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Jail Standards and Inspection Programs

Resource and Implementation Guide

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Contents

Foreword

The National Institute of Corrections (NIC) recognizes that jails today face unprecedented challenges in the form of burgeoning jail populations, escalating costs, crowding, increased public scrutiny, and litigation. In response to these challenges, many states have decided to implement jail standards and inspection programs to ensure that jails are operated safely and efficiently.

Jail standards ensure that constitutional and statutory provisions are put into operational practice. These standards ensure a greater consistency across the state in jails' quality of care, use of resources, and operations. They also provide policymakers with a means of assessing and addressing the needs of inmates in a logical, objective way.

The purpose of this guide is to give information that will help states and state jail-related organizations to develop or update jail standards and inspection programs. The guide provides an overview of how to develop a jail standards program, offering valuable information about different organizational models for the administering agency; inspection and followup; key stakeholders in jails standards; vision, mission, and goals; how to develop standards; ways to assist jails with compliance; and strategies for gaining stakeholder support.

Sheriffs, jail administrators, state legislators, funding authorities, and a broad range of other stakeholders will find this guide useful. Chapter 5 offers information about technical assistance available from NIC as local jails establish and implement their standards and inspection programs. We invite readers to take advantage of these and other resources NIC has developed and to contact NIC for additional assistance, if needed.

Jail standards and inspections programs are in our nation's best interest. Nothing less than the health and well-being of our citizens—inmates and the public at large—is at stake.

Morris L. Thigpen
Director
National Institute of Corrections

Acknowledgments

This resource guide, written under the direction of the National Institute of Corrections (NIC), was developed to assist states and professional organizations interested in establishing or updating jail standards and inspection programs. Elected officials, jail practitioners, and other key policymakers should find this document useful as both a resource and a reference. The guide was developed with input from knowledgeable jail inspection officials from across the country and the author's experience in the development and implementation of jail standards programs.

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Mark D. Martin

Introduction

Jail standards in some form have been adopted in approximately 32 states. Jails in states with proactive standards and inspection programs have generally experienced reduced liability exposure, improved conditions, greater professionalism, and greater consistency in operations.

Jails in the remaining states operate without the benefits of standards or the oversight and support that a state inspection program can provide. Officials in several of these states have attempted with little or no success to adopt statewide jail standards and establish viable inspection programs. Officials in other states have expressed interest in undertaking initiatives to establish standards but have lacked guidance on how to proceed. The purpose of this guide is to provide information that can assist states and state jail-related organizations to successfully develop and implement jail standards and inspection programs. It is intended for sheriffs, jail administrators, funding authorities, state legislators, local and state criminal justice administrators, executive branch officials/policymakers, county counsels, state attorneys general, and other policymakers who have a stake in the safe, efficient, and constitutional operation of local jails.

This guide should be used as a reference and resource in the development or updating of jail standards programs. The National Institution of Corrections (NIC) and existing standards programs can provide additional assistance in the formulation of successful organizational models and implementation strategies for local jurisdictions. NIC resources are discussed in chapter 5.

Challenges Facing Jails Today

Historically, jails were a low priority in the local criminal justice system. They were typically operated on an ad hoc basis by the sheriff's office, secondary to law enforcement functions. An assignment to work in the jail was viewed as a stepping-stone to traditional police work or as "exile" for law enforcement officers who could not perform satisfactorily on the street. The jail was also at the bottom of the priority list for public funds. Law enforcement and other county agencies competed with the jail for scarce tax dollars. The result was that jails were consistently underfunded. Funding did not become a priority until the courts, in response to inmate lawsuits, pressured local jurisdictions to give jails a higher priority.

Lack of awareness about the jail and its needs also resulted in public apathy; for most local citizens, the jail was out of sight, out of mind. The general public seldom became concerned about jail issues unless a family member was involved or a major crisis occurred.

Until the 1970s, little or no external oversight was exercised over jails. Legal requirements were minimal, and there was almost no enforcement of those that did exist. Jail staff lacked today's sense of professionalism. As a result of this historical neglect, many jails were plagued with problems, including:

- Assaults and other physical violence.
- Suicides and suicide attempts.

- Escapes.
- Inmate-inmate sexual assaults.
- Vandalism.
- The availability of contraband and weapons.
- Disruptive behavior and inmate disregard for jail rules.
- Unsanitary conditions and facilities in disrepair.
- Crowded conditions exceeding the jail's design and/or rated capacity.
- Aging, worn-out facilities.
- Poor staff morale and a high turnover rate.
- Excessive use of sick leave by staff.
- A high incidence of staff injury and workers' compensation claims.
- Staff sexual misconduct.
- Inmate claims of excessive use of force by staff.
- A generally unhealthy and unsafe jail environment.

The 1970s ushered in the "hands-on" era of the federal courts. As the number of inmate rights lawsuits skyrocketed, the courts became very involved in addressing jail and prison issues. The number of federal prisoner rights lawsuits increased from 218 filed in 1966 (Hansen and Daly, 1994) to a peak of 68,235 in 1996 (Scalia, 2002). Although the actual number of lawsuits filed annually declined during the past decade, due to legislative initiatives aimed at reducing prisoner litigation, that decline was somewhat offset by increases in the prisoner population.

The convergence of historical neglect of jail issues with increased federal court involvement presents a major challenge for jail officials; there is now a body of case law that defines how jails should be operated and a means to hold jail officials accountable if the case law is not followed.

Today's jails face a number of other challenges:

- **Booming jail populations.** Since the late 1970s and early 1980s, the jail population has grown significantly in response to increases in the length of sentences, the number of mandatory jail sentences, and the number of jailable offenses (e.g., domestic violence and driving under the influence). Other factors contributing to jail crowding include the number of inmates sentenced to prison but held in local jails because of court-imposed capacity limits in state prisons and the increased use of jail sentences as a condition of probation. In 1985, 256,000 inmates were housed in local jails across the country, with an incarceration rate of 108 inmates per 100,000 population. According to the Bureau of Justice Statistics, by 2005, the number of inmates in local jails had risen to 747,529, with an incarceration rate of 252 inmates per 100,000 population (Harrison and Beck, 2006).
- **Skyrocketing costs.** The amount local jurisdictions spend building and operating jails is skyrocketing. The total expenditure nationally for local corrections increased from $3.01 billion to $18.7 billion—about 520 percent—between 1982 and 2003 (Hughes, 2006). The number of jail beds in the United States increased an average of 24,229 per year between 1995 and 2005—an average of 466 beds per week! (Harrison and Beck, 2006)
- **More violent offenders.** Increases in jail populations have amplified the use of non-jail alternatives to incarceration such as electronic monitoring, community work programs, and probation for less serious offenders. Consequently, a higher percentage of jail inmates are violent offenders than in the past. According to the Bureau of Justice Statistics, 41 percent of inmates

surveyed in 2002 had a current or prior violent offense—up from 36 percent in 1996 (James, 2004).

- **Medical, mental health, and substance abuse problems among jail inmates.** The prevalence of medical, mental health, and substance abuse problems is significantly higher among jail inmates than the general population. Two-thirds of inmates in 2002 said they were regular users of drugs and/or alcohol (James, 2004). In a 1996 survey, more than 37 percent of the inmates surveyed reported a physical or mental disability, and 25 percent reported previous treatment for a mental or emotional problem (Harlow, 1998). Jails increasingly are used as alternatives to inadequate local mental health services but frequently are ill equipped to provide the services required for this purpose. Changes in the funding of mental health services at the federal and state levels that were designed to encourage community-based approaches have led to the closing of many state hospitals for the mentally ill. Local mental health providers in many communities have struggled to develop the capacity to appropriately manage the resulting influx of clients.
- **Increased use of technology.** Technologies and equipment used in today's jails are far more complex than in the past. Live-scan fingerprinting, digital photography, bar code systems for identification and property management, card reader and PDA locking systems, automated booking and inmate management systems, and high-tech detection, surveillance, and communications systems are just a few examples of the modern technology found in many new jails. This technology requires a workforce with specialized training and skills.
- **Challenging workforce issues.** Administrators' time is increasingly taken up with addressing issues related to union contracts, collective bargaining, and compliance with various labor law requirements. They face significant challenges in managing today's workforce. Hiring and retaining qualified staff is a major concern. Turnover is increasing at a time when the pool of eligible applicants for jail officer positions is dwindling. Jail officers today are expected to be much more than guards. They are expected to actively manage and supervise inmate behavior, often through direct supervision, which stations officers in the housing unit with the inmates to interact with them and supervise their behavior directly. Therefore, comprehensive training and active supervision of staff are essential.
- **Privatization.** Interest in privatization of jail operations is increasing. Privatization may range from contracting for the overall management of jail operations to supervision of specific jail functions such as food services, medical services, or the commissary. Contrary to common belief, local jurisdictions are not relieved of liability when they privatize services; jail officials are responsible for ensuring that independent contractors meet applicable standards in the delivery of services.
- **Increased public scrutiny.** Jails are no longer out of sight and out of mind. Any one of a number of events or issues can put the jail "under the microscope"—including litigation, spiraling costs, public safety concerns, mismanagement (perceived or real), and sudden crises (e.g., suicide, major disturbances, escapes, fire).

Consequences for Jails and Communities

There are many consequences to failing to meet these challenges. Jails that are crowded or do not provide adequate security and medical or mental health services may be subject to:

- Liability.
- Compromises in public safety.
- Unsafe conditions for staff and inmates.
- Institutional violence.
- High staff turnover.
- An increased likelihood of recidivism (due to inadequate programming).
- Diminished effectiveness of the local justice system.
- A negative public image.

