

## NYC Department of Correction Secure Unit Compliance Audit - August 2018

In July 2017, the NYC Department of Correction (“Department”) commenced an audit of the Secure Unit related to the provisions of the NYC Board of Correction Minimum Standards §1-05 Lock-in and §1-08(f) Access to Courts and Legal Services, including Law Library. Pursuant to the Secure Unit variance renewal granted by the Board on May 8, 2018, the Department is permitted to reduce out-of-cell time afforded to a minimum of ten (10) hours a day and to provide Law Library services within the unit through the assignment of a Law Library Coordinator and the use of Law Library kiosks and typewriters.

Pursuant to the variance conditions, the audit has been further expanded to include the provisions of Minimum Standard §1-06 Recreation and the affording of one (1) hour of recreation seven (7) days per week. In addition, beginning in February 2018, the audit also includes §1-02(c)(2) Classification: the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

### 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) random dates each month.

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

- August 1<sup>st</sup>
- August 7<sup>th</sup>
- August 14<sup>th</sup>
- August 23<sup>rd</sup>

Additionally, on-site inspections of the Secure Unit kiosks and typewriters were conducted on four (4) random dates, listed below.

### **§1-05 Lock-in**

A manual review of housing area logbooks was performed to determine whether ten (10), twelve (12) and fourteen (14) hours of out-of-cell time was afforded to young adults based on their phase. In addition, pursuant to the Secure Unit variance granted by the Board on May 8, 2018 and associated variance conditions, this audit report provides individualized data related to each young adults’ 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) kiosks and four (4) typewriters located in the unit were operational.

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August On-site Inspections:

- August 3<sup>rd</sup>
- August 10<sup>th</sup>
- August 24<sup>th</sup>
- August 29<sup>th</sup>

### **§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 the Secure Unit are afforded lock-out hours based on their housing phase: ten (10) hours in Phase 1, twelve (12) hours in Phase 2, and fourteen (14) hours in Phase 3. Lock-in/lockout was consistently recorded for the phases in which young adults were housed within the unit; except on two (2) of the audit dates, where institutional lock-in was not recorded during one (1) tour: on August 1, 2018 for Phases 1 and 2 and on August 23, 2018, for Phases 2 and 3.

During this reporting period, on August 1, 2018 there were no young adults housed in Phase 3. In addition, on August 23, 2018, there were no young adults in housed Phase 1.

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

#### **Phase 1**

Young adults in Phase 1 are afforded ten (10) hours out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Phase 1, based on a manual review of the logbook, on the dates audited. The out-of-cell time is the hours each day

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that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults' present in the unit for institutional lock outs on each audit date.<sup>1</sup>

#### **August 1, 2018**

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

1. 6 hours 15 minutes
2. 8 hours 21 minutes
3. 3 hours 1 minute
4. 5 hours 1 minute
5. 7 hours 50 minutes
6. 8 hours 10 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.

#### **August 7, 2018**

There were four (4) young adults in Phase 1; their-out-of-cell times on this audit date were:

1. 7 hours 52 minutes
2. 8 hours 30 minutes
3. 8 hours 8 minutes
4. 8 hours 14 minutes

#### **August 14, 2018**

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

1. 8 hours 44 minutes
2. 7 hours 45 minutes
3. 8 hours 12 minutes

#### **August 23, 2018**

There were no young adults housed in Phase 1 on this audit date.

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<sup>1</sup> On any given day, a young adult may be out to court or transferred in or out of the Secure Unit. Depending on the length of time these young adults are in the housing unit, they may not be included in the out-of-cell time reporting.

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### Phase 2

Young adults in Phase 2 are afforded twelve (12) hours out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Phase 2, based on a manual review of the logbook, on the audit dates. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.<sup>2</sup>

#### **August 1, 2018**

There was one (1) young adult in Phase 2. He was out to court for a majority of the day, and as a result, his out-of-cell time was one (1) hour and twenty (20) minutes.

#### **August 7, 2018**

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

1. 7 hours 41 minutes
2. 5 hours 50 minutes, young adult refused a significant portion of afforded out-of-cell time

#### **August 14, 2018**

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

1. 7 hours 22 minutes
2. 9 hours 40 minutes
3. 9 hours 22 minutes

#### **August 23, 2018**

There were five (5) young adults in Phase 2; their out-of-cell times on this audit date were:

1. 9 hours 31 minutes
2. 9 hours 43 minutes
3. 9 hours 49 minutes
4. 9 hours 52 minutes
5. 10 hours 34 minutes

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<sup>2</sup> On any given day, a young adult may be out to court or transferred in or out of the Secure Unit. Depending on the length of time these young adults are in the housing unit, they may not be included in the out-of-cell time reporting.

