

## New York City Department of Correction

### Young Adult ESH Compliance Audit – February 2018

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on November 14, 2017 allowing for the continued use of Enhanced Supervision Housing (ESH) for young adults (18 to 21 years old), the related variance conditions require the establishment of a monthly audit on compliance with the following provisions of the Board's Minimum Standards:

- § 1-05(b) (Lock-in), specifically, the number of out-of-cell hours per person;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation); and
- § 1-02(c)(2) (Classification), specifically, the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

#### Audit Parameters

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) random dates each month. The scope of the audit encompasses only those housing units within ESH in which young adults are housed within the audit period. During this audit period, young adults were housed within up to seven (7) ESH housing areas.

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

- February 1<sup>st</sup>
- February 7<sup>th</sup>
- February 13<sup>th</sup>
- February 23<sup>rd</sup>

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

- February 2<sup>nd</sup>
- February 9<sup>th</sup>
- February 15<sup>th</sup>
- February 28<sup>th</sup>

#### **§1-05 Lock-in**

A manual review of housing area logbooks was performed to determine whether seven (7) or fourteen (14) hours of out-of-cell time was afforded to the young adults based on their housing level. This audit report also provides individualized data related to each young adult's out-of-cell time during the reporting period.

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

A manual review of housing area logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were completed to determine if the four (4) kiosks 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 not consistently recorded. On two (2) of the four (4) audit dates, individualized data was not properly recorded for eight (8) young adults. Therefore, the total out-of-cell time for those young adults could not be calculated for two (2) audit dates.

#### Level I

Young adults in Level I are afforded seven (7) hours of out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Level 1, based on a manual review of the logbook, on the dates audited. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for all institutional lock outs on each audit date.<sup>1</sup>

#### **February 1, 2018**

There were fourteen (14) young adults<sup>2</sup> in Level 1; the out-of-cell times for those present on this audit date were:

1. 3 hours 50 minutes
2. 3 hours 10 minutes
3. 5 hours 12 minutes
4. 1 hour 55 minutes

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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 ESH Unit. These young adults are not included in the out-of-cell time reporting.

<sup>2</sup> On this audit date, two (2) young adults were transferred into the housing area.

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5. 5 hours 25 minutes
6. 3 hours 10 minutes
7. 5 hours 50 minutes
8. 6 hours 5 minutes
9. 5 hours 53 minutes
10. 4 hours
11. 2 hours and 55 minutes

One (1) young adult refused all out-of-cell time afforded on this audit date.

**February 7, 2018**

There were thirteen (13) young adults in Level 1; the out-of-cell times for those present on this audit date were:

1. 3 hours
2. 6 hours
3. 7 hours 42 minutes
4. 6 hours
5. 6 hours
6. 3 hours
7. 5 hours
8. 6 hours
9. 7 hours
10. 3 hours
11. 2 hours

One (1) young adult's out-of-cell time could not be calculated as one (1) housing area had not maintained the new facility logbook capturing individualized lock-in\lock-out time. In addition, one (1) young adult was out to court on this audit date.

**February 13, 2018**

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

1. 1 hour
2. 2 hours
3. 6 hours
4. 8 hours
5. 8 hours
6. 8 hours
7. 7 hours

Due to incomplete records, two (2) young adult's out-of-cell times could not be calculated. Additionally, one (1) housing area had not maintained the new facility logbook capturing individualized lock-in\lock-out time. As a result, one (1) young adult's out-of-cell times could not be calculated.

Four (4) young adults were out to court on this audit date.

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### February 23, 2018

There were fifteen (15) young adults in Level 1; the out-of-cell times for those present on this audit date were:

1. 6 hours 27 minutes
2. 4 hours
3. 2 hours
4. 8 hours 20 minutes
5. 5 hours
6. 6 hours
7. 5 hours
8. 3 hours
9. 3 hours
10. 7 hours
11. 5 hours
12. 6 hours

Two (2) young adults refused all out-of-cell time afforded on this audit date. One (1) young adult was out to court on this audit date.

### 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.<sup>3</sup>

### February 1, 2018

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

1. 7 hours
2. 7 hours
3. 6 hours
4. 7 hours 40 minutes
5. 7 hours 42 minutes
6. 5 hours 5 minutes
7. 5 hours 5 minutes
8. 8 hours 15 minutes
9. 8 hours 15 minutes
10. 8 hours 15 minutes

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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 ESH Unit. These young adults are not included in the out-of-cell time reporting.

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#### February 7, 2018

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

1. 8 hours
2. 8 hours
3. 7 hours
4. 6 hours and 40 minutes
5. 7 hours 30 minutes
6. 4 hours 12 minutes
7. 4 hours 12 minutes

Due to incomplete records, two (2) young adult's out-of-cell time could not be calculated.