Significant financial and social costs are associated with each of these consequences. Ignoring these issues is not an option; doing so would be poor public policy and possibly an indication of "deliberate indifference."[1] Local jurisdictions must take proactive steps to operate jails in accordance with established constitutional requirements and sound correctional practice.

Responding to the Challenges

Fortunately, jurisdictions across the country have responded to these challenges and have eliminated or minimized many of the problems described above. Their efforts have resulted in:

- **Increased professionalism** as a result of the selection, hiring, and supervision of qualified, competent staff and the nurturing of an organizational culture that values professionalism.
- **Expanded training programs** to provide staff with the knowledge and skills to do their jobs properly and maintain high performance levels.
- **Adequate staffing levels** to meet coverage requirements and carry out essential jail functions and activities.
- **New facilities/improved conditions** to provide safe, functional, and healthy work and living environments for all users of the facility, including inmates, officers, civilian staff, and volunteers.
- **The establishment of written policies and procedures** to provide consistency and direction for staff in carrying out daily functions and activities.
- **The expansion of jail programs and services** to meet inmates' basic needs and keep them productively occupied through educational opportunities and life skills training.
- **Compliance with codes and standards** to meet legal requirements and promote professional practice.

State governments and professional associations have provided the catalyst for many of these changes by monitoring and overseeing jails through established jail standards and inspection programs. Although most jails are locally operated, many states have determined that there is an overriding state interest in providing oversight and support to local jails to maintain the health and well-being of citizens, both offenders and the general public.

[1] In *Estelle v. Gamble,* 429 U.S. 97 (1976), the "deliberate indifference" test is applied in areas other than just medical, including safety and other general living conditions. It has effectively expanded to mean "deliberate indifference to the basic human needs" of the inmate.

Role and Purpose of Jail Standards

Chapter 1

Definition of Jail Standards

Jail standards are specifications or benchmarks for jail operations and facilities. They may exist in the form of mandated rules and regulations established by law or voluntary guidelines established by professional associations. Jail standards typically consist of prescriptive statements that establish requirements or levels of performance for specific jail functions, activities, or conditions. These statements, and the standards generally, are intended to reflect legal requirements and what the field believes is "sound correctional practice."

Role and Purpose of Standards

Jail standards play a key role in translating constitutional and statutory provisions into operational practice. Exhibit 1 (page 2) shows the application of these provisions from the broadest level down to specific details of jail functions and activities:

Standards serve many important purposes for jails and the jurisdictions they serve. Standards developed at the state level, which reflect case law, provide a point of reference against which all state jails may be evaluated and compared. By issuing jail standards, the state or sponsoring professional organization defines what it considers acceptable practice and the minimum conditions of confinement for all jails within the state. Standards create a level playing field for local jurisdictions and provide for a greater consistency across the state in the quality of care, use of resources, and method of operations. Furthermore, they provide a measuring stick for state policymakers to use in assessing and addressing incarceration needs in a more rational and consistent manner.

Well-crafted, logical standards that comply with all state and federal laws and are based on generally accepted correctional practices ensure that jails have:

- Policies and procedures that are both professional and legally defensible.
- A basis for developing effective, defensible staff training programs.
- A rational, objective methodology for identifying and addressing deficiencies in jail operations and conditions.

Such jails operate in an orderly manner that promotes the safety of inmates, staff, visitors, and the surrounding community. They experience fewer inmate-inmate assaults, suicides, and suicide attempts and have fewer problems with contraband. Because these jails protect inmates' basic human rights, they ensure that inmate punishment consists only of a separation from society, and not ill-treatment or dangerous and unhealthy living conditions during custody.

Relationship of Standards to the Mission of the Jail

In simple terms, the mission of the jail is to "keep people—to keep them in, keep them safe, keep them in line, keep them healthy, and keep

Exhibit 1. Translating Constitutional and Statutory Provisions Into Practice

Constitution

The U.S. Bill of Rights (the first 10 amendments to the Constitution) is considered when developing standards. For example, standards set for inmate visits, mail, and telephone use reflect the right to freedom of speech established by the first amendment.

Statutes

Statutes provide mechanisms for the enforcement of constitutional rights (e.g., Title 42, Section 1983 of the U.S. Code) and authorize the development and implementation of jail standards.

Standards

Standards address specific aspects of jail conditions and operations. Ideally, standards represent a merger of applicable case law and best practices in jail operations (e.g., rules established in state administrative codes).

Policies/Procedures

Policies and procedures formally communicate information about jail operations and goals to staff and others. Jail standards provide a basis for the jail's policies and procedures.

Post Orders

Post orders apply policies and procedures to specific posts or duty stations within the jail.

Inmate Manual

An inmate manual describes the jail's routine and expectations concerning inmate behavior.

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them busy—and do it as efficiently as possible with fairness and without undue suffering" (Logan, 1993). Statutes, case law, standards, professional practice, and community values all play a role in defining what this means for individual jails and how it affects jail conditions and operations. Individuals in charge of the jail and its support have an affirmative duty to be proactive and take the measures necessary to achieve this mission. Properly written jail standards establish requirements or levels of performance for jail functions, activities, and conditions that, if met, should produce the desired outcomes necessary to achieve the jail's mission.

Why Jail Standards Are Important

Centuries ago, judges determined guilt or innocence by ordering those accused of a crime to pick up an iron bar that had been heated until red hot. Those who could hold the bar without getting burned were proclaimed innocent. An alternative method was to tie a large rock to the accused and then toss the person into a deep pond. Those who floated were let go.

Jails were dark, dreary dungeons, where emaciated inmates fought with rats and other inmates for scraps of food. They lived in unsanitary conditions and received little or no medical care. Temperatures ranged from freezing cold to blistering heat. Inmates did not change their clothes; they wore what they had been wearing on the day they were incarcerated. Jail guards regularly abused them. "Lock them up and throw away the key" was the basic philosophy of corrections. Penitentiaries were so named because inmates were considered to be doing penance for their crimes. They were forced to spend all their time in solitude, with little or no regard for their physical health or mental well-being.

Today, the U.S. justice system is considered by many to be among the best in the world. In the United States, a substantial body of law protects the rights of the accused and incarcerated as well as those of the victims of crimes. All citizens enjoy the right to due process, to a fair and speedy trial, and to appeal a verdict all the way

to the Supreme Court, if necessary. The decision to prosecute is based on the sufficiency of the evidence the police have uncovered and on a grand jury process. Trial is by a jury of one's peers, which hears the evidence and decides guilt or innocence based on the facts presented. Although not perfect, the system has checks and balances and has as its goal fairness and equal treatment for all.

Unfortunately, conditions in some U.S. jails do not reflect the enlightenment of the nation's legal system. Appalling conditions, including overcrowding, a lack of sanitation and appropriate medical care, and poorly trained and abusive guards can still be found in jails that are subject to little or no regulatory oversight or that have no set of standards to follow.

Stakeholders responsible for building, funding, operating, or working in a jail and citizens in communities in which jails are located should be aware of the following facts:

- **Jails hold a wide variety of inmates.** Often the public thinks that all the "really bad people" are in a prison somewhere in another part of the state. In fact, every person who goes to prison has spent time in a local community jail while awaiting trial and sentencing. This means that a neighbor sent to jail for shoplifting may be in jail with someone accused of rape or murder.
- **Inmates need to be protected while in custody.** An inmate has a right to a safe environment while in jail. This objective is advanced by placing an inmate in a housing area that is appropriate for his/her unique set of characteristics (e.g., handicapped, developmentally disabled, suicidal, in need of special medical attention).
- **Most inmates will return to the community.** Jails do not simply lock inmates up and toss away the key, and inmates who are not treated properly while in custody will likely continue to have the same problems that resulted in their arrest once they are back in the community.
- **People with mental health problems constitute a large portion of the jail population.** Surveys indicate that many inmates in the United States have a diagnosable mental health problem (James and Glaze, 2006). Returning them to the community without a plan for continued counseling and medication often sets them up for failure and a quick return to jail.
- **Inmates lose very few basic individual rights when they are incarcerated.** Felons may lose the right to vote, to own firearms, and to obtain certain professional licenses. They do not lose the right to be free of abuse, to contact and retain legal counsel, and to converse with and visit their friends and relatives under defined conditions.
- **The jail setting and conditions are not meant to be punishment.** The function of a jail is to safely and humanely hold inmates remanded to its custody by the courts. Some of these inmates have only been charged with a crime but not yet adjudicated. The jail holds these inmates to ensure their appearance in court and/or to protect the community until their next court appearance or until they are otherwise released (e.g., bail). For jail inmates who have been convicted of crimes, the punishment is isolation from society rather than the conditions of confinement. Holding inmates under inhumane conditions (i.e., cold, dark, dank cells) is inappropriate and illegal.
- **Inmates have a right to medical treatment.** All inmates deserve an acceptable standard of medical care. Because inmates are unable to access medical treatment in the community the way that free persons

can, the courts have determined that it is the responsibility of the jail to provide this medical care.

- **Inmates must be provided with adequate, nutritional meals.** Dieticians should ensure that each meal provides inmates with a balanced diet appropriate to their age and medical conditions. Teenagers may need a different caloric intake than older inmates. Diabetics, inmates on dialysis, and those with food allergies all need to have medically approved and appropriate diets. Inmates with legitimate religious dietary restrictions also must be accommodated.
- **Inmates must be provided with clean clothes and bedding.** Clothing, towels, and bedding must be exchanged, laundered, and inspected on a regular basis. Failing to do so will result in an unhygienic facility for both the inmates and the staff.
- **Inmates are not the only ones in the facility.** Besides the inmates, there are the officers who work with and supervise them, cooks and maintenance people, nurses, vendors, educators, and volunteers. An unsafe facility puts community members at risk. Facilities operate around the clock, without time off for holidays or weekends. Those who work in the jail are entitled to a work setting that is safe, stable, and healthy.
- **Inmates are at a higher risk of attempting or actually committing suicide than the general population.** Research indicates that the suicide rate in jails is 47 deaths per 100,000 population, compared with approximately 11 deaths per 100,000 in the community at large (Mumola, 2005). Factors associated with inmate suicide and suicide attempts include isolation, the prospect of spending large amounts of time locked up, and mental health problems.

