

New York City Department of Correction

Young Adult ESH Compliance Audit – July 2018

Pursuant to the six (6) month limited variance granted by the NYC Board of Correction on May 8, 2018 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 person;
- § 1-08(f) (Access to Courts and Legal Services, including Law Library);
- § 1-06 (Recreation); and
- § 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.

Audit Parameters

The audit is conducted through a manual review of housing area logbooks and programming attendance data on four (4) random dates 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 within up to five (5) ESH housing areas.

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

- July 3rd
- July 12th
- July 18th
- July 24th

Additionally, on-site inspections of the ESH unit kiosks and typewriters were conducted on four (4) random dates:

- July 13th
- July 20th
- July 27th
- July 31st

§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 completed 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 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(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, institutional lock-out and lock-in was consistently recorded in the logbook for each of the levels. Due to incomplete recording on one (1) of the audit dates, July 3rd, one (1) young adult's total out-of-cell time could not be calculated.

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 1, based on a manual review of the logbook, on the dates audited. The out-of-cell time is the hours each day that a young adult chooses to be out of his cell during institutional lock-out periods. The data reflects the young adults present in the unit for institutional lock outs on each audit date.¹

July 3, 2018

There was one (1) young adult in Level 1; due to incomplete recording, his out-of-cell time on this audit date could not be calculated.

July 12, 2018

There was (1) young adult in Level 1; his out-of-cell time on this audit date was one (1) hour, he refused the majority of afforded out-of-cell time.

July 18, 2018

There was (1) young adult in Level 1; his out-of-cell time on this audit date was one (1) hour and fifteen (15) minutes, he refused the majority of afforded out-of-cell time.

July 24, 2018

There were two (2) young adults in Level 1; their out-of-cell times on this audit date were:

¹ 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.

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1. 1 hour; young adult refused the majority of afforded out-of-cell time
2. 6 hours 58 minutes

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 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.²

July 3, 2018

There were ten (10) young adults in Level II; for those present on this audit date, their out-of-cell times were:

1. 7 hours
2. 7 hours
3. 6 hours 45 minutes
4. 7 hours
5. 7 hours
6. 7 hours
7. 7 hours
8. 7 hours

On this audit date, two (2) young adults were out to court for a significant portion of the day, as a result their out of cell times were not included in the out-of-cell time reporting.

July 12, 2018

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

1. 6 hours 45 minutes
2. 3 hours 45 minutes
3. 7 hours
4. 1 hour; young adult was out to court and as a result his out-of-cell time was affected
5. 6 hours 35 minutes
6. 7 hours
7. 7 hours 45 minutes
8. 5 hours 45 minutes
9. 5 hours 15 minutes
10. 7 hours

² 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.

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July 18, 2018

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

1. 6 hours 45 minutes
2. 7 hours 30 minutes
3. 7 hours
4. 7 hours
5. 3 hours 25 minutes
6. 7 hours
7. 6 hours 25 minutes
8. 5 hours 45 minutes
9. 7 hours 5 minutes
10. 5 hours 45 minutes
11. 5 hours 45 minutes

July 24, 2018

There were twelve (12) young adults in Level II; their out-of-cell times on this audit date were:

1. 5 hours 30 minutes
2. 6 hours 30 minutes
3. 6 hours 50 minutes
4. 6 hours 50 minutes
5. 6 hours 25 minutes
6. 7 hours
7. 2 hours 15 minutes
8. 4 hours 15 minutes
9. 3 hours 15 minutes
10. 2 hours 15 minutes

On this audit date, one (1) young adult refused all afforded out-of-cell time. In addition, one (1) young adult's out-of-cell time could not be calculated as no data was recorded.

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 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.³

July 3, 2018

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

1. 13 hours 5 minutes

³ 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.

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2. 11 hours 50 minutes

On the remaining three (3) audit dates: July 12th, July 18th, and July 24th, there were no young adults housed in Level 3.

§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 are housed⁴. A manual review of the housing area logbooks reflected that the Law Library Coordinators were in these areas to provide assistance on all four (4) days audited.⁵ On July 18th, during two (2) tours, due to missing logbook documentation for two (2) housing areas, a manual review could not be conducted to determine whether the Coordinator was in these areas to provide assistance⁶.

Except for the issue noted above, the duration of each Law Library Coordinator's time in ESH areas during the dates audited were in compliance with the provisions of Minimum Standards. On average, based on each Coordinator's schedule, on the dates audited, a Coordinator was available to assist young adults within the housing areas for approximately four (4) hours.

