

New York City Department of Correction

Young Adult ESH Compliance Audit – January 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 six (6) housing areas within ESH.

During this audit, the following four (4) dates were selected for the manual review of **§1-05(b) (Lock-in) and § 1-08(f) (Access to Courts and Legal Services, including Law Library); § 1-06 (Recreation):**

- January 10th
- January 20th
- January 23rd
- January 30th

The following four (4) dates were selected for the manual review of **§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.**

- January 3rd
- January 10th
- January 18th
- January 23rd

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

- January 5th
- January 12th
- January 22nd
- January 26th

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§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.

§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 four (4) kiosks¹ and four (4) typewriters located in the unit 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 also recorded. On one (1) of the four (4) audit dates, individualized data was not properly recorded. Therefore, the total out-of-cell time for each young adult could not be calculated for that 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 all institutional lock outs on each audit date.²

¹ As of the last audit date, with a housing area transfer an additional kiosk (total of 5) was available for use by the young adult population.

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 are not included in the out-of-cell time reporting.

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January 10, 2018

Due to incomplete logbook recording on this date, individualized data could not be calculated. Corrective action was taken to facilitate proper logbook recording moving forward and for the remainder of the audit period.

January 20, 2018³

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

1. 2 hours
2. 3 hours and 15 minutes
3. 3 hours and 15 minutes
4. 3 hours and 15 minutes
5. 3 hours and 15 minutes
6. 4 hours and 15 minutes
7. 3 hours and 15 minutes
8. 3 hours and 15 minutes
9. 3 hours and 55 minutes
10. 4 hours and 40 minutes
11. 2 hours

January 23, 2018

There were twelve (12) young adults in Level I; their out-of-cell time on this audit date were:

1. 5 hours
2. 3 hours and 5 minutes
3. 6 hours and 30 minutes
4. 3 hours and 19 minutes
5. 3 hours and 10 minutes
6. 5 hours and 47 minutes
7. 3 hours and 25 minutes
8. 5 hours and 5 minutes

On this audit date, logbooks reflect that three (3) young adults were afforded seven (7) hours of out-of-cell time and refused for the entire duration. In addition, due to incomplete records, one (1) young adult's out-of-cell time could not be calculated.

January 30, 2018

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

1. 6 hours and 10 minutes
2. 4 hours and 21 minutes
3. 7 hours and 10 minutes
4. 5 hours and 50 minutes
5. 2 hours and 15 minutes
6. 7 hours
7. 6 hours and 15 minutes

³ 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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8. 3 hours and 47 minutes
9. 5 hours and 55 minutes
10. 4 hours and 30 minutes
11. 3 hours and 50 minutes

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 all institutional lock outs on each audit date.⁴

January 10, 2018

Due to incomplete logbook recording on this date, individualized data could not be calculated. Corrective action was taken to facilitate proper logbook recording moving forward and for the remainder of the audit period.

January 20, 2018

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

1. 7 hours
2. 8 hours
3. 4 hours and 45 minutes
4. 7 hours and 30 minutes

On this audit date, logbooks reflect that five (5) young adults were afforded seven (7) hours of out-of-cell time and refused for the entire duration. In addition, due to incomplete records, one (1) young adult's out-of-cell time could not be calculated.

January 23, 2018

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

1. 7 hours
2. 7 hours
3. 5 hours and 13 minutes
4. 4 hours and 5 minutes
5. 7 hours and 3 minutes

On this audit date, logbooks reflect that three (3) young adults were afforded seven (7) hours of out-of-cell time and refused for the entire duration. In addition, due to incomplete records, two (2) young adult's out-of-cell time could not be calculated.

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 are not included in the out-of-cell time reporting.