Rationale for Jail Standards and Inspection Programs

Most people see the value of standards as a guide to how jails should be operated and maintained. The rationale for independent inspections and regulatory oversight to ensure that these standards are met is more difficult for some to accept. However, it is in society's best interest to ensure that jails are used and operated properly. This can be achieved only by establishing a clear set of standards coupled with a process of inspections and followup to see that any identified deficiencies are corrected.

Counties (and their many political subdivisions) have numerous local public works projects that are the responsibility of the county or of the cities, towns, or villages within its boundaries. Roads, schools, hospitals, police departments, firehouses, and courthouses for county and local courts are built and maintained at local expense. These projects are done for the community and by the community and are frequently sources of pride for the citizenry. No one questions the need for these or the numerous other projects, including dams, bridges, and local airports, funded at the county or local government level.

Nor does anyone question the need for state oversight of these local projects. Hospitals are under the scrutiny of a state department of health, which ensures that the quality of patient care meets basic community standards. Quality of care issues are referred to a state agency for review, and this agency mandates changes for those hospitals or their physicians and staff members who do not offer an adequate level of patient care. Schools are under the scrutiny of the state education department and must offer certain subjects, hold classes for a set number of days each year, and administer tests to evaluate student progress as compared with that of students at other schools in the state. Roads are

constructed to a uniform state standard. The same holds true for dams, airports, and all the other local projects that come out of local tax dollars for the benefit of local citizens.

No one thinks twice about the state government's holding of these locally run services and projects (hailed as local accomplishments) to a statewide standard. It makes sense to have them judged and overseen in this manner. Who would want their hospital run with no accountability or their children educated with no standard against which to measure their progress?

Yet states may have no standardized rules or regulations to govern local jails, which also provide an essential service to the community. The jail is as much a responsibility of the local jurisdiction as its police, courts, firehouse, roads, schools, and hospitals, all of which are subject to state standards and regulations. Jails, then, should also be subject to some form of statewide regulatory oversight.

Statewide standards and inspection programs of jails are necessary for the following reasons:

Jails are high-risk environments. The likelihood of a crisis occurring in the jail setting is higher than in any other government function, and the consequences of such an event can be catastrophic for both individuals and the jurisdiction. Following are just some of the potential risks inherent in jail settings:

- **Inmate risks—**violence, medical conditions, self-harming behaviors, vulnerability.
- **Confinement risks—**classification mistakes, crowding, inadequate levels of basic services or supervision.
- **Security risks—**escapes, the introduction of contraband, security equipment breakdowns, inadequate emergency response.
- **Personnel risks—**improper or inadequate staff selection, retention, training, or supervision.
- **Environmental risks—**safety hazards, poor sanitation, inadequate physical plant, contagious diseases.

Inspections can help jail officials in assessing risks, and jail standards can provide guidance in managing them. In addition, inspections provide decisionmakers with as much information about what they are doing correctly as they provide about what areas need improvement.

- **There is a substantial body of law governing jails.** A substantial body of law addressing almost every aspect of jail operations has emerged from the explosion of litigation against jails and prisons during the past 30 years. Case law is evolving as courts continue to hear cases concerning jail issues. Very few local jurisdictions have the resources to monitor what legal requirements apply to their facilities or to determine the extent to which their jail's policies and practices comply with those requirements. A statewide jail standards and inspection program can stay informed about court rulings and adjust the standards as needed to meet new legal requirements.
- **Jails significantly restrict individual liberties.** In taking an individual into custody, the government significantly restricts many of the liberties taken for granted in the United States. In managing this custody function of government, jails must strike a delicate balance between affording basic rights to inmates and the obligation to operate a safe and secure facility. Standards written to conform to established case law and legal requirements provide rules and guidelines that serve to maintain this balance.

Inspections provide a level of accountability to reduce the potential for abuse.

- **Jails face significant liability exposure.** The high-risk nature of jails and the substantial body of case law involving jails combine to make them one of the highest liability risks for local jurisdictions. The costs of defending lawsuits and paying judgments are tremendously high and may drain critical resources needed to properly staff and operate the jail. A standardized inspection program can reduce the impact of litigation because it provides independent validation of an agency's level of compliance with accepted standards.
- **Jails are a low priority.** As indicated in the introduction, jails have historically been one of the lowest priorities for public funding. Public officials are often reluctant to spend money on the jail unless compelled to do so. Jail standards and inspection programs can highlight deficiencies and influence funding authorities to commit needed resources to the jail. Active implementation of the standards gives public officials an excuse to "do the right thing."
- **Standards bring consistency and fundamental fairness to the governmental function of locking people up.** Conditions and practices in states without standards or inspections can vary widely, depending on local circumstances and community expectations. An inmate may be treated quite differently in one jail than in another. Even within a jail, the way activities and functions are carried out may vary significantly from shift to shift. Regular inspections and the enforcement of standards bring internal and external consistency to jail operations and conditions. The result is a higher level of fundamental fairness to inmates, local governments, and the general public.

Commonly Raised Objections to Standards

A variety of objections have been raised to jail standards and inspection programs. Following are answers to some of the most common objections.

It will cost a lot of money to comply with standards.

Jails are already legally responsible for doing most of what jail standards would require. The standards simply translate these legal requirements into comprehensible guidelines that jails can incorporate into policy and practice. The courts may not regularly send inspectors through jails, but this does not mean that the protections afforded by the U.S. Constitution do not continue to apply to inmates. Meeting these requirements is not inexpensive. However, just as the costs of building roads, bridges, and buildings to code are accepted as part of the cost of ensuring the safety of those who will use them, the costs related to compliance with jail standards must be accepted as part of the cost of a functional criminal justice system. Rejecting the advantages that jail standards offer because of cost leaves jails and local jurisdictions open to much greater liability in the future.

They will set the jail up for lawsuits by documenting problems.

Standards and inspections can document both problems and their correction. Actions taken by jail officials to identify and resolve deficiencies demonstrate that they are acting in good faith and are not deliberately indifferent to the conditions of the jail. As such, jail standards compliance reports often result in a summary judgment in favor of the jail, precluding the case from going on to trial.

Small jails will not be able to comply.

Being small does not exempt a jail from the requirements of the U.S. Constitution. Small

jails are exposed to the same risks as their larger counterparts. Indeed, smaller jails may benefit from the guidance that standards can provide because they typically lack the resources to monitor court rulings on operating a jail in compliance with constitutional law. Jail standards programs with effective technical assistance components can work with small jails to help them with staff training, policy and procedure development, and other issues that may be perceived as barriers to compliance.

Standards provide benefits that make the jail soft on inmates.

A local jurisdiction cannot evade complying with the requirements of the U.S. Constitution by arguing that such requirements are "soft on inmates." Often, people unfamiliar with the jail simply do not understand the implications behind many of the things that are done to and for inmates. Standards that afford inmates what may be perceived to be undeserved benefits often have a rational basis related to maintaining the inmates' safety, security, or well-being.

Jail staff "know what to do and don't need standards."

The prevalence of successful inmate lawsuits shows that staff and administrators do not always know what is required to operate a jail properly. Furthermore, the knowledge, experience, and leadership of jails change with elections, retirements, and job turnover. Standards provide a thread of continuity that keeps practices and conditions from slipping as a result of these changes.

Jail Standards and Liability

Chapter 2

Cost of Jail Litigation

The costs associated with mistakes in jail operations are going up. In early 2005, a federal appeals court in the Midwest upheld a jury damages award against two individual officers for nearly $57 million. The jury found the officers responsible for the beating death of an inmate in a medium-sized Indiana jail (*Estate of Moreland* v. *Dieter,* 395 F.3d 747 (7th Cir. 2005)). The sheriff was dismissed from the case on summary judgment, and other defendants settled claims out of court.

The *Moreland* decision is probably the biggest damages award in a corrections case, but other substantial awards have been made in the last few years:

- A teenager died of pneumonia in a boot camp after staff ignored pleas for medical attention. The jury awarded more than $40 million against both individual staff and the private correctional company running the jail (*Alexander* v. *Correctional Services Corporation,* Tarrant County, Tex., District Court No. 236-187481-01 (9/29/2003)).
- Nearly $13 million was awarded against various officers, supervisors, and the city responsible for jail operations following a hog-tying death (*Swans* v. *City of Lansing,* 65 F.Supp.2d 625 (W.D. Mich., 1998)).
- Mobile County, Alabama, and various jail officials settled a lawsuit over the death of a mentally ill inmate in the jail for $1.45 million in 2003 (Collins, 2004c).
- A Texas jury awarded $2.5 million to the widow of a doctor who died in an El Paso jail while being held for traffic violations. The jury believed allegations that the jail denied the deceased necessary antiseizure medications (Collins, 2004b).
- An Arizona sheriff and his county were hit with compensatory damages of $440,532, and the sheriff with punitive damages of $195,000, in a case involving deliberate indifference to the safety needs of inmates held in the sheriff's "tent city" jail (*Flanders* v. *Maricopa County,* 54 P.3d 837 (Ariz. Ct. App., 2002)).
- The misuse of restraints has been the basis of several awards around the country. In the most notable case, $8.5 million was awarded in the case of an inmate in a Maricopa County, Arizona, jail who died after being pushed into a restraint chair, gagged, and shot with a stun gun (Collins, 2004a).

