

## **NYC Department of Correction**

### **Secure Unit Compliance Audit - December 2018**

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on November 13, 2018 allowing for the continued use of the Secure Unit for young adults (18 to 21 years old), the related variance conditions require the NYC Department of Correction (“Department”) to conduct a monthly audit on compliance with the following provisions of the Board’s Minimum Standards and with educational services:

- § 1-05(b) (Lock-in), specifically, the number of out-of-cell hours per young adult;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation), specifically , the amount of time that outdoor recreation was afforded to each young adult;
- § 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; and
- Education services, specifically the number of young adults brought to school and, for each young adult, the time each young adult was brought to school and the time each young adult was taken out of school.

#### **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 December 2018:

- December 4
- December 13
- December 19
- December 26

In addition, on-site inspections of the Secure Unit’s 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 assigned 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.

December on-site inspections:

- December 6
- December 14
- December 20
- December 28

**§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.

**Education**

A manual review of education attendance data was conducted to determine the number of young adults brought to school and, for each young adult, the time each young adult was brought to school and the time each young adult was taken out of school.

**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 date: On December 4, 2018, during one (1) tour lock-in was not recorded for Phase 2.

During this reporting period, on two (2) of the four (4) audit dates, December 13 and 19, there were no young adults housed in Phase 2.

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

#### **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.<sup>1</sup>

#### **December 4, 2018**

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

1. 15 minutes; due to security reasons, young adult was afforded limited out-of-cell time
2. 14 minutes; due to security reasons, young adult was afforded limited out-of-cell time
3. 5 hours 19 minutes
4. 7 hours 59 minutes
5. 5 hours 31 minutes
6. 9 hours 10 minutes

#### **December 13, 2018**

There were eight (8) young adults in Phase 1; the out-of-cell-times for those present on this audit date were:

1. 7 hours 19 minutes
2. 8 hours 32 minutes
3. 3 hours 5 minutes-young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected
4. 4 hours 45 minutes
5. 7 hours 55 minutes
6. 4 hours 53 minutes
7. 7 hours 40 minutes
8. 8 hours 48 minutes

#### **December 19, 2018**

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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 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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There were eleven (11) young adults in Phase 1; the out-of-cell-times for those present on this audit date were:

1. 8 hours 43 minutes
2. 7 hours
3. 7 hours 26 minutes
4. 8 hours
5. 6 hours 48 minutes
6. 5 hours 11 minutes
7. 4 hours 24 minutes

On this audit date, four (4) young adults were out to court for a significant portion of the day and, as a result, their out-of-cell times were not included in the out-of-cell time reporting. -

**December 26, 2018**

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

1. 7 hours 4 minutes
2. 7 hours 5 minutes
3. 8 hours 7 minutes
4. 8 hours 35 minutes
5. 5 hours 55 minutes
6. 7 hours 40 minutes
7. 7 hours 12 minutes
8. 7 hours 4 minutes

On this audit date, one (1) young adult's total afforded lock-out time could not be calculated because staff did not record the time in the Lock-in/Lock-out Logbook that the inmate locked in.

**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.<sup>2</sup>

**December 4, 2018**

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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 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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There were four (4) young adults in Phase 2; the out-of-cell times for those present on this audit date were:

1. 10 hours 57 minutes
2. 11 hours 8 minutes
3. 1 hour 7 minutes; young adult was bailed out

On this audit date, one (1) young adult was out to court for a significant portion of the day and, as a result, his out-of-cell time was not included in the out-of-cell time reporting.

**December 13, 2018**

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

**December 19, 2018**

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

**December 26, 2018**

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

1. 8 hours 50 minutes
2. 9 hours 46 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.<sup>3</sup>

**December 4, 2018**

There were three (3) young adults in Phase 3; the out-of-cell times for those present on this audit date were:

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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 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. 11 hours 20 minutes
2. 1 hour 43 minutes; young adult was out to court for a portion of the day and, as a result, his out-of-cell time was affected
3. 11 hours 33 minutes

**December 13, 2018**

There were six (6) young adults in Phase 3; their out-of-cell times on this audit date were:

1. 11 hours 54 minutes
2. 12 hours 14 minutes
3. 11 hours 52 minutes
4. 11 hours 28 minutes
5. 11 hours 18 minutes

On this audit date, one (1) young adult's total afforded lock-out time could not be calculated because staff did not record the time in the Lock-in/Lock-out Logbook that the inmate locked in.

