

## New York City Department of Correction

### Young Adult ESH Compliance Audit – April 2020

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on February 11, 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), specifically, the amount of time that outdoor recreation was afforded to each young adult;
- § 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. During this audit period, young adults were housed in up to four (4) ESH housing areas.

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

- April 3
- April 8
- April 14
- April 22

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

- April 10
- April 17
- April 21
- April 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 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.

#### **§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

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determine if the kiosks and typewriters located within the various young adult ESH housing areas were operational.

#### **§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 participated in programming.

#### **Education**

A manual review of education attendance data was conducted to determine 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 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

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periods. The data reflects the young adults present in the unit for the institutional lock-outs on each audit date.

#### **April 3, 2020**

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

1. 7 hours (Lower Tier)
2. 15 minutes; young adult refused the majority of afforded out-of-cell time (Upper Tier)
3. 1 hour 15 minutes; young adult refused the majority of afforded out-of-cell time (Upper Tier)
4. 7 hours (Lower Tier)
5. 6 hours (Lower Tier)
6. 4 hours 15 minutes (Lower Tier)
7. 7 hours (Lower Tier)
8. 7 hours (Upper Tier)
9. 2 hours; young adult refused the majority of afforded out-of-cell time (Upper Tier)
10. 2 hours; young adult refused the majority of afforded out-of-cell time (Upper Tier)

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

#### **April 8, 2020**

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

1. 7 hours (Upper Tier)
2. 1 hour; young adult refused the majority of afforded out-of-cell time (Lower Tier)
3. 7 hours (Upper Tier)
4. 4 hours (Upper Tier)
5. 2 hours; young adult refused the majority of afforded out-of-cell time (Lower Tier)
6. 2 hours 45 minutes; young adult refused the majority of afforded out-of-cell time (Upper Tier)
7. 5 hours 45 minutes (Upper Tier)
8. 1 hour 45 minutes; young adult refused the majority of afforded out-of-cell time (Upper Tier)

On this audit date, two (2) Lower Tier young adults refused all afforded out-of-cell time.

#### **April 14, 2020**

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

1. 4 hours 45 minutes (Upper Tier)
2. 4 hours (Upper Tier)
3. 4 hours (Upper Tier)
4. 4 hours (Upper Tier)
5. 5 hours 45 minutes (Upper Tier)

On this audit date, four (4) Lower Tier young adults refused all afforded out-of-cell time.

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### April 22, 2020

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

1. 2 hours; young adult refused the majority of afforded out-of-cell time (Upper Tier)
2. 2 hours 15 minutes; young adult refused the majority of afforded out-of-cell time (Lower Tier)
3. 5 hours 45 minutes (Upper Tier)
4. 3 hours; young adult refused the majority of afforded out-of-cell time (Upper Tier)
5. 2 hours; young adult refused the majority of afforded out-of-cell time (Lower Tier)
6. 2 hours; young adult refused the majority of afforded out-of-cell time (Lower Tier)
7. 2 hours 15 minutes; young adult refused the majority of afforded out-of-cell time (Lower Tier)
8. 2 hours 15 minutes; young adult refused the majority of afforded out-of-cell time (Lower Tier)
9. 4 hours (Upper Tier)
10. 1 hour 45 minutes; young adult refused the majority of afforded out-of-cell time (Upper Tier)
11. 3 hours; young adult refused the majority of afforded out-of-cell time (Upper Tier)

### 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.

### April 3, 2020

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

1. 7 hours 20 minutes (Upper Tier)
2. 4 hours 45 minutes (Lower Tier)
3. 7 hours (Upper Tier)
4. 7 hours (Upper Tier)
5. 7 hours (Lower Tier)

### April 8, 2020

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

1. 7 hours (Upper Tier)
2. 7 hours 5 minutes (Lower Tier)
3. 6 hours 15 minutes (Upper Tier)
4. 7 hours 10 minutes (Lower Tier)

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### **April 14, 2020**

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

1. 7 hours (Upper Tier)
2. 7 hours (Upper Tier)
3. 7 hours (Upper Tier)
4. 4 hours 15 minutes (Lower Tier)

### **April 22, 2020**

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

1. 7 hours 30 minutes (Lower Tier)
2. 7 hours 45 minutes (Upper Tier)
3. 7 hours 5 minutes (Lower Tier)

### 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.

### **April 3, 2020**

There was one (1) young adult in Level III; his out-of-cell time on this audit date was 8 hours 20 minutes. (Lower Tier)

### **April 8, 2020**

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

### **April 14, 2020**

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

### **April 22, 2020**

There was one (1) young adult in Level III; his out-of-cell time on this audit date was 8 hours 17 minutes. (Lower Tier)

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### §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 all the four (4) days audited – April 3, 8, 14 and 22, 2020.<sup>2</sup> However, on April 8, 2020, due to a Law Library Coordinator's unexpected absence, two (2) housing areas, labeled A and B were not provided Law Library services in the morning and afternoon sessions.

With the exception of April 8, 2020, in the two (2) housing areas labeled A and B, 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.

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.

#### **April 3, 2020**

There were seventeen (17) young adults in ESH on this audit date. Of the seventeen (17) young adults, seven (7) young adults requested and were provided Law Library services.

#### **April 8, 2020**

There were fourteen (14) young adults in ESH on this audit date. Of the fourteen (14) young adults, four (4) young adults requested and were provided Law Library services.

#### **April 14, 2020**

There were thirteen (13) young adults in ESH on this audit date. Of the thirteen (13) young adults, two (2) young adults requested and were provided Law Library services.

#### **April 22, 2020**

There were fifteen (15) young adults in ESH on this audit date. Of the fifteen (15) young adults, two (2) young adults requested and were provided Law Library services.

