

New York City Department of Correction

Young Adult ESH Compliance Audit – March 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 areas within ESH in which young adults are housed within the audit period. During this audit period, young adults were housed within up to six (6) ESH housing areas.

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

- March 6th
- March 14th
- March 20th
- March 27th
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Additionally, on-site inspections of the ESH unit kiosks and typewriters were conducted on four (4) random dates:

- March 9th
- March 16th
- March 23rd
- March 29th

§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 kiosks and typewriters located within the various young adult ESH housing areas were operational.¹

§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 one (1) of the four (4) audit dates, individualized data was not properly recorded for two (2) young adults. Therefore, the total out-of-cell time for those young adults could not be calculated for one (1) of the 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 institutional lock outs on each audit date.²

March 6, 2018

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

1. 8 hours 1 minute
2. 6 hours 30 minutes
3. 1 hour 55 minutes
4. 7 hours 27 minutes
5. 8 hours 12 minutes

¹ In the previous two reports, due to an editing error the number of kiosks and typewriters were underreported.

² On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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6. 7 hours 55 minutes
7. 1 hour 18 minutes
8. 5 hours 15 minutes
9. 1 hour 39 minutes
10. 6 hours 25 minutes

Due to incomplete data, two (2) young adults total out-of-cell time could not be calculated. In addition, one (1) young adult refused all afforded out-of-cell time on this audit date.

March 14, 2018

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

1. 5 hours 55 minutes
2. 3 hours 58 minutes
3. 6 hours 1 minute
4. 5 hours 51 minutes
5. 2 hours 25 minutes
6. 5 hours
7. 1 hour 15 minutes
8. 5 hours

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

March 20, 2018

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

1. 8 hours 15 minutes
2. 2 hours
3. 6 hours 20 minutes
4. 5 hours 20 minutes
5. 8 hours 15 minutes
6. 6 hours 15 minutes
7. 2 hours 20 minutes
8. 5 hours 15 minutes
9. 4 hours 15 minutes

On this audit date, one (1) young adult was out to court for a portion of the day and as a result, his out-of-cell time was affected as reflected above. In addition, one (1) young adult refused all afforded out-of-cell time on this audit date.

March 27, 2018

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

1. 1 hour 30 minutes
2. 3 hour 33 minutes
3. 7 hours 30 minutes
4. 1 hour 38 minutes

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5. 2 hours 15 minutes
6. 7 hours 25 minutes
7. 4 hours 10 minutes
8. 6 hours 15 minutes
9. 4 hours 55 minutes
10. 4 hours
11. 3 hours 15 minutes

One (1) young adult was out to court on this audit date which affected his total out-of-cell time reflected above.

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 institutional lock outs on each audit date.³

March 6, 2018

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

1. 6 hours 45 minutes
2. 7 hours 30 minutes
3. 7 hours 30 minutes
4. 7 hours 50 minutes
5. 8 hours 15 minutes
6. 1 hour 38 minutes
7. 3 hours 15 minutes
8. 5 hours 15 minutes
9. 3 hours 15 minutes

One (1) young adult was out to court on this audit date which affected his total out-of-cell time reflected above.

March 14, 2018

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

1. 5 hours
2. 7 hours
3. 7 hours
4. 7 hours
5. 7 hours 30 minutes
6. 7 hours 10 minutes

³ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the out-of-cell time reporting.

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7. 5 hours
8. 5 hours
9. 7 hours
10. 6 hours 45 minutes

Two (2) young adults were out to court on this audit date. One (1) young adult was out to court for the duration of the day and as a result his out-of-cell time was not included in the out-of-cell time reporting.

March 20, 2018

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

1. 6 hours 17 minutes
2. 8 hours
3. 6 hours 45 minutes
4. 7 hours 5 minutes
5. 7 hours 30 minutes
6. 1 hour 35 minutes
7. 7 hours 15 minutes
8. 5 hours 15 minutes

Four (4) young adults were out to court on this audit date. Due to the duration of the day that three (3) of the young adults were in court, their out-of-cell times were not included in the reporting.

March 27, 2018

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

1. 7 hours 50 minutes
2. 7 hours 59 minutes
3. 7 hours
4. 5 hours 14 minutes
5. 7 hours
6. 4 hours 23 minutes
7. 4 hours 25 minutes
8. 4 hours 25 minutes
9. 4 hours 25 minutes
10. 4 hours 25 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

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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.⁴

March 6, 2018

There was one (1) young adult in Level III; his out-of-cell time on this audit date was 12 hours and 17 minutes.

March 14, 2018

There was one (1) young adult in Level III, his out-of-cell time on this audit date was 8 hours 30 minutes.

March 20, 2018

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

March 27, 2018

There was one (1) young adult in Level III, his out-of-cell times on this audit date was 11 hours and 35 minutes.