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### Phase 3

Young adults in Phase 3 are afforded fourteen (14) hours out-of-cell time each day. Listed below is individualized data related to each young adult's total out-of-cell time in Phase 3, based on a manual review of the logbook, on the audit dates. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.<sup>3</sup>

#### **August 1, 2018**

There were no young adults housed in Phase 3 on this audit date.

#### **August 7, 2018**

There was one (1) young adult in Phase 3; his out-of-cell time on this audit date was twelve (12) hours and eleven (11) minutes.

#### **August 14, 2018**

There was one (1) young adult in Phase 3; his out-of-cell time on this audit date was twelve (12) hours and forty-six (46) minutes.

#### **August 23, 2018**

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

1. 10 hours 57 minutes
2. 11 hours

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

#### Law Library Coordinator

A manual review of the housing area logbooks reflected that the Law Library Coordinator was in the unit to provide assistance on all four (4) days audited.<sup>4</sup> The duration of the Law Library Coordinator's time in the unit during the dates audited were in compliance with the provisions of Minimum Standards. On average, on the dates audited, the Coordinator was in the unit for approximately four (4) hours.

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<sup>3</sup> On any given day, a young adult may be out to court or transferred in or out of the Secure Unit. Depending on the length of time these young adults are in the housing unit, they may not be included in the out-of-cell time reporting.

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

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During the reporting period, on the dates audited, a maximum of seven (7) young adults were housed in Secure Unit. In addition, during the dates audited, between four (4) to six (6) young adults received assistance from the Coordinator.

#### Kiosks and Typewriters

As noted above, the kiosks and typewriters were inspected on four (4) dates during the audit period. On all four (4) of the audit dates, all four (4) typewriters were operational. On two (2) of the audit dates, all four (4) kiosks were operational; on the remaining two (2) audit dates, one (1) of the four (4) kiosks and was out of service.

#### **§1-06 – Recreation**

In Secure Unit, young adults are afforded recreation based on their quad. Institutional recreation was afforded to young adults present in the unit on all four (4) audit dates.<sup>5</sup>

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

In the Secure Unit, programming is afforded to young adults during their out-cell-time which is based on the phase within the unit they are housed. Program Counselors circulate through the quad areas to provide programming services. Programming is provided Sunday through Thursday. Young adults are also offered self-guided programming through the availability of books and other educational materials.

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

Listed below is the number of programming hours offered and the number of hours each young adult participated in such programming, by quad: up to four (4) quads (A-D).

#### **August 1, 2018**

There were seven (7) young adults housed in the Secure Unit on this audit date. On this audit date, limited programming was offered due to one counselor being on leave and another counselor's required attendance at a meeting.

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<sup>5</sup> Logbook entries reflect that on one (1) of the audit dates, two (2) young adults were out to court, or out of the unit for a portion of the day.

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### Quad A

- ❖ One (1) hour of programming was offered.
  - There were two (2) young adults in this quad; their hours of program participation were:
    - 1 hour
    - 1 hour

### Quad B

- ❖ One (1) hour of programming was offered.
  - There was one (1) young adult in this quad; he participated in one (1) hour of programming.

### Quad C

- ❖ There was one (1) young adult in this quad, he was out to court during afforded programming.

### Quad D

- ❖ One (1) hour of programming was offered.
  - There were three (3) young adults in this quad; their hours of program participation were:
    - 1 hour
    - 1 hour
    - 1 hour

### **August 7, 2018**

There were seven (7) young adults housed in the Secure Unit on this audit date. On this audit date, limited programming was offered due to counselor absence.

### Quad A

- ❖ Four (4) hours and forty-five (45) minutes of programming was offered.
  - There were two (2) young adults in this quad, their hours of program participation were:
    - 4 hours and 45 minutes
    - 4 hours and 45 minutes

### Quad B

- ❖ Three (3) hours and forty-five (45) minutes of programming was offered.

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- There was one (1) young adult in this quad; he participated in three (3) hours and forty-five (45) minutes of programming.

#### Quad C

- ❖ Four (4) hours and forty-five (45) minutes of programming was offered.
  - There was one (1) young adult in this quad; he participated in four (4) hours and forty-five (45) minutes of programming.