#### Kiosks and Typewriters

During this audit period, young adults were housed in up to four (4) housing areas in ESH, labeled A-D. Young adults in ESH are provided with access to a minimum of one (1) kiosk and

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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.

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one (1) typewriter. Programs Division will work to replace all inoperable typewriters and ensure that all Law Library equipment is in proper working order. Listed below are the numbers of kiosks and typewriters in each ESH housing area, including the status of their operability for the dates audited:

#### April 10, 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 (operable) / One (1) Typewriter (operable)
- B: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### April 17, 2020

On this audit date, young adults were housed within the four (4) young adult ESH housing areas, labeled A-D. The numbers 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**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)
- D: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### April 21, 2020

On this audit date, young adults were housed within the four (4) young adult ESH housing areas, labeled A-D. The numbers 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**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)
- D: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### April 28, 2020

On this audit date, young adults were housed within the four (4) young adult ESH housing areas, labeled A-D. The numbers 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**)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)
- D: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

#### §1-06 – Recreation

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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 – April 3, 8, 14 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.

#### **April 3, 2020**

There were seventeen (17) young adults in ESH on this audit date. Please note the following:

- One (1) young adult participated in one (1) hour of recreation.
- One (1) young adult participated in twenty (20) minutes of recreation.
- Fifteen (15) young adults refused to participate in afforded recreation.

#### **April 8, 2020**

There were fourteen (14) young adults in ESH on this audit date. Please note the following:

- One (1) young adult participated in one (1) hour of recreation
- One (1) young adult participated in twenty (20) minutes of recreation.
- Twelve (12) young adults refused to participate in recreation.

#### **April 14, 2020**

There were thirteen (13) young adults in ESH on this audit date. Please note the following:

- All of the thirteen (13) young adults refused to participate in afforded recreation.

#### **April 22, 2020**

There were fifteen (15) young adults in ESH on this audit date. Please note the following:

- One (1) young adult participated in one (1) hour of recreation.
- One (1) young adult participated in fifty (50) minutes of recreation.
- Thirteen (13) young adults refused 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 co-mingled in units with adults (22 years old and older). Programming is provided to all young adults. 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-



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out period.<sup>3</sup> When young adults receive their tablets, they also have the opportunity to request an additional component of programming during that time. Programs Division is engaging with the vendor to address the tablet security issue and anticipates resolution in 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. In the co-mingled 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.

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 participated 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.

#### **April 3, 2020**

On this audit date, programming was not offered to the young adults housed within the four (4) young adult ESH housing areas, labeled A-D.

- ❖ A: Level II – There were four (4) young adults housed in this area. No programming was scheduled on this audit date.
- ❖ B: Level II – There was one (1) young adult housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ C: Level I – There were eleven (11) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ D: Level III – There was one (1) young adult housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.

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<sup>3</sup> Based on the programming sign-in sheets, no tablets were issued on any of the four (4) dates audited – April 3, 8, 14 and 22, 2020.

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### April 8, 2020

On this audit date, one (1) hour and thirty-five (35) minutes of programming were offered to the young adults housed within the three (3) housing areas, labeled A-C.

- ❖ A: Level II – There were three (3) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ B: Level II – There was one (1) young adult housed in this area. No programming was scheduled on this audit date.
- ❖ C: Level I – There were ten (10) young adults housed in this area.
  - One (1) hour and thirty-five (35) minutes of programming were offered.
    1. Young adult participation: 1 hour 35 minutes
    2. Young adult participation: 1 hour 35 minutes
    3. Young adult participation: 1 hour 35 minutes
    4. Young adult participation: 1 hour 35 minutes
    5. Young adult participation: 1 hour 35 minutes
    6. Young adult participation: 1 hour 35 minutes
    7. Young adult participation: 1 hour 35 minutes
    8. Young adult participation: 1 hour 35 minutes
    9. Young adult participation: 1 hour 35 minutes
    10. Young adult participation: 1 hour 35 minutes

### April 14, 2020

On this audit date, programming was not offered to the young adults housed within the three (3) young adult ESH housing areas, labeled A-C.

- ❖ A: Level II – There were three (3) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ B: Level II – There was one (1) young adult housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ C: Level I – There were nine (9) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.

### April 22, 2020

On this audit date, no programming was scheduled to the young adults housed within the four (4) housing areas, labeled A-D.

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- ❖ A: Level II – There were two (2) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ B: Level II – There was one (1) young adult housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ C: Level I – There were eleven (11) young adults housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.
- ❖ D: Level III – There was one (1) young adult housed in this area. In-person programming did not occur in the unit on this audit date due to social distancing, personnel, and operational considerations related to the coronavirus.

### 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 programs office in the facility after admission. Eligible young adults are provided educational services Monday through Friday, for a minimum of three (3) hours of instruction per day. Classroom instruction is provided both in the morning and afternoon.

The audit reviewed educational data for each of the four (4) audit dates – April 3, 8, 14 and 22, 2020 – to ascertain the total number of young adults brought to school, as well as the time that each young adult arrived to school and the time each young adult departed school.

#### April 3, 2020

There were seventeen (17) young adults in ESH on this audit date. On this audit date, no educational services were scheduled due to the Coronavirus outbreak.

#### April 8, 2020

There were fourteen (14) young adults in ESH on this audit date. On this audit date, no educational services were scheduled due to the Coronavirus outbreak.

#### April 14, 2020

There were thirteen (13) young adults in ESH on this audit date. On this audit date, no educational services were scheduled due to the Coronavirus outbreak.

#### April 22, 2020

There were fifteen (15) young adults in ESH on this audit date. On this audit date, no educational services were scheduled due to the Coronavirus outbreak.