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There were ten (10) young adults in Level II; the out-of-cell time for those present on this audit dates were:

1. 7 hours
2. 6 hours and 45 minutes
3. 7 hours
4. 7 hours
5. 1 hour
6. 4 hours and 30 minutes
7. 4 hours and 30 minutes
8. 1 hour
9. 4 hours and 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 all institutional lock outs on each audit date.⁶

January 10, 2018

Due to incomplete logbook recording on this date, individualized data could not be calculated. Corrective action was taken to facilitate proper logbook recording moving forward and for the remainder of the audit period.

January 20, 2018

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

1. 8 hours and 10 minutes
2. 8 hours
3. 7 hours and 20 minutes

January 23, 2018

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

1. 4 hours and 30 minutes
2. 7 hours
3. 7 hours

Due to incomplete logbook recording, the out-of-cell hours reflected above may not represent the young adults total out-of-cell time on this audit date.

⁵ Out-of-cell time on this audit date was affected by a housing area lockdown during a portion of one (1) tour.

⁶ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults are not included in the out-of-cell time reporting.

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

1. 9 hours and 49 minutes
2. 10 hours and 33 minutes
3. 10 hours and 33 minutes

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

Law Library Coordinator

In ESH, there are three (3) Law Library Coordinators assigned to areas in which young adults are housed⁷. A manual review of the housing area logbooks reflected that the Law Library Coordinators were in these areas to provide assistance on all four (4) days audited.⁸ 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 in the areas where young adult were housed for approximately four (4) hours to provide assistance.

During the reporting period, on the dates audited, Law Library Coordinators provided assistance to an average of ten (10) young adults per day.

Kiosks and Typewriters⁹

Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. On three (3) of the four (4) dates audited all the available kiosks were operational. On one (1) of the audit dates, January 5th, two (2) of the four (4) available kiosks were operational. Operational issues were resolved in a timely manner and all available kiosks were operational on the remaining three (3) audit dates. On the dates audited, a maximum of three (3) typewriters were operational. Several typewriters were identified as inoperable and require replacement.

§1-06 – Recreation

Institutional recreation was afforded to young adults present in ESH on all four (4) days audited.¹⁰

§ 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,

⁷ 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.

⁸ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

⁹ At the end of the audit period, some young adults were transferred to another housing area with availability to an additional kiosk.

¹⁰ On three (3) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

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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.

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.¹¹ Due to incomplete data recording, individualized program participation could not be calculated consistently for this reporting period. Corrective action has been initiated to address this issue going forward.

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

January 3, 2018¹²

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

- ❖ A: 1 hour and 30 minutes of programming was scheduled but programming could not be offered due to facilitator absence.
- ❖ B: 2 hours and 30 minutes of programming was offered.
 - There were three (3) young adults housed in this area. Two (2) of the young adults participated in programming. Due to incomplete recording, the young adults' total hours of program participation could not be calculated.
- ❖ C: No programming was offered that day
- ❖ D: 3 hours of programming was offered.¹³
 - There were eleven (11) young adults housed in this area.
 - Of those present during all programming on this audit date; their hours of program participation were:
 1. 3 hours
 2. 3 hours
 3. Young adult refused to participate in programming
 4. 3 hours
 5. 3 hours
 6. 3 hours
 7. 3 hours
 8. Young adult refused to participate in programming
 9. Young adult refused to participate in programming

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 are not 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 from court.

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 are not 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 from court.

¹³ Programming hours were reduced by two (2) hours due to young adults' disruptive behavior.

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- On this date, one (1) young adult's out-of-cell time was restricted. As a result, he did not participate in programming.
- ❖ E: 2 hours and 30 minutes of programming was offered.
 - There were four (4) young adults housed in this area. Of the four (4) young adults, one (1) young adult participated in programming. Due to incomplete recording, program participation data was not available for three (3) of the young adults.
- ❖ F: 4 hours of programming was offered.
 - There were two (2) young adults housed in this area. Both young adults participated in programming. Based on the documentation reviewed, one (1) of the young adults participated in programming for over an hour. Due to incomplete recordings, their total hours of program participation could not be calculated.

