

New York City Department of Correction

Young Adult ESH Compliance Audit – March 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 five (5) ESH housing areas.

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

- March 3
- March 11
- March 17
- March 27

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

- March 13
- March 20
- March 23
- March 31

§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 housing area logbooks was conducted to determine whether Law Library services were afforded. In addition to the logbook review, on-site inspections were conducted to

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

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

New York City Department of Correction Young Adult ESH Compliance Audit – March 2020

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

March 3, 2020

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

March 11, 2020

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

March 17, 2020

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

March 27, 2020

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

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

March 3, 2020

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

1. 7 hours 10 minutes (Upper Tier)
2. 7 hours 15 minutes (Lower Tier)
3. 6 hours 25 minutes (Upper Tier)
4. 7 hours (Lower Tier)
5. 7 hours (Lower Tier)
6. 7 hours (Lower Tier)

New York City Department of Correction Young Adult ESH Compliance Audit – March 2020

March 11, 2020

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

1. 7 hours 10 minutes (Upper Tier)
2. 5 hours 25 minutes (Upper Tier)
3. 7 hours (Upper Tier)
4. 4 hours 20 minutes (Lower Tier)
5. 6 hours 20 minutes (Lower Tier)

March 17, 2020

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

1. 7 hours (Upper Tier)
2. 7 hours 15 minutes (Lower Tier)
3. 6 hours 15 minutes (Upper Tier)
4. 7 hours 21 minutes (Lower Tier)
5. 7 hours 21 minutes (Lower Tier)

March 27, 2020

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

1. 8 hours (Lower Tier)

On this audit date, a manual review of the Lock-In/Out logbook could not be conducted to determine the lock-in/out times and tiers of three (3) young adults because an individual in custody housed in this housing area had damaged the Lock-In/Out Logbook by ripping pages out of the logbook.

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.

March 3, 2020

There were two (2) young adults in Level III; the out-of-cell times for those present on this audit date were:

1. 7 hours (Upper Tier)
2. 4 hours 17 minutes; young adult was transferred out of the unit and, as a result, his out-of-cell time was affected (Lower Tier)

New York City Department of Correction Young Adult ESH Compliance Audit – March 2020

March 11, 2020

There were two (2) young adults in Level III; the out-of-cell times for those present on this audit date were:

1. 10 hours 25 minutes (Lower Tier)

On this audit date, one (1) Upper Tier young adult was out to court for most of the day and, as a result, he did not participate in lock-out options

March 17, 2020

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

March 27, 2020

There was one (1) young adult in Level III; his out-of-cell time on this audit date was 10 hours 20 minutes. (Lower Tier)

§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.¹ 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 – March 3, 11, 17 and 27, 2020.² However, in the case of March 11, 2020, in housing areas labeled B and F, due to inconsistencies recorded in the Law Library Logbook and housing area logbook, it could not be determined whether the assigned Law Library Coordinator was in these two (2) housing areas during the afternoon session. The Law Library Coordinator signed the Law Library Logbook but did not sign the housing area logbook. However, these housing areas were provided Law Library services in the morning session. Also, on March 11, 2020, due to a Law Library Coordinator's unscheduled absence, one (1) housing area, labeled A, was not provided Law Library services in the morning session, although this housing area was provided Law Library services in the afternoon session. On March 27, 2020, in housing area labeled B, due to inconsistencies recorded in the Law Library Logbook and housing area logbook, it could not be determined whether the assigned Law Library Coordinator was in this one (1) housing area during the morning and afternoon session. The assigned Law Library Coordinator signed the Law Library Logbook but did not sign the housing area logbook. In addition, On March 17 and 27, 2020 a manual review of the housing area logbook could not be conducted to verify the presence of the Law Library Coordinators in housing area label A because an inmate housed in this area had damaged the housing area logbook by ripping out the logbook pages.

With the exception of March 17 and 27, 2020, in the one (1) housing area labeled A and on March 27 in housing area labeled B the audit was able to verify by auditing available records

¹ 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.

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

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

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.

March 3, 2020

There were eight (8) young adults in ESH on this audit date. Of the eight (8) young adults, six (6) young adults requested and were provided Law Library services.

March 11, 2020

There were seven (7) young adults in ESH on this audit date. Of the seven (7) young adults, three (3) young adults requested and were provided Law Library services.