Depending on the facts of the case, damages may be awarded against individual officials (from jail officers to sheriffs to county commissioners), the governmental unit (city or county) operating the jail, or both. In some situations—such as the *Moreland* case—the government and/or its insurance carrier have refused to defend or indemnify officers because their actions were so far outside the requirements of agency policy. As a result, those officers face multimillion dollar damage awards with no insurance coverage. More commonly, the insurance carrier (or the self-insured city or county) defends the officers

and pays the major portion of any judgment. In these cases, even if the judgment is against only the named officers and not the city or county, the cost of the judgment is borne by the jurisdiction, whose insurance policies cover mishandled jail operations. Large awards for damages have led insurance providers to demand improved jail operations as a condition of continuing insurance coverage.

Simply defending a major lawsuit can be expensive, even if the court rules in favor of the jail official. Losing a major case can be far more costly in terms of damages, fees the local jurisdiction or their insurance carrier must pay to the plaintiffs' attorney, and possible court intervention and oversight of jail operations. Such a loss can be a political embarrassment for elected officials responsible for jail operations. It has been said that "You don't win elections by running a good jail, but you can lose elections by running a bad one."

Judicial Oversight of Jail Operations

For some, disco, wide ties, and polyester pants defined the 1970s. For those working in corrections, a revolution in the management of prisons and jails defined that decade. The revolution was driven by the federal courts' extension of the protections of the U.S. Constitution to those confined inside jail and prison walls. During this period, the courts began to examine and define what concepts such as freedom of religion, cruel and unusual punishment, and due process meant for inmates. This process of defining and refining the basic legal tests and applying them to many different aspects of jail maintenance and operations continues to this day.

Prior to 1970, the concept of "inmate rights" was almost unknown. By 1979, the Supreme Court criticized lower courts for becoming too "enmeshed in the minutiae" of jail and prison operations (*Bell* v. *Wolfish,* 441 U.S. 520, 562 (1979)).

For the first time in history, there was a body—the federal courts—willing to exercise very strong oversight of detention and correctional institutions and to hold agencies and officials accountable for operations in accordance with requirements that, in many cases, were completely new to those responsible.

Federal constitutional requirements dealing with both operational and physical plant issues, from procedures to be followed in disciplining inmates to the size of cells, sprang up almost overnight. These topics could be the subject of lawsuits brought by individual inmates or class actions brought on behalf of a defined group of inmates (e.g., all the inmates in a jail now and in the future). Many of the issues addressed are still important today:

- Medical care, including mental health and dental care.
- The use of force.
- Protection of inmates from violence at the hands of other inmates (and sometimes staff).
- Provision of services adequate to meet basic human needs, including food, clothing, shelter, protection from fires, and exercise.
- Searches of all types, but particularly strip searches of detainees.
- Access to mail and reading materials.
- A variety of issues regarding the practice of religion.
- Inmate discipline.

To understand the range of court decisions and how few areas of jail operations have escaped the attention of the courts, see appendix A, which lists issues that the courts have routinely addressed over the years. This list (which, although long, is nevertheless incomplete) demonstrates the startling number of potential topics for litigation that must be considered by jail

staff, administrators, and government agencies that operate jails. Note that these "legal issues" affect almost every major facet of jail operations.

Historic Vulnerability of Jails

As described in the introduction, local officials and the general public historically gave jails low priority. There was little oversight or accountability for conditions and practices. As courts responded to a number of cases involving horrendous circumstances and conditions, new precedents for jail operations were established. Few jails had legal counsel, but even those with counsel had difficulty understanding the rapidly expanding scope of constitutional protections afforded inmates and the rapidly changing state of the law in this area. The test used by many courts to evaluate jail operations—the "totality of conditions" test[2]—was very hard to apply with any certainty. There was no "instruction book" defining professional practice and acceptable conditions that jail administrators could follow.

Liability Exposure: How Serious a Concern?

Inmate rights lawsuits in federal court are typically brought under federal civil rights law 42 U.S.C. section 1983, which allows a court to provide two very different types of relief—an injunction and money damages—to a plaintiff (inmate or noninmate) who is able to show that his/her federal rights were violated by a person "acting under color of state law."[3] The most common type of relief was an injunction, a court order requiring that officials take, or refrain from taking, certain actions within the jail. The potential impact of the second type of relief, monetary damages, was highlighted in the opening paragraphs of this chapter.

Although an injunction may direct officials to stop doing certain things, it often also requires that officials take affirmative steps to correct a problem (e.g., expanding the scope of medical services, reducing the jail population, etc.). For many years after courts began to entertain inmate civil rights lawsuits under section 1983, injunctions were the most typical form of relief on which courts relied. Some injunctive orders were very complex and addressed jail operations in virtually all aspects. Courts commonly appointed persons, often referred to as "special masters," to monitor the defendants' compliance with such orders. Court monitors are now known by a variety of titles and derive their powers and duties from the court's order. The agency responsible for operating the correctional facility under the monitor's supervision must pay the costs associated with the court-appointed monitor. Periods of court oversight in these far-reaching institutional reform cases might last for years, even decades.

Court orders that mandate substantial improvements in jail management and operation impose a related cost that must be paid from the coffers of the county or city ultimately responsible for jail operations. Unlike many other costs of government, court-ordered expenses cannot be delayed or pushed aside with the excuse "we can't afford that." Therefore, paying the bills attributable to the court order may require diverting funds from other county or city agencies.

Various factors, including overall improved professionalism in jail operations, have combined to reduce the amount of major jail reform litigation. However, the threat of major lawsuits remains. For instance, over the past several years, the U.S. Department of Justice, acting under its

[2] Under the "totality of conditions" test a court could consider virtually any and every negative aspect of a jail's operation cumulatively.

[3] When a person acts or purports to act in the performance of official duties under any law, ordinance, or regulation, he or she is acting under the "color of law." A county or city is considered a "person" (*Monell* v. *Department of Social Services,* 426 U.S. 658 (1978)).

power to litigate on behalf of inmates under the Civil Rights of Institutionalized Persons Act of 1980, (42 U.S.C. section 1997) has entered into settlements with seven county jails, from Nassau County, New York, to Los Angeles County, California.[4] A small jail in Wyoming was found to be delivering an unconstitutionally low level of medical care to inmates, despite having been party to a consent decree since 1987 (*Ginest* v. *Board of County Com'rs. of Carbon County,* 333 F.Supp.2d 1190 (D.Wyo. 2004)). Other recently reported decisions show jails dealing with major litigation on topics such as:

- Inmate safety (*Hart* v. *Sheahan,* 396 F.3d 887 (7th Cir. 2005)).
- Conditions in jail for persons held under civil procedure and awaiting adjudication under the state's Sexually Violent Predator Act (*Jones* v. *Blanas,* 393 F.3d 918 (9th Cir. 2004)).
- Use of webcams to broadcast views of inmates on the Internet (*Demery* v. *Arpaio,* 378 F.3d 1020 (9th Cir. 2004)).

Although today there are fewer sweeping jail reform cases accompanied by oversight by a special master/court monitor than in years past, the number of cases in which significant money damages were awarded to injured inmates has increased.

The requirements of the U.S. Constitution define and dictate "proper" operation of a jail far more than many observers realize. Despite more conservative decisions about inmate rights coming from the Supreme Court in recent years, federal court decisions still mandate numerous complicated requirements for proper operation of jails.

Congress at times adds more requirements to jail operations. These include the Religious Land Use and Institutionalized Persons Act, which expands inmates' rights to practice their religion, and the Americans with Disabilities Act, which requires special provisions and accommodations for inmates with disabilities. Some state laws and constitutions also impose requirements for jails. What the layperson may see as a frill in jail operations may in fact be a requirement mandated by the state or U.S. law.

With the dramatic increase in the number of court-defined inmate rights during the 1970s, a major goal of standards was to provide jails with comprehensive guidance as to steps that should be taken to enable the jail to either prevent litigation or to be in the best possible position to successfully defend a major lawsuit. That goal remains valid today.

Risks of Inconsistency

When enforcement of constitutional requirements in a jail is dependent on litigation, the results are sporadic and inconsistent. For example, in the *Ginest* case mentioned above, litigation forced a Wyoming county to provide constitutionally adequate medical services. However, in the absence of mandatory standards or a similar lawsuit, neighboring counties could conceivably continue to provide inadequate medical care in their jails because no one would be looking over their shoulder to verify what they were doing. If Wyoming had jail standards and an inspection program that ensured compliance with those standards, jail operations would be more consistent across the state. This is particularly critical in an area such as medical care, which has life-and-death consequences for inmates. When litigation is the main enforcement mechanism, a county can ignore its responsibilities under the Constitution until it is sued.

[4] See the Web site of the U.S. Department of Justice, Civil Rights Division, Special Litigation Section, *www.usdoj.gov/crt/split/findsettle.htm#Settlements.*

As discussed earlier, this "pay later" approach can result in enormous potential liability for the county in the form of legal settlements and damage awards.

Emergence of Jail Standards

Faced with the threat of very unpredictable and costly federal court intervention, a number of states recognized the importance of oversight of jail operations and looked for something more standardized, predictable, and uniform than oversight by federal courts. The early history of jail standards in the State of Washington provides a classic example of how jail standards can minimize the involvement of federal courts in jail operations. Surveys conducted by a state agency in the early 1970s documented very bad conditions in many jails.[5] Two adjectives that described many of the state's jails were "old" and "decrepit." The surveys generated controversy at first, but little action was taken to address the problem.

