

An Assessment of Enhanced Supervision Housing for Young Adults

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EXECUTIVE SUMMARY

This Assessment

This assessment builds upon the Board of Correction’s (“Board”) Assessment of Enhanced Supervision Housing (ESH) for Adults¹ released in April 2017 and offers a specific analysis of ESH implementation for the young adult (“YA”) population (18 through 21 year olds). To conduct this assessment, Board staff matched available data on individuals placed in Young Adult ESH (“YA ESH”) to various Department of Correction (“Department” or “DOC”)-wide data systems and conducted unit observations to get a better understanding of YA ESH’s operational framework. Board staff also reviewed all young adult placements in ESH between September 2016 and March 2017, including all due process records for these placements. Correctional Health Services (CHS) and the Department of Education (DOE) also provided information on the characteristics of and services provided to young adults while housed in ESH.

The Board’s April 2017 Assessment identified several areas for improving ESH including: policies and practices related to progression through ESH and periodic reviews, medical care access, lock-out, and steady staffing. Board staff also identified numerous opportunities for improving fairness and transparency in the Department’s implementation of ESH due process. This assessment of ESH implementation for young adults finds those recommendations are equally applicable to the Department’s YA ESH model. Board staff are encouraged by DOC’s efforts to develop policies and a model tailored to the unique needs of the young adult population as well as the Department’s adoption of a more multidisciplinary approach to management. Board staff are also encouraged by the Department’s recent steps toward developing systems for tracking, monitoring, and evaluating ESH.

Despite the Department’s commendable efforts, Board staff remain concerned about ESH for the young adult population. For a variety of reasons, including—lockdowns, the lockout schedule, operational issues related to staffing and management, safety concerns, and a general lack of engagement—most young adults are spending nearly all day locked in their cells rather than the minimum 7 hours provided for under the ESH Standards.² Most young adults in ESH are restrained to desks when they lock out of their cells, and participation in programming, recreation, and mental health services has been very low, particularly in blended ESH units (units housing adults and young adults). Nearly all young adults in ESH have non-contact visit restrictions imposed for the duration of their time in DOC custody, and very few young adults have progressed to less restrictive housing assignments. Furthermore, the occurrences of slashings and serious acts of violence in units where restraint desks are in use raises serious concerns and warrants further investigation.

Beyond compliance with existing ESH policies and Standards, the findings and recommendations presented speak more broadly to the appropriateness and efficacy of the ESH Standards themselves and how the YA ESH model should be improved moving forward. The Department still lacks the electronic data management

¹ See N.Y.C. Bd. of Corr., AN ASSESSMENT OF THE N.Y.C. DEP’T OF CORR. IMPLEMENTATION OF ADULT ENHANCED SUPERVISION HOUSING (Apr. 2017) [hereinafter Assessment], available at <https://goo.gl/oBSAVj>.

² N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, LOCK-IN § 1-05(b)(2) (Jan. 23, 2016).

systems that would facilitate tracking and analyzing critical areas related to ESH implementation and the Minimum Standards, such as due process, restrictions, and program participation. This is a continued barrier to effective assessment and evaluation.

Young Adult ESH

On September 7, 2016, the first young adult was placed in ESH. The Department opened a young adult-only unit, on October 12, 2016, where young adults were restrained to desks for all out-of-cell activities and received “28-Day Reviews.” In November 2016, the Department formalized the use of ESH “incentive levels” in policy creating a more restrictive ESH “Level 1” in which individuals are in restraints during out-of-cell movement and at restraint desks for all lock-out activities.³ Upon making these policy changes, DOC expanded its use of ESH. There are six ESH housing units currently in operation, each housing at least one young adult.⁴ All ESH units operate in the Otis Bantum Correctional Center (OBCC) on Riker’s Island.

On November 14, 2016, the Department started conducting 28-Day Reviews for young people placed in the Young Adult ESH unit, with the first young adults receiving reviews having entered the unit on October 17, 2016. The 28-Day Reviews were used to determine an individual’s housing assignment and involved consideration of different assessments⁵ conducted by DOC staff. The Young Adult ESH unit was renamed the “ESH Entry Unit,” on March 1, 2017, following policy changes to the young adult placement criteria and the change in time for assessment reviews from 28 to 30 days. DOC places young adults in the ESH Entry Unit who have recently committed and/or participated in an actual or attempted slashing or stabbing, or engaged in activity that caused serious injury to an officer, another person in custody, or any other person and when the use of the Restraint Desk is the least restrictive option necessary for the safety of others.⁶ Young adults not involved in a recent incident of serious violence but meeting other ESH criteria may be placed in blended ESH units without restraint desks, which operate according to the incentive level structure used for adults in ESH.⁷

³ See N.Y.C. DEP’T OF CORR., OTIS BANTUM CORRECTIONAL CORR. CTR., INST’L ORDER NO. 106/16, ENHANCED SUPERVISION HOUSING (ESH) (eff. Nov. 16, 2016). Note this order does not include reference to the young adult ESH unit which was open and operating under the same conditions as an ESH Level 1 unit at the time the order was issued.

⁴ Number of ESH housing units as of July 3, 2017.

⁵ Assessments include a psychosocial assessment (now called the Intake Assessment), the National Institute on Drug Abuse (NIDA) drug use screening tool, an environmental assessment, and test of adult basic education (TABE). On June 9, 2017, the Department introduced the Juvenile Relational Inquiry Tool to the assessment process to assist with mapping family supports for young adults in the ESH Entry Unit.

⁶ RECORDS OF VARIANCE ACTION, N.Y.C. BD. OF CORR. (Feb. 14, 2017), *available at* <https://goo.gl/AFGt9W> and <https://goo.gl/JJe35M>.

⁷ Eighteen-year-olds are not housed with Adults age 22 and over. This means young adults who are 18 years old must be placed and remain in the ESH Entry Unit during their time in ESH (unless and until additional young adult-specific ESH units are created). N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, CLASSIFICATION OF PRISONERS, LOCK-IN § 1-02 (Jan. 23, 2016).

Recommendations

Placement

- Use restrictive housing rulemaking to clarify how ESH fits into a continuum of restrictive housing options for the young adult population.
- Conduct an in-depth analysis of all young adults in DOC custody to understand how alternatives to punitive segregation are used across the entire young adult population.
- Narrow the lookback period for incidents used to justify the placement of young adults in ESH.
- Ensure young adults have a meaningful opportunity to progress to a less restrictive setting.
- Shorten the time from discretionary decisions regarding placement/progression into and through ESH and young adults' actual movement.

Education

- Create an area that is separate and apart from the ESH Entry Unit and blended ESH housing units to hold school for young adults in a classroom setting.
- Ensure young adults who are not housed in ESH units with restraint desks do not have to attend school in a restraint desk.
- Address scheduling conflicts between school and other mandated services in blended ESH housing units.
- Work with DOE to regularly and publicly report school attendance for the ESH Entry Unit and blended ESH units.

Programming

- Clarify the program structure for young adults in ESH and ensure the structure allows for consistent progress across all young adult housing options.
- Develop programming for the young adult population that accounts for movement across housing areas.
- Track young adult program participation in blended ESH units.
- Improve engagement of young adults in blended ESH units to increase program participation.
- Continue to pilot new strategies that address the root causes of violence, such as the Cure Violence model.

Conditions of Confinement

- Reevaluate duration non-contact visitation restrictions for young adults in ESH to ensure meaningful visitation and connections to family and the community.
- Incentivize recreation for young adults and address identified barriers such as the physical conditions of the recreation space and staffing shortages.
- Increase mental health and substance use disorder treatment options provided by CHS for young adults in ESH.
- Improve access to medical and mental health care through implementation of the Access Action Plan developed by DOC & Correctional Health Services.

Monitoring & Evaluation

- Develop a more comprehensive data tracking system to monitor and evaluate ESH implementation, conditions in ESH, and young adult outcomes.
- Design and implement public monthly tracking reports and biannual outcome reports on young adult restrictive housing.
- Update Key Performance Indicators (KPIs) to reflect changes to the young adult strategy.
- Engage an independent evaluator to study the use of restraint desks as an alternative to punitive segregation for young adults.

Findings

Young Adults ESH Population

- From September 2016 to March 2017, a total of 61 young adults were housed in ESH, accounting for a total of 65 distinct ESH placements.
- As of March 2017, young adults made up 34% (n=36) of the average daily ESH population (N=107).
- Young adults in ESH made up only four percent (4%, n=37) of the overall young adult population in DOC (N=994)⁸
- Forty-eight (48%, n=36) of all young adults in alternatives to punitive segregation (N=75) are housed in ESH.⁹
- Since the Department started placing young adults in ESH there has been a 29% increase in the number of YAs in alternatives to punitive segregation (combined), a 43% decrease in the ADP of Second Chance Housing, and a 37% decrease in the ADP of the Transitional Restorative Unit.
- All young adults placed in ESH were men.¹⁰ The racial composition of the young adult ESH population was 52% Black (n=34), 42% Hispanic (n=27), and 6% other (n=4). A higher portion of the ESH young adult population was Hispanic (42%, n=27) compared to the population of adults in ESH (33%, n=114) and the DOC population overall (34%, n=3,325).¹¹
- Over half of young people housed in ESH were pretrial detainees (69%, n=45), a smaller portion compared to the DOC population overall (80% pretrial, n=7,608).¹²
- Twenty-nine percent (29%, n=19) were sentenced and awaiting transfer to state custody.
- All young adults in ESH were identified by DOC as gang affiliated.¹³

⁸ Young adults (18 through 21-year-olds) made up 11% of the overall DOC population on March 31, 2017.

⁹ March 2017 ADP numbers.

¹⁰ No studies or reports were done about individuals' gender identities. The Department of Correction housed people in ESH in a male facility, but it is possible that there are individuals in these units that identify as women or are gender non-binary.

¹¹ Race and Ethnicity reported for Average Daily Population in NYC Department of Correction, Population Demographics Report: Fiscal Year 2017 First Quarter (undated), available at: goo.gl/3Vy536.

¹² DOC Census data averaged from September 2016-March 2017.

¹³ N.Y.C. DEP'T OF CORR., OPERATIONS ORDER 03/12, MONITORING AND MANAGING SECURITY RISK GROUPS AND WATCH GROUPS, sec. III(A), at 2 (eff. Mar. 17, 2012).

- Seventy-six percent (76%, n=50) of young adults placed in ESH were identified by DOC as having used or possessed a weapon or dangerous instrument while in Department custody.¹⁴

Placement in ESH

- Of the 65 young adult placements in ESH from September 2016 to March 2017, twenty-two percent (22%, n=14) of the young people entering ESH were transferred from a general population housing unit, 18% (n=12) were transferred from an isolation unit, and 18% (n=12) were transferred into ESH from Transitional Restorative Unit (TRU).
- Most young adults (62%, n=40) were initially placed in the ESH Entry Unit, 32% (n=21) were initially placed in an ESH Level 1 unit, and 6% (n=4) were initially placed in an ESH Level 2 unit.
- Overall, young adults were placed in ESH an average of 61 days and a median of 16 days after the most recent incident used to justify their ESH placement.
- Most placement hearings were timely 67% (n=43)¹⁵ and most young adults attended their hearing 65% (n=43).
- Of the 60 young adult placements continued after a placement hearing, 98% (n=59) for serious or persistent violence, 97% (n=58) were placed for assaults, 67% (n=40) for participation in a slashing or stabbing, 42% (n=25) for SRG (gang) activity, 27% (n=16) for possession of a scalpel, and 12% (n=7) for being an influential gang leader.¹⁶ None of the ESH placements during this period were based on events that occurred when people were out of DOC custody.
- Thirty-eight percent (38%, n=23) had specific restrictions identified on their placement determination forms provided to young adults after their placement hearings.
- Only 25 young adult placements were informed of and provided written justification for the restraint desk restriction. Most young adults whose placement continued in an ESH unit with restraint desks (29 out of 54 placements) failed to receive proper due process for the restraint desk restriction as required under ESH Standards.¹⁷
- No young adults appealed their placement in ESH with the Department. One young adult filed an Article 78 appeal, but it was considered moot and dismissed by the Court after the young adult was transferred to state custody.

Progress Through & Out of ESH

- Seventy-two percent (72%, n=47) of all young adult placed from September 2016 to March 2017¹⁸ had an ESH exit date, while 28% remain in DOC custody (n=18).¹⁹ Over half of young adults released from ESH (57%, n=27) were discharged from DOC custody entirely. Most young adults exiting ESH and leaving DOC custody were transferred to state prison. Thirteen percent

¹⁴ See N.Y.C. DEP'T OF CORR., DIRECTIVE No. 4518R-C, RED ID AND ENHANCED RESTRAINT STATUS INMATES, sec. III(A), at 2 (eff. Sept. 28, 2016).

¹⁵ This is calculated from all placements not discontinued prior to a hearing (n=64).

¹⁶ All placement statistics are derived from criteria recorded on everyone's Placement Hearing Determination Forms (ESH-3 Form). Department staff indicate on the ESH forms which placement criteria are met.

¹⁷ N.Y.C. Bd. OF CORR., CORR. FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(g)(3)(6) (Jan. 23, 2016).

¹⁸ Young adult ESH placements from September 2016- March 2017.

¹⁹ As of June 28, 2017.

(13%, n=6) were transferred to general population housing, 15% (n=7) were released to a Enhanced Restraint unit, 6% (n=3) were transferred to the Secure unit, and 4% (n=2) were sent to Punitive Segregation.²⁰

- Most of the 28/30 Day Reviews audited by Board staff (17 of 24 reviews examined) recommended that young people remain in a unit with a restraint desk; seven were recommended to stay in the Entry Unit and 11 were recommended for ESH Level 1. Four (4) young adults were recommended for ESH Level 2, one (1) individual was recommended for the Secure Unit, and one young adult had a recommendation that did not mention any specific level.
- Young adults who did progress following a 28/30 Day Review took an average of 9 days to be moved out of the ESH Entry Unit.²¹
- Most young people (62%, n=38) placed in ESH were eligible for at least one periodic review (45-Day Reviews). A total of seventy-one periodic reviews were conducted and 90% (n=64) were timely.
- Six individuals progressed to a less restrictive level because of a 45-Day Review and one young adult was moved to a less restrictive housing unit without a review recommendation.
- The average time between a 45-Day Review recommending movement and actual movement to a less restrictive level was 16 days.
- As of June 28, 2017, young adults who had been placed in ESH between September and March 2017 had spent a median of 41 days in the ESH Entry Unit, 60 days in ESH Level 1, 79 days in ESH Level 2, and 19 days in ESH Level 3.

Programming

- People placed in ESH are required to participate in programming to progress to a less restrictive housing unit and transition back into general population.
- Young adults in the ESH Entry Unit receive different programming than young adults placed in (or progressing to) blended ESH units (Levels 1, 2, or 3) where young adults and adults are provided the same programming options based on their ESH level. The options available in ESH Level 1 differ from the programming options in Level 2 and 3.
- Participation in programming appears to be higher in the ESH Entry Unit compared to participation reported for the ESH blended units. (See Tables 19 & 20)
- Board staff was unable to determine whether people participating in programming in ESH blended units were young adults or adults from the data regularly provided to the Board in the Department's 60-Day ESH reports.²² In general, program participation in ESH blended units appears to be very low. (See Table 20).

²⁰ The individuals sent to punitive segregation entered ESH when they were 21 years old but turned 22 while in ESH and prior to being transferred to punitive segregation.

²¹ Young adults remained in the Entry Unit a minimum of 3 days and a maximum of 34 days, after their placement review indicated they should be moved out.

²² Tracking programming enrollment and participation is particularly challenging because DOC does not have an information management system designed for this. While DOC's contracted program providers have their own case management systems for tracking individual participation, DOC does not. Individual-level program participation in ESH is captured by hand and recorded on spreadsheets by program staff. DOC does not routinely

- Other than the Brooklyn Public Library Book Distribution program, average participation in program offerings in blended ESH units has never exceeded an average of ~5 people per session in ESH Level 1 units (combined) or ~2 people per session for programming in ESH Levels 2 & 3 units (combined).
- Board staff observations and DOC staff confirm there are frequent disruptions to programming while it is in session.

Education

- Thirty-one (47%, n=31) of the young adults placed in ESH between September 2016 and April 2017 were enrolled in school while in ESH, only nine (9) of whom were previously enrolled in school. This means that 22 young adults enrolled in school after entering ESH.²³
- More than half of the students in ESH (51%, n=16) were students with Individualized Education Programs (IEPs),²⁴ and sixteen percent (16%, n=5) were English language learners.
- Nine (9) students in ESH made meaningful gains²⁵ in math and 11 students made meaningful gains in reading while in ESH.²⁶
- DOE tracks daily attendance in both ESH school sessions in a combined roster making comparison between the ESH Entry and the ESH blended class sessions' attendance and educational outcomes difficult.
- DOE reports that attendance for young adults in ESH is not significantly different from attendance percentages reported for 18-21-year-olds in other housing areas and facilities.
- School frequently starts late due to delays associated with staffing and escorting.
- Young adults who attend school sit at restraint desks—legs restrained to the desk with wrists free of restraint—for the duration of the school period regardless of whether they are housed in an ESH unit with restraint desks for out-of-cell activities.

Treatment Needs & Access to Treatment

- Over half (61%, n=37) of young adults placed in ESH had identified mental health needs and were receiving mental health services prior to placement. No individuals placed in ESH had a diagnosis for a serious mental illness (SMI).
- Thirty-one percent of young adults (31%, n=19) in ESH had a substance use disorder prior to placement.

record programming for young adults separately and has only recently started capturing program participation by ESH Level. Reporting programming by ESH level started with the Department's October-November 2016 60-Day ESH report to the Board.

²³ DOE reports that one young adult had previously earned a high school equivalency diploma prior to entering ESH and no students have obtained a TASC, high school diploma, or high school equivalency while in ESH.

²⁴ The Individualized Education Program, also called the IEP, is a document that is developed for each public-school child who needs special education. The IEP is created through a team effort, reviewed periodically.

²⁵ "Made meaningful gains" in math or English skills refers to the number and percentage of youth who have been incarcerated for at least 60 days and who made meaningful gains, as determined by DOE based on TABE Math and Reading tests.

²⁶ Students need to have taken the TABE test twice for DOE to calculate a gain, and students must be enrolled a minimum of 30 days to re-take the test. Students sometimes refuse to be retested.

- None of the young people placed in ESH has a serious physical disability.²⁷
- Twenty-two (n=22) young adults had previously been on DOC's suicide watch list though they were not on the list at the time of their placement in ESH.
- Two young adults appeared on the suicide watch list during their ESH placement period.
- Fifty-nine percent (59%, n=27) of all scheduled health encounters²⁸ and 56% (n=74) of all scheduled mental health encounters²⁹ for ESH patients were completed.
- The Department did not produce 30% (n=14) of scheduled health encounters, and 23% (n=31) of scheduled mental health encounters.³⁰
- CHS rescheduled or services were no longer indicated for one scheduled health encounter and four scheduled mental health encounters for young adults in ESH.
- Data reported by CHS indicate that 37% of all placements in ESH (n=23) had one or more injuries reported during their ESH placement period, only one of which was considered serious.
- Thirty-four percent of injuries were due to DOC use of force (34%, n=19), 29% were a result of self-injury (n=16), and 14% were a result of inmate-on-inmate fight (n=8).