During the reporting period, on the dates audited, Law Library Coordinators provided assistance to one (1) to three (3) young adults per day. On some of the audit dates, it is noted that young adults did not request law library assistance.

Kiosks and Typewriters

During this audit period, young adults were housed within up to five (5) housing areas in ESH. Young adults in ESH are provided with access to a minimum of one (1) kiosk and one (1) typewriter. During the audit period, all available kiosks were operable, with the exception of one (1) kiosk, in one (1) housing area on July 13th. During the audit period, all available typewriters were operable.

When kiosks or typewriters were not operable within specific housing areas, young adults were provided with access to kiosks and typewriters in closest proximity to their housing area.

§1-06 – Recreation

Institutional recreation was afforded to young adults present in ESH on all four (4) days audited.⁷

⁴ To facilitate the provision of legal services, within their assigned areas, Law Library Coordinators provide services to all inmates regardless of whether it's during the individual's lock-out period.

⁵ This is evidenced by the Coordinator signing in and out of the logbook on each of the audit dates.

⁶ The housing area logbooks in these two (2) areas had been damaged, as individuals housed in those areas tore pages out of the logbooks.

⁷ On two (2) of the four (4) audit dates, logbook entries recorded that some of the young adults were out to court.

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§ 1-02(c)(2) (Classification), Provision of Programming⁸

Young adults in ESH are placed in housing units exclusively with other young adults (18 to 21 years old)⁹ or in blended units co-mingled with adults (22 years old and older).¹⁰ Programming is provided to all young adults. In the young adult exclusive housing area within ESH, tablets are utilized in the provision of programming. When young adults collect their tablets, they also have the opportunity to request an additional component of programming during that time. In addition, in the young adult exclusive housing area, on days when support programming staff are present, young adults may request individualized counseling while other programming components are being held. In the blended housing areas, the provision of programming is provided to each tier separately through two programming sessions. Occasionally, 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 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.¹¹

Listed below is the number of programming hours offered based on housing area.

July 3, 2018¹²

On this audit date, up to two (2) hours and thirty (30) minutes of programming was offered to the young adults housed within the five (5) young adult ESH housing areas, labelled A-E.

- ❖ A: 2 hours and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, due to a housing area lockdown, programming was not provided.
 1. There were two (2) young adults housed in this area. They were not offered programming that day as they were housed in the tier where programming was not provided.
- ❖ B: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.

⁸ In July 2018, the Department expanded program offerings in two (2) housing areas to include courses and services by a contracted provider. Further programming expansion to additional ESH housing areas is anticipated in the near future.

⁹ During this reporting period, with the exception of July 31st, there were no young adults housed in a young adult exclusive unit.

¹⁰ Young adults who are eighteen years old are not housed in ESH blended units with adults (22 years old and older.)

¹¹ 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.

¹² 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.

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1. There were four (4) young adults housed in this area; their hours of program participation were:
 - 2 hours 30 minutes
 - 2 hours 30 minutes
 - 2 hours 30 minutes

One (1) young adult refused to participate in all afforded programming

- ❖ C: 2 hours of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
 1. There were four (4) young adults housed in this area. For those present during programming, their hours of program participation were:
 - 1 hour 30 minutes
 - 2 hours

Two (2) young adults were out to court during programming.

- ❖ D: 2 hours and 55 minutes of programming was offered: 45 minutes of programming for participants in the morning session and 2 hours and 10 minutes of programming for participants in the afternoon session.
 1. There was one (1) young adult housed in this area; he participated in one (1) hour and thirty-five (35) minutes of programming.
- ❖ E: 2 hours of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
 1. There were two (2) young adults housed in this area; their hours of program of participation were:
 - 1 hour 30 minutes
 - 1 hour 30 minutes

July 12, 2018¹³

On this audit date, up to two (2) hours and thirty (30) minutes of programming was offered to the young adults housed within the four (4) housing areas, labelled A-D.

- ❖ A: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
 1. There were two (2) young adults housed in this area; their hours of program participation were:

¹³ 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.

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- 45 minutes
 - 1 hour
- ❖ B: Limited scheduled programming was offered due to program instructor attendance at a training.
- ❖ C: 2 hours and 30 minutes of programming was offered in one (1) of the two (2) tiers. In the other tier, programming was not scheduled.
1. There were three (3) young adults housed in this area; Two (2) young adults were not offered programming that day as they were housed in the other tier where programming was not scheduled.
 - For the remaining one (1) young adult, his hours of program participation was two (2) hours.
- ❖ D: No programming was scheduled.