Then several jurisdictions were sued and threatened with federal court oversight. Some government officials became concerned that unless local and state governments took some positive action, the federal courts would effectively be running many of the state's jails. This apprehension, combined with the promise of state dollars for new jail construction, led to the passage of enabling legislation for jail standards. The legislation created a small state agency with the power to adopt and enforce operational and physical plant jail standards and to distribute the new construction moneys. A commission whose membership was heavily representative of local governments oversaw the agency. Inspections became a routine part of the state's jail policies. Initial concerns about the inspections by sheriffs and jail administrators generally gave way to support for standards and inspections and recognition that external oversight helped raise the quality of jail operations and the professionalism of jail staff and management. The threat of expanding federal court oversight waned.

Having what amounts to an outside quality assurance program also offers a purely legal benefit. In section 1983 civil rights jurisprudence, a jail administrator, sheriff, or jurisdiction is not liable simply because a staff member violates the rights of an inmate. To be liable under section 1983, an official (including the county or city) must actually "cause" or somehow be responsible for the violation. Causation can be indirect—for example, a failure to adequately train staff can be the basis for liability under section 1983 (*City of Canton* v. *Harris,* 489 U.S. 378 (1989))—but policies and procedures driven by standards that reflect the requirements of current case law help put the administrator and the city or county in a strong position to deny liability by claiming that the violation was not "caused" by any failure on their part.

Jail Standards and Court Requirements

Despite thousands of court decisions dealing with inmate issues, distilling clear operational guidelines from the legal tests presented in those decisions can still be difficult. Tests that courts apply—for example, "deliberate indifference to serious medical needs" (*Estelle* v. *Gamble,* 429 U.S. 97 (1976)) or "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm" (*Hudson* v. *McMillian,* 503 U.S. 1,7 (1992))—do not give sufficiently detailed guidance to a resources-strapped jail administrator who is trying to determine how to structure and operate a jail's medical system. Nor do they help county officials in the process of designing a jail make decisions on issues such as lighting levels

[5] Information drawn from the recollections of William C. Collins, an attorney involved in the development of Washington State Jail Standards.

in cells, cell size, exercise yards, security doors, or the design of mental health and medical units—issues not normally encountered in other governmental building projects.

Even if several court decisions combine to give fairly clear guidance in a given area,[6] jail administrators are not lawyers and are not hired to parse scores of court decisions from all over the country about a minute issue of jail operations. Few jail administrators have legal assistance from an attorney well versed in the fine points of correctional law.

This is where correctional standards become an important management tool for the jail administrator. A well-developed and evolving set of jail standards can translate court mandates and constitutional principles into understandable and objective guidelines for jail administrators. A court holding that lighting levels in the jail may not be so low as to present an "unreasonable risk of serious harm to [inmates'] future health"[7] may leave an administrator guessing as to how much light to provide in the jail. However, a standard stating that lighting in inmate cells must be "at least 20 foot-candles at desk level" (American Correctional Association, 2004) turns the court's vague statement into a clear, objective requirement.

With the ongoing threat of expensive and disruptive litigation, a well-developed and evolving set of jail standards, combined with inspections conducted by knowledgeable, well-trained, and independent jail inspectors, can offer two benefits for the jail:

- Standards can turn general statements from diverse courts about particular issues into understandable, relatively objective language that can much more easily be incorporated into operating policy and practice.
- Inspections can alert officials to problems in the jail before a section 1983 complaint arrives from the federal court or before the American Civil Liberties Union (ACLU) or the Civil Rights Division of the Justice Department knocks on the door saying, "You have some problems in the jail we want to talk about. . . ."

The importance of sound inspections cannot be overstated. Standards that exist only on paper are of no benefit. Standards that are reflected in agency policies create a positive appearance, but are only a facade if staff are allowed to ignore the policies and accompanying procedures. Skillful inspectors can look behind the language of the formal policy to determine if day-to-day practice follows that policy.

Summary

A jail with the finest policies and management team can still have staff that ignore policy and violate the rights of an inmate. For example, the two staff persons found liable in the *Moreland* case certainly did not think that jail management approved of their beating an inmate or discharging pepper spray into the inmate's face as he was strapped down in a restraint chair.

Inspections and inspectors are not perfect. They may miss deficiencies. Faulty recordkeeping may suggest compliance with a standard but hide

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[6] For example, there is a very large, very consistent body of law about determining when an arrestee may or may not be strip searched as part of the jail admissions process. Despite this, litigation continues to arise in situations where jails ignore this body of law. See *Jail and Prison Legal Issues: An Administrator's Guide* (Collins, 2004d), chapter 10.

[7] See *Helling v. McKinney,* 509 U.S. 25, 34 (1993). Although this case dealt with exposure to second-hand cigarette smoke, it established the principle (a condition that creates a serious risk of substantial harm) that would provide the basis for the court's ruling on inadequate lighting.

instances of noncompliance. Nor does a certificate of compliance from an inspections agency necessarily guarantee that a jail will not be sued or will not lose a major lawsuit.

Nevertheless, standards should reduce the jail's risk of being blindsided by allegations of major problems. Compliance with accepted standards is perhaps the best way for agencies operating jails to have some confidence that their facilities are operating in legally defensible ways. Inspections, which should accompany standards, help to ensure that the jail is operating properly and highlight areas where improvements are needed.

Key Elements of Jail Standards and Inspection Programs

Chapter 3

Policy Goals and Philosophical Orientation

A starting point for states or organizations beginning the process of establishing a jail standards and inspection program is to understand and reach a consensus on their policy goals. There must be a clearly defined rationale for the state or professional organization to be involved in setting standards and inspecting local jails. That rationale will shape subsequent decisions on such issues as the scope of the standards, the organizational design and home of the administering agency, implementation strategies, and approaches to enforcement. State-level standards and inspection programs generally serve one or more of the following policy goals:

- **Monitoring:** Keeping track of and creating an accurate record of the conditions in and use of jails in the state. The primary focus of monitoring is on census taking, not influencing conditions or practices.
- **Reforming:** Actively working to change conditions and practices to bring about improvements, with an emphasis on the general state of jails rather than on the enforcement of specific standards.
- **Regulating:** Ensuring that jails meet specific standards by conducting regular inspections and working with the local jurisdiction to remediate problems when compliance is not maintained.
- **Investigating:** Conducting systematic, objective inquiries into charges of improprieties with the intent to discover causes and assign responsibility, clear officers of charges, make recommendations for improvement, and so forth.

Groups charged with leading a jail standards initiative will need to decide which policy goals should be pursued and prioritize those selected. Because policy goals vary in their emphasis on change and their strategic implications, the priorities established by the group will largely define the philosophical orientation and structure of the standards and inspection program.

Legal Authority

The legal authority for the development and implementation of state standards is most commonly established in enabling legislation passed by the state legislature. The actual jail standards are seldom established in statute; rather, they are codified as administrative regulations under the state's administrative procedures act or equivalent law. Properly promulgated and adopted administrative regulations implement the intent of the enabling legislation and carry the force of law.

The enabling legislation dictates whether the jail standards are mandatory or voluntary. Mandatory jail standards established by states typically include provisions in enabling legislation that mandate compliance and include provisions for enforcement. In states where the policy goal is primarily regulation, jail standards are more likely to be mandatory.

Jail standards developed by professional associations are generally voluntary but may include mandatory standards that must be met as a condition of accreditation. In states where the policy goal is focused more on monitoring and reform than on regulation, the jail standards are less likely to be mandatory or may lack meaningful enforcement provisions.

Enabling legislation may provide various options to induce compliance with jail standards, which may include both sanctions and incentives. Sanction options include:

- **Informal measures.** Inspection agencies may use various means to persuade local officials to address deficiencies, including meetings, public disclosure of noncompliance, etc.
- **Court petitions.** Enabling legislation may authorize the administering agency to petition a court for a compliance or closure order.
- **Restricted use orders.** These types of orders restrict the use of areas of a jail deemed to be unsafe. They are also used to restrict the use of portions of a jail to certain classifications of inmates or to temporary holding.
- **Probation.** Jails may be placed on probation or conditional use orders pending correction of deficiencies.
- **Withholding of state funding.** Some states provide subsidies, revenue sharing, or other types of reimbursement. Enabling legislation may grant authority to withhold funding when jails fail to maintain compliance with standards.
- **Decertification.** In states where jails are certified, decertification may result in higher insurance premiums, loss of funding, restricted use, or closure.
- **Closure orders.** Enabling legislation may grant standards and inspection agencies direct authority to order closure where substantial life, health, or safety concerns are identified.

Inspection authorities also employ incentives such as subsidies, reduced insurance premiums, and public recognition to promote compliance with standards.

Scope of Standards

The scope of standards varies by state, ranging from limited to comprehensive. Standards that are limited in scope generally focus on life, health, safety, and constitutional issues. Comprehensive standards address the full range of jail conditions and practices. Costs and political considerations are among the factors that affect scope. For example, several states with mandatory standards have elected to "grandfather" existing facilities, choosing to focus on developing standards for new construction and renovation. When standards are limited in scope, local officials must understand that there may be "gaps" in regulation that could increase their exposure to liability.

Enabling legislation in many states may specify the promulgation of minimum standards. Where this is the case, officials should understand the legislative intent of the term "minimum." In some states the legislative intent in setting minimum standards may be to establish requirements that are no greater than those minimally required to meet legal mandates and case law precedents. As such, minimum standards may be less rigorous than the industry's view of what constitutes accepted professional practice.