Conditions in ESH

- Due to facility-wide and ESH area lockdowns, individuals in ESH had 39% fewer potential hours of out-of-cell time than the minimum hours required under ESH Minimum Standards.³¹
- Participation in daily recreation is very low, with an average of only 20% of young adults participating.
- Recreation for young adults in the ESH Entry Unit and Level 1 units is provided in the former Central Punitive Segregation Unit (CPSU) recreation yard "cages" at OBCC. As was the case in CPSU, the ESH unit recreation cages do not have any exercise equipment, i.e., dip bars, pull up bars, basketball hoops, etc.³² The recreation yard for young adults in the ESH Level 2 unit has basketball hoops, pull-up bars, and other limited recreation equipment fixed to the paved ground.
- Recreation is consistently understaffed, causing the recreation staff to have difficulty providing timely-daily recreation to each house.
- An analysis of a snapshot of the 37 young adults³³ in ESH on March 31, 2017 found that two-thirds (70%, n=26) had a non-contact visit restriction and nearly all (96%, n=25) of those

²⁷ CHS clinical staff conduct a case by case review of individuals recommended for ESH placement and determine whether a physical disability is serious enough to preclude placement. Less serious disabilities such as visual or hearing disabilities are addressed through appropriate medical treatment.

²⁸ These numbers include all scheduled and add-on medical encounters.

²⁹ These numbers include all mental health service types.

³⁰ Reasons for non-production are not known or captured by CHS staff in their electronic data system. DOC has started to track reasons why patients are not brought to scheduled encounters to better understand why services are not completed.

³¹ Calculated using total actual time on lockdown as reported in the Department's IRS 24 Hour Report from September 2016-March 2017 divided by total lockout time entitled under ESH Standards over the same period.

³² See BOC report on Barriers to Recreation at Rikers Island Central Punitive Segregation Unit, at 16 (July 2014)

³³ Young adults at the time of ESH placement. Two young adult placed between September 2016 and March 31, 2017 turned 22 years old by March 31, 2017 and are included in this analysis.

restrictions were restrictions for the duration of an individual's incarceration, subject to six-month reviews of that status.

Violence & Disruptive Activity

- There was a total of 88 use of force (UOF) incidents occurring in ESH between September 2016 to March 2017,³⁴ 81% (n=71) involved young adults.³⁵
- Nearly half of the incidents involving young adults, 47% (n=33) involved the use of chemical agents.
- In nearly a quarter, (24%, n=17) of the UOF incidents involving young adults, the reason identified for the use of force was an assault on staff.
- There were no incidents of serious injuries to staff or assaults on non-uniform staff involving young adults placed in ESH between September 2016 to March 2017.
- More than half of the infractions issued for fights and assaults in ESH were issued to young adults (56%, n=30) for their alleged involvement in inmate-on-inmate fights and assaults during this period.³⁶ There was a sharp rise in infractions for inmate-on-inmate fights and assaults from October through December 2016.³⁷ This period corresponds to a significant increase in the ESH young adult population and the opening of new ESH units.
- Young adults in ESH have told Board staff that they are concerned about being restrained to desks and not being able to defend themselves.
- From September 2016 through March 2017, there were a total of eight slashings in the ESH housing area – six of which involved young adults.
- Three of the 6 slashings occurred in units where people are restrained to desks during lockout (ESH Level 1).
- There were eight logbook entries noted in the Department's 24 Hour Reports that did not meet the DOC's definition of a "reportable incident" and appear to involve assaults on or harm to staff.
- There were 28 splashings associated with young adults during this period. Nearly half occurred in January 2017 and 12 of them involved the same individual in multiple housing areas. There were also nine occurrences of spitting, six of them occurred in January and 5 of them involved the same young adult.

Discipline in ESH

- Young adults in ESH who are found guilty of an infraction are not subject to punitive segregation, but there is not a separate disciplinary sanction schedule for young adults. Through the DOC adjudication process, young adults who are found guilty of a grade I or grade II infraction will be subject to a \$25 surcharge. In addition, monetary restitution may be applied

³⁴ N.Y.C. DEP'T OF CORRECTION, Monthly Security Statistical Reports – Fiscal Year 2017 (on file).

³⁵ BOC staff matched young adults placed in ESH between September 2016 through March 2017 to incidents reported in DOC's 24 Hour Reports through March 2017.

³⁶ BOC staff matched young adults placed in ESH between September 2016 through March 2017 to incidents reported in DOC's 24 Hour Reports through March 2017.

³⁷ N.Y.C. DEP'T OF CORRECTION, Monthly Security Statistical Reports – Fiscal Year 2017 (on file).

for damage to DOC property or when injured staff receive medical treatment (hospital visit). 'Good time' may also be taken for sentenced young adults.

- Twenty-eight percent (28%, n=17) of the 61 young adults placed in ESH between September 2016 and March 2017 were arrested during their time in ESH.³⁸ There were 26 arrests involving young adults; five young adults were arrested multiple times during their time in ESH.³⁹ Additionally, there was 1 incident involving the arrest of a visitor to a young adult in ESH.⁴⁰

Monitoring

- DOC does not regularly audit compliance with Minimum Standards in ESH and does not currently track lock-out in a manner that can be routinely monitored for compliance.
- DOC does not track program participation at the individual level. This limits the Department's ability to track and report participation for the young adult population in blended units.
- DOE does not currently track school attendance for the ESH Entry and Blended school sessions separately which precludes the ability to compare participation across the two school sessions.
- Beyond placement criteria, information on due process is not routinely tracked or monitored by the Department.

³⁸ Arrests made between individuals' ESH placement and exit dates. Determined by matching ESH young adults (placed between September 2016 to March 2017) to incidents in the DOC's 24 Hour Reports through March 31, 2017.

³⁹ Determined by matching ESH young adults (placed between September 2016 to March 2017) to incidents in the DOC's 24 Hour Reports through March 31, 2017.

⁴⁰ *Id.*

I. BACKGROUND

On January 13, 2015, the Board of Correction (“Board” or “BOC”) amended its Minimum Standards to create Enhanced Supervision Housing (ESH).¹ The Department of Correction (“Department” or “DOC”) had first proposed the new restrictive housing area in October 2014. The purpose of creating ESH was to address the increase in serious violence among incarcerated people in New York City jails and to integrate a new restrictive housing unit as the Department reformed its use of punitive segregation.² When the Board passed the ESH Standards, it also created new standards prohibiting the use of punitive segregation and ESH for individuals under the age of 22.³

ESH is intended to house people who present “a significant threat to the safety and security of the facility if housed elsewhere”⁴ and was established to provide the Department the ability “to protect the safety and security of inmates and facilities, while promoting rehabilitation, good behavior, and the psychological and physical well-being of inmates.”⁵ The Minimum Standards were also amended to allow seven daily lock-out hours in ESH units, rather than the generally required fourteen hours.⁶

The key components of ESH are codified in Standard § 1-16 and include provisions regarding (1) placement criteria to limit discretion and ensure ESH is reserved for individuals who present the most serious security risk; (2) exclusions (adolescents, young adults, and people with the serious mental illnesses or physical disabilities) to mitigate potential harm; (3) conditions, programming, and services to facilitate rehabilitation, address the root causes of violence, and minimize idleness; (4) staffing (40 hours of training and at least 25% assigned to steady posts) to ensure safety and consistency in management; (5) full due process protections to ensure procedural justice; and (6) Board monitoring to create transparency and accountability.

The Board originally prohibited placement of 16- to 21-year-olds in ESH and tailored the ESH standards to address the challenges posed by, and the needs of, incarcerated adults. However, the Board subsequently on four occasions approved variances from the ESH Minimum Standards that permit the Department to house young adults ages 18 through 21 in ESH. The Department’s variance requests have repeatedly cited security concerns and the need for ESH as a housing option for young adults who have perpetrated violence.

The Standards require the Board to convene to discuss “the effectiveness and continued appropriateness of ESH” no later than two years after implementation of ESH.⁷ To satisfy this

¹ See generally N.Y.C. Bd. of Corr., CORR. FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16 (Jan. 23, 2016). The Minimum Standards section on Enhanced Supervision Housing is attached hereto as Attachment B.

² See N.Y.C. BOARD OF CORRECTION, NOTICE OF ADOPTION OF RULES, 142 THE CITY RECORD 215 (2015).

³ N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, LIMITATIONS ON THE USE OF PUNITIVE SEGREGATION § 1-17 (Jan. 23, 2016).

⁴ N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(b) (Jan. 23, 2016).

⁵ *Id.* at § 1-16(a).

⁶ N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, LOCK-IN § 1-05(b)(2) (Jan. 23, 2016).

⁷ N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(i)(2) (Jan. 23, 2016).

requirement, on April 26, 2017, Board staff released its Assessment⁸ of ESH implementation for *adults* (22 years of age or older) and the Board discussed ESH at the May 10th public Board meeting. This report expands on the adult assessment by examining the components of ESH related to young adults. It will also inform the Board's rulemaking on restrictive housing for young adults.

II. ASSESSMENT PURPOSE & METHODOLOGY

DOC policies and procedures related to ESH have changed significantly, making it difficult to evaluate. This report describes ESH implementation with respect to the young adult population (18 through 21 years old). DOC's policies and compliance with the Minimum Standards on ESH and lessons learned over the course of implementation are also discussed. Finally, recommendations and implications for the Board's upcoming rulemaking on restrictive housing are presented for consideration in this report's Executive Summary.

Board staff conducted an in-depth file audit of all young adult ESH placements between September 2016 and March 2017. This audit included 65 placements, with three individuals having more than one placement.

The findings in this report are based on a wide range of sources including:

- All available documentation related to ESH policies and procedures;⁹
- Information and conversations with DOC, CHS, DOE staff tasked with implementing ESH;
- Detailed field observations and monitoring of ESH units by Board staff;
- Administrative data captured by DOC, CHS, and DOE; and
- Files containing all ESH due process paperwork, audio recordings of placement hearings,¹⁰ and complaints submitted to the Board.

⁸ N.Y.C. Bd. of Corr., AN ASSESSMENT OF THE NEW YORK CITY DEPARTMENT OF CORRECTION'S IMPLEMENTATION OF ADULT ENHANCED SUPERVISION HOUSING, (APR. 26, 2017), *available at* <https://goo.gl/278xdT>.

⁹ There is no written policy in effect that is specific to the YA ESH model, however, an updated draft ESH Directive which addresses new elements of the ESH model specific to young adults is currently under development and review.

¹⁰ Audio recordings of placement hearings were available for 89% (n=58) of audited placements.

III. TIMELINE OF ESH IMPLEMENTATION & RESTRICTIVE HOUSING FOR YAs¹¹

2015	
January 13, 2015	Board voted to amend Minimum Standards to create Enhanced Supervision Housing (ESH) units, excluding its use for 16- through 21-year-olds and people with serious mental or physical disabilities or conditions, and voted to end Punitive Segregation for 16- through 21-year olds, effective January 1, 2016. ¹
February 19, 2015	DOC issued its first Directive on ESH policies and procedures (Directive 4497).
February 21, 2015	ESH Minimum Standards took effect. ²
February 23, 2015	DOC began moving incarcerated adults into ESH.
July 1, 2015	Deadline for DOC to provide people in ESH with both voluntary and involuntary and both in- and out-of-cell, programming. This programming must be aimed at facilitating rehabilitation, addressing root causes of violence, and minimizing idleness.
November 10, 2015	Board granted DOC's variance request extending deadline to end Punitive Segregation for young adults ages 18 through 21 until February 29, 2016. ³
2016	
Around January 2016	DOC began implementing three "phases" in ESH with "phase one" being the most restrictive.
January 12, 2016	Board granted DOC's [second] variance request extending the deadline to end Punitive Segregation for young adults ages 18 through 21 until June 1, 2016. ⁴
February 1, 2016	Incentive-based programming model tied to new ESH levels introduced to ESH leadership.
February 23, 2016	Second Chance Housing Units (SCHU) for young adults opened at the GMDC facility.
April 21, 2016	Transitional Restorative Unit (TRU) for young adults opened at the GMDC facility.
May 1, 2016	"Passport to Success" ESH program orientation process started in ESH units.
May 10, 2016	Board granted DOC's variance request to open and operate the Secure Unit to house young adults ages 18 through 21 until November 10, 2016. ⁵
May 26, 2016	Board granted DOC's [third] variance request extending deadline to end Punitive Segregation for young adults ages 18 through 21 until June 30, 2016. ⁶
June 29, 2016	Secure Unit opened with three young adults placed there.
June 30, 2016	Board's variance to house young adults ages 18 through 21 in Punitive Segregation expired. This date also marked the official end date of Punitive Segregation for 18-year-old young adults.
July 7, 2016	Board issued a Notice of Violation to DOC for its continued use of Punitive Segregation for young adults ages 19 through 21. ⁷
July 12, 2016	Board granted DOC's variance request to place young adults ages 19 through 21 in ESH until October 11, 2016; and [fourth] variance request extending deadline to end Punitive Segregation for young adults ages 19 through 21 until October 11, 2016. ⁸
July 26, 2016	DOC issued an updated Directive on ESH procedures and policies (Directive 4497R) to reflect Department's ability to house young adult inmates in ESH.
September 7, 2016	The Department placed the first young adult in ESH.
October 2016	DOE began providing regularly scheduled educational services to young adults in ESH.
October 11, 2016	The Department announced the end of Punitive Segregation for young adults ages 19 through 21. Board granted DOC's variance requests permitting placement of young adults ages 18 through 21 in ESH (19-through 21-year-olds in ESH until January 11, 2017 and 18 year-olds until April 11, 2017). ⁹
October 12, 2016	The Department opened the YA ESH Assessment Unit, where young adults are restrained to desks during all out-of-cell activities and receive 28-day assessments.
November 1, 2016	Chief of Department approved the first placement of an 18-year-old in ESH.
November 15, 2016	Board granted DOC's [second] variance request permitting the placement of young adults ages 18 through 21 in the Secure Unit until May 15, 2017. ¹⁰
November 16, 2016	The Department issued a Command Level Order formalizing an ESH level structure, changing terminology from phases to levels, including ESH Level 1 requiring use of restraint desks during all out-of-cell time.
December 9, 2016	The Department updated its ESH due process forms to include the use of restraint desks as a potential individualized restriction.

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2017	
January 11, 2017	Board's variance permitting placement of 19- through 21-year-olds in ESH expired.
January 20, 2017	Board issued a Notice of Violation of Minimum Standards to DOC for its continued operation of ESH for young adults ages 19 through 21. ¹¹
February 10, 2017	The Department issued a Security Memorandum requiring that whenever a person housed in the Assessment or a Level 1 unit leaves his cell, he will undergo a more extensive search, and that only one inmate at a time will be moved around the housing unit. ¹²
February 13, 2017	DOE began offering an additional school session to accommodate young adults in ESH, increased the number of school sessions from one to two sessions in ESH.
February 14, 2017	Board granted DOC's variance request permitting the housing of young adults ages 18 through 21 in ESH until August 14, 2017 and modified placement criteria so that young adults may be only placed in ESH Entry after the young adult has recently committed and / or participated in an actual or attempted slashing or stabbing or activity causing serious injury to another person. ¹³
February 24, 2017	The Department issued a Deputy Warden Order requiring ESU staff with tasers and canines to be present during any lockout of any person and feedings in a Level 1 unit. ¹⁴
March 1, 2017	The Department renamed the YA ESH Assessment Unit the YA ESH Entry Unit, changing the assessment time-period from 28 days to 30 days.
March 6, 2017	The Department issued a Security Memorandum to require that ESU staff or a K9 officer with a canine be present during any movement in Level 1 units. ¹⁵
March 30, 2017	Department shared a revised draft of the ESH directive soliciting Board feedback.
April 26, 2017	Board released a report assessing ESH for adults to inform the Board's discussion of "the continued effectiveness and appropriateness of ESH" required by the Minimum Standards. ¹⁶
May 10, 2017	Board discussed "the continued effectiveness and appropriateness of ESH" as required by the Minimum Standards; Board granted DOC's <i>[third]</i> request permitting the housing of young adults ages 18 through 21 in the Secure Unit until June 15, 2017. ¹⁷
June 13, 2017	Board granted DOC's <i>[fourth]</i> variance request permitting the housing of young adults ages 18 through 21 in the Secure Unit until July 11, 2017. ¹⁸
June 27, 2017	DOC submitted to the Board an Evaluation of Enhanced Supervision Housing for Young Adults, as required by the Board's February 14, 2017 ESH variance condition.
July 11, 2017	Board granted DOC's Variance request permitting the housing of young adults ages 18 through 21 in ESH until November 15, 2017. ¹⁹

IV. ESH & THE YOUNG ADULT POPULATION

On September 7, 2016, the first young adult was placed in ESH. The Department opened a young adult-only unit, on October 12, 2016, where young adults were restrained to desks for all out-of-cell activities and received “28-Day Reviews.” In November 2016, the Department formalized the use of ESH “incentive levels” in policy creating a more restrictive ESH “Level 1” in which individuals are in restraints during out-of-cell movement and at restraint desks for all lock-out activities.¹² Upon making these policy changes, DOC expanded its use of ESH. There are six ESH housing units currently in operation, each housing at least one young adult.¹³ All ESH units operate in the Otis Bantum Correctional Center (OBCC) on Riker’s Island.

On November 14, 2016, the Department started conducting 28 Day Reviews for young people placed in the Young Adult ESH unit, with the first young adults receiving reviews having entered the unit on October 17, 2016. The 28-Day Reviews were used to determine an individual’s housing assignment and involved consideration of different assessments¹⁴ conducted by DOC staff. The Young Adult ESH unit was renamed the “ESH Entry Unit,” on March 1, 2017, following policy changes to the young adult placement criteria and the assessment time for conducting reviews changing from 28 to 30 days. DOC places young adults in the ESH Entry Unit who have recently committed and/or participated in an actual or attempted slashing or stabbing, or engaged in activity that caused serious injury to an officer, another inmate or any other person and presents a significant threat to the safety and security of the facility, and who they believe require the heightened safety and security afforded by Restraint Desks. Young adults not involved in a recent incident of serious violence but meeting other ESH criteria may be placed in blended ESH units without restraint desks, which operate according to the incentive level structure used for adults in ESH.¹⁵

¹² See N.Y.C. DEP’T OF CORR., OTIS BANTUM CORRECTIONAL CORR. CTR., INST’L ORDER NO. 106/16, ENHANCED SUPERVISION HOUSING (ESH) (eff. Nov. 16, 2016). Note this order does not include reference to the young adult ESH unit which was open and operating under the same conditions as an ESH Level 1 unit at the time the order was issued.

¹³ Number of ESH housing units as of July 3, 2017.

¹⁴ Assessments include a psychosocial assessment, the National Institute on Drug Abuse (NIDA) drug use screening tool, an environmental assessment, and test of adult basic education (TABE). On June 9, 2017, the Department introduced the Juvenile Relational Inquiry Tool to the assessment process to assist with mapping family supports for young adults in the ESH Entry Unit.

¹⁵ Eighteen-year-olds are not housed with adults age 22 and over. This means young adults who are 18 years old must be placed and remain in the ESH Entry Unit during their time in ESH (unless and until additional young adult-specific ESH units are created). N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, CLASSIFICATION OF PRISONERS, LOCK-IN § 1-02 (Jan. 23, 2016).

