

NYC Department of Correction

Secure Unit Compliance Audit – August 2021

Pursuant to the limited variance granted by the NYC Board of Correction on September 14, 2021, 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 monthly audits 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);
- § 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 August 2021:

- August 3
- August 13
- August 17
- August 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(b) 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 February 9, 2021, and associated variance conditions, this audit report 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

Manual reviews of the housing area logbook, Program and Services Logbook, and Law Library Logbook were conducted to determine whether Law Library services were afforded. In addition to the above logbook reviews, on-site inspections were conducted to determine if the four (4) kiosks and four (4) typewriters located in the unit were operational.

August on-site inspections of kiosks and typewriters were:

- August 6

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- August 13
- August 20
- August 27

§1-06 – Recreation

Manual reviews of the housing area logbook and Mandated Services Logbook were 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 **chooses to** participate in programming.

Education

A review was conducted to determine the number of young adults enrolled in educational services, whether they were provided with educational learning packets, and whether they **chose to** complete and return the educational learning packets.

Audit Findings

§1-05(b) Lock-in

All young adults in the Secure Unit are required to be 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. On August 17, 2021, the scheduled lock-out time for 5:00 a.m. was delayed and did not occur until 6:10 a.m. for all three phases. The delayed scheduled lock-out was due to staff shortage.

The Lock-in/Lock-out Tracking Logbook captures individualized data on an hourly basis related to each young adult's time in and out of his cell. 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.

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 Lock-in/Lock-out Tracking Logbook, for 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.

August 3, 2021

1. There was one (1) young adult in Phase 1; his out of cell time on this audit date was 8 hours 59 minutes

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August 13, 2021

There were three (3) young adults in Phase 1; their out of cell times on this audit date were:

1. 11 hour 59 minutes
2. 12 hour 59 minutes
3. 5 hours

August 17, 2021

There were three (3) young adults in Phase 1; their out of cell times on this audit date were:

1. 9 hours 59 minutes
2. 4 hours 59 minutes, young adult was out to court for most of the day
3. 8 hours

August 26, 2021

There were five (5) young adults in Phase 1; their out of cell times on this audit date were:

1. 10 hours
2. 12 hours
3. 8 hours
4. 9 hours
5. 10 hours

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 Lock-in/Lock-out Tracking Logbook, for 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.

August 3, 2021

There were seven (7) young adults in Phase 2; their out of cell times on this adult date were:

1. 7 hours
2. 8 hours
3. 8 hours
4. 12 hours
5. 10 hours
6. 8 hours
7. 13 hours 58 minutes

August 13, 2021

There were seven (7) young adults in Phase 2; their out of cell times on this adult date were:

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1. 12 hours 59 minutes
2. 2 hours, young adult **chose not** to participate in the majority of out of cell time
3. 12 hours 59 minutes
4. 12 hours 59 minutes
5. 12 hours 59 minutes
6. 12 hours 59 minutes
7. 9 hours 59 minutes

August 17, 2021

There were three (3) young adults in Phase 2; their out of cell times on this adult date were:

1. 7 hours 59 minutes
2. 9 hours
3. 5 hours

August 26, 2021

There were no young adults in Phase 2 on this audit date.

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 Lock-in/Lock-out Tracking Logbook, for 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.

August 3, 2021

There were four (4) young adults in Phase 3; their out of cell times on this audit date were:

1. 9 hours
2. 12 hours
3. 12 hours
4. 8 hours

August 13, 2021

There were two (2) young adults in Phase 3; their out of cell times on this audit date were:

1. 3 hours; young adult **chose not** to participate in the majority of out of cell time
2. 6 hours

August 17, 2021

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

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1. 12 hours 59 minutes
2. 13 hours 59 minutes
3. 9 hours
4. 8 hours
5. 5 hours; young adult **chose not** to participate in the majority of out of cell time
6. 5 hours; young adult **chose not** to participate in the majority of out of cell time

August 26, 2021

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

1. 12 hours 59 minutes
2. 12 hours 59 minutes
3. 12 hours 59 minutes
4. 12 hours 59 minutes
5. 5 hours; young adult **chose not** to participate in the majority of out of cell time
6. 8 hours; young adult **chose not** to participate in the majority of out of cell time

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

Law Library Coordinator

A manual review of the Programs and Services Logbook, housing area logbook and Law Library Logbook, revealed that the Law Library Coordinator was in the unit to provide assistance on two (2) of the four (4) audit dates – August 3 and August 13, 2021. The Law Library Coordinator's time for these two (2) audit dates audited was in compliance with the provisions of the Board's Minimum Standards i.e., a minimum of two (2) hours.

