

## New York City Department of Correction

### Young Adult ESH Compliance Audit – December 2020

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on November 10, 2020 allowing for the continued use of Enhanced Supervision Housing (ESH) for young adults (18 to 21 years old), the related variance conditions require 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 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**

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) randomly selected dates from each month. The scope of the audit encompasses only those housing units within ESH in which young adults are housed within the audit period. On the four (4) audit dates specified below, young adults were housed in up to three (3) ESH housing areas.

This audit report covers the following four (4) dates in the month of December 2020:

- December 2
- December 8
- December 15
- December 22

In addition, on-site inspections of the ESH unit kiosks and typewriters were conducted on four (4) randomly selected dates:

- December 4
- December 11
- December 16
- December 28

#### **§1-05(b) 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 were afforded to the young adults based on their housing level. This audit report also provides individualized data related to each young adult's out-of-cell time during the reporting period.

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

A manual review of Law Library Logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were conducted to determine if the kiosks and typewriters located within the various young adult ESH housing areas were operational.

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#### §1-06 – Recreation

A manual review of housing area logbooks was conducted to determine whether one (1) hour of outdoor 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 **chose 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 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 four (4) dates audited, institutional **lock-out** and **lock-in** were consistently recorded in the Lock-In/Out Logbook for each of the levels.

All young adults in ESH are housed in single occupancy cells within their respective housing area. Each ESH housing area consists of multiple single occupancy cells located on two (2) tiers – the lower tier and the upper tier. Young adults in Level I and Level II are afforded seven (7) hours of lock-out time each day. For each young adult in these two levels, the specific time that he locks out depends on his tier's lock-out schedule. For example, one (1) day the lower tier locks out in the am and the upper tier locks out in the pm. The following day the upper tier locks out in the am and the lower tier locks out in the pm. Regardless of the lock-out schedule for ESH young adults in Levels I and II, they are all afforded seven (7) hours of lock-out time on any given day. Young adults in Level III, who are afforded fourteen (14) hours of lock-out time, are not subject to a tier lock-out schedule. Young adults in Level III are all afforded lock-out during both the am and pm hours, regardless of the tier in which they are housed. 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.

##### 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 I, based on a manual review of the Lock-In/Out 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 the institutional lock-outs on each audit date.

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### December 2, 2020

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

### December 8, 2020

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

### December 15, 2020

There were seven (7) young adults in Level I; their out-of-cell times on this audit date were:

1. 3 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Upper Tier)
2. 3 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Upper Tier)
3. 3 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Upper Tier)
4. 3 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Upper Tier)

On this audit date, three (3) Lower Tier young adults transferred out of the unit and, as a result, they did not participate in lock-out options.

### December 22, 2020

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

1. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Lower Tier)
2. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Lower Tier)
3. 2 hours; young adult **chose not** to participate in the majority of afforded out-of-cell time. (Lower Tier)

On this audit date, one (1) Lower Tier young adult and one (1) Upper Tier young adult **chose not** to participate in all out-of-cell time.

### 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 Lock-In/Out Logbook, for 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 the institutional lock-outs on each audit date.

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### December 2, 2020

There was one (1) young adult in Level II; his out-of-cell time on this audit date was 7 hours 20 minutes. (Lower Tier)

### December 8, 2020

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

1. 7 hours (Lower Tier)

On this audit date, one (1) Lower Tier young adult and one (1) Upper Tier young adult **chose not** to participate in all out-of-cell time.

### December 15, 2020

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

1. 7 hours (Lower Tier)
2. 7 hours (Upper Tier)

### December 22, 2020

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

1. 7 hours (Upper Tier)
2. 7 hours (Lower Tier)
3. 7 hours (Lower Tier)
4. 7 hours (Upper Tier)
5. 7 hours (Lower Tier)

On this audit date, one (1) Upper Tier young adult **chose not** to participate in all out-of-cell time.

### 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 Lock-In/Out Logbook, for 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 the institutional lock-outs on each audit date.