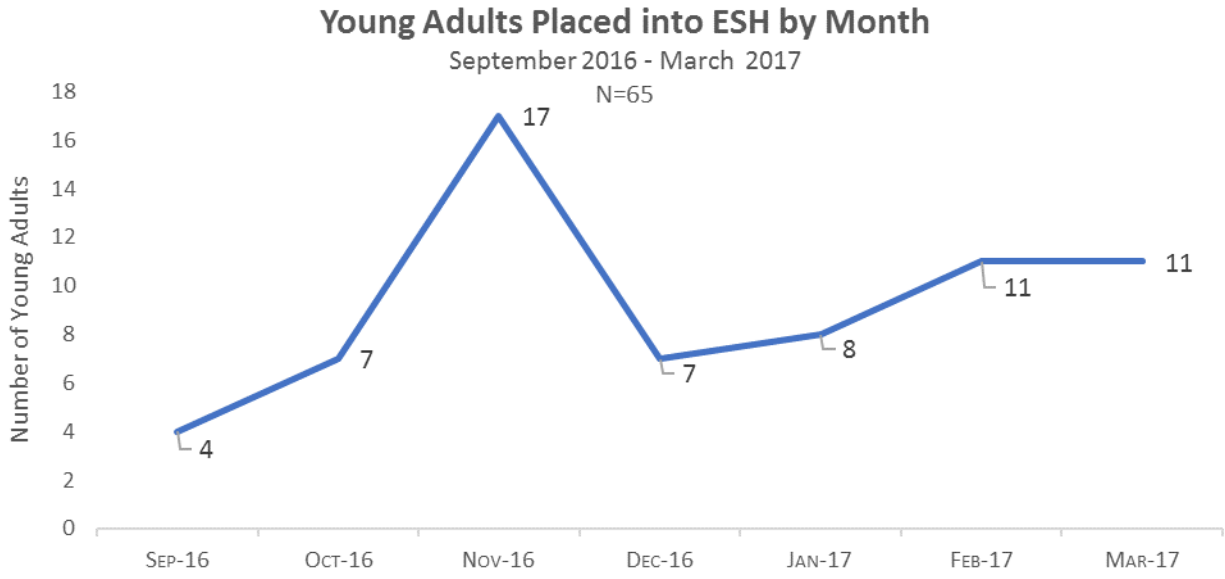
Table 1

Description of Young Adult ESH by Level					
	ESH Entry Unit	Level 1	Level 2	Level 3	Level 4
Number of Housing Units Currently in Operation	1 Unit	2 Units	2 Units	1 Unit	There have never been any ESH Level 4 only housing units in operation.
Restraint Desks Used	Yes (All Lockout Time)	Yes (All Lockout Time)	Young Adults Restrained in Desks When Attending School in the ESH Entry Unit		
Lock-out Afforded (minimum)	7 hours	7 hours	7 hours	10 hours	14 hours
Commissary Limit (weekly)	\$50	\$50	\$70	\$95	\$125
Programs Offered	--Dialectical Behavioral Therapy (DBT) --Youth Communication --Creative Expression Arts and Crafts	--Individuals Determined to Overcome Life's Struggles (IDOLS) --Cage Your Rage	--Individualized Correction Achievement Network (ICAN) --The Challenge Journal Series --Brooklyn Public Library Book Distribution --Teleconferencing & Family Reunification		

PLACEMENTS & AVERAGE DAILY POPULATION

From September 2016 to March 2017, a total of 61 young adults were housed in ESH, accounting for a total of 65 distinct ESH placements. Three young adults had more than one placement. Two young adults had two placements, and one young adult had three placements during this period.

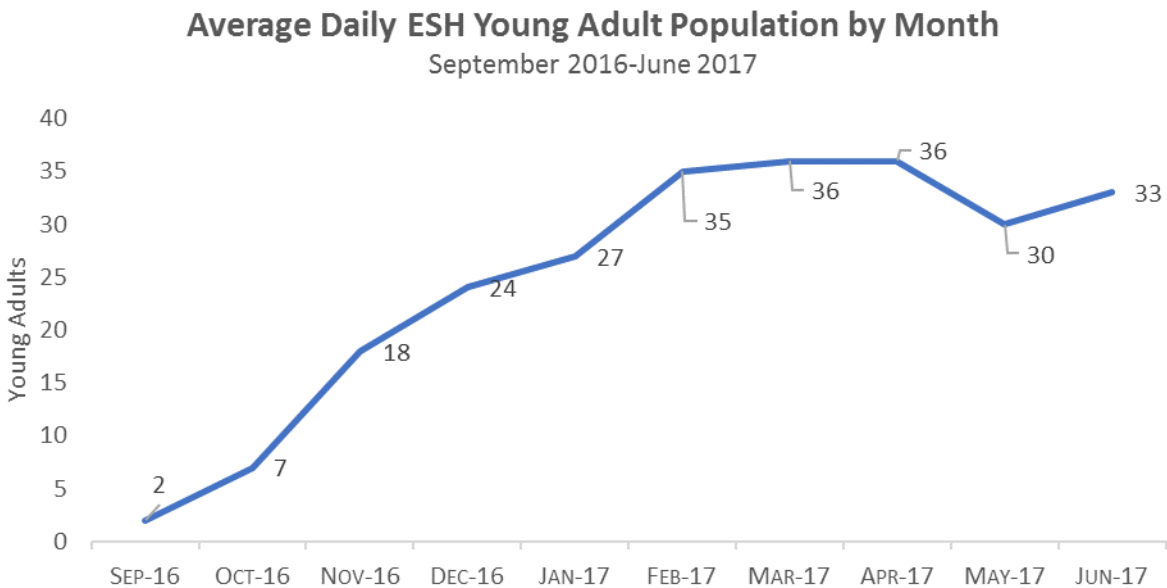
From September 2016 to March 2017, the number of ESH placements per month ranged between a minimum of four placements in September 2016 to a maximum of 17 placements in November 2016.



SOURCE: Department of Correction census data compiled by Board of Correction .

Figure 1

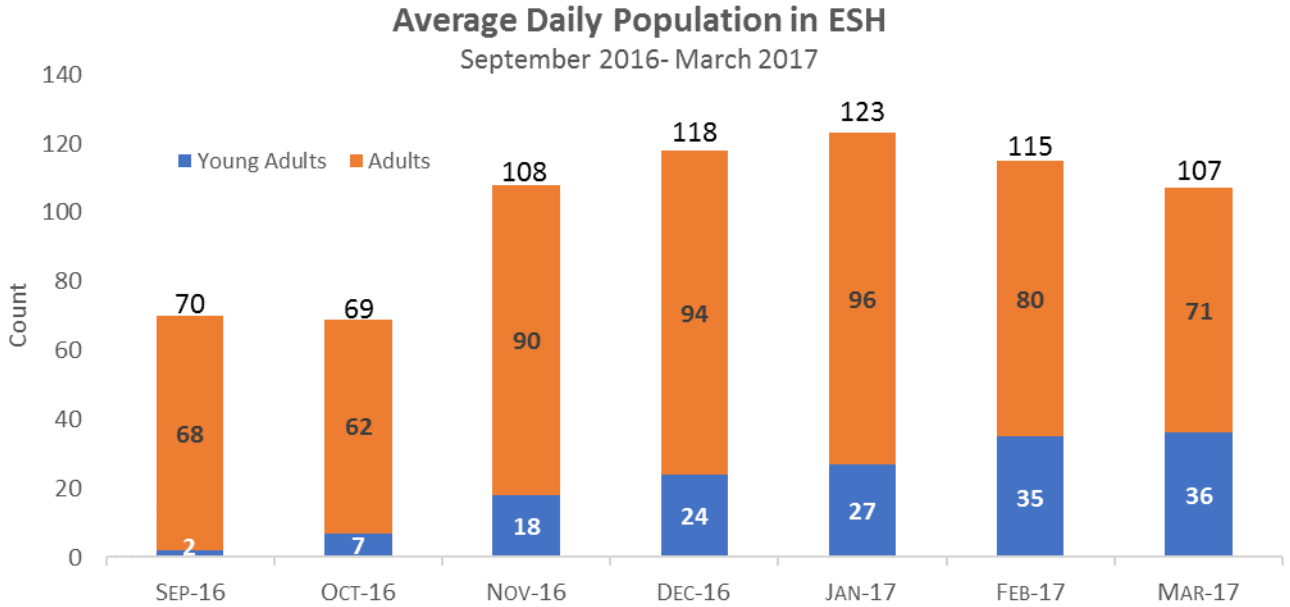
The average daily population (ADP) in ESH ranged from a minimum of 2 young adults in September 2016, when ESH first started housing young adults, to a maximum of 36 young adults in March and April 2017.



SOURCE: ADP calculated from young adult placement and exit data. ADP for June is as of June 28, 2017.

Figure 2

As of March 2017, young adults made up 34% of the average daily ESH population. Prior to punitive segregation reform and the establishment of ESH, young adults ages 18-21 made up 30% of the punitive segregation population in 2013¹⁶ and 35% of the punitive segregation population in 2014.¹⁷



SOURCE: Board of Correction analysis of ESH entry and exit dates.

Figure 3

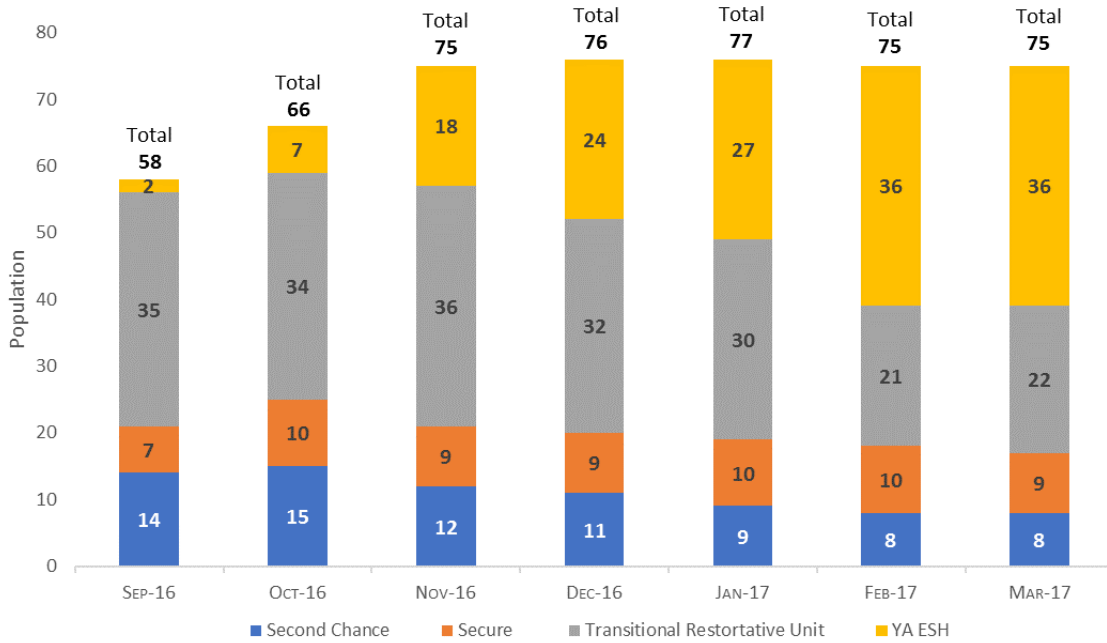
Since the Department started placing YAs in ESH, there has been a 29% increase in the number of YAs in alternatives to punitive segregation (combined) housing, a 43% decrease in the ADP of Second Chance Housing, and a 37% decrease in the ADP of the Transitional Restorative Unit.

¹⁶ DOC census taken on November 1, 2013.

¹⁷ DOC census taken on November 24, 2014.

**Average Daily Population for Young Adults
Alternative to Punitive Segregation Housing**

September 2016 - March 2017



SOURCE: Department of Correction census data compiled by Board of Correction.

Figure 4

DEMOGRAPHICS

All young adults placed in ESH were men.¹⁸ The racial composition of the young adult ESH population was 52% Black (n=34), 42% Hispanic (n=27), and 6% other (n=4). A higher portion of the ESH young adult population was Hispanic (42%, n=27) compared to the population of adults placed in ESH (33%, n=114)¹⁹ and in the DOC population overall (34%, n=3,325).²⁰

¹⁸ No studies or reports were done about individuals’ gender identities. The Department of Correction housed people in ESH in a male facility, but it is possible that there are individuals in these units that identify as women or are gender non-binary.

¹⁹ Race statistics determined from a total of 348 adults who were placed in ESH between February 2015 and November 2016.

²⁰ Race and Ethnicity reported for Average Daily Population in NYC Department of Correction, Population Demographics Report: Fiscal Year 2017 First Quarter (undated), available at: goo.gl/UoRFMX.

Table 2

Racial and Ethnic Breakdown of ESH Population vs. Department-wide Population				
Race / Ethnicity	ESH Young Adult		DOC Overall	
	Adult	Percent	Population	Percent
Black (Non-Hispanic)	34	52%	5,338	55%
White (Non-Hispanic)	0	0%	685	7%
Other (Non-Hispanic)	4	6%	446	5%
Hispanic	27	42%	3,325	34%
Total	65	100%	9,794	100%
SOURCE: Race & Ethnicity for ESH young adults recorded in Department of Correction Inmate Identification System.				
NOTE: Race and Ethnicity reported for Average Daily Population in NYC Department of Correction, Population Demographics Report: Fiscal Year 2017 First Quarter (undated), available at goo.gl/3Vy536				

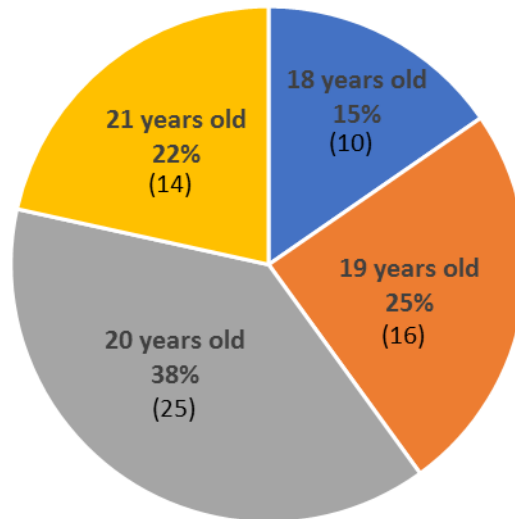
The average age of young adults entering ESH was 20 years old. A cross-section of the DOC census on March 31, 2017 showed that young adults (18-21 years) made up 35% (n=37) of the total ESH population (n=107). Young adults in ESH on that date made up only four percent (4%, n=37) of the total young adult population (ages 18 through 21) in DOC (n=994).²¹

Table 3

Age Breakdown of ESH Population and Department-wide Population				
on March 31, 2017				
Age	ESH Young Adult		DOC Young Adult	
	Population	Percent	Population	Percent
18 years old	4	11%	176	18%
19 years old	6	16%	215	22%
20 years old	18	49%	296	30%
21 years old	9	24%	307	31%
Total	37	100%	994	100%
SOURCE: Department of Correction census data compiled by Board of Correction.				
NOTE: DOC Young adult population is a snapshot on March 31, 2017.				

²¹ Young adults (18-21 -year -old) made up 11% of the overall DOC population on March 31, 2017.

Age at Time of ESH Placement
 Young Adult Placements September 2016 - March 2017
 Total N=65



SOURCE: Department of Correction census data compiled by Board of Correction.

Figure 5

CUSTODY STATUS

Nearly all young adults housed in ESH were facing or were sentenced to felony charges (95%, n=62). Over half of young adults housed in ESH were pretrial detainees (69%, n=45), a smaller proportion compared to the DOC population overall (80% pretrial, n=7,608).²² Thirty-one percent (31%, n=20) of young adults in ESH were sentenced, a larger portion compared to the DOC population overall (20%, n=1,948).²³ Twenty-nine percent (29%, n=19) were sentenced and awaiting transfer to state custody.

SECURITY DESIGNATIONS & CLASSIFICATION LEVELS

All young adults in ESH were identified by DOC as gang-affiliated.²⁴ Seventy-seven percent (77%, n=50) have been found by DOC to have used or possessed a weapon or other dangerous instruments while in Department custody.²⁵

The risk classification score²⁶ for young adults placed in ESH ranged from 6 to 33 with an average classification score of 21.6. Of the 65 ESH placements reviewed, 88% (n=57) met the criteria for a

²² DOC Census data averaged from September 2016-March 2017.

²³ *Id.*

²⁴ N.Y.C. DEP’T OF CORRECTION, OPERATIONS ORDER 03/12, MONITORING AND MANAGING SECURITY RISK GROUPS AND WATCH GROUPS, sec. III(A), at 2 (eff. Mar. 17, 2012).

²⁵ See N.Y.C. DEP’T OF CORRECTION, DIRECTIVE No. 4518R-C, RED ID AND ENHANCED RESTRAINT STATUS INMATES, sec. III(A), at 2 (eff. Sept. 28, 2016).

²⁶ DOC’s risk classification score is assigned upon admission to DOC custody and reassessed every 60 days. Factors used to derive the score include securing orders, RAP sheet, Sentence Commitment Orders, warrants, detainers,

maximum risk classification level (a classification score of 13 or more); 11% (n=7) had a medium custody classification (a score between 7 and 12), and 2% (n=1)²⁷ had minimum custody classification (a score between 4 and 6) prior to their ESH placement.

CLINICAL DESIGNATIONS & SUICIDE WATCH

The Minimum Standards require the exclusion of people with serious physical or mental health conditions from ESH housing.²⁸ Individuals housed in ESH were more likely to have mental health needs than the overall DOC population.²⁹ Over half (61%, n=37), of young adults in ESH had identified mental health needs prior to placement. No individuals placed in ESH had a diagnosis for a serious mental illness (SMI). Thirty-one percent (31%, n=19) of young adults in ESH had a substance use disorder prior to placement. None of the young people placed in ESH had a serious physical disability.³⁰

Table 4

Clinical Designations for Young Adults Placed in ESH		
September 2016-March 2017 N= 61 Young Adults		
	Number	Percent
Receiving mental health services before placement	37	61%
SMI before placement	0	
Substance use disorder before placement	19	31%
Serious physical disability before placement	0	

SOURCE: Correctional Health Services data as of May 24, 2017 matched to young adults placed in ESH from September 2016 to March 2017.
NOTE: Substance use disorder numbers exclude remission diagnosis, tobacco use, and cannabis. Twenty-five cannabis only users were removed from the total number of substance use disorders.

A review of the Department’s suicide watch list found that 22 young adults had previously been on the Department’s suicide watch list, though they were not on the list at the time of their placement in ESH. Two young adults have appeared on the suicide watch list and remained in ESH during that time. One of the young adults was on the list once and the other young adult was on the suicide watch list twice.

pre-sentence reports, probation reports, and institutional behavior. *See generally* N.Y.C. DEP’T OF CORRECTION, DIRECTIVE No. 4100R-D, CLASSIFICATION (eff. Mar. 10, 2014).

²⁷ This young adult had a low classification score at the time of his ESH placement. Prior to his placement in ESH he had participated in a stabbing that took place in a general population housing area.

²⁸ *See* N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(c)(1)(iii) (Jan. 23, 2016).

²⁹ In fiscal years 2015 and 2016, approximately 42% of DOC’s ADP was receiving mental health services (Brad H/M Designation). *See* NEW YORK CITY MAYOR’S OFFICE OF OPERATIONS, PRELIMINARY MAYOR’S MANAGEMENT REPORT: PRELIMINARY FISCAL YEAR 2017 76 (Feb. 2017), *available at*: goo.gl/inji4E.

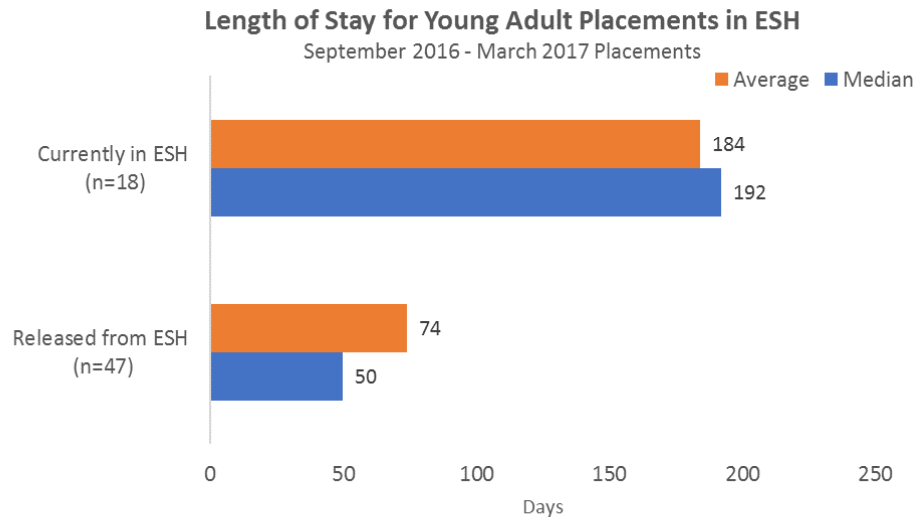
³⁰ CHS clinical staff conduct a case-by-case review of individuals recommended for ESH placement and determine whether a physical disability is serious enough to preclude placement. Less serious disabilities such as visual or hearing disabilities are addressed through appropriate medical treatment.