**December 19, 2018**

There were three (3) young adults in Phase 3; the out-of-cell times for those present on this audit date were:

1. 11 hours 30 minutes
2. 11 hours 37 minutes

On this audit date, one (1) young adult was out to court for a significant portion of the day and, as a result, his out-of-cell time was not included in the out-of-cell time reporting.

**December 26, 2018**

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

1. 9 hours 40 minutes
2. 12 hours 7 minutes
3. 11 hours 39 minutes

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

Law Library Coordinator

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A manual review of the housing area logbooks reflected that the Law Library Coordinator was in the unit to provide assistance on all of the four (4) audit dates, December 4, 13, 19, and 26, 2018.<sup>4</sup> The duration of the Law Library Coordinator's time in the unit on three of the four dates audited were in compliance with the provisions of Minimum Standards. On December 19, 2018, due to the Law Library Coordinator's mandatory training, limited law library services were provided for one (1) hour fifty (50) minutes in the Secure Unit. On average, on three of the four dates, audited the Law Library Coordinator was in the unit for approximately four (4) hours and thirty (30) minutes.

During the reporting period, on the dates audited, a maximum of fourteen (14) young adults were housed in the Secure Unit. During the reporting period, on the dates audited, between five (5) to seven (7) 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 were operational. On three (3) of the four (4) audit dates, December, 6, 14, and 20, 2018, all four (4) kiosks were operational. On December 28, 2018, one (1) of the four (4) kiosks was not operable.

### **§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.<sup>5</sup> 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

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<sup>4</sup> This is evidenced by the Law Library Coordinator signing in and out of the logbook on each of the audit dates.

<sup>5</sup> 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)

**December 4, 2018**

There were thirteen (13) young adults housed in the Secure Unit on this audit date.

Quad A – There were four (4) young adults in this quad.

- ❖ Up to five (5) hours and fifty (50) minutes of programming were offered.
  - One (1) young adult in Phase 2 was offered and participated in five (5) hours and fifty (50) minutes of programming.
  - One (1) young adult in Phase 1 was offered three (3) hours and forty nine (49) minutes of programming. He participated in four (4) minutes of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered three (3) hours and fifty (50) minutes of programming. He participated in five (5) minutes of programming and refused all remaining programming.

The remaining one (1) young adult, who was in Phase 2, was bailed out on this audit date and was not afforded programming.

Quad B – There were three (3) young adults in this quad.

- ❖ Up to five (5) hours and three (3) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered five (5) hours and three (3) minutes of programming. He participated in three (3) hours and three (3) minutes of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered five (5) hours and two (2) minutes of programming. He participated in four (4) hours and two (2) minutes of programming and refused all remaining programming.

The remaining one (1) young adult, who was in Phase 2, was out to court for the duration of afforded programming.

Quad C – There were three (3) young adults in this quad.

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- ❖ One (1) young adult in Phase 1 was offered and participated in three (3) hours and thirty-one (31) minutes of programming.

The remaining two (2) young adults in Phase 1 were afforded limited out-of-cell time due to security reasons and, as a result, were not afforded programming on this audit date.

Quad D – There were three (3) young adults in this quad.

- ❖ Up to six (6) hours and one (1) minute of programming were offered.
  - One (1) young adult in Phase 2 was offered and participated in two (2) hours and fifty-four (54) minutes of programming.
  - One (1) young adult in Phase 3 was offered and participated in six (6) hours and one (1) minute of programming.

The remaining one (1) young adult, who was in Phase 3, was out to court for the duration of afforded programming.

**December 13, 2018**

There were fourteen (14) young adults housed in the Secure Unit on this audit date.

Quad A – There were three (3) young adults in this quad.

- ❖ Up to six (6) hours and twenty-three (23) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered and participated in six (6) hours and twenty three (23) minutes of programming.
  - One (1) young adult in Phase 1 was offered five (5) hours of programming upon his return from court. He participated in two (2) hours and thirty (30) minutes of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered and participated in two (2) hours and twenty-two (22) minutes of programming.

Quad B – There were three (3) young adults in this quad.

- ❖ Up to seven (7) hours and five (5) minutes of programming were offered.
  - Two (2) young adults in Phase 1 were offered and participated in seven (7) hours and five (5) minutes of programming.
  - One (1) young adult in Phase 1 was offered and participated in six (6) hours and five (5) minutes of programming.

