

NYC Department of Correction Secure Unit Compliance Audit - November 2018

In July 2017, the NYC Department of Correction (“Department”) commenced an audit of the Secure Unit related to the provisions of the NYC Board of Correction Minimum Standards §1-05 Lock-in and §1-08(f) Access to Courts and Legal Services, including Law Library. Pursuant to the Secure Unit variance renewal granted by the Board on May 8, 2018, the Department is permitted to reduce out-of-cell time afforded to a minimum of ten (10) hours a day per inmate and to provide Law Library services within the unit through the assignment of a Law Library Coordinator and the use of Law Library kiosks and typewriters.

Pursuant to the variance conditions, the audit has been further expanded to include the provisions of Minimum Standard §1-06 Recreation and the affording of one (1) hour of recreation seven (7) days per week. In addition, beginning in February 2018, the audit also includes §1-02(c)(2) Classification: the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

Audit Parameters

As set forth in the Department’s June 9, 2017 compliance plan to the Board, the audit is conducted through a manual review of the housing area logbooks on four (4) randomly selected dates each month.

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

- November 2
- November 9
- November 13
- November 21

Additionally, on-site inspections of the Secure Unit kiosks and typewriters were conducted on four (4) randomly selected dates, listed below.

§1-05 Lock-in

A manual review of housing area logbooks was performed to determine whether ten (10), twelve (12) and fourteen (14) hours of out-of-cell times were afforded to young adults based on their phase. In addition, pursuant to the Secure Unit variance granted by the Board on May 8, 2018 and associated variance conditions, this audit report 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 conducted to determine if the four (4) kiosks and four (4) typewriters located in the unit were operational.

November on-site Inspections:

- November 9
- November 16
- November 23
- November 30

§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 the Secure Unit are afforded lock-out hours based on their housing phase: ten (10) hours in Phase 1, twelve (12) hours in Phase 2, and fourteen (14) hours in Phase 3. Lock-in/lock-out was consistently recorded for the phases in which young adults were housed within the unit; except on the following audit dates: on November 2, 2018, during one (1) tour lock-in was not recorded for Phases 1 and 3; and on November 21, 2018, lock-out was not recorded during one (1) tour for Phase 1 and 2.

During this reporting period, on three (3) of the four (4) audit dates, November 2, 9 and 13, there were no young adults housed in Phase 2. On two (2) of the four (4) audit dates, November 13 and 21, 2018 there were no young adults housed in Phase 3.

The logbook also captures individualized data on an hourly basis related to each young adult's time in and out of his cell.

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Phase 1

Young adults in Phase 1 are afforded ten (10) hours out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Phase 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

November 2, 2018

There were five (5) young adults in Phase 1; the out-of-cell-times for those present on this audit date were:

1. 7 hours 33 minutes
2. 9 hours 27 minutes
3. 2 hours 56 minutes

On this audit, one (1) young adult was out to court for the majority of the day and one (1) young adult was transferred out of the Secure Unit, and as a result, their out-of-cell time was not included in the out-of-cell time reporting.

November 9, 2018

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

1. 7 hours 38 minutes
2. 7 hours 18 minutes
3. 7 hours 16 minutes
4. 2 hours 55 minutes
5. 6 hours 38 minutes
6. 7 hours 21 minutes

November 13, 2018

There were six (6) young adults in Phase 1; the out-of-cell-times for those present on this audit date were:

1. 6 hours 26 minutes
2. 6 hours 46 minutes
3. 6 hours 31 minutes

¹ On any given day, a young adult may be out to court or transferred in or out of the Secure Unit. Depending on the length of time these young adults are in the housing unit, they may not be included in the out-of-cell time reporting.

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4. 7 hours 55 minutes
5. 2 hours 41 minutes – young adult was out to court for a portion of the day, and as a result, his out-of-cell time was affected
6. 2 hours 15 minutes – young adult was out to court for a portion of the day, and as a result, his out-of-cell time was affected

November 21, 2018

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

1. 8 hours 44 minutes
2. 5 hours 28 minutes
3. 7 hours 22 minutes
4. 7 hours 54 minutes
5. 9 hours 16 minutes
6. 6 hours 53 minutes
7. 5 hours 31 minutes – young adult was out to court for a portion of the day, and as a result, his out-of-cell time was affected
8. 1 hour 4 minutes – young adult was out to court for a portion of the day, and as a result, his out-of-cell time was affected

One (1) young adult was transferred into the Secure Unit and, as a result, his out-of-cell time was not included in the out-of-cell time reporting.