Individuals with developmental disabilities may be identified at DOC intake. Several screening questions are intended to assist with identification. For individuals who are receiving mental health services, additional intake screening questions help to identify the presence of a developmental disability; however, CHS reports that many of the young adults in ESH are not receiving mental health services while in ESH. Individuals identified prior to ESH placement (e.g. at intake or at a MH assessment) as having a developmental disability are not cleared for ESH placement.

LENGTH OF STAY & TIME IN ESH

The length of stay in ESH for young adults who were eventually released from ESH ranged from two days to 247 days with an average length of stay of 74 days (2.5 months) and median length of stay of 50 days (1.6 months).³¹

A snapshot of the 18 individuals who were placed between September 2016 and March 2017 and were still in ESH as of June 28, 2017 had an average length of stay in ESH of 184 days (6.1 months) and a median length of stay of 192 days (6.4 months), with one individual having served 282 days in ESH. The minimum length of stay for young adults still housed in ESH was 96 days.



SOURCE: ESH entry and exit dates compiled by BOC from DOC housing assignments in the Inmate Information System. ESH entry date is the date DOC notified BOC when an individual was in ESH or the date they appear in an ESH housing area in the Inmate Information System (whichever date was earlier).
 * Calculated as of June 28, 2017.

Figure 6

³¹ Of the 65 young adult ESH placements, 43 had an ESH exit date.

HOUSING LOCATION PRIOR TO ESH ENTRY

For the 65 young adult placements in ESH from September 2016 to March 2017, twenty-two percent (22%, n=14) of the young adults entering ESH were transferred from a general population housing unit, 18% (n=12) were transferred into ESH from an isolation unit, and 18% (n=12) were transferred into ESH from Transitional Restorative Unit (TRU). Table 5 summarizes all housing locations of young people immediately prior to their ESH entry.

HOUSING LOCATION AFTER ESH EXIT

Seventy-two percent (72%, n=47) of all young adults placed from September 2016 to March 2017³² had an ESH exit date, while 28% remain in DOC custody (n=18).³³ Over half of young adult placements released from ESH (57%, n=27) were discharged from DOC custody entirely. Most young adults exiting ESH and leaving DOC custody were transferred to state prison. Thirteen percent (13%, n=6) were transferred to general population housing, 15% (n=7) were released to an Enhanced Restraint unit, 6% (n=3) were transferred to the Secure unit, and 4% (n=2) were sent to Punitive Segregation.³⁴ Table 6 summarizes the housing location for all 47 young adult placements exiting ESH.

Table 5

Housing Location of Young Adults Prior to ESH Placement			
September 2016 - March 2017 Placements			
	Count	Percent	
General Population	14	22%	
Isolation	12	18%	
Transitional Restorative Unit	12	18%	
Enhanced Restraint Unit	8	12%	
Accelerated Program Unit	6	9%	
Punitive Segregation	5	8%	
Administrative Segregation	4	6%	
Clinical Alternative to Punitive Segregation	1	2%	
Detox	1	2%	
New Admission	1	2%	
Secure Unit	1	2%	
Total	65	100%	

SOURCE: Board of Correction review of housing location reflected in the DOC Inmate Information System.

Table 6

Release Location of Young Adults After Exit from ESH			
September 2016 - March 2017 Placements			
	Count	Percent	
General Population	6	13%	
Protective Custody	1	2%	
Enhanced Restraint Unit	7	15%	
Accelerated Program Unit	1	2%	
Punitive Segregation*	2	4%	
Secure Unit	3	6%	
Released from DOC Custody	27	57%	
<i>Transferred to State Prison or Other Jurisdiction</i>	22	-	
<i>Bail Paid</i>	1	-	
<i>Time Served</i>	2	-	
<i>Released on Own Recognizance</i>	2	-	
Total	47	100%	

SOURCE: Board of Correction review of housing location reflected in the DOC Inmate Information System on June 28, 2017.

* Individuals who went into punitive segregation were 21 years old when they were originally placed into ESH. They turned 22 years old during their placement.

³² Young adult ESH placements from September 2016- March 2017.

³³ As of June 28, 2017.

³⁴ The individuals sent to punitive segregation entered ESH when they were 21 years old and turned 22 while in ESH and prior to being transferred to punitive segregation.

V. DUE PROCESS

PLACEMENT

The majority of young adults (62%, n=40) were initially placed in the ESH Entry Unit, 32% (n=21) were initially placed in an ESH Level 1 unit, and 6% (n=4) were initially placed in an ESH Level 2 unit.

Table 7

Young Adult ESH Placement by Level September 2016 - March 2017 Placements		
	Number	Percent
ESH Entry Unit	40	62%
ESH Level 1	21	32%
ESH level 2	4	6%
Total	65	100%
SOURCE: Board of Correction review of housing location reflected in the DOC Inmate Information System		

Prior to February 14, 2017, when the Board limited the criteria for placing young adults in ESH units with restraint desks, young adults could be placed in any ESH unit provided they met the criteria outlined in the Minimum Standards on ESH.

After February 14, 2017, a young adult could only be placed directly into the ESH Entry Unit if they recently committed and/or participated in an actual or attempted slashing or stabbing, or

engaged in activity that caused serious injury to an officer, another person in custody, or any other person and when the use of the Restraint Desk is the least restrictive option necessary for the safety of others.³⁵ Furthermore, a young adult could only be placed in ESH Level 1 if the ESH Entry Unit assessment recommended continued Level 1 placement and the use of a restraint desk continued to be the least restrictive option necessary for the safety of others.³⁶

The Minimum Standards give medical staff the authority to determine if a person should be excluded from ESH placement or moved to a more appropriate housing unit.³⁷ After DOC makes a recommendation for placement, CHS staff are typically notified by email regarding an individual’s placement in ESH. CHS is typically sent a list of individuals for review. They are not specifically informed of whether a patient will be placed in an ESH unit where restraint desks are used. Once notified, CHS conducts a review of the individual’s electronic medical record to see whether they have a serious mental illness. CHS also checks its records for any known cognitive deficits and any serious or recent self-injury.

CHS reports that they have not found health issues arising from the use of the restraint desks in ESH to date.

³⁵ RECORDS OF VARIANCE ACTION, N.Y.C. Bd. OF CORR. (Feb. 14, 2017), available at <https://goo.gl/AFGt9W> and <https://goo.gl/JJe35M>.

³⁶ *Id.*

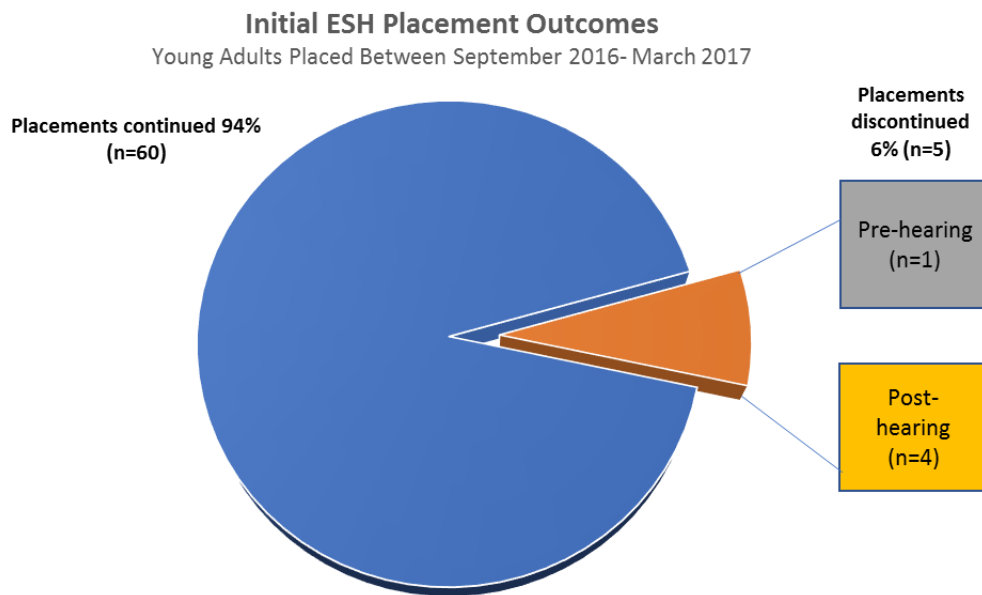
³⁷ N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(c)(2) (Jan. 23, 2016).

PLACEMENT DETERMINATION

Of the 65 placements in ESH between September 2016 and March 2017, five were discontinued. One placement was discontinued prior to an ESH placement hearing because the young adult was transferred to state prison two days after entering ESH. Three placements were discontinued after a placement hearing upon a finding that ESH placement criteria were not met—one of the three young adults spent 8 days in ESH prior to being transferred out, another spent 13 days, and one spent 14 days in ESH prior to transfer.

One young adult placement was discontinued two days after entering ESH. He received a placement hearing but was immediately transferred to the West Facility.

One young adult whose placement was continued was initially placed in the ESH Entry Unit and his placement determination found no restrictions should be imposed while in ESH. This young adult was moved to an ESH Level 2 unit (without a restraint desk) 21 days after his initial placement in ESH.



SOURCE: ESH young adult files provided by the Department of Correction.

Figure 7

Just over two-thirds of young adult placements 67% (n=43)³⁸ received a timely placement hearing (within three business days of notice of placement).

³⁸ This is calculated from all placements not discontinued prior to a hearing (n=64).

Board staff listened to a total of 58 audio recordings of hearings. Placement hearings ranged from 52 seconds to 20.5 minutes, depending on the level of participation by the person being adjudicated and amount of evidence reviewed in the hearing. All individuals are informed of their right to attend their ESH placement hearing on their ESH placement notice form and 65% (n=43) of young adults did so.

Of the young adults in ESH whose placement records were reviewed, none requested a hearing facilitator. Three young adults had their placement hearings adjourned—one young adult requested the opportunity to call witnesses, another hearing was adjourned pending receipt of documents and the results of an infraction hearing, and one young adult refused to participate in the hearing at the hearing itself; the adjudication captain terminated the hearing and held a hearing in absentia at a later date.

Individuals who do not speak English are entitled to the assistance of a hearing facilitator who is a civilian employee of the Department, usually a legal coordinator from the law library or a counselor.³⁹ Board staff listened to a recording of one hearing where a correction officer served as an interpreter for a young adult who did not speak English.

APPEAL OF PLACEMENT

While the Department's ESH directive provides an avenue to appeal the placement decision within 21 days, no young adult placed in ESH appealed their placement in ESH with the Department. One young adult filed an Article 78 appeal, but it was considered moot and dismissed by the Court after the young adult was transferred to state custody.

REASON FOR ESH PLACEMENT

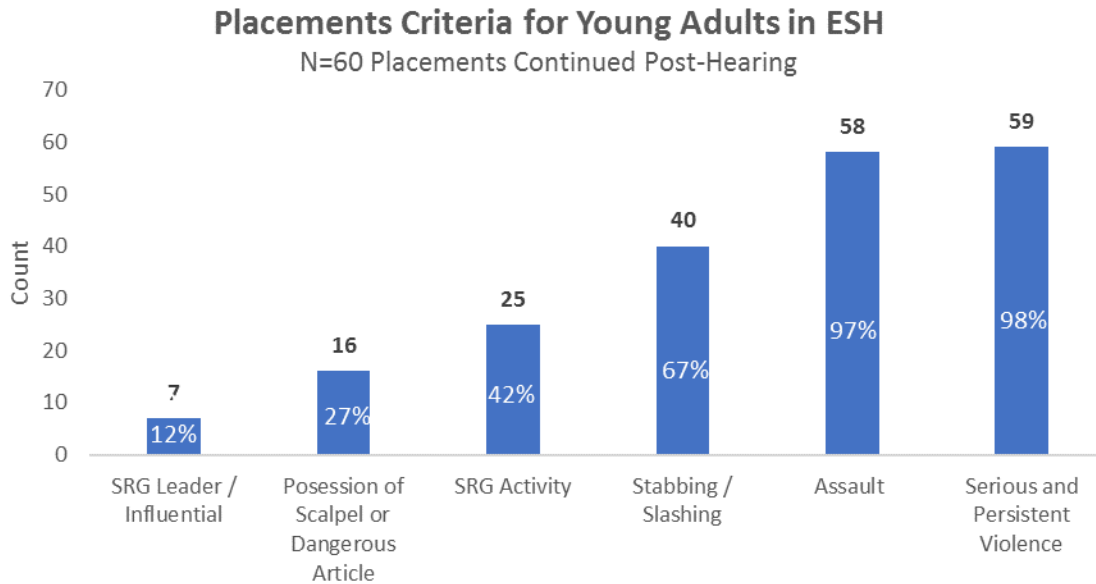
People can be placed in ESH for meeting one or more of the ESH placement criteria outlined in the Minimum Standards. Of the 60 young adult placements continued after an ESH placement hearing, 98% (n=59) for serious or persistent violence, 97% (n=58) were placed for assaults, 67% (n=40) for participation in a slashing or stabbing, 42% (n=25) for SRG (gang) activity, 27% (n=16) for possession of a scalpel, and 12% (n=7) for being an influential gang leader.⁴⁰ None of the ESH placements during this period were based on events that occurred when people were out of DOC custody.

The Standards allow the Department to consider a single incident or rule violation as meeting multiple ESH placement criteria. Serious and Persistent Violence (98%, n=59) is the criterion most frequently cited for a young person's placement in ESH, followed by Assault (97%, n=58). Assault is also often an aspect of other criteria, including involvement in a gang-related assault and causing serious injury to another person. Of the 58 placements for assaultive behavior, nearly all (95%, n=55) cited assaults on

³⁹ N.Y.C. DEP'T OF CORRECTION, DIRECTIVE NO. 4497R-A, ENHANCED SUPERVISION HOUSING (ESH) (eff. July 26, 2016).

⁴⁰ All placement statistics are derived from criteria recorded on everyone's Placement Hearing Determination Forms (ESH-3 Form). Department staff indicate on the ESH forms which placement criteria are met. There are six criteria or options provided on the forms, which do not directly parse the wording of ESH standards.

an inmate and 47% (n=27) cited assaults on staff. Forty-one percent of placements for “Assault” (41%, n=24) were placements that cited both assaults on inmates and assaults on staff.



SOURCE: Data captured from ESH-3 Forms "Notice of Hearing Determination for Enhanced Supervision Housing" for individuals placed from September 2016 -March 2017.

Figure 8

Overall, young adults were placed in ESH an average of 61 days and a median of 16 days after the most recent incident used to justify their ESH placement. Young adults placed in the ESH Entry Unit were placed an average of 23 days and a median on 6 days after the most recent incident used to justify placement in ESH. Young adults placed in the ESH Level 1 housing units were placed an average of 129 days and a median of 77 days after the most recent incident used to justify placement in ESH.

Table 8

Time from Most Recent Incident Cited in ESH Placement Determination Form to Entry into ESH Young Adult Placements September 2016- March 2017					
Level Entered	Number of Placements	Average Days Prior	Median Days Prior	Min Days Prior	Max Days Prior
ESH	40	23	6	1	209
ESH1	20	129	77	1	843
ESH2	4	106	113	35	165
Overall*	64	61	16	1	843

SOURCE: Department of Correction data compiled by Board of Correction.
* One individual exited ESH prior to a placement hearing determination.

RESTRICTIONS

At the time someone is recommended for placement in ESH, the Department may recommend that certain restrictions be imposed, including noncontact restrictions, mail monitoring, and package restrictions.⁴¹ The ESH notice form provided to individuals placed in ESH lists all restrictions that may be imposed but does not specify whether DOC has in fact recommended any specific restrictions for the individual receiving the notice.⁴² This was an area for improvement identified in the Board’s recently released Assessment of ESH for Adults.

Of the 60 young adult placements continued after a placement hearing, 39% (n=24) had specific restrictions identified on their placement determination (ESH # 3) forms provided to young adults after their placement hearings. There were five placements with non-contact visits added.⁴³ Only 25 young adult placements were informed of and provided written justification for the restraint desk restriction. Most young adults whose placement continued in an ESH unit with restraint desks (29 out of 54 placements) failed to receive proper due process for the restraint desk restriction as required under ESH Standards.⁴⁴

⁴¹ See N.Y.C. DEP’T OF CORRECTION, DIRECTIVE NO. 4497R-A, ENHANCED SUPERVISION HOUSING (ESH), Recommendation for Initial Placement of Inmate in Enhanced Supervision Housing (ESH-1 Form) (eff. July 26, 2016).

⁴² Improving how people placed in ESH are notified of restrictions upon placement was a recommendation presented in the Board’s adult assessment of ESH report released in April 2017.

⁴³ Inmates may have multiple restrictions.

⁴⁴ N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(g)(3)(6) (Jan. 23, 2016).

Significantly more young adults were subject to visit restrictions while in ESH than the six that were processed for visit restrictions at the time of placement. An analysis of a snapshot of the 37 young adults⁴⁵ in ESH on March 31, 2017 found that two-thirds (70%, n=26) had a non-contact visit restriction and nearly all (96%, n=25) of those restrictions were restrictions for the duration of an individual's incarceration, subject to six-month reviews of that status.

In general, there was a lack of discussion of specific restrictions during placement hearings and lack of understanding on the part of young adults placed in ESH as to when restrictions were imposed and why they were necessary. The Department lacks a centralized tracking system that would allow for a complete analysis of all the restrictions imposed on people in custody. This makes identifying exactly when and why restrictions were imposed and whether due process was provided difficult to assess.

⁴⁵ Young adults at the time of ESH placement. Two young adult placed between September 2016 and March 31, 2017 turned 22 years old by March 31, 2017 and are included in this analysis.

