

Authority of State-Level Jail Inspection Agencies to Close County/Local Jails

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The following information was obtained in response to a question posed in November 2003 by the NIC Jails Division on that agency's private e-mail discussion list provided for chief state jail inspectors:

"How many states have an inspection process that gives the inspectors the authority to close jails?"

State governments with a formal, state-level jail inspection process:	35
Number of agencies responding to this question:	23
Number of responding jail inspection agencies that have the legal authority to close jails in their states:	6

Agency with Jail Inspection Authority	Can the Jail Inspection Agency Close Jails?	Notes
Alabama Dept. of Corrections	No. Inspection agency may recommend closure to the Governor through the Commissioner of Corrections and the legal division.	No jail has been closed via this process. However, a federal judge has recently closed an Alabama jail.
Arkansas Department of Finance and Administration	No. Inspection agency can ask the Attorney General to petition a judge to either force the jail to comply or to close it.	Inspection agency has had 100% success forcing jails to comply when it has taken them to court. It is not thought that any jails have actually been closed through this process.
California Board of Corrections	No.	Inspection agency can write compliance/non-compliance letters that may be used in litigation by the county or plaintiff. This is considered to be strong motivation for compliance with regulations.
Georgia Dept. of Community Affairs	No. Only a Superior Court judge or higher has the authority to close any county jail.	Jail standards are voluntary. Judges have closed jails only a few times in the last 20 years. Usually, a population cap is placed on the jail, forcing the county to build a new facility.
Idaho Sheriffs' Association	No. After the inspection agency sends a notice of non-compliance, the sheriff and county commissioners should submit a time-specific compliance plan. However, the inspection agency has no enforcement authority and can only negotiate and/or act as a resource.	Minimum state jail standards are voluntary. Two inspections take place each year.
Illinois Dept. of Corrections, Jail and Detention Standards Unit	No. The Attorney General conducts prosecution of forced closure or other appropriate relief after referral from the Director of the Department of Corrections.	Jails found not to be in compliance are put on 6 months' notice. Referral to the Attorney General takes place if the facility is still in violation of standards.

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Indiana Dept. of Corrections	No. The Commissioner of Corrections or the county sheriff can petition the circuit court to alter the use of or close a jail. A period of 6 months is required between receipt of a notice of non-compliance via the jail inspection report and submission of the closure petition to the court.	The inspection agency can establish or alter the rated bed capacity of a jail. Jails have been rated at less than design capacity, primarily due to lack of staffing. Older jails have been rated at less than the number of beds installed, due to conditions. The legislature in 2002 granted the inspection agency the authority to request grand jury review of a jail for enforcement purposes.
Iowa Dept. of Corrections	Yes. The Department of Corrections may prohibit the confinement of prisoners in a jail if violations found during inspection are not corrected. Codes outline the specific process to be followed.	The most recent such closure occurred in 2000.
Kentucky Dept. of Corrections	Yes. The Commissioner of Corrections may order a jail closed, on recommendation of an individual inspector.	—
Maryland Commission on Correctional Standards	Yes. The Commission, or an authorized inspector, may order jail operations to be ceased. A hearing of the full Commission will take place within 96 hours of such an order.	Cessation orders are authorized if a condition is found to be life threatening or health endangering.
Michigan Dept. of Corrections	No. The DOC can submit a closure recommendation to the Attorney General. The AG then determines whether to challenge the jail's closure in circuit court.	Inspection office would first issue a Compliance Order for Administrative Rule Violations with a deadline. If deadline not met, would go to the AG.
Minnesota Department of Corrections	No. A jail can be condemned by a district court judge or by the Commissioner of Corrections with the court's approval.	This action hasn't taken place in approx. the last 20 years.
Nebraska Crime Commission	No. The inspection agency's closure recommendations are presented to the state Jail Standards Board, which submits the closure request to the District Court.	No closure request has ever been denied by the courts.
New Jersey Department of Corrections, Bureau of County Services	No. The Commissioner of Corrections may invoke certain enforcement powers, such as ceasing jail admissions and initiating legal action to ensure compliance with Administrative Code requirements.	Legal action is based on the willful and continuous disregard of the county to abate violation. It has not been taken against a jail since the 1980s.
New York Dept. of Correctional Services	No. Closure is through 3-member Commission of Correction. Inspection agency provides data and recommendation only.	A closure recommendation can be made by setting the Maximum Facility Capacity at zero (0).

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North Dakota Dept. of Corrections and Rehabilitation	Yes.	See NDCC 12-44.1-25
Ohio Dept. of Rehabilitation and Correction	No. The state would file an action in the county court of common pleas, which may then order the closure or other remedy.	Inspection agency has limited its attempts to close jails to life-threatening or major separation-related violations of the state's Minimum Jail Standards. To date, jail officials have taken action to remove their jails from enforcement actions, so that no jails have been closed through the available procedure.
Oklahoma Dept. of Health	No. Commissioner of Health may request the Attorney General to close a jail facility for non-compliance with standards.	Process has been pursued four times in the last 5 years. Each time, county citizens voted to fund new jails, so it was not necessary to proceed toward closure.
Pennsylvania Dept. of Corrections	No. Closure requires judicial review and intervention.	A recent proposal was considered, but dropped, that would have given the DOC the authority to process a jail closing order via a public hearing. No jail in the state has ever been closed.
Tennessee Corrections Institute	No (currently). The institute can only decertify a jail if it fails to comply with institute standards.	The state is considering giving the institute the authority to close jails or impose other sanctions.
Texas Commission on Jail Standards	Yes. Action to close a jail must be voted on by Commission members at a regular quarterly meeting.	"Passage of a remedial will close a jail."
Utah Sheriffs' Association, Jail Inspection Program	No. Closure authority rests with the county commissioners and/or the courts.	Jail inspection program is voluntary. Inspection reports are provided to the sheriff, to the Utah Sheriffs' Association. If the jail houses state inmates, a copy must be provided to the state corrections department.
Wisconsin DOC	Yes. Considered very unlikely.	Could be done as a last resort. Has not occurred since late 1970s or early '80s.