### December 2, 2020

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

1. 8 hours 16 minutes (Upper Tier)
2. 10 hours 22 minutes (Upper Tier)
3. 11 hours 20 minutes (Lower Tier)

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4. 11 hours 16 minutes (Lower Tier)

#### **December 8, 2020**

There were four (4) young adults in Level III; On this audit date, the total afforded lock-in/out times could not be determined for these four (4) young adults because the facility was unable to locate the Lock-In/Out Logbook.

#### **December 15, 2020**

There were two (2) Upper Tier young adults and two (2) Lower Tier young adults in Level III on this audit date. The total afforded lock-in/out times could not be determined because staff did not record the lock-in and lock-out times for these four (4) young adults in the Lock-In/Out Logbook.

#### **December 22, 2020**

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

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

#### Law Library Coordinator

In ESH, there are four (4) Law Library Coordinators assigned to areas in which young adults were housed.<sup>1</sup> A manual review of the Law Library Logbooks indicated that the Law Library Coordinators were in these areas to provide assistance on three (3) of the four (4) days audited – December 2, 8 and 22, 2020.<sup>2</sup> However, in the case of December 8, 2020, due to a Law Library Coordinator's unscheduled absence, three (3) housing areas, labeled A, B, and C were not provided Law Library services in the afternoon session, although these housing areas were provided Law Library services in the morning session. For the audit date of December 15, 2020, due the Law Library Coordinators' scheduled and unscheduled absences, three (3) housing areas, labeled A, B, and C were not provided Law Library services in the morning and afternoon sessions. Although there were no Law Library Coordinators on duty on December 15, 2020, the young adults in ESH were able to receive some Law Library services by the trained ESH Law Library Officer.<sup>3</sup> The Law Library Officer collected all the Law Library service requests forms in the morning and afternoon sessions, and provided the Law Library services within the Officer's purview, i.e., copies, forms, supplies, notary, access to view discovery, etc.

With the exception of December 15, 2020, in the three (3) housing areas labeled A, B, and C, the audit was able to verify by auditing available records that the duration of each Law Library Coordinator's time, in ESH areas during the dates audited, was in compliance with the provisions of the Minimum Standards i.e., a minimum of two (2) hours. On some of the audit dates, some young adults did not request Law Library assistance.

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<sup>1</sup> To facilitate the provision of Law Library services, within their assigned areas, Law Library Coordinators provide services to all individuals regardless of whether it is during the individual's lock-out period.

<sup>2</sup> This is evidenced by the Law Library Coordinators signing in and out of the Law Library Logbook on each of the audit dates.

<sup>3</sup> This is evidenced by the Law Library Officer recording the young adults' names and the Law Library service provided in the Law Library Logbook.

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Listed below is a total count of young adults housed in ESH, for each date audited, and the total number of young adults that were assisted by the Law Library Coordinators.

#### **December 2, 2020**

There were five (5) young adults in ESH on this audit date. Of the five (5) young adults, one (1) young adult **chose to** request and was provided Law Library services.

#### **December 8, 2020**

There were seven (7) young adults in ESH on this audit date. No young adults **chose to** request Law Library services.

#### **December 15, 2020**

There were thirteen (13) young adults in ESH on this audit date. Of the thirteen (13) young adults, two (2) young adults **chose to** request and were provided Law Library services by the Law Library Officer.

#### **December 22, 2020**

There were eleven (11) young adults in ESH on this audit date. No young adults **chose to** request Law Library services.