VI. YOUNG ADULT ESH REVIEW PROCESS

Table 9

Young Adult (YA) ESH Placement Review Process by Level		
	ESH Entry Unit	Levels 1-4
Review Process	<p>30-day review to determine most appropriate housing placement (i.e. ESH Level, Secure or another housing Unit); and</p> <p>45-day reviews to determine phase advancement, phase regression, and the reduction or enhancement of privileges</p>	Review of Placement Required Every 45-day to determine phase advancement, phase regression, and the reduction or enhancement of privileges
Staff Involved	<p>ESH Entry Status Review:</p> <ul style="list-style-type: none"> --ESH Deputy Warden (and/or Assistant Deputy Warden of ESH) --Associate Correction Counselor/Education Specialist --ESH Housing Area Officers --Deputy Commissioner of Youth Offender Programming --Chief of the Department 	<p>45-Day Review:</p> <ul style="list-style-type: none"> --ESH Deputy Warden --ESH Captain --ESH Housing Officers --Servicing clinicians from the day and evening tours
Basis of Review	<p>The 30-Day Review involves consideration of feedback from program staff, the Operations Security Intelligence Unit (OSIU), and the Central Intelligence Bureau (CIB). A review of the unit's behavioral logbook is also considered in assessing the young adult's behavior during the assessment period. The Deputy Commissioner of Youth Offender Programming makes a recommendation regarding placement and the Chief of the Department approves or disapproves of the recommendation.</p> <p>Factors considered in the 45-Day Review process include:</p> <ul style="list-style-type: none"> -- justification for continued ESH placement; --each individual ESH restriction and whether any such individual restrictions should be relaxed or lifted; --the effect of ESH placement or of individual ESH restrictions on the inmate's mental and physical health; --any written statement submitted by the inmate for consideration; --any other factors that may favor retaining the inmate in or releasing the inmate from ESH --any other factors that may favor the lifting of individual ESH restrictions or ESH release; --any actions or behavioral changes that the inmate might undertake to further rehabilitative goals and facilitate the lifting of individual ESH restrictions or ESH release. 	
<p>SOURCE: Entry Unit Status Review process reported by DOC. (There is no written policy in effect outlining the Entry Unit Status review process.) The ESH 45-Day Review process for young adults is operating per: N.Y.C. DEPT OF CORRECTION, DIRECTIVE NO. 4497R-A, ENHANCED SUPERVISION HOUSING (ESH) (eff. July 26, 2016).</p>		

28-DAY & 30-DAY REVIEWS

Young adults placed in the ESH Entry Unit receive a 28 or 30-day review to determine their appropriate housing placement. The Department started conducting reviews in November 2016⁴⁶ after the opening of the young adult ESH unit; 30-day reviews replaced 28-day reviews when the Young Adult ESH Unit became the ESH Entry Unit in March of 2017.

⁴⁶ Young adults placed in the young adult ESH unit on October 17, 2016 were the first to receive 28-Day reviews.

Reviews consider a summary of the following assessment information:

- (i) **Psychosocial assessment (Intake assessment)**, intended to provide DOC with background information on each young person in the Entry Unit to promote engagement.
- (ii) **National Institute on Drug Abuse (NIDA) Screening Tool**, to determine substance use history over the past year and make referrals to treatment services when indicated.⁴⁷
- (iii) **Environmental assessment**, a security assessment derived from intelligence gathered by the Department's Operations Security Intelligence Unit (OSIU) and the Central Intelligence Bureau (CIB).
- (iv) **Test of Adult Basic Education (TABE) test**, an assessment conducted by DOE that is "used to measure basic academic skills commonly found in adult education curricula taught in high school and adult instructional programs."⁴⁸

On June 9, 2017, the Department introduced the Juvenile Relational Inquiry Tool⁴⁹ to the assessment process to assist with mapping family supports for young adults in the ESH Entry Unit.

The availability of assessment information depends on the young adult's willingness to participate in the assessment process. The Department reports that the assessment not only supports the individual's subsequent housing assignment but also allows the Department to identify the young adult's specific triggers, motivators, goals, and who may be contacted to assist in supporting young adults during the 30-day period prior to review.

The Department reports that the Deputy Commissioner for Youth Offender Programming conducts reviews and makes housing assignment recommendations based on feedback from the Deputy Warden and the Assistant Deputy Warden for ESH, an Education Specialist, a Program Coordinator, and correction officers who are regularly assigned to the ESH housing area. Starting with March placements, the Chief of the Department approves or disapproves of the recommendation.

The majority of the 28/30 day reviews audited by Board staff (17 of 24 reviews examined) recommended that young people remain in a unit with a restraint desk: seven were recommended to stay in the Entry Unit and 11 were recommended for ESH Level 1. Four (4) young adults were recommended for ESH Level 2, one (1) individual was recommended for the Secure Unit, and one (1) young adult had a recommendation that did not mention any specific level.

⁴⁷ This tool was designed by National Institute on Drug Abuse to provide medical clinicians a tool for screening for drug use in adults. The Board does not have information on whether the young adults were screened by medical clinicians as the names of individuals conducting the assessments were redacted. See NIDA, SCREENING FOR DRUG USE IN GENERAL MEDICAL SETTINGS RESOURCE GUIDE, (Jul. 12, 2010), available at <https://goo.gl/8BXUxt>.

⁴⁸ TEST OF ADULT BASIC EDUCATION OVERVIEW, available at <http://tabetest.com/educators/why-tabe/>.

⁴⁹ Vera's Juvenile Relational Inquiry Tool helps staff build on incarcerated youth's strengths and social connections and build rapport between staff and youth while collecting information that can enhance reentry planning. For more information, see Ryan Shanahan, "Integrating Family-Focused Approaches In Juvenile Justice Reform," *The Link: Connecting Juvenile Justice and Child Welfare* (Child Welfare League of America) 8, no. 1 (2010): 1-6.

The Board found that housing recommendations and final approvals from the 28-day and 30-day reviews were not always followed. Four (4) young adults who were recommended to progress out of the ESH Entry Unit were not moved out. Young adults who did progress took an average of 9 days to be moved out of the ESH Entry Unit after their review.⁵⁰

Nine (9) reviews were missing the date of assessment and the person who conducted the assessment was redacted or missing.⁵¹ Most reviews were completed by either the Deputy Commissioner of Youthful Offender Programming or the Assistant Commissioner for Education and Youth Advocacy Services.

Table 10

ESH Entry Unit Reviews	
Eligible for 28-Day / 30-Day** Reviews	Placements
Received 28 / 30-day reviews	24
Did not receive a review	16
Moved out of ESH prior to due date	7
Not able to get copies of 28-day reviews	5
Discharged to State Prison prior to review date*	4
Total	40

SOURCE: Information is derived from Department of Correction's 28-day / 30-day review forms.

NOTE: * One individual was transferred to State Prison the day after his review was due. **Individuals with review days in April received 30-day reviews.

45-DAY REVIEWS

The Minimum Standards require the Department to review individuals’ placement in ESH every 45 days to determine whether they continue to present a “significant threat to the safety and security of the facility” so as to warrant continued placement in ESH.⁵² According to the Department’s ESH Directive, 45-Day Reviews are conducted by ESH staff including the ESH Deputy Warden for ESH, an ESH captain, ESH housing officers, and clinical staff servicing ESH.⁵³ The Deputy Warden for ESH signs all review determinations. Determination forms include a justification for the decision and information on individuals’ program participation as well as unit observations including overall inmate behavior

⁵⁰ While others remained in the Entry Unit placement for a minimum of 3 days to a maximum of 34 days, after their placement review indicated they should be moved out.

⁵¹ The Board has reminded the Department that documents provided to the Board, under its City Charter authority, should not be redacted. See N.Y.C. CHARTER, CHAPTER 25: DEPARTMENT OF CORRECTION, sec. 626, (c)(1)(g).

⁵² N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16(h)(1) (Jan. 23, 2016).

⁵³ N.Y.C. DEP’T OF CORRECTION, DIRECTIVE NO. 4497R-A, ENHANCED SUPERVISION HOUSING (ESH) (eff. July 26, 2016).

(towards staff, inmates, DOC rules, cleanliness), and behavioral log book entries and infractions, if any, during the review period.

Most young people (62%, n=38) placed in ESH were eligible for at least one periodic review. A total of seventy-one 45-Day Reviews were conducted, 90% (n=64) of which were timely.

Six (6) individuals progressed to a less restrictive level as a result of a 45-day review and one (1) young adult was moved to a less restrictive housing unit without a review recommendation. Six (6) individuals progressed from ESH Level 1 housing unit to an ESH Level 2 unit. One person progressed from Level 2 to a Level 3 ESH housing unit after being in ESH for 235 days. The average time between a 45-day review recommending movement and an individual’s actual movement to a less restrictive level was 16 days.

While six young adults were transferred to general population units from ESH, none were moved there because of a 45-day review. In fact, most were not in ESH long enough to even qualify for a 45-day review.

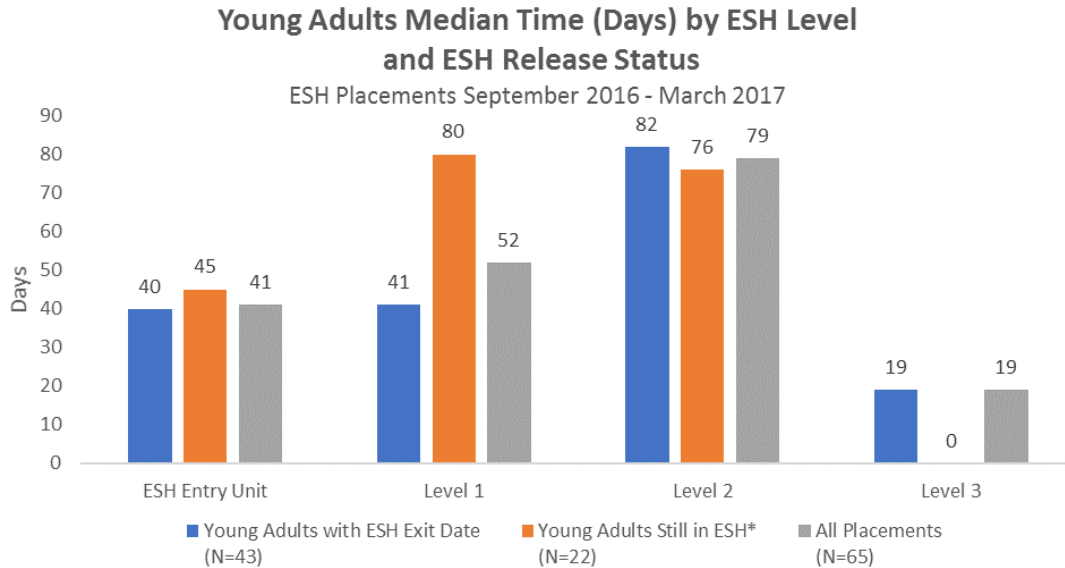
VII. LENGTH OF STAY BY LEVEL

As of June 28, 2017, young adults who had been placed in ESH between September 2016 and March 2017 had spent a median of 41 days in the ESH Entry Unit, 60 days in ESH Level 1, 79 days in ESH Level 2, and 19 days in ESH Level 3. Not all young people entered every ESH level and the range in length of stay by ESH Level varied dramatically. Table 11 presents the overall average, median, minimum, and maximum length of stay by ESH level. Figure 9 presents the same information by ESH release status.

Table 11

Young Adult ESH					
Time in Level (Days)*					
	Entry Unit	Level 1	Level 2	Level 3	Level 4
	(N=44)	(N=40)	(N=24)	(N=3)	(N=0)
Average	45	69	89	24	0
Median	41	52	79	19	0
Minimum	2	1	8	3	0
Maximum	123	226	269	50	0

SOURCE: Data from the Department of Correction's Inmate Information System compiled by Board of Correction.
 NOTES: *All young adult ESH placements from September 2016-March 2017. Time by level is calculated as of June 16, 2017.



SOURCE: Data from Department of Correction's Inmate Information System compiled by the Board of Correction*
 Calculated as of June 16, 2017

Figure 9

VIII. CONDITIONS IN YOUNG ADULT ESH

TIME OUT-OF-CELL (LOCK-OUT/LOCK-IN)

In conversations with Board staff, several correction officers in ESH acknowledged that daily lock-out sometimes begins 15 to 45 minutes late, especially in the morning. Correction officers explained that there is not enough staff in the unit during the overnight or midnight tour to lock out people in ESH at 5 am, when lock-outs are scheduled to begin. Lock-outs in the ESH Entry or Level 1 units further require the presence of ESU staff with a canine or Taser. Additionally, only one individual can be escorted to lockout at a time in those units. Correction officers have further explained to Board staff that in the mornings the new tour of correction officers sometimes does not arrive at the unit until after their scheduled 5 am start time because they are held at roll call or are late to the post for other reasons such as the bus schedules. While most young adults in ESH do not chose to lock out at the early hour it is offered, even if they chose to, they would not be able to do so due to staff shortages.

Board staff have, on numerous occasions, observed lock out begin later than scheduled at the ESH Entry Unit because not enough staff were present to provide lock-out options. For example, on April 12th, afternoon lock-out did not commence until 1:42 pm because the staff required to provide lock-out options were not present in the unit before then. Despite it not being possible to lock individuals out at 1 pm (due to insufficient staffing), Board staff observed correction officers round the unit – one with a handheld video camera – and ask each young adult whether he wanted to lock out. A correction officer explained that they are required to ask even when there is not enough staff to lock anyone out.

Given the security procedures and staffing requirements regarding inmate movement and frequent lockdowns in ESH units with restraint desks (ESH Entry & Level 1), it is very unlikely that young adults are provided or receive a full 7 hours of daily lock-out time.

LOCKDOWNS

Facility and ESH area lockdowns limit young adults out-of-cell time. During a lockdown, all incarcerated people must be in their cell and all movement, services, and programming cease. The number of reported ESH *housing area* lockdowns⁵⁴ from September 2016 through March 2017 ranged from two to 36 and averaged 15 per month and five hours each. In addition, over the same period, the number of *facility-wide* lockdowns at OBCC ranged from zero (0) to 11 with an average of about four per-month, averaging three hours each.

To put this in context, individuals in ESH are entitled to an average total of 213 hours of out-of-cell time per-month (7 hours per day)⁵⁵ but could only be offered a total average of 130 hours per month due to facility-wide and ESH area lockdowns.⁵⁶ This means that people in ESH only had the opportunity to lock out an average of 4.3 hours per day from September 2016 through March 2017. That is 39% fewer potential hours (~2.7 fewer hours per day) of out-of-cell-time than that to which they are entitled under ESH Minimum Standards. It is important to note that many of the lockdowns reported occurred consecutively. Comparing the average total lockdowns in ESH between September and December 2016 and January through March 2017, there was a 127% increase in the average number of lockdowns (area and facility-wide) affecting ESH units, coinciding with an increase in the number and portion of young adults in ESH (See Figure 3).

The most common reason for lockdowns affecting ESH were slashings (35%, n=46), followed by inmate tension (25%, n=33), uses of force (20%, n=26), and assaults on staff (10%, n=13) (See Table 13).

⁵⁴ Lockdown information is derived from the Department's IRS 24 Hour Report data matched to the Department's 5 am Daily Census Report to determine which units referenced were ESH units at the time of the lockdown.

⁵⁵ Individuals in ESH levels 2-4 are also subject to lockdowns but are afforded more than the 7 hours of minimum out-of-cell time.

⁵⁶ Calculated using total actual time on lockdown as reported in the Department's IRS 24 Hour Report from September 2016-March 2017 divided by total lockout time entitled under ESH Standards over the same period.

Table 12

Lockdowns Affecting ESH				
September 2016 - March 2017				
	Area	Facility	Total	
Average per Month	15	4	19	
Average Length per month (hours)	5	3	8	
	Area	Facility	Total	
2016	September	2	1	3
	October	2	11	13
	November	14	4	18
	December	20	2	22
2017	January	10	0	10
	February	36	1	37
	March	23	6	29
	Total	107	25	132

SOURCE: Lockdown information is derived from the Department's IRS 24-Hour report data matched to the Department's 5 am Daily Census report to determine which units referenced were ESH units at the time of the lockdown.

Table 13

Reasons Reported for Lockdowns			
September 2016 - March 2017			
	ESH Area	Facility	Total
Slashing	24	22	46
Tension	33	0	33
Use of Force (UOF)	26	0	26
Assault on Staff	13	0	13
Fight	6	1	7
Tension / UOF	3	0	3
Fight / UOF	2	0	2
Bomb Threat	0	1	1
SRG	0	1	1
Total	107	25	132

SOURCE: Lockdown information is derived from the Department's IRS 24-Hour report data matched to the Department's 5 am Daily Census report to determine which units referenced were ESH units at the time of the lockdown.

Table 14

Restraint Desks
The Department has required that young adults housed in the Entry Unit and in ESH Level 1 units remain shackled at restraint desks during all out-of-cell activities.
Restraint desks or similar apparatus are used in restrictive housing units in some state prisons throughout the country, including New York, to enable prisoners to engage in congregate programs and activities, such as group therapy, education and recreational programming. This apparatus is primarily used in multi-level step-down programs designed to transition inmates out of punitive segregation or similarly restrictive non-disciplinary segregation and back into general population or the community. These jurisdictions primarily use restraint desks for no more than 2 hours at a time to offer programming to prisoners housed in restrictive housing settings who would otherwise spend 23 to 24 hours locked inside their cell.
SOURCES: Ass'n of State Corr. Adm'rs & Yale L. Sch., Aiming to Reduce Time-In-Cell: Reports from Corr. Sys. on the Numbers of Prisoners in Restricted Housing and on the Potential of Policy Changes to Bring About Reforms 59, 63, and 70 (Nov. 2016), available at goo.gl/QFjXhD and Harold W. Clarke, Virginia Department of Corrections' Administrative Step-Down Plan, Corrections Today 22-5 (July/Aug. 2016), available at goo.gl/S37BFG .

YOUNG ADULT PERSPECTIVES

Young adults in ESH have told Board staff that they are concerned about being restrained to desks and not being able to defend themselves against acts of violence. Some individuals housed in ESH have been able to free themselves and assault and or slash other people who remain restrained to desks. For example, the most recent slashing in an ESH Level 1 blended unit involved two adults and two young adults who freed themselves from their restraint desks to slash another young adult who remained restrained. Board staff have observed that some young adults in the ESH Level 1 units refuse to lock out if they are not going to be placed in the far-most restraint desks, located in the back of the dayrooms, where they feel they can safely participate in unit activities.

Some young people have told Board staff that they fear being placed in blended ESH units with adults. Young adults housed in blended ESH units, where restraint desks are not used, have also expressed concerns to Board staff about being restrained during school. During a December 2016 visit to an ESH Level 2 unit, young adults explained that being restrained during school did not make sense because they are housed in an ESH unit without restraint desks at all other times.

HEALTH & MENTAL HEALTH CARE ACCESS IN YA ESH

The Minimum Standards require medical staff to see all people housed in ESH at least once a day so they can make referrals to medical and mental health services where appropriate.⁵⁷ Department policies further require that all individuals in ESH be locked into their cells at noon so that DOC staff may attend daily ESH meetings and to enable medical rounds,⁵⁸ during which an ESH correction officer can escort clinical staff as they walk through the unit to solicit medical complaints.⁵⁹

Currently young adults in the ESH blended units (Level 1, 2, and 3) are locked in from noon to 2:00 pm so that medical staff can make daily rounds and referrals to mental health clinicians.⁶⁰ Prior to February 1, 2017, mental health staff were also rounding daily in ESH Units but have since stopped doing so. Patients in ESH and CHS providers have shared concerns that rounding does not allow for confidential encounters.

Fifty-nine percent (59%, n=27) of all scheduled health encounters⁶¹ and 56% (n=74) of all scheduled mental health encounters⁶² for ESH patients were completed. CHS rescheduled or services were no

⁵⁷ See N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ENHANCED SUPERVISION HOUSING § 1-16 (h)(1) (Jan. 23, 2016).

⁵⁸ See N.Y.C. DEP'T OF CORRECTION, OTIS BANTUM CORRECTIONAL CENTER, INST'L ORDER NO. 106/16, ENHANCED SUPERVISION HOUSING (ESH), sec IV(J), at 19 (eff. Nov. 16, 2016).

⁵⁹ See N.Y.C. DEP'T OF CORRECTION, OTIS BANTUM CORRECTIONAL CENTER, E.S.H. OPERATING MANUAL, para. XXII(A), at 20 (undated).

⁶⁰ The ESH Entry unit is not locked in from noon – 2:00pm because of the school session taking place 12:30pm to 3:30pm. CHS staff typically make rounds in the mornings.

⁶¹ These numbers include all scheduled and add-on medical encounters.

⁶² These numbers include all mental health service types.

longer indicated for one (1) scheduled health encounter and four (4) scheduled mental health encounters for young adults in ESH.

Nine percent (9%, n=4) of scheduled health encounters and 13% (n=17) were not completed because appointments conflicted with an individual’s scheduled court appearance.