Alternatively, the legislative intent in using the term "minimum" can be to indicate that standards reflect requirements below which

conditions may not fall. In this context, the administering agency may be limited in its authority to grant waivers.[8] From a liability standpoint, granting such a waiver is risky, both for the jail and the regulating authority, if the waiver sanctions a condition or practice that is found to be unconstitutional. Some states do have provisions for variances that do not waive compliance; rather, they approve practices or conditions that meet the intent of the standard in an alternate fashion. Generally, such variances are granted for a limited period of time, until changes can be made to bring the facility back into compliance.

Applicability

Local jurisdictions may operate one or more types of correctional facilities, including short-term holding facilities, jails, work release facilities, community residential centers, juvenile detention facilities, etc. Consideration should be given to what types of facilities the state or organization chooses to regulate. Standards that are subsequently developed need to be specific to the type of facility for which they are intended. For example, standards appropriate to jails exceed standards for short-term lockups. The nature of the operation and population of work release facilities or other special-use facilities may dictate requirements different from those for a traditional jail.

Administering Agency Organizational Options

Agencies responsible for administering standards programs vary. Many programs reside within the state department of corrections or public safety. Several are administered by stand-alone agencies or independent commissions. At least one program (Oklahoma) resides in the state health department. (Appendix B shows the wide variety of agencies administering standards programs and provides detailed information about the status and characteristics of standards and inspections programs in every state.)

In some states, the state sheriffs' association has taken the lead in developing jail standards. Typically, standards developed by professional associations are voluntary. No regular inspections or enforcement activities are associated with these standards. At least three states (Idaho, Oregon, and Utah), however, provide for peer inspections of jails by jail administrators, sheriffs, and other local officials. Although compliance with the standards is not enforced, inspection findings are shared with the jurisdictions so they can be used to identify areas needing improvement. Findings may also be shared with the state insurance pools for use in assessing insurability and setting premiums.

Many programs fall within one of three primary organizational models: a department of corrections, an independent commission, or a state sheriffs' association. The relative advantages and disadvantages of each organizational model are highlighted in exhibit 2 (on the following page). See appendix C for state profiles demonstrating each of the models.

Administering Agency Functions and Responsibilities

As indicated previously, the policy goals selected for the initiative will influence the makeup of the administering agency and the emphasis it places on various functions. The administering agency's functions and responsibilities may include the following components:

- Standards development and review.
- Inspections to assess compliance with standards.

[8] A waiver sanctions a condition or practice that does not meet the standards.

Exhibit 2. Jail Standards and Inspection Programs: Primary Organizational Models

State Agency/DOC	Independent Commission	State Sheriffs' Association
Advantages		
■ Shared administrative costs. ■ Statute driven; clear authority. ■ More resources to assist jails. ■ Flexibility in funding and staffing. ■ Objective evaluations. ■ Enforceable standards.	■ Stakeholder involvement. ■ Broader involvement in decisionmaking. ■ Sets own agenda. ■ Utilizes resources as it chooses. ■ Statute driven; clear authority. ■ Objective evaluations. ■ Enforceable standards.	■ Autonomy. ■ Flexibility. ■ Enhances knowledge and networking among members.
Disadvantages		
■ Greater bureaucracy. ■ May not be a priority for parent agency. ■ Potential conflict of interest. ■ May lack understanding of local jail issues/needs. ■ May end up inspecting its own facilities.	■ Smaller organization; fewer resources to draw on. ■ Easy target for budget cuts. ■ Commission members may lack knowledge about jails.	■ Standards not enforceable. ■ Potentially less consistent interpretation. ■ May be subject to political pressure from members. ■ May be viewed as self-serving. ■ May be less likely to produce needed changes. ■ Perhaps less liability protection if not uniformly enforced. ■ No state funding support. ■ Fewer resources to facilitate compliance.

DOC = Department of Corrections

- Investigations of specific incidents or allegations of misconduct.
- Data collection (jail population census, conditions, incidents, etc.).
- Technical assistance, consultation, problem solving.
- Review of facility construction or renovation plans.
- Networking and referrals.
- Advocacy.
- Clearinghouse services.
- Development and dissemination of resource manuals.
- Training.
- Jail policy analysis/planning.
- Administering jail subsidy funding.

Most standards and inspection programs have shown that the inspection component alone is insufficient for local jails to achieve compliance. It must be coupled with a viable technical assistance component. Local officials feel strongly that if they are mandated to comply with standards, they should be given the resources necessary to

achieve compliance. The administering agency can assist by making resource materials available, providing training, or working directly with jail personnel to solve problems. The administering agency can also play a leadership role on a state level in jail planning, policy analysis, and advocacy. In addition, it can collect and share the information policymakers need to make decisions that affect how jails are used and supported.

Inspection and Followup Process

The inspection process is a core function of the administering agency. In organizing this function, the following key issues should be considered:

- **Inspection type and purpose.** Inspections may vary in scope and purpose. Comprehensive inspections may be conducted to assess overall compliance of the jail operation and facility with established standards. Partial inspections may focus on specific aspects of the facility or operation. Followup inspections may be conducted to determine if corrective measures have resolved deficiencies identified in previous inspections.
- **Who conducts inspections.** Generally, administering agencies employ individuals whose primary job is to inspect jails.
- **Frequency of inspections.** Most state standards programs inspect jails on an annual or biennial basis. Additionally, the programs have provisions for followup to ensure that cited deficiencies are corrected in accordance with approved corrective action plans.
- **Whether inspections will be announced or unannounced.** Unannounced inspections have the advantage of allowing the inspector to see the jail as it routinely functions, not just how it looks or functions after days or weeks of preparation. Announced inspections, on the other hand, ensure the availability of key jail officials on the date of inspection and can facilitate a more thorough and comprehensive inspection. If the facility makes an ongoing effort to comply with standards and documents these efforts, this should be evident in the inspection.
- **Coordination with other inspecting entities.** Fire and health authorities may also inspect jails. It may be useful to coordinate inspections by various regulatory agencies to minimize disruption to the jail and provide an overall picture of deficiencies requiring attention.
- **Inspection elements.** Inspections should be conducted in accordance with established procedures. Inspections typically involve a combination of an oral interview; an audit of records, policies, and procedures; observation of facility operations; and an examination of the facility. The inspection begins with an entrance interview to explain the purpose of the inspection, confirm the inspection agenda, and gather initial information about the jail. It concludes with an exit interview, in which the inspector shares his/her preliminary findings and describes what types of corrective measures might be needed if any deficiencies have been identified.
- **Documentation of findings.** A standardized inspection checklist is commonly used to document inspection findings. A series of yes/no answers to questions concerning specific standards is a basic format. Space is generally provided for additional comments. Copies of the inspection report should be shared with local officials within a reasonable time.
- **Followup/corrective action.** Local officials should correct any deficiencies identified in the inspection report or develop a plan of corrective action to address any deficiencies

that cannot be immediately resolved. The corrective action plan should tell the administering agency what steps will be taken to correct the cited deficiencies and when they will be corrected. The administering agency can then accept or reject the plan. The enabling legislation may specify timeframes for responding to inspection findings and initiating corrective action.

The corrective action process provides a means for the inspection agency and local officials to come to agreement on measures to be taken to address the deficiencies. The focus of this process should be on collaborative problem solving, with both parties working to remediate the problem. Technical assistance and support provided by the inspection agency at this stage may be critical to a successful outcome.

- **Enforcement.** The enabling legislation may outline the authority of the administering agency to enforce compliance and the range of enforcement options. Ideally, enforcement is used as a last resort, when all other efforts to work with local officials to resolve issues have failed.
- **Certification/recognition of compliance.** Most programs have some official means of acknowledging jails' compliance with the standards based on the results of an inspection and completion of any necessary corrective action. This may be a certificate or letter of compliance from the inspection authority.
- **Ongoing compliance management and technical assistance.** The goal of the inspection process is to verify compliance, not to catch jails doing something wrong. Ideally, jails should establish internal monitoring and assessment processes to manage their compliance with standards on an ongoing basis.

Strategies for Developing and Implementing Jail Standards Programs

Chapter 4

Getting Started

A state-level standards initiative may begin in several ways. Escalating pressure on counties dealing with skyrocketing jail costs, crowding, litigation, or other similar issues may spark the initiative. A precipitating serious event such as a major class-action lawsuit, a jail fire resulting in loss of life, or a rash of escapes might also spur policymakers to action. In any case, it is typically a core group of policymakers who come to realize that something has to be done to address jail issues on a larger, statewide scale. The discussion may begin with several sheriffs, commissioners, county legal counsel, or even civil rights attorneys. Media coverage of events may also help drive the issue initially.

At this stage, there is probably not even broad-based awareness or acknowledgment of the problem among most local and state officials and the general public, let alone consensus about implementing jail standards as a foundational strategy for addressing the problem. A first step, therefore, is to assess and define the problems, conditions, and forces driving the need for action. Next, there must be an effort to raise awareness of the issues among the broader stakeholder group (see sidebar on page 24). Stakeholders must reach a shared understanding about the nature and consequences of the problem if they are later to reach consensus about the implementation of standards as a solution.

Once the problem is acknowledged and agreement is reached on pursuing a standards initiative, stakeholder groups such as the sheriffs' association, county officials' association, or state criminal justice planning agency may consider establishing a formal jail standards planning committee to move the process forward. This committee should include representatives from the key stakeholder groups and other key constituencies within the state (e.g., the bar association, the chamber of commerce). The state criminal justice planning agency or state sheriffs' association may offer to take the lead in establishing and facilitating the work of the planning committee.