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Quad C – There were five (5) young adults in this quad.

- ❖ Up to two (2) hours and fifteen (15) minutes of programming were offered.
  - Two (2) young adults in Phase 1 were offered and participated in two (2) hours and fifteen (15) minutes of programming.
  - Two (2) young adults in Phase 1 were offered and participated in one (1) hour and fifteen (15) minutes of programming.
  - One (1) young adult in Phase 1 was offered and participated in one (1) hour of programming.

Quad D – There were three (3) young adults in this quad.

- ❖ Up to eight (8) hours and thirty one (31) minutes of programming were offered.
  - One (1) young adult in Phase 3 was offered eight (8) hours and thirty-one (31) minutes of programming. He participated in two (2) hours and one (1) minute of programming and refused all remaining programming.
  - One (1) young adult in Phase 3 was offered seven (7) hours and thirty (30) minutes of programming. He participated in one (1) hour of programming and refused all remaining programming.
  - One (1) young adult in Phase 3 was offered and participated in seven (7) hours and thirty (30) minutes of programming.

**December 19, 2018**

There were fourteen (14) young adults housed in the Secure Unit on this audit date.

Quad A – There were four (4) young adults in this quad.

- ❖ Up to three (3) hours and forty- five (45) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered and participated in three (3) hours and forty-five (45) minutes of programming
  - One (1) young adult in Phase 1 was offered and participated in three (3) hours and thirty (30) minutes of programming.
  - One (1) young adult in Phase 1 was offered one (1) hour and forty (40) minutes of programming.

The remaining one (1) young adult, who was in Phase 1, was out to court for the duration of afforded programming.

Quad B – There were three (3) young adults in this quad.

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- ❖ Six (6) hours of programming were offered
  - One (1) young adult in Phase 1 was offered and participated in six (6) hours of programming.

The remaining two (2) young adults in this quad were both out to court for the duration of afforded programming.

Quad C – There were six (6) young adults in this quad.

- ❖ Up to five (5) hours and forty-five (45) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered and participated in five (5) hours and forty-five (45) minutes of programming.
  - One (1) young adult in Phase 1 was offered five (5) hours and forty-five (45) minutes of programming. He participated in four (4) hours and forty-five (45) minutes of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered and participated in four (4) hours and forty-five (45) minutes of programming.
  - One (1) young adult in Phase 1 was offered and participated in three (3) hours of programming.

The remaining two (2) young adults, who were both in Phase 1, were out to court for the duration of afforded programming.

Quad D – There was one (1) young adult in this quad.

- ❖ Seven (7) hours and of programming were offered.
  - One (1) young adult in Phase 3 was offered and participated in seven (7) hours of programming.

**December 26, 2018**

There were fourteen (14) young adults housed in the Secure Unit on this audit date.

Quad A – There were four (4) young adults in this quad.

- ❖ Up to three (3) hours and thirty-nine (39) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered and participated in three (3) hours and thirty-nine (39) minutes of programming.

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- One (1) young adult in Phase 1 was offered and participated in two (2) hours and six (6) minutes of programming.
- One (1) young adult in Phase 1 was offered and participated in one (1) hour and thirty (30) minutes of programming.
- One (1) young adult in Phase 1 was offered and participated in three (3) hours and thirty (30) minutes of programming.

Quad B – There were three (3) young adults in this quad.

- ❖ Up to five (5) hours and fifty-four (54) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered and participated in five (5) hours and fifty-four (54) minutes of programming.
  - One (1) young adult in Phase 1 was offered and participated in five (5) hours and fifty-three (53) minutes of programming.
  - One (1) young adult in Phase 1 was offered and participated in five (5) hours and fifty-one (51) minutes of programming.

Quad C – There were six (6) young adults in this quad.

- ❖ Up to five (5) hours and sixteen (16) minutes of programming were offered.
  - One (1) young adult in Phase 1 was offered five (5) hours and twelve (12) minutes of programming. He participated in four (4) hours and twenty-seven (27) minutes of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered five (5) hours and sixteen (16) minutes of programming. He participated in two (2) hours and one (1) minute of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered and participated in five (5) hours and fifteen (15) minutes of programming.
  - One (1) young adult in Phase 2 was offered and participated in five (5) hours and thirteen (13) minutes of programming.
  - One (1) young adult in Phase 1 was offered five (5) hours and thirteen (13) minutes of programming. He participated in four (4) hours and thirteen (13) minutes of programming and refused all remaining programming.
  - One (1) young adult in Phase 1 was offered five (5) hours and thirteen (13) minutes of programming. He participated in one (1) hour and fifty-eight (58) minutes of programming and refused all remaining programming.