One (1) young adult was out to court on this audit date.

#### February 13, 2018

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

1. 7 hours 30 minutes
2. 8 hours
3. 7 hours and 56 minutes
4. 7 hours and 55 minutes
5. 6 hours and 5 minutes
6. 6 hours and 5 minutes

Due to incomplete records, two (2) young adult's out-of-cell times could not be calculated. In addition, one (1) young adult was out to court on this audit date.

#### February 23, 2018

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

1. 8 hours
2. 8 hours
3. 7 hours and 30 minutes
4. 7 hours and 30 minutes
5. 7 hours and 37 minutes
6. 7 hours and 20 minutes
7. 7 hours
8. 6 hours
9. 7 hours
10. 8 hours
11. 7 hours

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### 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.<sup>4</sup>

#### **February 1, 2018**

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

1. 11 hours
2. 13 hours
3. 11 hours

#### **February 7, 2018**

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

1. 11 hours 21 minutes
2. 10 hours 21 minutes

#### **February 13, 2018**

There were three (3) young adults in Level III, the out-of-cell time for those present on this audit dates were:

1. 10 hours and 40 minutes
2. 11 hours 40 minutes

One (1) young adult was out to court on this audit date.

#### **February 23, 2018**

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

1. 8 hours
2. 11 hours

### **§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 housed<sup>5</sup>. 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.<sup>6</sup> However,

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<sup>4</sup> 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.

<sup>5</sup> 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.

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

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on three (3) of the audit dates, due to inconsistencies between the law library and housing area logbook recordings, it can not be determined whether the Coordinator were in the individual housing areas. The duration of each Law Library Coordinator's time in ESH areas during the dates audited were in compliance with the provisions of Minimum Standards. On average, based on each Coordinator's schedule, on the dates audited, a Coordinator was available to assist young adults within the housing areas for approximately four (4) hours.

During the reporting period, on the dates audited, Law Library Coordinators provided assistance to one (1) to five (5) young adults per day. On some of the audit dates, it is noted that young adults did not request law library assistance.

#### Kiosks and Typewriters

During this audit period, young adults were housed within up to seven (7) housing areas 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, a number of kiosks and typewriters were not operable within some of the housing areas. On two (2) of the inspection dates, February 2<sup>nd</sup> and February 15<sup>th</sup>, five (5) of the six (6) young adult housing areas had operational kiosks. On the other (2) two inspection dates, February 9<sup>th</sup> and February 28<sup>th</sup>, kiosks were operational in a minimum of four (4) housing areas.

Over the four (4) inspection dates typewriters were operational in a maximum of 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.

#### **§1-06 – Recreation**

Institutional recreation was afforded to young adults present in ESH on all four (4) days audited.<sup>7</sup>

#### **§ 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)<sup>8</sup>. 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.

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

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<sup>7</sup> On three (3) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

<sup>8</sup> Young adults who are eighteen years old are not housed in ESH blended units with adults.

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present in the housing area during programming on each audit date.<sup>9</sup> 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.

#### February 1, 2018<sup>10</sup>

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: 2 hours and 30 minutes of programming was scheduled but programming could not be offered due to Facilitator absence.
- ❖ B: 1 hour and 30 minutes of programming was scheduled but programming could not be offered due to ICAN Facilitator absence.
- ❖ C: Programming was not offered due to a facilitator training.
- ❖ D: 5<sup>11</sup> hours of programming was offered.
  - There were ten (10) 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. 4 hours 10 minutes
    3. 4 hours 5 minutes
    4. 2 hours 40 minutes
    5. 4 hours
    6. 3 hours 15 minutes
    7. 2 hours 35 minutes
    8. 3 hours 50 minutes
- ❖ 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, two (2) young adults participated in programming for 1 hour.
- ❖ F: 1 hour and 30 minutes of programming was offered.
  - There were three (3) young adults housed in this area. All three (3) young adults refused to participate in programming.

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<sup>9</sup> 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.

<sup>10</sup> 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.

<sup>11</sup> An additional 2 hours and 10 minutes of counseling services was available to young adults in the unit.

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**February 7, 2018<sup>12</sup>**

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the seven (7) housing areas, labelled A-G.