March 17, 2020

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

March 27, 2020

There were twelve (12) young adults in ESH on this audit date. Of the twelve (12) young adults, four (4) young adults requested and were provided Law Library services.

Kiosks and Typewriters

During this audit period, young adults were housed in up to five (5) housing areas in ESH, labeled A-E. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. Listed below are the numbers of kiosks and typewriters in each ESH housing area, including the status of their operability for the dates audited:

March 13, 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 (operable)
- C: One (1) Kiosk (operable) / One (1) Typewriter (**inoperable**)

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

March 20, 2020

On this audit date, young adults were housed within the two (2) young adult ESH housing areas, labeled A-B. 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**)

March 23, 2020

On this audit date, young adults were housed within the two (2) young adult ESH housing areas, labeled A-B. 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**)

March 31, 2020

On this audit date, young adults were housed within the five (5) young adult ESH housing areas, labeled A-E. 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**)
- D: One (1) Kiosk (operable) / One (1) Typewriter (operable)
- E: 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 – March 3, 11, 17 and 27, 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.

March 3, 2020

There were eight (8) young adults in ESH on this audit date. Please note the following:

- One (1) young adult participated in one (1) hour of recreation.
- Two (2) young adults participated in forty-five (45) minutes of recreation.
- Five (5) young adults refused to participate in afforded recreation.

March 11, 2020

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

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

- One (1) young adult participated in twenty-five (25) minutes of recreation.
- One (1) young adult was out to court during afforded recreation.
- Five (5) young adults refused to participate in recreation.

March 17, 2020

There were five (5) young adults in ESH on this audit date. Please note the following:

- One (1) young adult participated in forty-five (45) minutes of recreation.
- One (1) young adult participated in thirty-three (33) minutes of recreation.
- One (1) young adult participated in twenty-five (25) minutes of recreation.
- Two (2) young adults refused to participate in afforded recreation.

March 27, 2020

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

- Five (5) young adults participated in one (1) hour of recreation.
- Two (2) young adults participated in fifty-five (55) minutes of recreation.
- One (1) young adult participated in fifty (50) minutes of recreation.
- Four (4) 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 utilized in the provision of programming and offered to young adults regardless of whether it is during the individual's lock-out period.³ 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

³ Based on the programming sign-in sheets, no tablets were issued on any of the four (4) dates audited – March 3, 11, 17 and 27, 2020.

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

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.

March 3, 2020

On this audit date, up to eight (8) hours of programming were offered to the young adults housed within the four (4) young adult ESH housing areas, labeled A-D.

- ❖ A: Level II – There was three (3) young adults housed in this area.
 - Tier 1 was offered two (2) hours and twenty-one (21) minutes of programming in the morning session. Two (2) young adults were housed on this tier.
 1. Young adult participation: 1 hour 31 minutes
 2. Young adult participation: 1 hour 21 minutes
 - Tier 2 housed one (1) young adult. No programming was offered in the afternoon session due to a mandatory staff meeting.

- ❖ B: Level II – There were three (3) young adults housed in this area.
 - Tier 1 was offered eight (8) hours of programming in the morning session. Two (2) young adults were housed on this tier and they refused all afforded programming.
 - Tier 2 was offered five (5) hours of programming in the afternoon session. One (1) young adult was housed on this tier:
 1. Young adult participation: 5 hours

- ❖ C: Level III – There was one (1) young adult housed in this area.
 - Five (5) hours and ten (10) minutes of programming was offered in the afternoon session.
 1. Young adult participation: 5 hours

- ❖ D: Level III – There was one (1) young adult housed in this area.
 - Five (5) hours and ten (10) minutes of programming was offered in the afternoon session.
 1. Young adult participation: 5 hours 10 minutes

March 11, 2020

On this audit date, up to nine (9) hours of programming were offered to the young adults housed within the four (4) housing areas, labeled A-D.

- ❖ A: Level II – There was two (2) young adults housed in this area.