For the remaining two (2) audit dates, August 17 and August 26, 2021, Law Library services were not provided in the Secure Unit due to unscheduled absences by the Law Library Coordinator.

August 3, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. Of the twelve (12) young adults, two (2) young adults **chose to** request and were provided Law Library services on this audit date. The arrival and departure times for the Law Library Coordinator on this audit date were:

- Arrived 11:30 a.m. / Departed 6:06 p.m.

August 13, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. Of the twelve (12) young adults, two (2) young adults **chose to** request and were provided Law Library services on this audit date. The arrival and departure times for the Law Library Coordinator on this audit date were:

- Arrived 11:00 a.m. / Departed 5:05 p.m.

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August 17, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. Law library services were not provided on this audit date due to the Law Library Coordinator's unscheduled absence.

August 26, 2021

There were eleven (11) young adults in the Secure Unit on this audit date. Law library services were not provided on this audit date due to the Law Library Coordinator's unscheduled absence.

Kiosks and Typewriters

As noted above, the kiosks and typewriters were inspected on four (4) dates during the audit period – August 6, 13, 20, and 27, 2021.

Typewriters:

On two (2) of the four (4) audit dates, August 6 and August 13, 2021, two (2) of the four (4) typewriters were inoperable. For the remaining two (2) audit dates – August 20 and 27, 2021 – three (3) of the four (4) typewriters were inoperable.

Kiosks:

On the four (4) audit dates, August 6, 13, 20, and 27, 2021, all four (4) kiosks were inoperable. According to the Director of Law Libraries, the kiosks can become inoperable due to prolonged inactivity. Legal Coordinators reactivate the kiosks' servers when possible.

§1-06 – Recreation

All young adults in the Secure Unit are afforded a minimum of one (1) hour of recreation per day, seven (7) days per week, in the outdoor recreation area, except in inclement weather when the indoor recreation area is used.

The audit reviewed recreational data for each of the four (4) dates – August 3, 13, 17, and 26, 2021 – to ascertain the total number of young adults that **chose to** participate in recreation.

On two (2) of the four (4) audit dates – August 3 and August 26, 2021 – recreation was afforded to all young adults in the Secure Unit. For the two (2) remaining audit dates, August 13 and 17, 2021, recreation was not afforded to young adults in the Secure Unit.

August 3, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. Please note the following:

- Four (4) young adults **chose to** participate in afforded recreation.
- Eight (8) young adults **chose not** to participate in afforded recreation.

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August 13, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. Recreation could not be afforded on this audit date due to staffing challenges related to the Department's COVID-19 response.

August 17, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. Recreation could not be afforded on this audit date due to staffing challenges related to the Department's COVID-19 response.

August 26, 2021

There were eleven (11) young adults in the Secure Unit on this audit date. Please note the following:

- Five (5) young adults **chose to** participate in afforded recreation.
- Six (6) young adults **chose not** to participate in afforded recreation.

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

In the Secure Unit, programming is afforded to young adults during their out of cell time based on the corresponding phase they are in within the unit they are housed. The out of cell time increases incrementally 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. Young adults are offered programming through the availability of books and self-guided programming packets developed by community partners. The self-guided programming packets comprise a variety of activities, including interactive journaling books, anger management exercises, goal setting and coping skills, reading materials and worksheets, and creative arts activities. In-person programming through Individual Counseling, Structured Recreation, and Group Counseling are provided in addition to being available upon request to young adults in the Secure Unit. Social services are afforded by counselors, which can either be requested by a social service slip or during a counselor's tour when an inquiry is made that may be designated as social service. Social service includes the provision or referral of a support service, or case management-related engagement and discussion.

The audit revealed programming attendance data on each of the four (4) audit dates to ascertain the number of programming hours offered to each young adult and the number of hours each young adult **chose to** participate in programming. Programming participation hours are based on the number of hours each young adult **chose to** participate in programming.

The data reflects the young adults present in the housing area during programming on each audit date. In-person programming in the Secure Unit was not afforded to young adults on two (2) of the four (4) audit dates – August 3 and August 13, 2021. For the remaining audit dates, August 17 and 26, 2021, in-person programming was afforded.

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August 3, 2021

There were twelve (12) young adults housed in the Secure Unit on this audit date. In-person programming was not offered to the twelve (12) young adults on this audit date due to a staff meeting.

August 13, 2021

There were twelve (12) young adults housed in the Secure Unit on this audit date. In-person programming was not offered to the twelve (12) young adults on this audit date due to staff on annual leave.