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

Law Library Coordinator

In ESH, there are three (3) Law Library Coordinators⁵ assigned to areas in which young adults are housed⁶. 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.⁷ However, on two (2) of the audit dates, due to inconsistencies between the law library and housing area logbook recordings, it can not be determined whether the Coordinators were in two (2) of the individual housing areas during one (1) tour on each of the two (2) dates audited. The duration of each Law Library Coordinator's time in ESH areas during the dates audited were in compliance with the provisions of Minimum Standards. On average, based on each Coordinator's schedule, on the dates audited, a Coordinator was available to assist young adults within the housing areas for approximately four (4) hours.

During the reporting period, on the dates audited, Law Library Coordinators provided assistance to one (1) to four (4) young adults per day. On some of the audit dates, it is noted that young adults did not request law library assistance.

Kiosks and Typewriters

During this audit period, young adults were housed within up to six (6) housing 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, all the kiosks were operable, however some of the

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 may not be included in the out-of-cell time reporting.

⁵ As of March 12th, there are four (4) Law Library Coordinators assigned to ESH.

⁶ 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.

⁷ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

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typewriters were not operable within some of the housing areas. On two (2) of the inspection dates, March 9th and March 29th, three (3) of the six (6) young adult housing areas had operational typewriters. On the other (2) two inspection dates, March 16th and March 23rd, typewriters were operational in a minimum of two (2) housing areas.

When kiosks or typewriters are not operable within specific housing areas, young adults are 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 three (3) of the four (4) days audited.⁸ On one (1) of the audit dates, March 27th, two (2) of the six (6) housing areas, based on a manual review of the housing area logbooks, were not afforded recreation. An investigation was conducted and corrective action has been taken to ensure the provision of recreation.

§ 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)⁹. Programming is provided to all young adults. In the young adult exclusive housing area within ESH, tablets are utilized in the provision of programming. When young adults collect their tablets, they also have the opportunity to request an additional component of programming during that time. In addition, in the young adult exclusive housing area, on days when support programming staff are present, young adults may request individualized counseling while other programming components are being held. In the blended housing areas, the provision of programming is provided to each tier separately through two programming sessions. Occasionally, the hours of programming afforded may vary by tier within a housing area.

The audit reviewed programming attendance data on each of the four (4) dates to ascertain the number of programming hours offered to each young adult and the number of hours each young adult participated in programming. Program participation hours is based on the number of hours each young adult chooses to participate in programming. The data reflects the young adults present in the housing area during programming on each audit date.¹⁰ 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.

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

⁹ Young adults who are eighteen years old are not housed in ESH blended units with adults.

¹⁰ On any given day, a young adult may be out to court or transferred in or out of the ESH Unit. These young adults may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return from court.

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March 6, 2018¹¹

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 security reasons and facilitator meeting.
- ❖ B: 1 hour and 30 minutes of programming was offered.
 - There were three (3) young adults housed in this area;
 1. 1 hour 30 minutes
 2. 1 hour 30 minutes
 - One (1) young adult was noted as attending recreation during afforded programming.
- ❖ C: 2 hours and 30 minutes of programming was offered.
 - There were five (5) young adults housed in this area.
 1. Three (3) young adults refused to participate in all afforded programming. Due to incomplete recording, the total hours of program participation for one (1) young adult could not be calculated. In addition, one (1) young adult was out to court during programming hours.
- ❖ D: 5 hours of programming was offered.
 - There were eight (8) 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. 5 hours
 5. 5 hours
 6. 5 hours
 - On this audit date, two (2) young adults refused all afforded programming.
- ❖ E: 2 hours and 30 minutes of programming was offered.
 - There were five (5) young adults housed in this area; their hours of program participation were:
 1. 2 hours 30 minutes
 2. 5 minutes - young adult refused to participate in the majority of programming offered
 3. 2 hours 30 minutes
 - Two (2) young adults refused to participate in programming offered.
- ❖ F: 4 hours of programming was offered.
 - There was one (1) young adult housed in this area, he was in school during part of the programming period and refused to participate in the remainder of programming offered.

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 may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return from court.