The Department did not produce 30% (n=14) of scheduled health encounters, and 23% (n=31) of scheduled mental health encounters. Reasons for non-production are not known or captured by CHS staff in their electronic data system. DOC has started to track reasons why patients are not brought to scheduled encounters to better understand why services are not completed.

Table 15

Outcome of Scheduled Health and Mental Health Encounters for Young Adult ESH Placements				
Status	Health		Mental Health	
	Number	Percent	Number	Percent
Seen	27	59%	74	56%
Not Produced by DOC	14	30%	31	23%
Rescheduled or Services No Longer Indicated	1	2%	4	3%
Refused & Verified*	0	0%	7	5%
Out to Court	4	9%	17	13%
Left without Seen	0	0%	0	0%
Total	46	100%	133	100%

SOURCE: Correctional Health Services data as of May 24, 2017 matched to youth placed in ESH from September 2016 through March 2017. Data reflects utilization up to the query date of May 24, 2017 for patients currently housed in ESHU.

NOTES: Metrics present information available in data sources at the time of query and are subject to change based on workflow. The data presented reflects query-specific logic, parameters, and sources as outlined in the data dictionary and / or legend and should not be compared to similarly noted reports without appropriate crosswalks to identify variations in approach.

"Refused and Verified" means that the Department produced the inmate to clinical staff, clinical staff explained to the inmate the risks of refusing clinical services, and the inmate proceeded to sign the refusal form or, in situations where he refused to sign the informed refusal form, a witness was present and documented said refusal.

Young adult patients in ESH receive individual psychotherapy and psychopharmacology treatment services; however, information on the number of young adults receiving these services were not made available to the Board due to the small number of patients receiving services and confidentiality concerns.

EDUCATION

In October 2016, the Department of Education (DOE) began providing a school session for young adults housed in ESH. Two school study programs were made available to young people: one for students who are pursuing a high school diploma provided through the East River Academy (“ERA”) and one for students who wished to pursue a high school equivalency program (i.e., TASC). While students in both programs may occupy the same physical space for school, their attendance and progress in school is

measured differently as each program has its own set of requirements and coursework. School for young adults in ESH is held in the open floor (“day room”) area of the ESH Entry Unit. The school follows the same academic calendar year as schools in the community and the ERA. Students sit restrained at the ankles to restraint desks for the duration of the school period.

Young adults housed in the blended ESH units must be escorted to the ESH Entry Unit every day for school. During visits in December 2016, corrections officers informed Board staff that when the school area reached capacity, young adults who wish to go to school could not. Young adults housed in blended units also reported that students in the blended units would sometimes get sent back if there were no more available restraint desks in school.

On February 13, 2017, DOE began offering two school sessions in the ESH Entry Unit to accommodate the number of young adults wishing to attend school. There are now two sessions of school for young adults in ESH:

- (i) 8:35 – 11:35 am for young adults in the ESH blended units, and
- (ii) 12:30 – 3:30 pm for young adults in the ESH Entry Unit.

Those who are not enrolled or participating in school remain in their respective blended housing units or, if they are housed in the ESH Entry Unit, remain locked in their cells between 8:35 am and 3:30 pm, while the two school sessions are in progress.



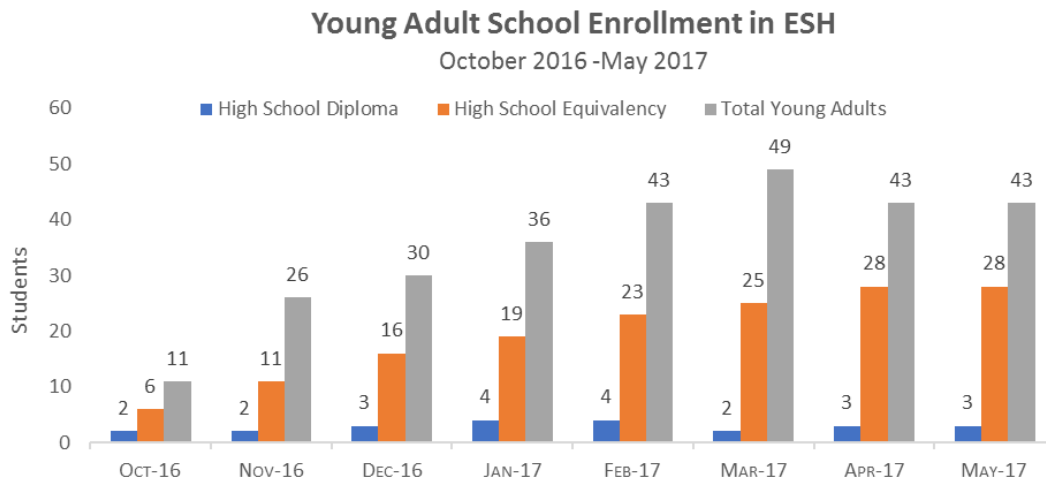
During Board staff observations, DOE educators independently reported that afternoon sessions scheduled to start at 12:30 pm routinely start at least an hour later. Part of the delay is not allowing enough time for students to be transported from their cells one at a time.⁶³ Educators also noted that ESU staff who are required to be present in the ESH Entry Unit during all out-of-cell movement and

⁶³ N.Y.C. DEP’T OF CORRECTION, SECURITY MEMORANDUM NO. 013/12, ESHU PHASE I PROCEDURES REVISED, para. III (Feb. 10, 2017).

during school,⁶⁴ typically arrive to the Entry Unit by 1 pm or later. On May 10, 2017, staff observed the ESU Captain arrive at 1:21 pm and the first student secured and seated at the restraint desk for the afternoon session at 1:34 pm (1 hour and 5 minutes after the start of afternoon school session).

The DOE staff noted that young people experience significant distractions during the school time and expressed their concerns regarding the presence of a canine during school time. DOE staff report the barking of the canine is distracting. Board staff observed that even when the K-9 officer and his dog are positioned at the front of the unit, away from the school area, the barking is loud and echoes throughout the unit. DOE staff also noted that the young adults who are housed in the Entry Unit distract the blended unit students who attend the morning school session. Board staff observed young people restrained to desks yelling across the unit to communicate with the Entry Unit young adults who are locked in their cells.

Thirty-one (47%, n=31) of the young adults placed in ESH between September 2016 and April 2017 were enrolled in school while housed in ESH, only 9 of whom were enrolled in school prior to being placed in ESH. A total of 22 young adults enrolled in school after entering ESH. DOE reports that one young adult had previously earned a high school equivalency diploma prior to entering ESH and that no students have obtained a high school diploma or high school equivalency while in ESH. More than half of the students in ESH (51%, n=16) were students with Individualized Education Programs (IEPs),⁶⁵ and sixteen percent (16%, n=5) were English language learners.



SOURCE: Department of Education enrollment information & total distinct young adults in ESH based on a review of Department of Correction's 5 am census reports.

Figure 10

⁶⁴ See N.Y.C. DEP'T OF CORRECTION, OTIS BANTUM CORRECTIONAL CENTER, SECURITY MEMORANDUM NO. 016/17, ESU/K9 ASSIGNED TO ESHU PHASE I UNITS, para. II (Mar. 6, 2017).

⁶⁵ The Individualized Education Program, also called the IEP, is a document that is developed for each public-school child who needs special education. The IEP is created through a team effort, reviewed periodically.

School Attendance

DOE tracks daily attendance in both ESH school sessions in a combined roster making comparison of the ESH Entry Unit and the ESH blended class sessions' attendance and educational outcomes difficult. This summer, in time for the next school year, Board staff will work closely with DOE to design regular monthly reports for each class session to facilitate regular monitoring of attendance and outcomes of young adult ESH students in the different units.

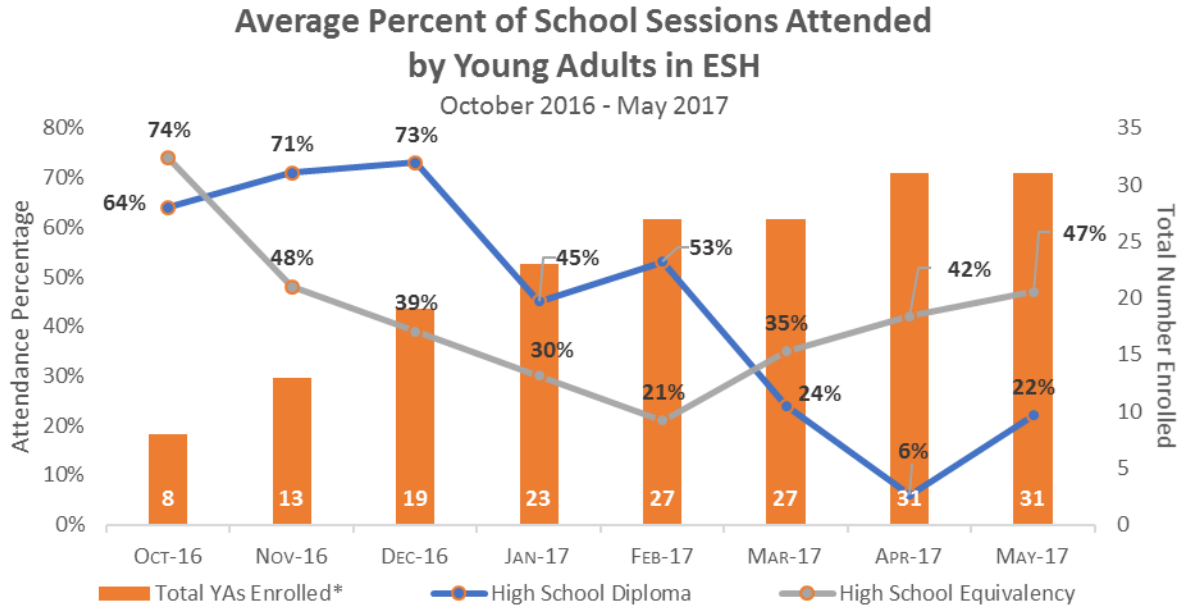
Board staff will also work with DOC to address known scheduling conflicts. Currently, if interested in attending school, young adults in the ESH Level 1 and 2 units must forego religious services which are scheduled during school time. Furthermore, all young people in the blended units have scheduled lock-in time 30 minutes after school is over. The ESH Entry Unit requires multiple staff to be present for individual escorting and this lengthy process means that young adults often make it back to their units just in time to lock into their cells. This is a disincentive for young people in blended units who may wish to attend school. Young people in ESH have complained to DOE and to Board staff that the Department does not provide them with the additional three hours of free lock-out time that they miss while in school.⁶⁶

Figure 11 presents the average per month percent of school sessions attended⁶⁷ by enrolled young adults in ESH. These numbers reflect all enrolled young adults in ESH combined (ESH blended & ESH Entry Unit students) during ESH placement. Due to the relatively small number of young adults enrolled in school, any change in one young adult's attendance will cause the average attendance percentages to fluctuate significantly. Not all young adults were offered the same number of sessions during any given month due to differences in individuals' ESH entry and exit dates.⁶⁸

⁶⁶ See N.Y.C. DEP'T OF CORRECTION, YOUNG ADULTS IN ENHANCED SUPERVISION HOUSING (ESH), at 7 (Feb. 14, 2017) available at: goo.gl/y5jKoQ.

⁶⁷ Calculation based on the total sessions offered to each individual.

⁶⁸ Board staff were unable to derive average number of students per session from the de-identified data provided by DOE.



SOURCE: Department of Education data.

NOTE: Total number includes young adults enrolled in high school and high school equivalency program

Figure 11

DOE reports that attendance for students in ESH is not significantly different from attendance percentages reported for 18 through 21 year olds in other school areas, such as the student attendance in the Secure Unit or the GMDC facility overall. This is in contrast to 16 and 17 year olds for whom attendance is compulsory. The attendance percentage for youth ages 16 to 17 is 77% year-to-date.

Nine (9) students in ESH made meaningful gains⁶⁹ in math and 11 students made meaningful gains in reading while in ESH.⁷⁰

⁶⁹ “Made meaningful gains” in math or English skills refers to the number and percentage of youth who have been incarcerated for at least 60 days and who made meaningful gains, as determined by DOE based on TABE Math and Reading tests.

⁷⁰ Students need to have taken the TABE test twice for DOE to calculate a gain, and students must be enrolled a minimum of 30 days to re-take the test. Students sometimes refuse to be retested.

Table 16

Educational Gains for Students in ESH and Secure						
October 2016 - March 2017						
	Students w/ 2 Math TABE Scores	Students w/ Meaningful Gains in Math	Percentage Making Meaningful Gains in Math	Students w/ 2 Reading TABE Scores	Students w/ Meaningful Gains in Reading	Percentage Making Meaningful Gains in Reading
ESH	16	9	56%	18	11	61%
Secure	9	7	78%	8	5	63%

SOURCE: Department of Education.
 NOTES: Students need to have taken the TABE test twice for DOE to calculate a gain, and students must be enrolled a minimum of 30 days to re-take the test. Students sometimes refuse to be retested.

Restraint Desks in School

The Department has at various times justified the use of restraint desks as the only way to safely provide schooling for young adults in ESH. DOE leadership of Riker’s education programs informed Board staff that DOE has not requested restraint desks as a prerequisite to provide school in the ESH housing area. DOE has noted that the use of restraint desks leads educators to perceive young people as more dangerous than their counterparts in other restrictive units such as the TRU, where young adults are not restrained at desks during school.

To address security concerns regarding the proximity of restraint desks to one another, on April 28, 2017, DOC moved young adults to a new ESH unit with 12 restraint desks spaced further apart from each other on the floor of the unit.⁷¹ However, only 11 desks in this new configuration can be used by students. According to DOC staff, when young people are restrained to the desks, one of the desks needs to be occupied by a staff person observing.

RECREATION

Recreation for young adults housed in the ESH Entry Unit and Level 1 is provided in the former Central Punitive Segregation Unit (CPSU) recreation yard “cages” at OBCC. The recreation yard for young adults in less restrictive ESH units has basketball hoops, pull-up bars, and other limited recreation equipment fixed to the paved ground.

The recreation yard for the ESH Entry Unit and Level 1 has 20 individual pens. The ESH unit recreation cages do not have any exercise equipment, i.e., dip bars, pull up bars, basketball hoops, etc.⁷² A few of the pens had makeshift rings, fashioned from what appeared to be bed sheets or pillow cases. ESH

⁷¹ The Board was not made aware of the closure of the young adult ESH unit and the transfer of the young people housed there to the new housing area. The Board found out about these changes only after visiting the Entry Unit on April 28, 2017 during an observation of Board members.

⁷² See BOC report on *Barriers to Recreation at Rikers Island Central Punitive Segregation Unit*, at 16 (July 2014).

recreation staff informed Board staff that DOC is removing the old steel recreation cages – the same ones that were used when OBCC housed the CPSU – and replacing them with new cages.

Table 17

Access to Recreation for Young Adults in ESH			
September 2016 - March 2017			
	Average Daily Population	Average Daily Participation in Recreation	Average Recreation Participation
September	2	1.3	55%
October	7	1.6	23%
November	17	3.9	22%
December	24	6.4	27%
January	27	4.7	17%
February	35	7.0	20%
March	36	4.5	12%

SOURCE: Data from the Department of Correction ESH Services Tracking database compiled by Board of Correction.

Data from the ESH Services Tracking database suggests that young adult participation in recreation ESH is very low. On average, only 20% of young adults participated in recreation.⁷³

ESH officers often fill in for recreation escort officers which prevents young adults from accessing recreation equipment. On Friday May 12, 2017 Board staff observed ESH escort officers escorting individuals in the lower tier of the ESH Level 2 unit, who receive congregate recreation, to the recreation area. Two ESH escort officers stayed outside with the young adults. When YAs complained about not being provided a basketball to play with at recreation, the officers explained that they are not given the key to the recreation equipment because only recreation staff can have them. Two ESH escort officers also noted that they “find [themselves] filling in for recreation officers maybe four out of five days per week.”

According to recreation staff, recreation is perennially understaffed, causing the recreation staff to have difficulty providing timely-daily recreation to each house. This is an issue DOC has grappled with in the past, with recreation officers being reassigned to housing areas when those assigned there call in sick or

⁷³ Board staff independently obtained a security memorandum in which the Department communicated to its staff that they are aware “that the Mandated Services Logbook is not being completed in its entirety” which calls into question the quality of the data entered, extracted and reported from the Department’s ESH Services Tracking database. See N.Y.C. DEP’T OF CORRECTION, OTIS BANTUM CORRECTION CENTER, SECURITY MEMORANDUM, ENHANCED SUPERVISION HOUSING (ESH), (eff. Jan. 27, 2017).

are unable to go into work.⁷⁴ On May 10th only half of the assigned officers stayed on the recreation post; the rest were reassigned. The recreation officers who eventually afforded recreation in the ESH Entry Unit were all on overtime. Recreation staff noted that ideally, they would have at least 50% more staff than currently assigned.

Mandated Services Logbook Review: Recreation

Board staff audited 12 days of recreation for young adults housed in the Entry Unit, from April 3, 2017 through April 14, 2017, based on the Mandated Services Logbook entries made by DOC staff. Recreation was not afforded for four consecutive days due to lockdowns. According to the logbook records, young adults in the Entry Unit went to recreation on 6 out of 12 of the days reviewed between 6:40 and 8:30 am. Only one (1) young adult consistently went out to recreation.⁷⁵ The number attending recreation ranged between 1 and 5 young adults.

Board staff were unable to review the recreation officers' legal post assignments to ensure the required number of recreation officers were present to provide recreation because those records were not provided to the Board in time for inclusion in this report.

ACCESS TO LEGAL SERVICES – LAW LIBRARY

How incarcerated people in ESH access law library services⁷⁶ depends on the ESH housing unit to which they are assigned. There are three ESH units where people in custody conduct legal research on electronic kiosks located in law library spaces within the unit. If young adults who are housed in the units with law library kiosks are interested in using a kiosk, they must first inform a legal coordinator and be cleared by officers to be allowed into the law library space. The other three ESH housing units do not have in-unit law library space, kiosks, and legal coordinators do not conduct rounds in them. Instead, correction officers assigned to law library make rounds to collect legal research and document requests and then bring the requested items back to the unit. These different methods of provision warrant further investigation.

⁷⁴ *Supra* note 72, at 14, noting that “one of the main barriers to recreation is the understaffing of correction officers to recreation posts.”

⁷⁵ He went to recreation on each of the six days YAs went to recreation.

⁷⁶ The Minimum Standards require that incarcerated people have access to law library at least five days per week including at least one weekend day. On days when the law library is open, individuals must be allowed law library access for at least two hours. The Department may reduce or eliminate law library hours in ESH as long as it provides them another way to access legal materials to permit effective legal research. See N.Y.C. BOARD OF CORRECTION, CORRECTIONAL FACILITIES, ACCESS TO COURTS AND LEGAL SERVICES § 1-08(f) (Jan. 23, 2016).

Table 18

Access to Law Library in ESH		
Hours of Operation: Tuesday - Saturday 8 am to 8 pm		
ESH Units	Current Level	Type of Law Library Access
1st	Level 2	Legal Coordinator comes to unit. Two kiosks in law library space in unit.
2nd	Level 1 (Restraint Desk in Use)	Legal Coordinator comes to unit. One kiosk in law library space in unit.
3rd	Level 2	Legal Coordinator comes to unit. One kiosk in law library space in unit.
4th	Young Adult Entry Unit (Restraint Desk in Use)	No law library kiosk or law library space in unit. Law library officer rounds in the unit and collects inmate requests for law library materials and research.
5th	Level 1 (Restraint Desk in Use)	No law library kiosk or law library space in unit. Law library officer rounds in the unit and collects inmate requests for law library materials and research.
6th	Level 2	No law library kiosk or law library space in unit. Law library officer rounds in the unit and collects inmate requests for law library materials and research.