Before beginning its work, the planning committee should clearly understand its responsibility and authority, the resources available to it, and the desired outcomes for the committee's work. To this end, the state may develop a charter for the planning committee. A charter sanctions the work of the committee and provides a means to document the purpose, authority, and responsibilities of the committee, its members, and the coordinator. An example of a planning committee charter is provided in appendix D.

Establishing the Vision, Mission, and Goals for the Initiative

Early in the process, the planning committee should establish the vision, mission, and goals for the initiative.

Vision Statement

A clear vision statement provides a focal point for the planning committee and all other

Key Stakeholders in Implementing Jail Standards

The individuals and groups with a stake in jail standards are those who are directly affected by the standards, who have an interest in successful jail outcomes, who have influence in decisionmaking concerning the operation and funding of the standards program, or who may compete with the standards program for funding. The following constituencies are likely to be involved in the standards development process at various levels and stages:

- ❑ Standards program officials.
- ❑ Sheriffs.
- ❑ Jail administrators.
- ❑ Jail staff.
- ❑ County and state funding authorities.
- ❑ The legal community (county attorneys, public defenders, judges, state attorney general).
- ❑ The Governor.
- ❑ The state legislature.
- ❑ State criminal justice planning agencies.
- ❑ Legislative policy analysts.
- ❑ State associations of sheriffs and county officials.
- ❑ Insurance providers and risk managers.
- ❑ The American Civil Liberties Union.
- ❑ Service providers (e.g. teachers, counselors, volunteer organizations).
- ❑ Correctional health care providers.
- ❑ Correctional mental health providers.
- ❑ Inmates and their families.
- ❑ Nutritionists.
- ❑ Environmental health specialists.
- ❑ Taxpayers.
- ❑ The media.

stakeholders as they direct the standards development process. A vision statement answers the question, Where are we going? and describes a desired future state that is in some significant way better than the current state.

Following is an example of a vision statement for a standards initiative:

> Local jails in the state provide safe, secure, healthy, and humane environments for inmates and staff; operate in a professional and cost-efficient manner; are adequately staffed by competent, well-trained personnel; and assist in returning offenders to the community as law-abiding, productive citizens.

Mission Statement

Mission refers to the business and purpose of an organization or group; a mission statement defines why the group was formed and the scope of its responsibilities. It answers the question, How will we get there? and addresses each of the following issues:

- The purpose of the jail standards planning committee.
- The constituencies that the planning committee represents or serves.
- The activities, assistance, services, or products the planning committee will provide.

The following sample mission statement describes the planning committee's purpose and responsibilities:

> The mission of the Jail Standards Planning Committee is to design and implement a jail standards and inspection program, established in statute; to provide oversight of city and county jails in the state; and to assist local officials in complying with minimum legal requirements.

Goals for the Initiative

Goals are statements that describe optimal future outcomes based on the assumption that the planning committee will be able to completely fulfill its mission. Goals also set priorities, which enable the planning committee to focus primarily on activities that are essential for success. The following statements are examples of relevant goals:

- To promote professionalism and reduce liability exposure through the establishment and implementation of minimum jail standards.
- To identify needed improvements in facilities and operations.
- To improve the conditions and operations of city and county jails through corrective action taken by local officials and assistance provided by the inspection agency.
- To provide ongoing monitoring and oversight of jails through a system of regular inspections.

Developing Enabling Legislation

The framework for realizing the vision, mission, and goals of the standards initiative is established in enabling legislation. Each state has a process for the development, introduction, and consideration of legislative proposals. As with any political process, the planning committee will need to identify legislative sponsors to introduce the proposal and shepherd it through the legislative process.

Many states have demonstrated that enabling legislation can set forth legal authority briefly and simply. Enabling legislation may include the following provisions:

- **Intent:** States the purpose for authorizing the standards.
- **Legal authority:** Vests the authority for promulgation and codification of the standards, including provisions for enforcement.
- **Scope:** Specifies the conditions and practices (which may range from limited to comprehensive) to be addressed by the standards.
- **Applicability:** Specifies the types of facilities for which standards are to be written.
- **Administering agency:** Designates the agency or entity responsible for developing and implementing the standards and delineates its duties and responsibilities.

These provisions are illustrated in the excerpted sections of the enabling legislation for the Nebraska Jail Standards Program presented in appendix E.

If a state association, rather than the state government, undertakes the standards initiative, the enabling legislation may take the form of a formal resolution passed by the membership of the group. The level of involvement and support of local jurisdictions of a voluntary program administered by a state association may be strengthened through corresponding resolutions passed by the local governing authorities.

Establishing the Administering Agency

As previously indicated, the organizational structure of most existing standards programs falls within one of three primary organizational models:

- An executive branch agency (department of corrections, public safety department, etc.).
- An independent agency or commission.
- A state sheriffs' or county officials' association.

The enabling legislation may delegate the responsibility of state-administered standards

and inspection programs to a specific agency or organizational entity. Historically, this has often fallen to the state's department of corrections, although there are some very successful examples of programs administered by independent commissions. Some considerations in setting up the standards agency or office include staffing, function and duties, budget, and operating procedures.

Staffing

The typical staff of a standards and inspection program includes a chief, one or more inspectors, and clerical support. If a program is established as a section or division within a larger agency, the parent agency may provide administrative support for human resources, assistance with fiscal management, legal support, and related administrative services. The parent agency (this is particularly true if the parent agency is a department of corrections or similar agency) may also provide access to in-house expertise in such areas as training, food service, health care, safety, and facility plans review. In considering staffing requirements for a standards and inspection program, decisionmakers must ensure that the number and types of staff are sufficient to carry out the functions and duties of the program and to meet agency goals.

Programs administered by professional associations may employ only a coordinator and rely more heavily on trained volunteers to conduct inspections and assist local jails in meeting the standards. These volunteers are typically jail administrators, sheriffs, or other local officials who are organized into peer inspection teams. Regardless of who is assigned to inspect facilities, it is critical that all inspections be performed consistently.

Functions and Duties

The function of the standards program may be limited to inspections and compliance monitoring or may include a range of resource, advocacy, and support services for jails. The policy goals for the program, the philosophical orientation of the program's leadership, and funding levels will determine the emphasis placed on various functions and the duties of the program's staff. The National Institute of Corrections has developed a competency profile for a detention facility inspector that describes the typical duties and responsibilities of that position (see appendix F).

Budget

A funding request must be developed and submitted to the appropriate funding authority for the program. Initially, it may be a special appropriation tied to the enabling legislation to get the program up and running. Subsequent funding for the program may then be included in the budget requests submitted by the parent agency during the normal budget cycle. The budget for the standards program may include funding for program staff and operations. It may include additional funds for grants or subsidies to local jurisdictions to support compliance with the standards.

Adequate funding for the standards program should be viewed as a priority. State elected officials (and sometimes officials within the parent agency) tend to view standards programs as a nonessential function of state government because the primary focus is on local jails. When states seek to reduce government spending, standards programs are easy targets. The financial and social cost of failing to maintain safe, humane, and constitutional jails in the state must be clearly understood and communicated to funding decisionmakers.

Programs administered by professional associations may rely on grants, dues, or special assessments from participating jurisdictions. Also, public entity insurance pools, because they have a vested interest in jail conditions and practices, may be willing to absorb some or all of the costs of administering the jail standards program.

Operating Procedures

For the same reason that most standards programs require jails to have written policies and procedures, the standards programs should have written operating procedures for their own key functions and activities. At a minimum, the procedures should address the following issues:

- Philosophy and purpose of the program.
- Promulgation, amendment, and repeal of the jail standards.
- Inspection process.
- Inspection followup process.
- Issuance of variances.
- Enforcement process.
- Procedures for providing interpretive rulings or clarifications of the jail standards.
- Plans review and approval process (if an assigned function).
- Technical assistance process.

Developing the Jail Standards

Most states give those who will be affected by the jail standards the opportunity to be involved in the process of developing them. In states where standards are administered by an independent commission, the commission typically includes those who have a direct stake in the standards, such as judges, sheriffs, commissioners, and prosecutors (see "Key Stakeholders in Implementing Jail Standards," page 24). Additionally, many states establish separate advisory groups consisting of key stakeholders to assist in the development process.

The standards development process should move forward based on the guidance provided in the enabling legislation on such matters as scope and applicability. The statute may specify what types of facilities are to be covered by the standards and the range of conditions and practices for which standards must be developed. Professional standards such as the American Correctional Association's *Performance-Based Standards for Adult Local Detention Facilities* (2004) and other existing state standards may provide guidance in format, organization, and content.

If the standards are to be formally adopted and codified under the state's administrative code, the state's administrative procedures act or a similar law will dictate specific aspects of the development, review, and approval processes. The legislation may include provisions for participative rulemaking, outlining who must be involved and in what manner. It may also require opportunities for the public to provide input through a formal hearing process and an impact study to assess the potential costs of the standards for local jurisdictions. The legislation also is likely to provide for various levels of formal legal and policy reviews before the standards are formally adopted and go into effect.

If the state sheriffs' association (or similar group) leads the standards initiative and the standards are voluntary, much of the oversight just described will not apply. Rather, the approval of the standards may lie with the membership of the professional association.

Performance Measures vs. Standards

Jail standards have contributed to significant improvements in jail conditions and operations, particularly in states with proactive standards

and inspection programs. Some programs are considering new approaches to the development of standards that not only will help to monitor activities but also will provide a means to measure a jail's performance and the outcomes it achieves over time. Exhibit 3 compares traditional standards with these new performance-based standards.