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March 14, 2018¹²

On this audit date, up to four (4) hours and ten (10) minutes of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: No programming was offered that day.
- ❖ B: 4 hours of programming was offered in one (1) of the two (2) tiers. In the other tier due to a scheduled staff meeting, no programming was offered. As a result, one (1) young adult was not afforded programming. In addition, one (1) young adult was out to court during afforded programming.
 - There were five (5) young adults housed in this area; for the remaining three (3) young adults, their hours of program participation were:
 1. 24 minutes
 2. 20 minutes
 3. 27 minutes
- ❖ C: 2 hours and 30 minutes of programming was offered.
 - There were five (5) young adults housed in this area;
 - One (1) young adult participated in programming for 5 minutes, refusing to participate in the majority of programming offered. The remaining four (4) young adults refused to participate in afforded programming.
- ❖ D: 4 hours and 10 minutes of programming¹³ was offered.
 - There were four (4) young adults housed in this area; their hours of program participation were:
 1. 3 hours and 20 minutes
 2. 2 hours and 5 minutes
 3. 3 hours 25 minutes
 4. 3 hours 20 minutes
- ❖ E: 2 hours and 30 minutes of programming was offered.
 - There were five (5) young adults housed in this area; their hours of program participation were:
 1. 5 minutes; young adult refused to participate in the majority of programming offered
 2. 15 minutes; young adult refused to participate in the majority of programming offered
 - One (1) young adult refused to participate in all afforded programming. In addition, two (2) young adults were at visits during programming.
- ❖ F: 1 hour and 30 minutes of programming offered.
 - There was one (1) young adult housed in this area and he refused to participate in all afforded programming.

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 may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return from court.

¹³ On this audit date, due to a clerical error which was corrected, the audit originally reflected 3 hours and 10 minutes of programming offered instead of the actual hours afforded being 4 hours and 10 minutes.

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March 20, 2018¹⁴

On this audit date, up to four (4) hours and thirty (30) minutes of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F.

- ❖ A: 5 hours of programming was offered, 2 hours and 30 minutes in each tier.
 - There was one (1) young adult housed in this area; he participated in programming for 12 minutes and refused any additional programming.
- ❖ B: 1 hour 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; their hours of program participation were:
 1. 1 hour 30 minutes
 2. 45 minutes
 - One (1) young adult was out to court during programming. One (1) young adult refused to participate in all afforded programming.
- ❖ C: 2 hour and 30 minutes of programming was scheduled in the afternoon.
 - There were five (5) young adults housed in this area. Three (3) of the young adults were out to court during programming. Due to conflicting data, the total hours of program participation for two (2) of the young adults could not be calculated.
- ❖ D: 4 hours and 10 minutes of programming¹⁵ was offered.
 - There were five (5) 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 10 minutes
 2. 4 hours 10 minutes
 3. 4 hours 50 minutes
 4. 4 hours 10 minutes
 - One (1) young adult was out to court during afforded programming and as a result did not participate in programming on this audit date.
- ❖ E: 4 hours and 30 minutes of programming was offered, 2 hours and 30 minutes in the morning session and 2 hours in the afternoon session.
 - There were five (5) young adults housed in this area; their hours of program participation were:
 1. 1 hour 10 minutes
 2. 10 minutes; young adult refused to participate in the majority of programming offered
 3. 50 minutes
 - Two (2) of the young adults were noted as attending school during programming hours.
- ❖ F: No programming was offered that day.

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 may not be included in the programming reporting. It is important to note that young adults returning from court during programming hours are offered the opportunity to participate in programming upon their return from court.

¹⁵ One (1) young adult received an additional 40 minutes of programming related to his ESH orientation.

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- One (1) young adult was housed in this area, he had been transferred from another housing area within the unit on this audit date. Prior to his transfer he participated in 1 hour and 30 minutes of programming.

March 27, 2018¹⁶

On this audit date, up to four (4) hours and forty (40) minutes of programming was offered to the young adults housed within the six (6) housing areas, labelled A-F

- ❖ A: No programming was offered due to Counselor absence.
- ❖ B: No programming was scheduled.
- ❖ C: 2 hours and 30 minutes of programming was scheduled. Due to a housing area lockdown, programming could not be provided.
- ❖ D: 4 hours and 40 minutes of programming was offered
 - There were six (6) young adults in the housing area, of those present in the area during all afforded programming, their hours of program participation were:
 1. 3 hours
 2. 4 hours 40 minutes
 3. 2 hours
 4. 3 hours
 5. 2 hours
 - One (1) young adult was out to court during a portion of afforded programming and as a result participated in 2 hours of programming.
- ❖ E: 4 hours and 30 minutes of programming was offered; 2 hour and 30 minutes in the morning session and 2 hours in the afternoon session.
 - 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. 30 minutes
 3. 1 hour
 - Two (2) young adults were noted as attending school during programming hours.
- ❖ F: 2 hours and 30 minutes of programming was offered.
 - There was one (1) young adult housed in this area; he participated in 5 minutes of programming and refused any additional programming.

Audit Recommendations

During this audit period, several issues were identified and the following recommendations and corrective action are being considered and/or in progress:

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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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

- As noted in this report, based on a logbook review, on one (1) of the audit dates, two (2) housing areas were not afforded recreation. An investigation was conducted into this matter and corrective action has been taken. ESH Captains should ensure that all areas are afforded recreation and that it has been properly noted in each housing area logbook.

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.