SOURCE: Department of Correction (June 26, 2017).

IX. PROGRAMMING

IMPLEMENTATION OF ESH LEVELS & APPROACH TO ESH PROGRAMMING

ESH standards require DOC to provide “programming aimed at facilitating rehabilitation, addressing the root causes of violence, and minimizing idleness” in ESH housing units. All programming and services offered to people incarcerated in ESH take place directly in ESH housing units themselves. People placed in ESH are required to participate in programming to progress to a less restrictive housing unit and transition back into the general population.

Young adults in the ESH Entry Unit receive different programming from young adults placed in, or progressing to, blended ESH units (Levels 1, 2, or 3) where young adults and adults are provided the same programming options based on their ESH level. The options available in ESH Level 1 differ from the programming options in Levels 2, 3, and 4.⁷⁷ Table 19 presents the program offerings and

⁷⁷ In June 2017, the Department started offering interactive journaling in Level 1 units.

participation in the ESH Entry Unit and Table 20 presents the programming options and participation in Blended ESH units.

Program participation is higher in the ESH Entry Unit than in the ESH blended units. Board staff were unable to determine, from the data provided through the Department's 60-Day ESH reports, if people participating in programming in the ESH blended units were young adults or adults.⁷⁸ In general, program participation in ESH blended units appears to be very low.

Program offerings in the ESH Entry Unit include Dialectical Behavioral Therapy, Interactive Journaling, Youth Communication, and Creative Expression Arts and Crafts. From October 2016 to March 2017, the average daily population in the ESH Entry Unit ranged from 5.5 young adults to 9 young adults. There was an average of 5.9 to 7 participants per session offered.⁷⁹

Program offerings for ESH Level 1 include the Individuals Determined to Overcome Life's Struggles (IDOLS), skill building and reentry services program, and the Cage Your Rage anger management program. While the average daily population in ESH Level 1 ranged 14.1 to 36 (adults and young adults combined), the average number of IDOLS participants ranged from only 2.5 to 4.8 people per session. The average number of Cage Your Rage participants was only 0.4 people per session.⁸⁰

Program Offerings for ESH Levels 2 and 3 include the Individualized Correction Achievement Network (ICAN) reentry program, Challenge Journal Series, Book Distribution, and Teleconferencing & Family Reunification. From October 2016 to March 2017, the average daily population in ESH Levels 2 and 3 ranged from 26 to 64.5 (adults and young adults combined). Overall, the average number of ICAN participants per session ranged from 1.5 to 2.2, the average number of Challenge Journal Series participants per session ranged from 1.5 to 2.2, the average number of Book Distribution participants per session ranged from 4.0 - 10.7 participants per session, and the average number of Teleconferencing & Family Reunification participants per session was one (1) person.⁸¹

Board staff observations found, and corrections and programming staff confirm, that there are frequent disruptions to programming while it is in session.

⁷⁸ Tracking programming enrollment and participation is particularly challenging because DOC does not have an information management system designed for this. While DOC's contracted program providers have their own case management systems for tracking individual participation, DOC does not. Individual-level program participation in ESH is captured by hand and recorded on spreadsheets by program staff. DOC does not routinely record and report programming participation for young adults separately and has only recently started capturing program participation by ESH level. Reporting programming by ESH level started with the Department's October-November 2016 60-Day ESH report to the Board.

⁷⁹ DOC 60 Day ESH Reports October 2016-March 2017, *available at* goo.gl/5rEoTJ.

⁸⁰ *Id.*

⁸¹ *Id.*

Table 19

Program Offerings and Participation in ESH Entry Unit							
Program Offerings ESH Young Adult/Entry Unit*		Program Participation October 2016 - March 2017					
		2016			2017		
		October-November		December-January		February-March	
		YA ESH UNIT ADP		YA ESH UNIT ADP		YA ESH UNIT ADP	
		5.5		7.5		9	
# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session
Dialectical Behavioral Therapy (DBT)	Cognitive behavioral treatment program focusing on mindfulness, interpersonal skills, distress tolerance and emotion regulation.	37	5.9	15	6.7	11	7
Interactive Journaling	Assisting young adults move through the stages of change, while motivating and guiding participants towards positive life changes.	37	5.9	36	6.5	31	6.7
Youth Communication	Reading/Writing/Verbal expressions and role playing exercises. Series of short stories and poems are used to encourage struggling youth dealing with difficult situations.	37	5.9	36	6.5	31	6.7
Creative Expression Arts and Crafts	Providing the young adults with the opportunity to express their inner creativity through artistic creations.	37	5.9	36	6.5	31	6.7

SOURCE: Information reported in DOC 60 Day ESH reports combined with ADP calculations.
 * As of March 1, 2017, the Young Adult Enhanced Supervision Housing Unit became the Entry Unit.
 ** Program Counselors provide services to young adults five days a week.

Table 20

Program Offerings and Participation in ESH Blended Units*									
Level 1**		Program Participation October 2016 - March 2017							
		2016		2017					
		October-November		December-January		February-March			
		Overall ADP	YA ADP	Overall ADP	YA ADP	Overall ADP	YA ADP		
		14.1	3	34	10	36	14.5		
# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session				
Individuals Determined to Overcome Life's Struggles (IDOLS)	Skill Building / Self Improvement/ Reentry Services	10	4.8	41	2.5	109	2.8		
Cage Your Rage	Anger Management and Conflict Resolution	Not Offered		Not Offered		85	0.4		
Levels 2, 3		October-November		December-January		February-March			
		Overall ADP	YA ADP	Overall ADP	YA ADP	Overall ADP	YA ADP		
		26	2.5	61	6.5	64.5	8		
		# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session	# Sessions Offered	Average # of Participants per Session		
		Individualized Correction Achievement Network (ICAN)	Reentry Services	87	5	85	5.9	83	5.7
The Challenge Journal Series	Interactive Journaling Behavior Modification	77	2.2	82	1.5	63	2.2		
Brooklyn Public Library: Book Distribution	Book Distribution and Periodic Discussions	24	4.5	12	4.3	4	10.7		
Brooklyn Public Library Teleconferencing and Family Reunification	Family Reunification	13	1	7	1	12	1		

SOURCE: Information reported in DOC 60-Day ESH reports combined with ADP calculations.
 * Participation numbers include adults and young adults.
 **The first ESH Level 1 unit opened on 11/15/2016, the data provided for October-November only covers the period of 11/15-11/30/2016 for Level 1.

X. INCIDENTS & VIOLENCE IN ESH

To better understand conditions in ESH with respect to incidents and violence, Board staff matched young adults placed in ESH to incidents appearing in the Department's 24 Hour Reports during individuals' ESH placement.⁸² The Department of Correction generates the 24 Hour Report daily and it is used to track unusual incidents,⁸³ such as uses of force (UOF), serious injuries to inmates or staff,⁸⁴ and other events that seriously affect normal operations of DOC facilities. The Board also reviewed data on inmate infractions for inmate-on-inmate fights and assaults and reviewed use of force incidents that are reported in the DOC's Monthly Security Reports by housing area. Data on injuries to people incarcerated in ESH were provided by CHS.

USE OF FORCE

There was a total of 88 UOF incidents occurring in ESH between September 2016 to March 2017,⁸⁵ 81% (n=71) involved young adults.⁸⁶ Nearly half of the incidents involving young adults, 47% (n=33) involved the use of chemical agents. In nearly a quarter (24%, n=17) of the UOF incidents involving young adults, the reason identified for the use of force was an assault on staff. There were no incidents of serious injuries to staff or assaults on non-uniform staff involving young adults placed in ESH between September 2016 and March 2017.

Figure 12 presents the monthly uses of force related to *all* individuals housed in ESH (adults and young adults) from September 2016 to March 2017 as reported in the DOC's Monthly Security Reports. There was an uptick in uses of force in ESH from October 2016 to January 2017—a period during which DOC opened a total of five new ESH units.⁸⁷

⁸² BOC staff used ESH entry and exit dates based on DOC housing assignments in the inmate information system to determine individuals' placement period and only counted events occurring during an individuals' ESH placement.

⁸³ The Department's policy on reporting requirements for unusual incidents defines "unusual incident" as "an event or occurrence that may affect or actually does affect the safety, security and well-being of the Department, its personnel, visitors and volunteers, as well as the inmates over whom it has custody and control." N.Y.C. DEP'T OF CORRECTION, DIRECTIVE No. 5000R-A, REPORTING UNUSUAL INCIDENTS, sec. IV(C), at 4 (eff. Nov. 19, 2004).

⁸⁴ A "serious injury" to staff is "a physical injury that creates a substantial risk of death or disfigurement or loss of impairment of a bodily organ" or "any injury sustained as a result of a stabbing, slashing, fire and/or explosion." See N.Y.C. DEP'T OF CORRECTION, DIRECTIVE No. 5000R-A, REPORTING UNUSUAL INCIDENTS, Appendix A, at 4 (eff. Nov. 19, 2004). Meanwhile, the types of injuries to inmates that come within the definition of "serious injury" to inmates include the aforementioned list of serious injuries to staff as well as "a fracture or break to a bone, excluding fingers or toes" and any injury "defined as serious by a physician." See *id.* Appendix A, at 2-3.

⁸⁵ N.Y.C. DEP'T OF CORRECTION, Monthly Security Statistical Reports – Fiscal Year 2017 (on file).

⁸⁶ BOC staff matched young adults placed in ESH between September 2016 through March 2017 to incidents reported in DOC's 24 Hour Reports through March 2017.

⁸⁷ Note that the values in the chart are absolute numbers of incidents per month and not a normalized rate per 100 or 1000 inmates per month, as is conventionally reported. That choice is deliberate: both the number of incidents and the overall number of inmates in ESH in any given month are so low that there is inadequate statistical basis from which to extrapolate a rate. A change of even one incident more or less in any given month would lead to the rate jumping or plummeting dramatically. The relative standard error is too high to be statistically confident

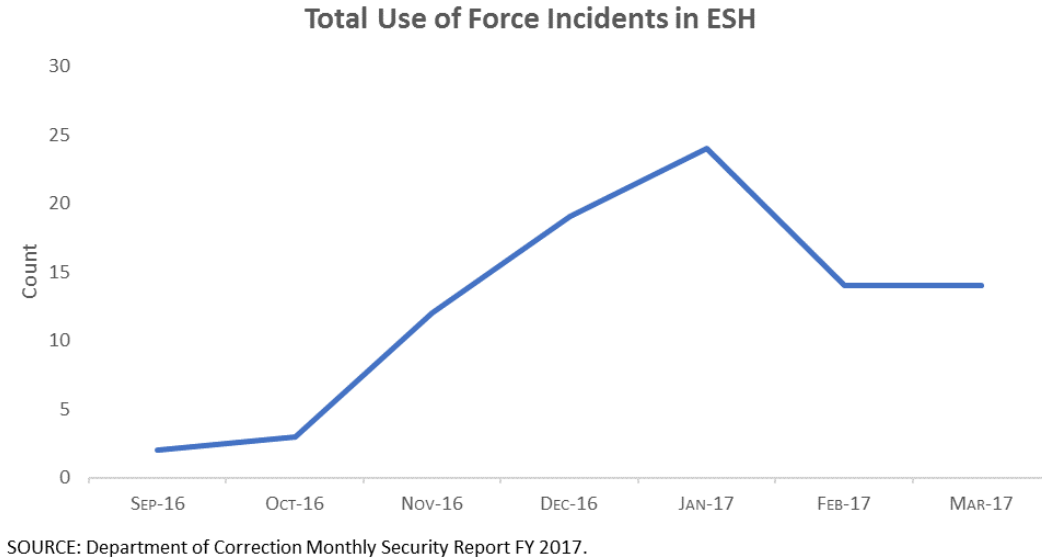


Figure 12

INFRACTIONS FOR FIGHTS AND ASSAULTS

Overall DOC reported a total of 30 inmate-on-inmate fights in ESH and issued a total of 54 infractions for inmate-on-inmate fights and assaults in ESH from September 2016-March 2017.⁸⁸ More than half of the infractions issued for fights and assaults in ESH were issued to young adults (56%, n=30) for their alleged involvement in inmate-on-inmate fights and assaults during this period.⁸⁹ There was a sharp rise in infractions for inmate-on-inmate fights and assaults from October through December 2016.⁹⁰ As noted earlier, this period corresponds to a significant increase in the ESH young adult population and the opening of new ESH units.

that any reported rate per 100 inmates would be reproducible. With sample sizes this small, it is more reliable to focus on the absolute numbers of incidents when formulating interpretations and recommendations.

⁸⁸ N.Y.C. DEP’T OF CORRECTION, Monthly Security Statistical Reports – Fiscal Year 2017 (on file).

⁸⁹ BOC staff matched young adults placed in ESH between September 2016 through March 2017 to incidents reported in DOC’s 24 Hour Reports through March 2017.

⁹⁰ N.Y.C. DEP’T OF CORRECTION, Monthly Security Statistical Reports – Fiscal Year 2017 (on file).

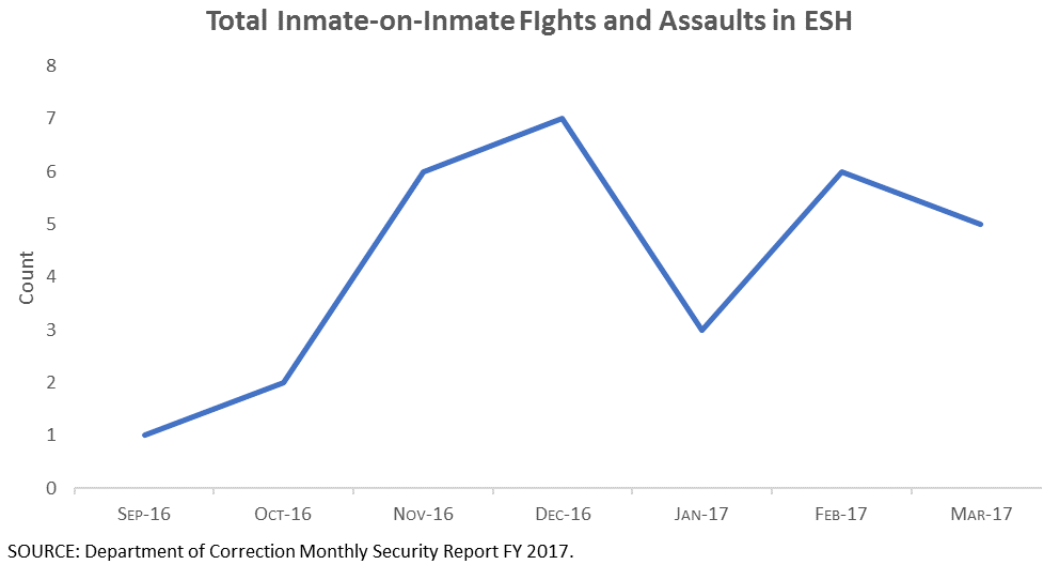


Figure 13

DISRUPTIVE ACTIVITY & OTHER VIOLENCE

From September 2016 to March 2017 there were a total of eight slashings in the ESH housing area, six of which involved young adults in ESH.⁹¹ A total of 8 different young adults were involved in these 6 slashings. One young adult was involved in two slashings, both occurring in the same unit. Three of the 6 slashings occurred in units where inmates are restrained to desks during lockout (ESH Level 1). In all but one of the 6 slashings, young adults attacked adult victims.

During one incident, two young adults manipulated their cuffs, got out of their restraints, and slashed another young adult who was restrained while using the phone. The victim sustained an abrasion to the right side of his face, right ear, and to his right back side. No weapon was recovered.⁹²

Another slashing involved a young adult who, while secured to his restraint chair, slashed another young adult who was being escorted near him at the time. The victim sustained a laceration to the right side of his face. No weapon was recovered.

Another slashing involved a young adult perpetrator and an adult victim who sustained a laceration to the head, back, and right thumb area. A weapon was recovered after this slashing.

Three other slashings occurred in units where individuals are not restrained to desks. All incidents involved young adults walking up to their victims and attacking them. No weapons were recovered.

⁹¹ BOC staff matched young adults placed in ESH between September 2016 through March 2017 to incidents reported in DOC's 24 Hour Reports through March 2017.

In addition, there were eight logbook entries noted in the Department’s 24 Hour Reports that did not meet the Department’s definition of a “reportable incident” and appear to involve assaults on or harm to staff. For example, in one incident, a young adult in ESH refused to comply with a search and threatened staff with a weapon. While being searched, the young adult stuck his hands down his pants and the weapon punctured the officer in the hand. In a separate incident, a young adult kneed an officer in the head while the officer was removing leg irons.

In all, there were 28 splashings associated with young adults during this period. Nearly half occurred in January 2017 and 12 of them involved the same individual in multiple ESH housing areas. There were also nine occurrences of spitting, six of them occurred in January, five (5) of them involving the same young adult.

INJURIES

Data reported by CHS indicates that 37% of all placements in ESH (n=23) had one or more injuries reported during their ESH placement period. Incarcerated people in ESH sustained 56 injuries from September to March 2017 and only one injury was classified as “serious.” Thirty-four percent of injuries were due to DOC use of force (n=19), 29% were a result of self-injury (n=16), and 14% were a result of an inmate-on-inmate fight (n=8).

Table 21

Injury Causes Among Young Adults in ESH		
	Number*	Percent
DOC use of force	19	34%
Self injury	16	29%
Inmate-on-inmate fight	8	14%
Gate/Door-related	3	5%
Recreational	2	4%
Slips and falls	1	2%
Environmental and fire	1	2%
Attack by unknown assailants	1	2%
Sexual abuse	1	2%
Occupational	0	0%
Vehicle	0	0%
Seizure-related	0	0%
Other/Unknown	4	7%
Total	56	100%

*One injury was classified as "serious."
 SOURCE: Correctional Health Services Data as of March 31, 2017. Injuries were verified by physical evidence or by history. Metrics present information available in data sources at the time of query and are subject to change based on workflow. The data presented reflect query- specific logic, parameters, and sources as outlined in the data dictionary and/or legend and should not be compared to similarly noted reports without appropriate crosswalks to identify variations in approach.

ARRESTS

Twenty-eight percent (28%, n=15) of the 61 young adults placed in ESH between September 2016 and March 2017 were arrested during their time in ESH.⁹³ There were 24 arrests involving young adults; five young adults were arrested multiple times during their time in ESH.⁹⁴ Additionally, there was one incident involving an arrest of a visitor to a young adult in ESH.⁹⁵

CURRENT DISCIPLINARY OPTIONS IN ESH

Young adults in ESH who are found guilty of an infraction are not subject to punitive segregation, but there is no separate disciplinary sanction schedule for young adults. Through the DOC adjudication process, young adults who are found guilty of a grade I or grade II infraction will be subject to a \$25 surcharge. In addition, monetary restitution may be applied for damage to DOC property or when injured staff receive medical treatment (hospital visit). Good time may also be taken for sentenced young adults.

⁹³ Arrests made between individuals' ESH entry and exit dates. Determined by matching ESH young adults (placed between September 2016 to March 2017) to incidents in the DOC's 24 Hour Reports through March 31, 2017.

⁹⁴ Determined by matching ESH young adults (placed between September 2016 to March 2017) to incidents in the DOC's 24 Hour Reports through March 31, 2017.