Quad D – There was one (1) young adult in this quad.

- ❖ Seven (7) hours and seventeen (17) minutes of programming were offered.

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- One (1) young adult in Phase 3 was offered seven (7) hours and seventeen (17) minutes of programming. He participated in two (2) hours and seventeen (17) minutes of programming and refused all remaining programming.

#### **Education**

The NYC Department of Education offers educational services to all young adults in the Secure Unit. A young adult can enroll in educational services by completing and submitting the “Request for Educational Services” form upon admission. In addition, a young adult can enroll in educational services by completing the aforementioned form in the Secure Unit. Eligible young adults are provided educational services Monday through Friday, for a minimum of three (3) hours of instruction per day in the morning.

The audit reviewed educational data for each of the four (4) dates – December 4, 13, 19 and 26, 2018 – to ascertain the total number of young adults brought to school, as well as the time that each young adult arrived to school and the time each young adult departed school.

#### **December 4, 2018**

There were thirteen (13) young adults in the Secure Unit on this audit date. Of the thirteen (13) young adults, seven (7) were enrolled in educational services. The arrival and departure times for those present on this audit date were:

1. Arrived 10:06 am / Departed 11:15 am

For the remaining six (6) young adults, please note the following:

- One (1) young adult was bailed out.
- One (1) young adult was out to court.
- Four (4) young adults refused to participate in educational services.

#### **December 13, 2018**

There were fourteen (14) young adults in the Secure Unit on this audit date. Of the fourteen (14) young adults, eight (8) were enrolled in educational services. The arrival and departure times for those present on this audit date were:

1. Arrived 9:04 am / Departed 11:40 am
2. Arrived 10:55 am/ Departed 11:45 am

For the remaining six (6) young adults, please note the following:

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

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- The Education Services Logbook did not record the school arrival and departure times of one (1) young adult.
- Four (4) young adults refused to participate in educational services.

**December 19, 2018**

There were fourteen (14) young adults in the Secure Unit on this audit date. Of the fourteen (14) young adults, seven (7) were enrolled in educational services. The arrival and departure times for those present on this audit date were:

1. Arrived 10:20 am / Departed 11:20 am

For the remaining six (6) young adults, please note the following:

- Two (2) young adults were out to court.
- Four (4) young adults refused to participate in educational services.

**December 26, 2018**

On this audit date no educational services were provided due to winter recess.

**Audit Recommendations**

The Department commenced audit reporting in July 2017. Through auditing, issues have been identified and corrective measures have been instituted. These measures include the use of new logbooks, officer training, and supervisory oversight to facilitate proper, consistent, recording of logbook information related to the provision of mandated services, including afforded programming and program participation.<sup>6</sup> There have been marked improvements in staff recordkeeping.

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

**Lock-in/Lock-out**

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<sup>6</sup> 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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- Facility unit staff trainings on the use of the Lock-in/Lock-out Logbook and the housing area logbook should be conducted to ensure that all facility unit staff are knowledgeable on how to properly and consistently document information, particularly the lock-out and lock-in times for individual young adults, and the lock-out and lock-in times for each Phase level.
- A Unit Captain should review the Lock-in/Lock-out Logbook and the housing area logbook at the end of each tour, to ensure that lock-in/lock-out are recorded accurately and consistently. If a review of the logbooks reveal recording inconsistencies or inaccuracies, corrective action should be taken by the Unit Captain.

**Law Library**

- The Director of Law Libraries, in conjunction with the facility administration, should ensure that designated staff are scheduled to provide Law Library services to inmates in the Secure Unit. In the case of absences due to the mandatory training of staff, the Director of Law Libraries should assign other staff to provide Law Library coverage.
- The facility administration should instruct designated facility and Law Library staff to check on a daily basis that all kiosks are operational. When a kiosk is identified in need of repair, the facility administration in coordination with the Director of Law Libraries should ensure that repairs are conducted in a timely manner.

**Education**

- Designated supervisory staff should regularly review the Educational Services Logbook to determine whether custody staff have recorded all required information, particularly the times when young adults arrived at and departed school. When deficiencies are identified, the designated supervisory staff shall counsel the relevant custody staff person and instruct him or her to record all required information.