator provided law library services in three (3) housing areas during one (1) tour. Additionally, on May 8th, due to inconsistencies between the law library and housing area logbook recordings, it cannot be determined whether the Coordinator was in one (1) of the housing areas during one (1) tour. On May 22nd, as a result of a housing area lockdown, one (1) housing area was not provided law library services.

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. 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 four (4) 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 areas⁷ 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, with the exception of one (1) kiosk, in one (1) housing area on May 18th. Some of the typewriters were not operable within some of the housing areas. On May 11th, four (4) of the six (6) young adult housing areas had operational typewriters. On May 18th, three (3) of the five (5) young adult housing areas had operational typewriters. On the remaining, (2) two dates, May 4th and May 24th, typewriters were operational in four (4) 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.

⁴ 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.

⁵ 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.

⁶ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

⁷ 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.

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§1-06 – Recreation

Institutional recreation was afforded to young adults present in ESH on all four (4) days audited.⁸

§ 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.⁹ During this audit period improvements were noted in programming data recording. However, there remained a number 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.

May 3, 2018¹⁰

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

- ❖ A: No programming was offered due to Counselor's 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 scheduled.

⁸ On three (3) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

⁹ 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.

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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1. There were four (4) young adults housed in this area. Of the four (4) young adults, one (1) young adult participated in programming; his hours of program participation was 2 hours. The remaining three (3) young adults were not afforded programming that day as they were housed in the other tier where programming was not scheduled.

❖ D: 5 hours of programming was offered.

1. There were five (5) young adults housed in this area. Due to counselor attendance at a staff meeting, young adults were afforded and participated in “self-guided programming”.

For those present on this audit date, their hours of program participation were:

- 3 hours
- 4 hours
- 2 hours 30 minutes
- 5 hours

- One (1) young adult was out to court during programming.

❖ E: 2 hours and 30 minutes of programming was offered.

1. There were five (5) young adults housed in this area; for those present on this audit date, their hours of program participation were:

- 30 minutes; young adult refused to participate in any additional programming
- Two (2) young adults refused to participate in all afforded programming.
- Two (2) young adults were in school during programming.

❖ F: No programming was offered during the morning session due to a counselor training and no programming was scheduled for the afternoon session.

May 8, 2018¹¹

On this audit date, up to two (2) hours and thirty (30) minutes of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

❖ A: 2 hours and 30 minutes of programming was offered.

1. There was one (1) young adult housed in this area. He participated in programming for 15 minutes and refused to participate in any additional programming.

❖ B: No programming was scheduled.

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- ❖ C: 2 hours of programming was offered in one (1) of the two (2) tiers. In the other tier, no programming was 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 50 minutes
 - 1 hour 50 minutes
 - 1 hour 50 minutes

- ❖ D: 2 hours of programming was offered. Due to Counselor absence, young adults were afforded and participated in “self-guided” programming.
 1. There were five (5) young adults housed in this area; their hours of program participation were:
 - 2 hours
 - 2 hours
 - 2 hours
 - 2 hours

Due to incomplete/missing information, the total hours of program participation for one (1) young adult could not be calculated. Corrective action has been implemented to facilitate consistent and complete recording of program participation.

- ❖ E: No programming was offered due to Counselor’s absence.
- ❖ F: 2 hours and 30 minutes of programming was offered.
 1. There was one (1) young adult housed in this area, he was in school during programming.

May 17, 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 scheduled.
- ❖ B: No programming was offered due to Counselor vacation.
- ❖ C: 4 hours and 30 minutes of programming was offered.
 1. There were five (5) young adults housed in this area; their hours of program participation were:
 - 2 hours
 - 2 hours
 - 2 hours 30 minutes
 - 3 hours 35 minutes

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- 1 hour 45 minutes
- ❖ D: 2 hours and 30 minutes of programming was offered.
 1. There were five (5) young adults housed in this area:
 - Three (3) young adults refused to participate in all afforded programming.
 - Two (2) young adults were in school during programming.
- ❖ E: No programming was offered due to Counselor vacation.

May 22, 2018¹³

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

- ❖ A: 2 hours and 30 minutes of programming was offered. Due to incomplete recording, the total hours of program participation for the two (2) young adults in this housing area could not be calculated.
- ❖ B: No programming was scheduled.
- ❖ C: Due to a housing area lockdown, scheduled programming could not be provided.
- ❖ D: 5 hours and 30 minutes of programming was offered.
 1. There were four (4) young adults in the housing area; their hours of program participation were:
 - 3 hours
 - 4 hours
 - 2 hours
 - 3 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 were five (5) young adults housed in this area; for those present on this audit date their hours of program participation were:
 - 2 hours 10 minutes
 - 1 hour 15 minutes
 - Two (2) young adults refused to participate in all afforded programming.
 - One (1) young adult was out to court during programming.

Audit Recommendations

During this audit period, issues related to proper and complete data recording of out-of-cell time, programming, and the provision of law library services were identified. As noted in this report

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corrective action has been initiated to address proper recording of program participation. 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

- Improve general logbook recording of recreation.

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.

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;
- 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.