Phase 2

Young adults in Phase 2 are afforded twelve (12) hours out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Phase 2, 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.²

November 2, 2018

On this audit date no young adults were housed in Phase 2.

² On any given day, a young adult may be out to court or transferred in or out of the Secure Unit. Depending on the length of time these young adults are in the housing unit, they may not be included in the out-of-cell time reporting.

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November 9, 2018

On this audit date no young adults were housed in Phase 2.

November 13, 2018

On this audit date no young adults were housed in Phase 2.

November 21, 2018

There was one (1) young adult in Phase 2; his out-of-cell time on this audit date was 8 hours and 21 minutes.

Phase 3

Young adults in Phase 3 are afforded fourteen (14) hours out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Phase 3, 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

November 2, 2018

There was one (1) young adult in Phase 3; his out-of-cell-time on this audit date was 11 hours and 34 minutes.

November 9, 2018

There was one (1) young adult in Phase 3; this young adult was transferred out of the Secure Unit on this audit date.

November 13, 2018

On this audit date no young adults were housed in Phase 3.

November 21, 2018

On this audit date no young adults were housed in Phase 3.

³ On any given day, a young adult may be out to court or transferred in or out of the Secure Unit. Depending on the length of time these young adults are in the housing unit, they 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

A manual review of the housing area logbooks reflected that the Law Library Coordinator was in the unit to provide assistance on two (2) of the four (4) audit dates, November 13 and 21, 2018.⁴ On November 2 and 9, 2018, due to the Law Library Coordinator's unplanned absence, Law Library services were not afforded. The duration of the Law Library Coordinator's time in the unit on the two of the four dates audited were in compliance with the provisions of Minimum Standards. On average, on two of the four dates audited, the Law Library Coordinator was in the unit for approximately five (5) hours.

During the reporting period, on the dates audited, a maximum of nine (9) young adults were housed in the Secure Unit. In addition, during the dates audited, between two (2) to six (6) young adults received assistance from the Law Library Coordinator.

Kiosks and Typewriters

As noted above, the kiosks and typewriters were inspected on four (4) dates during the audit period. On all four (4) of the audit dates, all four (4) typewriters and all four (4) kiosks were operational.

§1-06 – Recreation

In the Secure Unit, young adults are afforded recreation based on their quad. Institutional recreation was afforded to young adults present in the unit on all four (4) audit dates.

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

In the Secure Unit, programming is afforded to young adults during their out-of-cell time which is based on the phase within the unit they are housed. The out-of-cell time incrementally increases from one phase to the next: ten (10) hours in Phase 1 to twelve (12) hours in Phase 2 to fourteen (14) hours in Phase 3. Program Counselors circulate through the quad areas to provide programming services. Programming is provided Tuesday through Saturday.⁵ Young adults are also offered self-guided programming through the availability of books and other educational materials.

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

⁴ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

⁵ As of October 4, 2018, the affording of programming services has changed from Sunday through Thursday to Tuesday through Saturday.

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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.

Listed below is the number of programming hours offered and the number of hours each young adult participated in such programming, by quad: up to four (4) quads (A-D).

November 2, 2018

There were six (6) young adults housed in the Secure Unit on this audit date.

Quad A

- ❖ Five (5) hours of programming was offered to two (2) young adults and six (6) hours of programming was offered to one young adult.
 - Two (2) young adults were in Phase 1; their program participation was four (4) hours.
 - One (1) young adult was in Phase 3; his program participation was five (5) hours.

Quad B

- ❖ Five (5) hours of programming was offered.
 - There was one (1) young adult in this quad; he participated in two (2) hours and forty-five (45) minutes of programming.

Quad C

- ❖ There was one (1) young adult in this quad. Due to security reasons, he was afforded limited out-of-cell time and, as a result, was not afforded programming on this audit date.

Quad D

- ❖ There was one (1) young adult in this quad; he was out to court for the duration of afforded programming.

November 9, 2018

There were seven (7) young adults housed in the Secure Unit on this audit date.

Quad A

- ❖ Up to three (3) hours and thirty (30) minutes of programming was offered.
 - One (1) young adult was offered and participated in three (3) hours and thirty (30) minutes of programming.

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- One (1) young adult was offered and participated in three (3) hours and twenty (20) minutes of programming.
- One (1) young was offered and participated in three (3) hours and ten (10) minutes of programming.