#### **Kiosks and Typewriters**

During this audit period, young adults were housed in up to three (3) housing areas in ESH, labeled A-C. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. All Law Library services are being afforded and fulfilled by the Legal Coordinators through request slips. Listed below are the numbers of kiosks and typewriters in each ESH housing area, including the status of their operability for the dates audited:

#### **December 4, 2020**

On this audit date, young adults were housed within the three (3) young adult ESH housing areas, labeled A-C. The numbers of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)
- B: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### **December 11, 2020**

On this audit date, young adults were housed within the three (3) young adult ESH housing areas, labeled A-C. The numbers of kiosks and typewriters in each area and their operability were as follows:

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- A: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)
- B: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)
- C: One (1) Kiosk (**inoperable**) / One (1) Typewriter (**inoperable**)

#### December 16, 2020

On this audit date, young adults were housed within the three (3) young adult ESH housing areas, labeled A-C. The numbers of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (**not in the area**) / One (1) Typewriter (**not in the area**)
- B: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### December 28, 2020

On this audit date, young adults were housed within two (2) young adult ESH housing areas, labeled A-B. The number of kiosks and typewriters in each area and their operability were as follows:

- A: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)
- B: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### §1-06 – Recreation

All young adults in ESH 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) audit dates – December 2, 8, 15 and 22, 2020 – to ascertain the total number of young adults that participated in recreation and the length of time that each young adult participated in recreation.

#### December 2, 2020

There were five (5) young adults in ESH on this audit date. All of the five (5) young adults **chose not** to participate in all afforded recreation.

#### December 8, 2020

There were seven (7) young adults in ESH on this audit date. Please note the following:

- Three (3) young adults **chose to** participate in afforded recreation.
- Four (4) young adults **chose not** to participate in afforded recreation.

#### December 15, 2020

- There were thirteen (13) young adults in ESH on this audit date. All of the thirteen (13) young adults **chose not** to participate in all afforded recreation.

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**December 22, 2020**

There were eleven (11) young adults in ESH 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**

Young adults in ESH are placed in housing units exclusively with other young adults (18 to 21 years old). Young adults who are 19 to 21 years old can also be commingled in units with adults (22 years old and older). In the commingled housing areas, the provision of programming is provided to each tier separately through two programming sessions. The hours of programming afforded may vary by tier within a housing area. In the young adult exclusive housing areas within ESH, tablets are intended to be utilized in the provision of programming and offered to young adults regardless of whether it is during the individual's lock-out period. The Programs Division is in the process of rolling out the provision of tablets over the coming months. In addition, in the young adult exclusive housing areas, on days when support programming staff are present, young adults may request individualized counseling while other programming components are being held. Due to the coronavirus, Program Counselors did not remain in the housing areas to provide programming services in the same manner as they did in the past. The Department provides to young adults self-guided programming packets as part of programming materials that include activity packets, interactive journaling, and worksheets and were also provided books and other educational materials. In addition, 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. Social service is designated separately in the report as it is a rendering of a request and/or has follow-up that is related to case management.

The audit reviewed programming attendance data on each of the four (4) dates audited 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. Program participation hours are 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.

Please note that 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.

Listed below are the numbers of programming hours offered and participated based on housing areas and their assigned levels.

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#### December 2, 2020

On this audit date, in-person programming was offered to the young adults housed within the two (2) young adult ESH housing areas, labeled A-B.

- ❖ A: Level II – There was one (1) young adult housed in this area. He was offered and **chose to** participate in programming packets and between five (5) to fifteen (15) minutes of in-person programming. The total young adult participation time for programming packets and in-person programming was as follows:
  1. Young adult participation: 23 minutes
- ❖ B: Level III – There were four (4) young adults housed in this area. They were offered and **chose to** participate in programming packets and in-person programming. The total young adult participation times for programming packets and in-person programming were as follows:
  1. Young adult participation: 40 minutes
  2. Young adult participation: 40 minutes
  3. Young adult participation: 40 minutes
  4. Young adult participation: 40 minutes

#### December 8, 2020

On this audit date, in-person programming was offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

- ❖ A: Level II – There was one (1) young adult housed in this area. He was offered and **chose to** participate in programming packets and between five (5) to fifteen (15) minutes of in-person programming. The young adult participation time for programming packets and in-person programming was as follows:
  1. Young adult participation: 13 minutes
- ❖ B: Level II – There were two (2) young adults housed in this area. No programming was offered on this audit date in this housing area due to the young adults' inappropriate behavior.
- ❖ C: Level III – There were four (4) young adults housed in this area. They were offered and **chose to** participate in social services, programming packets, and in-person programming. The total young adult participation times for social services, programming packets, and in-person programming were as follows:
  1. Young adult participation: 21 minutes
  2. Young adult participation: 21 minutes
  3. Young adult participation: 21 minutes
  4. Young adult participation: 21 minutes