January 10, 2018¹⁴

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

- ❖ A: 1 hour and 30 minutes of programming was offered
 - There were five (5) young adults housed in this area. Of those present during all programming on this audit date; two (2) young adults refused to participate in programming and program participation data was not available for two (2) of the young adults.
- ❖ B: 2 hours and 30 minutes of programming was offered
 - There were four (4) young adults housed in this area. Of those present during all programming on this audit date: three (3) young adults participated in programming. As a result of incomplete recording, their hours of program participation could not be calculated.
- ❖ C: 2 hours and 30 minutes of programming was scheduled. Due to a housing area lockdown programming was not offered.
- ❖ D: 5 hours of programming was offered
 - There were eight (8) young adults housed in this area. Three (3) of the young adults refused to participate in programming. Five (5) young adults participated in programming; their hours of program participation were:
 1. 4 hours
 2. 5 hours
 3. 5 hours
 4. 4 hours
 5. 5 hours
- ❖ E: 2 hours and 30 minutes of programming was offered
 - There were three (3) young adults housed in this area. All of the young adults participated in programming, but their total hours of program participation could not be calculated due to incomplete recording.

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 are not 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 from court.

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- ❖ F: 4 hours of programming was offered
 - There were two (2) young adults housed in this area. Both young adults participated in programming, for at least one (1) hour and thirty (30) minutes but their total hours of program participation could not be calculated due to incomplete recording.

January 18, 2018¹⁵

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

- ❖ A: 2 hours and 30 minutes of programming was scheduled but programming could not be offered that day due to a facilitator training.
- ❖ B: 1 hour and 30 minutes of programming was offered.
 - There were four (4) young adults housed in this area, three (3) young adults were noted as refusing to participate in programming. One (1) young adult was involved in an incident and as a result was not in the housing area during programming.
- ❖ C: No programming was offered that day.
- ❖ D: 5 hours of programming was offered.
 - There were nine (9) young adults housed in this area. Of those present during all programming on this audit date; their hours of program participation were:
 1. 5 hours
 2. 5 hours
 3. 5 hours
 4. 20 minutes; young adult refused to participate in any additional programming
 5. 5 hours
 6. 55 minutes
 7. Young adult refused to participate in programming
- ❖ E: 2 hours and 30 minutes of programming was offered.
 - There were three (3) young adults housed in this area. All of the young adults participated in programming. Due to incomplete recording, their total hours of program participation could not be calculated.
- ❖ F: 1 hour and 30 minutes of programming was offered.
 - There were three (3) young adults housed in this area. Two (2) of the young adults participated in programming for one (1) hour and thirty (30) minutes. Due to incomplete recording, program participation data was not available for one (1) of the young adults.

¹⁵ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults are not 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 from court.

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January 23, 2018¹⁶

On this audit date, up to four (4) hours 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 scheduled but programming could not be offered that day due to a facilitator training.
- ❖ B: 4 hours of programming was scheduled but programming could not be offered that day due to facilitator training and ICAN Facilitator absence.
- ❖ C: No programming was offered that day.
- ❖ D: Four (4) hours of programming was offered
 - There were nine (9) young adults in the housing area, their hours of program participation were:
 1. 4 hours
 2. 4 hours
 3. 2 hours
 4. Young adult refused to participate in programming
 5. 4 hours
 6. 1 hour
 7. 2 hours
 - Two (2) young adults out-of-cell time were restricted and as a result they did not participate in programming.
- ❖ E: 2 hours and 30 minutes of programming was scheduled but programming could not be offered that day due to facilitator absence.
- ❖ F: 1 hour and 30 minutes of programming was scheduled but programming could not be offered that day as the facilitator was at a training.

Audit Recommendations

During this first Department young adult ESH audit, pursuant to the Board's variance conditions, several issues were identified and the following recommendations and corrective action is being considered and/or in progress:

Lock-in/Lock-out

- To facilitate the accurate and consistent recording of lock-in/lock-out in the ESH “lock-in/out” logbook, 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.

¹⁶ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults are not 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 from court.

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Law Library Services

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

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.