- ❖ A: 1 hour and 30 minutes of programming was offered
  - There were two (2) young adults housed in this area. Both of the young adults were out to court and did not participate in programming.
- ❖ B: While 2 hours and 30 minutes of programming was scheduled, 1 hour of programming was offered.
  - There were four (4) young adults housed in this area. Due to recording discrepancies, total hours of program participation could not be calculated.
- ❖ C: No programming was offered that day.
- ❖ D: 5 hours of programming<sup>13</sup> 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. 4 hours and 15 minutes
    2. 2 hours
    3. 5 hours
    4. 1 hour
    5. 30 minutes
    6. 5 hours
    7. 4 hours 25 minutes
  - One (1) young adult was out to court and did not participate in programming. One (1) young adult refused to participate in programming.
- ❖ E: Due to recording discrepancies, the number of programming hours offered and the total hours that the three (3) young adults in this housing area participated in such programming can not be calculated. Programming documents reflect that one (1) young adult was offered 2 hours and 30 minutes of programming, of which he participated in one (1) hour.
- ❖ F: Due to recording discrepancies, the number of programming hours offered and the total hours that one (1) young adult in this housing area participated in such programming can not be calculated.
- ❖ G: 4 hours of programming was offered.
  - There were two (2) young adults housed in this area.
    1. Both young adults participated in programming, one (1) young adult participated for at least 1 hour and 30 minutes of programming. Due to incomplete recording, the total hours of their program participation could not be calculated.

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<sup>12</sup> 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.

<sup>13</sup> An additional 1 hour and 5 minutes of counseling services was available for young adults in the unit.

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**February 13, 2018<sup>14</sup>**

On this audit date, up to five (5) hours of programming was offered to the young adults housed within the seven (7) housing areas, labelled A-G.

- ❖ A: 2 hours and 30 minutes of programming was offered.
  - There were two (2) young adults housed in this area. Due to incomplete recording, their total hours of program participation could not be calculated.
- ❖ B: 1 hour and 30 minutes of programming was offered.
  - There were three (3) young adults housed in this area.
  - Of those present during all programming on this audit date; their hours of program participation were:
    1. 1 hour 30 minutes
  - One (1) young adult was out to court during programming. One (1) young adult refused to participate in programming.
- ❖ C: No programming was offered that day.
- ❖ D: 5 hours of programming was offered.
  - There were seven (7) young adults housed in this area; their hours of program participation were:
    1. 2 hours
    2. 2 hours
    3. 2 hours
    4. 2 hours
    5. 4 hours
    6. 2 hours
    7. 4 hours
- ❖ E: 2 hours and 30 minutes of programming was scheduled.<sup>15</sup> Due to a housing area lockdown programming was not offered.
- ❖ F: 2 hours and 30 minutes of programming was offered.
  - There was one (1) young adult housed in this area, he refused to participate in programming.
- ❖ G: 4 hours of programming was offered.
  - There were three (3) young adults housed in this area. Two (2) young adults refused to participate in programming. In addition, one (1) young adult was out to court during programming.

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<sup>14</sup> 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.

<sup>15</sup> The Counselor was out that day.

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### February 23, 2018<sup>16</sup>

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 10 minutes of programming was offered
  - There were two (2) young adults housed in this area; their program participation were:
    1. 10 minutes
    2. 10 minutes
- ❖ B: 1 hour and 20 minutes of programming offered.
  - There were four (4) young adults housed in this area; of those present in the housing area, their program participation on this audit date were:
    1. 2 minutes
    2. 10 minutes
    3. 10 minutes
  - One (1) young adult was out of the area during programming.
- ❖ C: 1 hour of programming was offered.
  - There were five (5) young adults housed in this area; of those present in the housing area, their hours of program participation were:
    1. 1 hour
    2. 1 hour
  - Two (2) young adults were out to visits
  - Due to incomplete recording, the total hours of program participation for one (1) young adult could not be calculated.
- ❖ D: 5 hours of programming was offered
  - There were ten (10) young adults in the housing area, their hours of program participation were:
    1. 2 hours
    2. 3 hours
    3. 3 hours
    4. 2 hours 40 minutes
    5. 3 hours 15 minutes
    6. 3 hours 5 minutes
    7. 3 hours
    8. 3 hours
    9. 3 hours 5 minutes
    10. 2 hours
- ❖ E: 2 hours and 30 minutes of programming was offered
  - There were six (6) young adults housed in this area; of those present in the housing area, their hours of program participation were:

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<sup>16</sup> 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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1. 40 minutes
  2. 5 minutes
  3. 55 minutes
  4. 5 minutes
  5. 50 minutes
- One (1) young adult was out to court on this day.
  - ❖ F: 2 hour and 30 minutes of programming was offered.
    - There were two (2) young adults housed in this area. Both young adults participated in programming. Due to incomplete recording, the total hours of their program participation could not be calculated.

#### Audit Recommendations

During this audit period, 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. 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.
- 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;

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- 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.