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#### December 15, 2020

On this audit date, in-person programming was offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

- ❖ A: Level III – There were four (4) young adults housed in this area. They were offered in-person programming. Two (2) young adults **chose not** to participate in all afforded in-person programming. For the remaining two (2) young adults, they **chose to** participate in in-person programming and their participation times for in-person programming were as follows:
  1. Young adult participation: 35 minutes
  2. Young adult participation: 35 minutes
  
- ❖ B: Level I – There were seven (7) young adults housed in this area. They were offered between five (5) to fifteen (15) minutes of in-person programming. Three (3) young adults transferred out of the unit prior to in-person programming. For the remaining four (4) young adults, they **chose to** participate in in-person programming and their participation times for in-person programming were as follows:
  1. Young adult participation: 10 minutes
  2. Young adult participation: 10 minutes
  3. Young adult participation: 10 minutes
  4. Young adult participation: 10 minutes
  
- ❖ C: Level II – There were two (2) young adults housed in this area. They were offered and **chose to** participate in in-person programming. The total young adult participation times for in-person programming were as follows:
  5. Young adult participation: 22 minutes
  6. Young adult participation: 22 minutes

#### December 22, 2020

On this audit date, in-person programming was offered to the young adults housed within the two (2) young adult ESH housing areas, labeled A-B.

- ❖ A: Level I – There were five (5) young adults housed in this area. They were offered and **chose to** participate in programming packets and between five (5) to fifteen (15) minutes of in-person programming. The total young adult participation times for programming packets and in-person programming were as follows:
  1. Young adult participation: 3 minutes
  2. Young adult participation: 2 minutes
  3. Young adult participation: 4 minutes
  4. Young adult participation: 7 minutes
  5. Young adult participation: 1 minute

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- ❖ B: Level II – There were six (6) young adults housed in this area. They were offered programming packets and in-person programming. Three (3) young adults **chose to** participate in programming packets and refused in-person programming. The remaining three (3) young adults **chose to** participate in programming packets and in-person programming. The young adults' participation times in in-person programming were as follows:
  1. Young adult participation: 50 minutes
  2. Young adult participation: 50 minutes
  3. Young adult participation: 50 minutes

#### Education

The NYC Department of Education offers educational services to all young adults in ESH. 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 aforementioned form and submitting it to any Program’s Division office in the facility after admission. The NYC Department of Education began educational services on September 21, 2020, by providing educational learning packets on a weekly basis to enrolled young adults; each packet contained learning materials for one week. In addition, a hotline was established for the enrolled young adults so that they could call to speak with a teacher if they had any questions or needed support.

The audit reviewed educational data for each of the four (4) audit dates, December 2, 8, 15 and 22, 2020.

#### December 2, 2020

There were five (5) young adults in ESH on this audit date. Of the five (5) young adults, one (1) young adult enrolled in educational services and he was provided with an educational learning packet. This one (1) young adult **chose not** to return any completed educational material.

#### December 8, 2020

There were seven (7) young adults in ESH on this audit date. Of the seven (7) young adults, one (1) young adult enrolled in educational services and he was provided with an educational learning packet. This one (1) young adult **chose not** to return any completed educational material.

#### December 15, 2020

There were thirteen (13) young adults in ESH on this audit date. Of the thirteen (13) young adults, seven (7) young adults enrolled in educational services and they were each provided with an educational learning packet. These seven (7) young adults **chose not** to return any completed educational material.

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**December 22, 2020**

There were eleven (11) young adults in ESH on this audit date. Of the eleven (11) young adults, seven (7) young adults enrolled in educational services and they were each provided with an educational learning packet. These seven (7) young adults **chose not** to return any completed educational material.