#### Quad D

- ❖ Three (3) hours and twenty (20) minutes of programming was offered.
  - There were three (3) young adults in this quad, their hours of program participation were:
    - 3 hours and 20 minutes
    - 3 hours and 20 minutes
    - 3 hours and 20 minutes

### **August 14, 2018**

There were seven (7) young adults housed in the Secure Unit on this audit date. On this audit date, one counselor provided programming and the other counselor was attending a Secure Unit Review meeting.

#### Quad A

- ❖ Four (4) hours and thirty (30) minutes of programming was offered
  - There were two (2) young adults in this quad; their hours of program participation were:
    - 4 hours and 30 minutes
    - 4 hours and 30 minutes

#### Quad B

- ❖ Five (5) hours and forty-five (45) minutes of programming was offered.
  - There was one (1) young adult in this quad; he participated in five (5) hours and forty-five (45) minutes of programming.

#### Quad C

- ❖ Five (5) hours and fifteen (15) minutes of programming was offered.
  - There was (1) young adult in this quad; he participated in five (5) hours and fifteen (15) minutes of programming.

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#### Quad D

- ❖ Four (4) hours and twenty (20) minutes of programming was offered.
  - There were three (3) young adults in this quad; their hours of program participation were:
    - 4 hours and 20 minutes
    - 4 hours and 20 minutes
    - 4 hours and 20 minutes

#### **August 23, 2018**

There were seven (7) young adults housed in the Secure Unit on this audit date. On this audit date, limited programming was offered due to counselor temporary reassignment and counselor absence during part of the day.

#### Quad A

- ❖ Two (2) hours of programming was offered.
  - There were two (2) young adults in this quad; their hours of program participation were:
    - 2 hours
    - 2 hours

#### Quad B

- ❖ Two (2) hours of programming was offered.
  - There was one (1) young adult in this quad; he participated in two (2) hours of programming.

#### Quad C

- ❖ Two (2) hours of programming was offered.
  - There was one (1) young adult in this quad; he participated in two (2) hours of programming.

#### Quad D

- ❖ Two (2) hours of programming was offered.
  - There were three (3) young adults in this quad; their hours of program participation were:
    - 2 hours
    - 2 hours

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- 2 hours

#### Audit Recommendations

The Department commenced audit reporting in July 2017. Through the audit structure, issues have been identified and corrective measures have been instituted ranging from the use of new logbooks to officer training and supervisory oversight to facilitate proper, consistent, recording of logbook information related to the provision of mandated services and recording of afforded programming and program participation via attendance documentation.<sup>6</sup> There has been marked improvements in data recording in the audit areas. The below recommendations should remain in effect to maintain the progress accomplished and address any issues that arise through the audit process.

#### Lock-in/Lock-out

- Conduct facility unit staff trainings on the use of the tracking logbook, as needed, to ensure that all facility unit staff are knowledgeable on how to properly document institutional and individualized data.
- A Unit Captain should review the logbook at the end of each tour to ensure that lock-in/lock-out is recorded accurately and consistently, which shall be documented through a logbook entry. Based on such review, facility administration should take corrective action as needed.
  - During this audit period, as noted herein, on two (2) of the audit dates, institutional lock-in was not recorded during one (1) tour: on August 1, 2018 for Phases 1 and 2 and on August 23, 2018, for Phases 2 and 3.

#### Kiosks and Typewriters

- To facilitate the maintenance and operation of the typewriters and kiosks in the unit, instruct designated facility and Law Library staff to check on a daily basis that all typewriters and kiosks are operational. Additionally, when a typewriter or kiosk is identified in need of repair, facility administration in coordination with the Director of Law Libraries should ensure that repairs are conducted in a timely manner.
  - As noted in this report, on two (2) of the audit dates, one (1) kiosk was not operational.

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<sup>6</sup> Beginning in February 2018, the audit was inclusive of Minimum Standards §1-02(c)(2) Classification: the number of programming hours offered to each young adult and the number of hours each young adult participated in programming.

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#### Recreation

- Logbook entries should continue to record information related to when recreation was afforded to the young adults in each quad, whether the young adult choose to go to recreation or refused, and the duration for which the young adult was in recreation.

#### 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 continue to provide comprehensive individualized outcomes, by:
  - Recording of program start and end time, by participant;
  - Delineating the reason for participants' absences;
  - Ensuring that program data is accurate, thorough and complete.
- 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.