July 18, 2018¹⁴

On this audit date, up to two (2) hours and thirty (30) minutes of programming was offered to the young adults housed within the four (4) housing areas, labelled A-D.

- ❖ A: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
1. There were two (2) young adults housed in this area. For those present during programming, their hours of program participation were:
 - 1 hour 30 minutes

One (1) young adult was out to court during programming.

- ❖ B: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.
1. There were five (5) young adults housed in this area. For those present during programming, their hours of program participation were:
 - 15 minutes; young adult refused to participate in any additional programming
 - 30 minutes; young adult refused to participate in any additional programming
 - 50 minutes; young adult refused to participate in any additional programming

¹⁴ 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.

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- 30 minutes; young adult refused to participate in any additional programming

One (1) young adult was not in the housing area during programming.

❖ C: 2 hours and 30 minutes of programming was scheduled in one (1) of the two (2) tiers. In the other tier, programming was not scheduled. Due to the affording of recreation during programming hours and program participant preference in attending recreation, offered programming concluded early, after 30 minutes.

1. There were four (4) young adults housed in this area; their hours of program participation were:

- 15 minutes
- 15 minutes; young adult refused to participate in any additional programming.

Two (2) young adults were not offered programming that day as they were housed in the other tier where programming was not scheduled.

❖ D: No programming was scheduled due to Counselor absence.

July 24, 2018¹⁵

On this audit date, up to two (2) hours and thirty (30) minutes of programming was offered to the young adults housed within the four (4) housing areas, labelled A-D.

❖ A: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.

1. There were three (3) young adults housed in this area; their hours of program participation were:

- 30 minutes; young adult refused to participate in any additional programming.
- 20 minutes; young adult refused to participate in any additional programming.
- 20 minutes; young adult refused to participate in any additional programming.

❖ B: 5 hours of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours and 30 minutes of programming for participants in the afternoon session.

1. There were five (5) young adults housed in this area; their hours of program participation were:

- 2 hours 30 minutes

¹⁵ 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.

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- 2 hours 30 minutes
- 2 hours 30 minutes

Two (2) young adults refused to participate in all afforded programming.

- ❖ C: No programming was offered due to Counselor absence.
- ❖ D: 4 hours and 30 minutes of programming was offered: 2 hours and 30 minutes of programming for participants in the morning session and 2 hours of programming for participants in the afternoon session.
 1. There were two (2) young adults housed in this area; their hours of program participation were:
 - 1 hour 24 minutes
 - 15 minutes; young adult refused to participate in any additional programming

Audit Recommendations

The Department began conducting monthly audits of young adult ESH in January 2018. In the time since, through the audit process issues have been identified and addressed related to the provision of mandated services and programming. During this audit period, issues was identified in regard to out-of-cell time recording and the provision of programming relative to programming and recreation schedule overlap. Corrective action will be taken to address these matters. The below recommendations are provided to facilitate consistent and complete recording across all audit areas.

Lock-in/Lock-out

- To facilitate the accurate and consistent recording of lock-in/lock-out in the ESH “lock-in/out” logbook and individualized data, provide all ESH unit staff with training on proper logbook entry and related procedures.
- Designate unit captains or higher ranking officers with the responsibility of reviewing the ESH “lock-in/out” logbook daily to ensure consistent logbook recording and that the required lock-out time is being afforded. Based on such review, institute corrective action as needed.
- Ensure that lock-in/out logbooks are maintained in the housing areas.

Recreation

- ESH Captains should ensure that all areas are afforded recreation and that it has been properly noted in each housing area logbook.

Law Library Services

- Direct the law library coordinators to sign in and out of the housing area logbooks for all tours.
- To facilitate the maintenance and operation of the kiosks and typewriters in the housing areas, instruct designated facility and law library staff to check on a daily basis that all typewriters and kiosks are operational. When a typewriter or kiosk is identified as in need of

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repair, facility administration in coordination with the Director of Law Libraries should ensure that repairs are conducted in a timely manner.

- During this audit, one (1) kiosk was identified as inoperable.

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 provide more comprehensive individualized outcomes, by:
 - Verifying on a daily basis which young adults are housed in each ESH blended housing area and updating information accordingly;
 - Recording of program start and end times, by participant;
 - Delineating the reason for participants' absences;
- Designate supervisory staff to review programming attendance documentation and related information to ensure that programming hours and participation is recorded on a daily basis, that deficiencies are corrected in a timely manner and that young adults' program participation is accurately reflected and any programmatic overlap explained.