August 17, 2021

There were twelve (12) young adults housed in the Secure Unit on this audit date.

Quad A – There were two (2) young adults in this quad.

- ❖ Two (2) hours of in-person programming were offered to the (2) young adults in this quad.
 - Two (2) young adults in Phase 2 were offered and **chose to** participate in two (2) hours of in-person programming.

Quad B – There were two (2) young adults in this quad.

- ❖ Up to five (5) hours and forty-five (45) minutes of in-person programming was offered to the two (2) young adults in this quad.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in five (5) hours and forty-five (45) minutes of in-person programming.
 - One (1) young adult in Phase 3 was offered four (4) hours and thirty (30) minutes of in-person programming. He **chose not** to participate in the remaining in-person programming.

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

- ❖ Up to two (2) hours and thirty-five (35) minutes of in-person programming were offered to the five (5) young adults in this quad.
 - One (1) young adult in Phase 3 was offered two (2) hours and ten (10) minutes of in-person programming. He **chose to** participate in ten (10) minutes of in-person programming and **chose not** to participate in all remaining in-person programming.
 - One (1) young adult in Phase 3 was offered two (2) hours and thirty-five (35) minutes of in-person programming. He **chose to** participate in thirty-five (35) minutes of in-person programming and **chose not** to participate in all remaining in-person programming.
 - Two (2) young adults, one in Phase 1 and the other in Phase 2, were offered and **chose to** participate in two (2) hours of in-person programming.

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- One (1) young adult in Phase 3 was offered and **chose to** participate two (2) hours and thirty (30) of in-person programming.

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

- ❖ Up to two (2) hours and twenty (20) minutes of in-person programming was offered to the two (2) young adults in this quad.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and fifteen (15) minutes of in-person programming.
 - One (1) young adult in Phase 1 was offered and **chose to** participate in two (2) hours and twenty (20) minutes of in-person programming.
 - One (1) young adult in Phase 1 was out to court during afforded in-person programming.

August 26, 2021

There were eleven (11) young adults housed in the Secure Unit on this audit date.

Quad A – There were two (2) young adults in this quad.

- ❖ Up to two (2) hours and nine (9) minutes of in-person programming was offered to the two (2) young adults in this quad.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and nine (9) minutes of in-person programming.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and seven (7) minutes of in-person programming.

Quad B – There were two (2) young adults in this quad.

- ❖ Up to two (2) hours and twenty (20) minutes of in-person programming was offered to the two (2) young adults in this quad.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and twenty (20) minutes of in-person programming.
 - One (1) young adult in Phase 1 was offered and **chose to** participate in two (2) hours and ten (10) minutes of in-person programming.

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

- ❖ Up to two (2) hours and fifteen (15) minutes of in-person programming was offered to the five (5) young adults in this quad.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and ten (10) minutes of in-person programming.
 - One (1) young adult in Phase 1 was offered and **chose to** participate in two (2) hours of in-person programming.
 - One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and fifteen (15) minutes of in-person programming.

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- One (1) young adult in Phase 3 was offered and **chose to** participate in two (2) hours and fifteen (15) minutes of in-person programming.
- One (1) young adult in Phase 1 was offered and **chose to** participate in two (2) hours and ten (10) minutes of in-person programming.

Quad D – There were two (2) young adults in this quad.

- ❖ Up to two (2) hours and twenty (20) minutes of in-person programming was offered to the two (2) young adults in this quad.
 - One (1) young adult in Phase 1 was offered and **chose to** participate in two (2) hours and twenty (20) minutes of in-person programming.
 - One (1) young adult in Phase 1 was offered and **chose to** participate in two (2) hours and fifteen (15) minutes of in-person 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 form in the Secure Unit. The NYC Department of Education began educational services on September 21, 2020 remotely to young adults who were enrolled in school. Each young adult was provided a tablet Monday through Friday from 9 a.m. to 2 p.m., with educational materials uploaded by the NYC Department of Education. Young adults were able to send messages and respond to messages with their teachers. In addition, a hotline number was established for young adults in the unit to speak with a teacher if they had any questions or needed support. As of December 14, 2020, the use of tablets to provide remote learning to young adults in the Secure Unit was suspended due to security concerns. Young adults in the unit were then provided educational learning packets instead of the tablets.

No school was afforded on the audit dates of August 3, 13, 17, and 26, 2021 due to summer recess and because no young adults were identified by the NYC Department of Education as mandated 12-month Individual Education Plan (IEP) students.

August 3, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. On this audit date, no summer school educational services were provided because no young adults in the Secure Unit were 12-month IEP students.