⁹⁵ *Id.*

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GLOSSARY

Accelerated Program Unit (APU)	A housing model intended to create stability through the use of an advanced inmate risk level classification system, improved staff training, increased staff levels, and expanded programming.
Administrative Segregation (Admin. Seg.)	Administrative segregation housing is for individuals who are required to be separated from the general population for security reasons. Individuals placed in these housing areas have completed classification and new admission processing, including medical and mental health screening.
Clinical Alternative to Punitive Segregation (CAPS)	A non-punitive unit developed for people with Seriously Mental Illnesses, modeled on in-patient forensic wards. Clinical staff are available in the units at all times during the day and evening tours conducting individual and group therapy and offering supervised activities. Time spent out-of-cell is dictated by the peoples’ ability to engage successfully with other people in custody and staff. People discharged from CAPS go back to the most appropriate housing area when they have successfully demonstrated stability and an ability to maintain good behavior.
City Sentenced	A person in custody who has been convicted of a crime and sentenced to a term of incarceration for one year or less, concurrent terms of one year or less, or two consecutive terms of one year or less.
Detainee	A person in custody who is awaiting trial but has not been convicted of a crime(s) or a person who has been convicted of a crime, but not yet sentenced.
Detox Unit	A unit where a person in custody is placed to receive detoxification services from Health + Hospitals.
Enhanced Restraint Status	A designation given to a person who, having either exhibited violent behavior during his or her incarceration or exhibited violent behavior during a prior incarceration within the last five years, are subject to enhanced security restrictions. Depending on the individual, said security restrictions or restraints may include security mitts, handcuffs, waist chains, and leg irons. People with Enhanced Restraint Status must be in enhanced restraints during movement to and from all service areas and places of escort.
English Language Learners (ELL)	Students whose native language is not English and need support learning English. Students who score below a State-determined level on the assessment are identified as ELLs and entitled to ELL services.
General Population (GP)	General population housing is designated by custody level for people who have completed classification and new admission processing, including medical and mental health screening, and for people who do not require special housing.
Good Time	Section 70.40 of the New York State Penal Law states that a person may earn time allowances (good time) off his or her maximum term of imprisonment for good institutional behavior. A good time allowance is granted by DOCS under Section 803 of the Correction Law.
Hearing Facilitator	A civilian or non-uniformed employee of the Department tasked with helping people in custody understand the hearing process, usually a legal coordinator from the law library or a counselor.
Isolation	Specially designed cells for individuals who fail to clear search procedures and are suspected of possessing metallic contraband. Isolation cells are equipped with an

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	operable sink and a toilet fitted with a mesh device so that objects cannot be flushed away. Individuals are held in isolation until they pass the contraband or clear the search procedure.
Individualized Education Programs (IEP)	A document that is developed for each public-school child who needs special education. The IEP is created through a team effort, and reviewed periodically.
Juvenile Relational Inquiry Tool	Tool created by Vera Institute that helps “...staff build on incarcerated youth’s strengths and social connections and build rapport between staff and youth while collecting information.”
Mental Observation (MO)	Mental observation housing is designated by custody level for people whose mental condition requires a higher level of observation than those in general population. People for whom this type of housing may be appropriate include those whose mental condition requires close observation by clinical staff and those at increased risk of suicide.
National Institute on Drug Abuse (NIDA)	A drug use screening tool used by Department of Correction to determine substance use history over the past year.
New Admission (NA)	New admissions housing is designated by custody level where practicable, for newly admitted individuals who are awaiting completion of classification or new admission processing, including medical and mental health screening.
Protective Custody (PC)	Protective custody housing is designated by custody level for people determined to be too vulnerable for general population housing and who, for their own safety, are assigned to protective custody housing. People may be assigned to protective custody housing on a voluntary or involuntary basis. The Department takes into account the reasons for a person’s placement into protective custody and whether the individual has been placed voluntarily or involuntarily into protective custody.
Punitive Segregation (PS)	Punitive segregation is designated for individuals found guilty of violent Grade I infractions or Department rules or for those who are in pre-hearing detention status. Individuals are locked in their cells for up to 23 hours per day, with one hour of recreation, while they serve a specific sentence imposed as a result of a disciplinary hearing.
RAP Sheet	Official criminal history as recorded by the New York State Department of Criminal Justice Services.
Released on Own Recognizance (ROR)	An individual who is released on bail or without bail (ROR) by the arraignment court.
Red ID Status	A designation given to a person who has used or been found in possession of a weapon or other dangerous instrument while in Department custody and is subject to enhanced security restrictions. When an individual with Red ID Status is moved to and from a facility, he is restrained with handcuffs, security mitts, and waist chains. Unlike those with Enhanced Restraint Status, they are not, however, subject to enhanced restraints within the facility.
Enhanced Restraint Unit	A housing area where all individuals have enhanced restraint status (see Enhanced Restraint Status definition).
Restricted Housing Unit (RHU)	Restricted Housing Units are designated for people found guilty of an infraction and sentenced to a disciplinary penalty of punitive segregation or are in pre-hearing detention status and who cannot, because of their mental condition, be housed in

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	standard punitive segregation units. Mental health services and treatment programs are provided to help people assimilate back into general population or a non-punitive segregation mental observation housing. Though individuals cannot opt out of assignment to an RHU, they are encouraged to participate in the non-mandatory three-level incentive program through which they can earn increased lock-out time and a reduction in their punitive segregation term upon successfully fulfilling all requirements of the program.
Second Chance Housing Unit (SCHU)	A housing unit designed for adolescents and young adults who exhibit behavioral challenges requiring individualized interventions prior to reintegration into general population. The SCHU can also serve as a step-down from TRU. The behaviors of youth housed in this unit will be addressed through an individualized behavior support plan developed, supported, and monitored by a multidisciplinary treatment team.
Securing Order	A court order directing how an individual should be held or released from custody.
Secure Unit	A housing unit for selected young adults age eighteen (18) through twenty-one (21) that shall be used to ensure the safe and secure management of young adults who demonstrate a persistent history of violent and/or assaultive behaviors directed towards staff, the public, or other young adults or whose violent actions result in a serious injury to others.
Sentence Commitment Order	A court order outlining the authority to execute a sentence.
Serious Mental Illness (SMI)	Individuals, aged 18 or older, who currently have, or at any time during the past year have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the DSM-5. In order to receive an SMI designation, a person's diagnosable disorder must result in functional impairment that substantially interferes with or limits one or more major life activities. Individuals with SMI may not be placed in punitive segregation or Enhanced Supervision Housing.
Splashing	Any incident wherein an individual intentionally causes an employee to come in contact with any fluid or fluid like substance.
Test of Adult Basic Education (TABE)	An assessment conducted by DOE that is used to measure basic academic skills commonly found in adult education curricula taught in high school and adult instructional programs.
Transitional Restorative Unit (TRU)	A housing unit designed for adolescents and young adults who pose an imminent security threat to others and/or may be deemed a security risk to the operation of the facility. The behavior of youth housed in this unit is addressed through an individualized behavior support plan developed by and supported by the facility's Treatment Team. As youth begin to demonstrate readiness for return to the general population, they can be stepped down to the SCHU.

ATTACHMENTS

Attachment A

Timeline Footnotes

1	See N.Y.C. Bd. of Corr., Bd. of Corr. Meeting, YouTube, (Jan. 13, 2015), available at https://youtu.be/IG13glSTsnk .
2	See N.Y.C. Bd. of Corr., Notice of Adoption of Rules, 142 The City Record 215 (2015).
3	See Records of Variance Action, N.Y.C. Bd. of Corr. (Nov. 10, 2015), available at https://goo.gl/iDxhtR .
4	See Records of Variance Action, N.Y.C. Bd. of Corr. (Jan. 12, 2016), available at https://goo.gl/d1JfgW .
5	See Records of Variance Action, N.Y.C. Bd. of Corr. (May 10, 2016), available at https://goo.gl/YEzyE2 .
6	See Records of Variance Action, N.Y.C. Bd. of Corr. (May 26, 2016), available at https://goo.gl/rJw8BV .
7	See Notice of Violation of Minimum Standards from Stanley Brezenoff, Chair, N.Y.C. Bd. of Corr., to Joseph Ponte, Commissioner, N.Y.C. Department of Correction (Jul. 7, 2016), available at https://goo.gl/uJWRXK .
8	See Records of Variance Action, N.Y.C. Bd. of Corr. (Jul. 12, 2016) available at https://goo.gl/vzM6ai ; See Records of Variance Action, N.Y.C. Bd. of Corr. (Jul. 12, 2016) available at https://goo.gl/kb54wK .
9	See Records of Variance Action, N.Y.C. Bd. of Corr. (Oct. 11, 2016), available at https://goo.gl/fpqKxb and https://goo.gl/tFsvXt .
10	See Records of Variance Action, N.Y.C. Bd. of Corr. (Nov. 15, 2016) available at https://goo.gl/uNiiaF .
11	See Notice of Violation of Minimum Standards from Derrick D. Cephas, Chair, N.Y.C. Bd. of Corr., to Joseph Ponte, Commissioner, N.Y.C. Dep't of Corr. (Jan. 20, 2017).
12	N.Y.C. Dep't of Correction, Security Memorandum No. 013/12, ESHU Phase I Procedures Revised, para. III (Feb. 10, 2017).
13	See Records of Variance Action, N.Y.C. Bd. of Corr. (Feb. 14, 2017), available at https://goo.gl/AFGt9W and https://goo.gl/JJe35M .
14	N.Y.C. Dep't of Correction, Deputy Warden Memorandum, DWO #15/17, Emergency Service Unit /k9 (Feb. 24, 2017).
15	N.Y.C. Dep't of Correction, Security Memorandum No. 016/17, ESU / k9 assigned to ESHU Phase I Units, (Mar. 6, 2017).
16	See N.Y.C. Bd. of Corr., An Assessment of the New York City Department of Correction's Implementation of Adult Enhanced Supervision Housing, (Apr. 26, 2017), available at https://goo.gl/278xdT .
17	See Records of Variance Action, N.Y.C. Bd. of Corr. (May 10, 2017), available at https://goo.gl/fvCmJo .
18	See Records of Variance Action, N.Y.C. Bd. of Corr. (Jun. 12, 2017), available at https://goo.gl/L9rg7A .
19	See Records of Variance Action, N.Y.C. Bd. of Corr. (Jul. 11, 2017), available at https://goo.gl/Ndh4wT .

Attachment B**§ 1-16 Enhanced Supervision Housing.**

(a) *Purpose.* The primary objective of enhanced supervision housing (ESH) is to protect the safety and security of inmates and facilities, while promoting rehabilitation, good behavior, and the psychological and physical well-being of inmates. To accomplish these objectives, ESH is designed to separate from the general population those inmates who pose the greatest threats to the safety and security of staff and other inmates. It additionally seeks to promote the rehabilitation of ESH inmates by incentivizing good behavior and by providing necessary programs and therapeutic resources.

(b) *Policy.* An inmate may be confined in ESH if the inmate presents a significant threat to the safety and security of the facility if housed elsewhere. Such a determination shall only be supported by a finding that one of the following has occurred:

(1) the inmate has been identified as a leader of a gang and has demonstrated active involvement in the organization or perpetration of violent or dangerous gang-related activity;

(2) the inmate has demonstrated active involvement as an organizer or perpetrator of a gang-related assault;

(3) the inmate has committed a slashing or stabbing, has committed repeated assaults, has seriously injured another inmate, visitor, or employee, or has rioted or actively participated in inmate disturbances while in Department custody or otherwise incarcerated;

(4) the inmate has been found in possession of a scalpel or a weapon that poses a level of danger similar to or greater than that of a scalpel while in Department custody or otherwise incarcerated;

(5) the inmate has engaged in serious or persistent violence; or

(6) the inmate, while in Department custody or otherwise incarcerated, has engaged in repeated activity or behavior of a gravity and degree of danger similar to the acts described in paragraphs (1) through (5) of this subdivision, and such activity or behavior has a direct, identifiable and adverse impact on the safety and security of the facility, such as repeated acts of arson. Provided, however, that, where the Department is permitted to consider an inmate's activity occurring or actions committed at a time when the inmate was incarcerated, such activity or actions must have occurred within the preceding five (5) years. Where the Department is permitted to consider an inmate's activity occurring or actions committed at a time when the inmate was not incarcerated, such activity or actions must have occurred within the preceding two (2) years.

(c) *Exclusions.*

(1) The following categories of inmates shall be excluded from ESH placement:

(i) inmates under the age of 18;

(ii) as of January 1, 2016, inmates ages 18 through 21, provided that sufficient resources are made available to the Department for necessary staffing and implementation of necessary alternative programming; and

(iii) inmates with serious mental or serious physical disabilities or conditions.

(2) Medical staff shall be permitted to review ESH placements and participate in placement review hearings. Consistent with these regulations, when ESH assignment would pose a serious threat to an inmate's physical or mental health, medical staff shall have the authority to determine that the inmate shall be barred from ESH placement or shall be moved from ESH to a more appropriate housing unit. This determination may be made at any time during the inmate's incarceration.

(3) Any inmate placed in ESH who evidences a mental or emotional disorder shall be seen by mental health services staff prior to or immediately upon ESH placement.

(4) The total number of inmates housed in ESH shall not exceed 250 at any time.

(d) *Conditions, Programming and Services.*

(1) To the extent the Department imposes restrictions on an ESH inmate that deviate from those imposed on inmates in the general population, such restrictions must be limited to those required to address the specific safety and security threat posed by that individual inmate.

(2) To the extent the Department seeks to limit an ESH inmate's access to contact visits, a hearing shall be held, as required by subdivision (g) of this section, which shall address the criteria set forth in subdivision (h) of section 1-09 of this chapter with regard to both the inmate and any individual visitors with whom the Department wishes to limit contact.

(3) No later than July 1, 2015, the Department shall provide ESH inmates with both voluntary and involuntary, as well as both in- and out-of-cell, programming aimed at facilitating rehabilitation, addressing root causes of violence, and minimizing idleness.

(4) All inmates in ESH shall be seen at least once each day by medical staff who shall make referrals to medical and mental health services where appropriate.

(e) *Staffing.*

(1) Correction officers assigned to ESH shall receive forty (40) hours of special training designed to address the unique characteristics of ESH and its inmates. Such training shall include, but shall not be limited to, recognition and understanding of mental illness and distress, effective communication skills, and conflict de-escalation techniques.

(2) At least twenty-five (25) percent of correction staff assigned to ESH shall be assigned to steady posts.

(f) *Notice of ESH Placement.*

(1) When it is determined that an inmate should be confined in ESH, that inmate shall be given written notice of such determination within twenty-four (24) hours of placement. Inmates who are unable to read or understand such notice shall be provided with necessary assistance. Such notice shall:

(i) state the grounds relied on and the facts that support the inmate's ESH placement; (ii) inform the inmate of the individual restrictions the Department intends to impose during the inmate's ESH confinement;

(iii) notify the inmate of the upcoming ESH placement review hearing; and

(iv) inform the inmate of the right to review, prior to the placement hearing, the evidence relied upon by the Department, to appear at the hearing in person, to submit a written statement for consideration, to call witnesses, and to present evidence.

(2) Reserved.

(g) *Placement Review Hearing.*

(1) Within three (3) business days of service of notice on an inmate of initial ESH placement and related restrictions, the Department shall conduct a hearing to adjudicate the inmate's ESH placement and the individual restrictions proposed. The hearing may not be adjourned except, in extenuating circumstances, by the inmate's documented request and may in no event be adjourned for longer than five (5) days.

(2) One or more hearing officers shall conduct the placement review hearing. Department staff who initially recommended the inmate for ESH placement or otherwise provided evidence to support the inmate's ESH placement shall not be eligible to serve as hearing officers at the inmate's placement review hearing.

(3) The placement review hearing shall consist of [the] following:

(i) a review of the facts upon which the Department relies to place the inmate in ESH pursuant to subdivision (b) of this section, and a determination of whether such facts exist and whether they support, by a preponderance of the evidence, the conclusion that the inmate presents a current significant threat to the safety and security of the facility such that ESH is appropriate;

(ii) consideration of the time that has elapsed since the occurrence of the activity or behavior relied on by the Department to support ESH placement;

(iii) a review of the individual restrictions proposed by the Department and a determination of whether each is supported by evidence of the legitimate safety and security concerns related to that individual inmate;

(iv) consideration of any relevant information provided by medical staff;

(v) consideration of any credible and relevant evidence submitted or statements made by the inmate at the hearing; and

(vi) consideration of any other evidence deemed relevant to the ESH status determination or imposition of individual restrictions.

(4) The inmate shall be permitted to appear at the hearing in person, submit a written statement, call witnesses, and present evidence.

(5) In the following circumstances, the inmate shall be entitled to the assistance of a hearing facilitator, who shall assist the inmate by clarifying the charges, explaining the hearing process, and assisting the inmate in gathering evidence:

- (i) the inmate is illiterate or otherwise unable to prepare for or understand the hearing process; or
- (ii) the inmate has otherwise been unable to obtain witnesses or material evidence.

(6) If it is determined that the ESH placement and each related restriction are supported by a preponderance of the evidence, the placement and each supported restriction may be continued. Written notice shall be provided to the inmate outlining the bases for such determinations. If it is determined that ESH placement or imposition of any individual restrictions is unsupported by a preponderance of the evidence, ESH status or unsupported individual restrictions shall be terminated immediately.

(h) *Periodic Review of Placement.*

(1) The placement of an inmate in ESH shall be reviewed every forty-five (45) days to determine whether the inmate continues to present a significant threat to the safety and security of the facility if housed outside ESH such that continued ESH placement is appropriate.

(2) At least twenty-four (24) hours prior to such periodic review, inmates shall be notified of the pending review in writing and of the right to submit a written statement for consideration. Inmates who are unable to read or understand such notice shall be provided with necessary assistance.

(3) Periodic review of an inmate's ESH status shall consider the following, with conclusions recorded in a written report made available to the inmate within seven (7) days of the review: (i) the justifications for continued ESH placement;

(ii) the continued appropriateness of each individual ESH restriction and whether any such individual restrictions should be relaxed or lifted;

(iii) information regarding the inmate's subsequent behavior and attitude since ESH placement began, including participation in and availability of programming;

(iv) information regarding the effect of ESH placement or of individual ESH restrictions on the inmate's mental and physical health;

(v) any written statement submitted by the inmate for consideration;

(vi) any other factors that may favor retaining the inmate in or releasing the inmate from ESH or any other factors that may favor the lifting of individual ESH restrictions or continuing to impose individual ESH restrictions; and

(vii) if the inmate's ESH placement is to continue, any actions or behavioral changes that the inmate might undertake to further rehabilitative goals and facilitate the lifting of individual ESH restrictions or ESH release.

(4) At any time when deemed appropriate, an inmate may be evaluated and recommended for placement in a more appropriate housing unit outside ESH.

(i) *Board Review of ESH Implementation.*

(1) No later than sixty (60) days after ESH implementation and every sixty (60) days thereafter, the Department shall submit to the Board information related to implementation of ESH and the inmates housed there. This information shall include, but shall not be limited to:

(i) the number of inmates housed in ESH, both currently and since implementation;

(ii) the frequency with which each of the criteria set forth in subdivision (b) of this section is used to support ESH placement;

(iii) rates of violence in both ESH and the general population since implementation of ESH and rates of violence for comparable time periods prior to ESH implementation;

(iv) rates of use of force in both ESH and the general population since implementation of ESH;

(v) programming and mental health resources available to ESH inmates and the extent of inmate participation in each program and resource;

(vi) training received by correction officers assigned to ESH and the number of steady posts created in ESH;

(vii) the number of inmates initially assigned to ESH but whose ESH status was terminated in a placement review hearing;

(viii) the number of inmates released from ESH into the general population through periodic review or other ESH status review mechanisms; and

(ix) any other data the Department or the Board deems relevant to the Board's assessment of ESH.

(2) The Board shall review the information provided by the Department and any other information it deems relevant to the assessment of ESH. Eighteen (18) months after implementation of ESH and no later than two (2) years after implementation of ESH, the Board shall meet to discuss the effectiveness and continued appropriateness of ESH.