In addition, one (1) young adult was transferred out of the Secure Unit and, as a result, he was offered and participated in one (1) hour of programming.

Quad B

- ❖ Four (4) hours of programming was offered.
 - There was one (1) young adult in this quad; he participated in three (3) hours of programming.

Quad C

- ❖ Four (4) hours of programming was offered.
 - There was one (1) young adult in this quad; he participated in four (4) hours of programming.

Quad D

- ❖ Four (4) hours of programming was offered.
 - There was one (1) young adult in this quad; he participated in four (4) hours of programming.

November 13, 2018

There were six (6) young adults housed in the Secure Unit on this audit date.

Quad A

- ❖ Four (4) hours and fifteen (15) minutes of programming was offered.
 - There were three (3) young adults in this quad; their hours of program participation were:
 - 3 hours 6 minutes
 - 3 hours 4 minutes
 - 4 hours 15 minutes

Quad B

- ❖ Two (2) hours and fifteen (15) minutes of programming was offered.

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- There was one (1) young adult in this quad; he participated in one (1) hour and forty (40) minutes of programming.

Quad C

- ❖ There was one (1) young adult in this quad, he was out to court for the duration of afforded programming.

Quad D

- ❖ Four (4) hours and forty (40) minutes of programming was offered.
 - There was one (1) young adult in this quad; he participated in four (4) hours and forty (40) minutes of programming.

November 21, 2018

There were ten (10) young adults housed in the Secure Unit on this audit date.

Quad A

- ❖ Six hours (6) hours and thirty (30) minutes of programming was offered.
 - There were four (4) young adults in this quad; the hours of program participation for two (2) of the four (4) young adults were:
 - 6 hours and 30 minutes
 - 6 hours and 30 minutes
 - For the remaining two (2) young adults, one (1) young adult was out to court for the duration of afforded programming, and one (1) young adult was out to court for the majority of the day. Upon his return from court, he was afforded and participated in one (1) hour and thirty (30) minutes of programming.

Quad B

- ❖ There was one young adult in this quad; he was offered and participated in six (6) hours of programming.

Quad C

- ❖ Six (6) hours of programming was offered.
 - There were two young adults in this quad, their hours of program participation were:
 - 6 hours
 - 5 hours

Quad D

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- ❖ Seven (7) hours of programming was offered to one young adult, and eight (8) hours of programming was offered to one young adult.
 - One (1) young adult in Phase 1 was offered and participated in seven (7) hours of programming.
 - One (1) young adult was in Phase 3; and was offered and participated in eight (8) hours of programming.

On this audit date, one young adult was transferred into the Secure Unit and was not included in the programming reporting.

Audit Recommendations

The Department commenced audit reporting in July 2017. Through the audit structure, issues have been identified and corrective measures have been instituted, ranging from the use of new logbooks to officer training and supervisory oversight to facilitate proper, consistent, recording of logbook information related to the provision of mandated services and recording of afforded programming and program participation via attendance documentation.⁶ There has been marked improvements in data recording in the audit areas.

During this audit period, issues were identified within two audit areas: lock-in/lock-out recording and law library staff coverage. The following recommendations and/or corrective action should be implemented to address these matters.

Lock-in/Lock-out

- During this audit period, as noted herein, on one (1) of the audit dates, during one (1) tour, institutional lock-in was not recorded for any of the phases where young adult were housed. In addition, on one (1) of the audit dates during one (1) tour, lock-out was not recorded for any of the phases where young adults were housed.
- To address the above:
 - Facility unit staff trainings on the use of the lock-in/lock-out tracking logbook and the housing area logbook should be conducted to ensure that all facility unit staff are knowledgeable on how to properly document institutional and individualized data.
 - A Unit Captain should review the logbook at the end of each tour to ensure that lock-in/lock-out is recorded accurately and consistently, which shall be documented

⁶ Beginning in February 2018, the audit addressed Minimum Standards §1-02(c)(2) Classification: the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

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through a logbook entry. If a review of the logbook reflects recording inconsistencies or inaccuracies, further corrective action should be taken.

Law Library

- Law Library services were not afforded on November 2 and 9, 2018 due to the Law Library Coordinator's unplanned absence.
 - The Director of Law Libraries, in conjunction with the facility administration, should ensure designated staff are scheduled to provide Law Library services to inmates in the Secure Unit. In the case of an unplanned absence by staff, the Director of Law Libraries should assign other staff to provide Law Library coverage.