August 13, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. On this audit date, no summer school educational services were provided because no young adults in the Secure Unit were 12-month IEP students.

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August 17, 2021

There were twelve (12) young adults in the Secure Unit on this audit date. On this audit date, no summer school educational services were provided because no young adults in the Secure Unit were 12-month IEP students.

August 26, 2021

There were eleven (11) young adults in the Secure Unit on this audit date. On this audit date, no summer school educational services were provided because no young adults in the Secure Unit were 12-month IEP students.

Audit Recommendations

Recommendations for the Secure Unit Audit Report are reported quarterly rather than monthly per an agreement with the Board of Correction. The Secure Unit Audit Report covering the month of May 2021 was the last Secure Unit Audit Report which indicated recommendations. A quarterly period has transpired since the last audit report with recommendations, and recommendations are therefore included in this audit report.

The following recommendations were indicated in the Secure Unit Audit Report covering the month of May 2021. The status of the Department's efforts to implement each of the recommendations listed below is indicated after each recommendation:

Lock-in/Lock-out

- The area supervisor shall review the housing area logbook on each tour, to determine whether all staff are consistently documenting the Phase 1, 2, and 3 lock-in and lock-out times for all persons in custody. When deficiencies are identified, the designated supervisory staff person shall counsel the relevant custody staff person and instruct him or her to record all required information.

Status of implementation: The facility re-issued Memorandum 014/21, entitled 11B Housing Area and Lock-in/Lock-out Logbook- Secure Unit (11B), which requires:

- Staff assigned to the Secure Unit are to record the Lock-in and Lock-out times of all young adults in the housing area logbook in accordance with their Phase level.
- Supervisory staff shall regularly review the housing area logbook and Lock-in/Lock-out Logbook to determine whether staff are accurately recording the Lock-in and Lock-out times for all young adults and individual young adults. When deficiencies are found, supervisors shall instruct staff to correct the deficiency and record the required information.

Recreation

- Designated supervisory staff should regularly review the Special Housing Area Mandated Services Logbook and the housing area logbook to determine whether custody staff have recorded all required information, particularly the recreation commencement times and completion times. Supervisory staff shall ensure that custody staff are consistently and

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accurately recording recreation information in both the Special Housing Area Mandated Services Logbook and the housing area logbook. The recreation information in these two logbooks should not conflict with one another. When deficiencies are identified, the designated supervisory staff person shall counsel the relevant custody staff person and instruct him or her to record all required information in both logbooks.

Status of implementation: The facility re-issued Memorandum 013/21, entitled Mandated Services Logbook-Recreation/Secure Unit (11B), which requires:

- Staff shall include the times in the Mandated Services Logbook that recreation commenced and completed.
 - Staff shall record the following in the housing area logbook: the names of each young adult that participated in recreation, the times that recreation commenced and was completed, and/or was refused by a young adult.
 - Supervisory staff shall regularly review the Mandated Services Logbook and the housing area logbook to determine whether staff have accurately recorded all required information pertaining to recreation.
- Law Library services were not afforded on May 27, 2021. The Director of Law Libraries, in conjunction with the facility administration, should ensure that designated staff are scheduled to provide Law Library services to young adults in the Secure Unit. In the case of staff absences, when possible, the Director of Law Libraries should assign other staff to provide Law Library coverage.

Status of implementation: The Director of Law Libraries reported that, according to the BOC Minimum Standards, “Legal coordinator coverage shall be provided during the extended absences of the regularly assigned Legal Coordinator(s).” The Director further stated that Law Library Coordinator coverage was provided on the day preceding and the day following each of the noted Law Library Coordinator absences.

The findings in the Secure Unit Audit Report covering August 2021 require the following three (3) recommendations:

Lock-in/Lock-out

- The area supervisor shall review the housing area logbook on each tour, to determine whether all staff are consistently documenting the Phase 1, 2, and 3 lock-in and lock-out times for all persons in custody. When deficiencies are identified, the designated supervisory staff person shall counsel the relevant custody staff person and instruct him or her to record all required information.

Recreation

- Designated supervisory staff shall ensure that there is sufficient custodial staff coverage, including supervisory custodial staff coverage, in the Secure Unit to ensure that young adults are provided with mandated recreation daily.
- Law Library services were not afforded on August 17 and August 26, 2021. The Director of Law Libraries, in conjunction with the facility administration, should ensure that designated staff are scheduled to provide Law Library services to young adults in the

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Secure Unit. In the case of staff absences, when possible, the Director of Law Libraries should assign other staff to provide Law Library coverage.