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

- One (1) hour and forty-five (45) minutes were offered in the morning session and both young adults refused to participate in all afforded programming.
- ❖ B: Level II – There were three (3) young adults housed in this area.
 - Tier 1 was offered nine (9) hours of programming in the morning session. Two (2) young adults were housed on this tier.
 1. Young adult participation: 4 hours
 2. Young adult participation: 4 hours
 - Tier 2 was offered five (5) hours of programming in the afternoon session. One (1) young adult was housed on this tier:
 1. Young adult participation: 4 hours
- ❖ C: Level III – There was one (1) young adult housed in this area and he was out to court during afforded programming.
- ❖ D: Level III – There was one (1) young adult housed in this area.
 - Two (2) hours and fifteen (15) minutes of programming were offered in the morning session and twenty (20) minutes of programming were offered in the afternoon session, for a total of two (2) hours and thirty-five (35) minutes
 1. Young adult participation: 20 minutes

March 17, 2020⁴

On this audit date, up to forty-five (45) minutes of programming were offered to the young adults housed within the two (2) housing areas, labeled A-B.

- ❖ A: Level II – There were three (3) young adults housed in this area.
 - Tier 1 was offered thirty (30) minutes of programming in the morning session. Two (2) young adults were housed on this tier.
 1. Young adult participation: 30 minutes
 2. Young adult participation: 30 minutes
 - Tier 2 was offered thirty-five (35) minutes of programming in the afternoon session. One (1) young adult was housed on this tier and the length of his programming participation could not be determined. The programming counselor was unable to return to the housing unit to retrieve the completed programming material because programming had been suspended due to the Coronavirus.
- ❖ B: Level II – There were two (2) young adults housed in this area.
 - Forty-five (45) minutes of programming were offered in the afternoon session. Programming participation could not be determined for both these young adults. The programming counselor was unable to return to the housing unit to retrieve the completed programming material because programming had been suspended due to the Coronavirus.

⁴ Programming services were not afforded as a result of the Department's COVID-19 response and related operational and public health considerations.

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

March 27, 2020⁵

On this audit date, no programming was scheduled to the young adults housed within the five (5) housing areas, labeled A-E.

- ❖ A: Level II – There were three (3) young adults housed in this area. No programming was scheduled in the unit due to the diversion of programming staff to assist in a special NYCDOC initiative program. Additionally, a secondary program had been suspended due to the Coronavirus.
- ❖ B: Level II – There was one (1) young adult housed in this area. No programming was scheduled in the unit due to the diversion of programming staff to assist in a special NYCDOC initiative program. Additionally, a secondary program had been suspended due to the Coronavirus.
- ❖ C: Level I – There were six (6) young adults housed in this area. Programming did not occur in the unit due to insufficient staffing coverage on the audit date. The Programs Division continues to examine supplementary staffing options in order to provide stronger coverage of programming.
- ❖ D: Level I – There was one (1) young adult housed in this area. No programming was scheduled in the unit due to the diversion of programming staff to assist in a special NYCDOC initiative program. Additionally, a secondary program had been suspended due to the Coronavirus.
- ❖ E: Level III – There was one (1) young adult housed in this area. No programming was scheduled in the unit due to the diversion of programming staff to assist in a special NYCDOC initiative program. Additionally, a secondary program had been suspended due 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.

⁵ Programming services were not afforded as a result of the Department’s COVID-19 response and related operational and public health considerations.

New York City Department of Correction

Young Adult ESH Compliance Audit – March 2020

The audit reviewed educational data for each of the four (4) audit dates – March 3, 11, 17 and 27, 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.

March 3, 2020

There were eight (8) young adults in ESH on this audit date. Of the eight (8) young adults, five (5) were enrolled in educational services. The arrival and departure times for the one (1) young adult who attended educational services on this audit date were:

1. Arrived 9:15 am / Departed 11:10 am

The remaining four (4) young adults refused to attend educational services.

March 11, 2020

There were seven (7) young adults in ESH on this audit date. Of the seven (7) young adults, four (4) were enrolled in educational services. The arrival and departure times for the one (1) young adult who attended educational services on this audit date were:

1. Arrived 9:10 am / Departed 12:35 am

The remaining three (3) young adults refused to attend educational services.

March 17, 2020

There were five (5) young adults in ESH on this audit date. On this audit date, no educational services were scheduled due to the Coronavirus outbreak.

March 27, 2020

There were twelve (12) young adults in ESH on this audit date. On this audit date, no educational services were scheduled due to the Coronavirus outbreak.