Developing Resources To Assist Jails With Compliance

States that have successfully implemented jail standards have developed a range of resources to assist jails in complying with the standards. Standards programs in various states have taken the lead in developing or encouraging the development of:

- Training programs and other training resources for jails.
- Resource guides, model manuals, and self-assessment checklists.
- Consultation services in areas such as medical care, food services, emergency preparedness planning, facility planning, staffing, and policy and procedure development.
- Information sharing (through workshops, Web sites, newsletters, and networking).
- Financial subsidies to jails.

Ideally, these types of resources should be in place at the time standards are implemented, so jails can draw on them in addressing noncompliance issues uncovered during inspections. In reality, the program's capacity to provide support will evolve as the program matures. Other organizations and agencies may also play a role in providing certain types of resources.

Developing an Implementation Strategy

Successful implementation of a jail standards program requires understanding different strategies for introducing change and when to use them. A marketing plan is central to this endeavor. These aspects of implementing standards are discussed in the following sections.

Strategies for Change and When Each Is Appropriate

The effective use of strategies for change is perhaps the most important consideration in implementing a jail standards and inspection program. Indeed, the actual content of the standards and the mechanics of the inspection process may be less significant.

Four types of strategies are described below: facilitative, educative, persuasive, and coercive. Each is based on a different assumption regarding the perceptions or position of local stakeholders who may be affected by the standards. During the course of implementation, the inspection agency will probably use all four strategies, depending on local circumstances. Ideally, facilitative and educative strategies will predominate;

Exhibit 3. Comparison of Traditional Standards With Performance-Based Standards

Traditional Standards	Performance-Based Standards
■ Prescriptive.	■ Quality control.
■ Pass/fail.	■ Degrees of compliance.
■ External compliance.	■ Internal process.
■ Existence of practice.	■ How well practice is carried out.
■ Focus on "What are you doing?"	■ Focus on "How am I doing?"

if these two types of strategies are effective, the need for persuasive and coercive strategies will be infrequent.

Facilitative Strategies
This approach assumes that local officials support the program and only lack the resources necessary to make the changes required by the standards. The resources can range from simple information to extensive financial support. A program with a strong technical assistance component can enhance the effectiveness of a facilitative strategy. Technical expertise in such areas as program planning, policy and procedure development, staffing analysis, and facility development should be available to jails along with regular inspections. The program should also facilitate access to other supplementary expertise such as dieticians, safety planners, and medical/mental health planners. The availability of financial assistance (through either direct funding support or other flexible taxing authority) is also an effective tool for facilitating compliance.

Educative Strategies
The educative approach assumes local officials generally agree with the program but lack specific knowledge of standards and their purpose. If this is an issue, the program must provide key stakeholders with this essential information through workshops, seminars, and the distribution of written materials before and during implementation. Training for jail personnel is also an effective way to increase understanding of standards.

Persuasive Strategies
This approach assumes local officials are indifferent to or disagree with standards or independent oversight of jails and must be persuaded that complying with standards is in their best interest. A good understanding of the priorities and concerns that weigh upon local officials can enhance a persuasive strategy. Support may be gained by emphasizing common goals (e.g., public safety, liability reduction, efficient operations). Positive reinforcement (e.g., offering discounts on insurance premiums for compliance, recognition of excellence) may also be an effective element of a persuasive strategy.

Coercive Strategies
This approach assumes local officials actively oppose the program and will refuse to cooperate. In these cases, it may be necessary to compel compliance through enforcement actions or other sanctions. Sanctions can range from closure orders, restricted use orders, or surcharges on insurance premiums but should be employed only after all other strategies have failed. Immediate enforcement action may be required if jail conditions threaten the life, health, and safety of inmates, staff, or the public. Legal authority strengthens the program's capacity to coerce compliance. Standards established by law as administrative rules backed by explicit enforcement authority will be more effective than programs that depend solely on voluntary compliance.

Market the Initiative

An effective marketing plan should be developed to gain the support of key stakeholders in the process (see "Key Stakeholders in Implementing Jail Standards," page 24). Most stakeholders will have a position—supportive, neutral, or nonsupportive—regarding the development and implementation of jail standards. A strategy to gain stakeholder support may include the following steps:

- Identify the key stakeholders.
- Prioritize and list the stakeholders with the greatest influence (either positive or negative) on the successful implementation of the standards.

- Assess their current understanding of the initiative and support for it.
- Identify the desired level of understanding and support.
- Develop and tailor strategies to enhance support or reduce opposition.

It may be helpful to map out a marketing strategy, as shown in exhibit 4.

Conducting Initial Inspections

Once the standards program is in place, the approach taken to the initial inspection of jails is critical to implementing the standards successfully and to gaining the ongoing support of those directly affected by the standards. The initial inspections provide baseline compliance levels for individual jails and for the state as a whole. This baseline will help the standards program officials and policymakers assess the amount and type of resources needed to bring the jails into compliance.

The results of the initial inspections can derail the process, particularly if there is substantial noncompliance. This is especially true if local officials are not prepared for the results or do not understand how to bring their facilities into compliance over time through a realistic and achievable corrective action process. States have employed a variety of strategies to prepare local officials for initial inspections:

- **Workshops and meetings with local officials** to provide information about the standards, explain what to expect in the initial inspections, and describe the process for developing and implementing corrective action.
- **Self-audit tools** for jails to use in gauging their level of compliance before the initial inspection.
- **"Unofficial" courtesy inspections** to help local officials assess their compliance status.
- **Training, technical assistance, and resource materials** to assist local officials in making the improvements needed to meet the standards before the initial inspection.
- **"Pilot testing"** of the new standards and inspection process for a full inspection period (annual or biennial) without "formalizing" the results. This allows the inspection agency to work out issues related to the applicability of the standards as well as the inspection process. After the pilot testing, the planning committee and the inspection agency may make necessary adjustments before the official inspection process begins.

Planning and Initiating Corrective Action

After the initial inspection, it is incumbent on each jail to establish a corrective action plan to address any cited deficiencies. Standards program officials should be prepared to work closely with local officials to identify realistic action steps and develop timelines designed to achieve compliance within a reasonable time. Timelines may vary considerably from jail to jail, depending on the nature of the noncompliance and what is necessary to resolve it.

The initial focus should be on achieving compliance with core life, health, and safety standards. Officials may want to consider deferring enforcement of noncore standards during the initial implementation period. Local officials should be granted substantial discretion in establishing timelines for achieving compliance with noncore standards based on budget cycles and other relevant factors.

The standards program should maintain thorough documentation of corrective action plans, agreements, and progress in resolving deficiencies.

Exhibit 4. Sample Marketing Strategy for Gaining Stakeholder Support for Jail Standards

	Stakeholder Understanding of/ Support for Initiative			
Stakeholders	**Current**	**Desired**	**Strategy for Change**	**Action Steps**
Local jail officials	■ Skeptical. ■ Intrudes in local affairs. ■ Potentially increases liability. ■ Cannot possibly comply.	■ Positive tool to assist jails. ■ Safety net. ■ Objective, fair. ■ Promotes professionalism. ■ Compliance realistic, achievable.	Facilitate and educate— Highlight professionalism and liability reduction.	■ Implement jail training. ■ Conduct workshops on jail liability. ■ Visit jails in other states with standards. ■ Develop resources to assist jails.
Local funding authorities	■ Intrusive. ■ Another unfunded state mandate. ■ Expensive. ■ Coddles inmates.	■ Reduces liability. ■ Realistic, achievable. ■ Fair, objective. ■ Promotes consistency.	Educate and persuade— Highlight costs of litigation and consequences of inaction.	■ Conduct workshops on jail liability. ■ Present information about jails and their role in the local justice system. ■ Present information about standards and the inspection process.
State policymakers	■ Local issue, not a state problem. ■ Nonessential state government function. ■ Expensive. ■ Coddles inmates.	■ Promotes public safety. ■ In overall public interest. ■ Reduces liability. ■ Better outcomes at local level reduce state costs.	Educate and persuade— Highlight consequences of inadequate jails for the justice system and the community.	■ Work with media to highlight current conditions. ■ Gather and share data on jail use and needs. ■ Develop and share fact sheets on liability and impact of inadequate jails on justice system.
Special interest groups (SIGs)	■ Influenced by politics. ■ Minimal impact on changes needed. ■ Might be helpful.	■ Better option than litigation to produce positive change. ■ Objective, unbiased. ■ Proactive.	Facilitate and educate— Highlight the benefits of standards.	■ Include SIGs in standards development process. ■ Keep SIGs informed of process. ■ Address jail complaints promptly and fairly.

Note: This sample marketing strategy is presented for illustrative purposes only. Stakeholder views may vary significantly, depending on local circumstances.

The documentation will not only help keep track of the status of jails across the state, but also will help demonstrate a proactive, good-faith stance on the part of local officials with regard to jail conditions in the event that a lawsuit is filed.

Options for Jails in States Where No Standards Have Been Adopted

Jails in states that have not adopted standards have a number of options to reduce their liability exposure and promote professional practice. In the absence of state standards, jails may elect to base their operations and practice on professional standards such as those developed by the American Correctional Association or the National Commission on Correctional Health Care. Both of these professional organizations have an accreditation process that provides for independent audits and recognition of compliance. Even if a local jurisdiction chooses not to become accredited, the professional standards provide a sound basis for jail policies and procedures.

Additional options for jails in states without jail standards are outlined below. Jails in states with standards may also find these suggestions useful.

- Contact other states or local jurisdictions with jail standards to get copies of their standards and any supporting materials they may have developed to help facilitate compliance.
- Be sure to comply with other federal, state, or local rules and regulations applicable to the jail, such as fire codes, health codes, building codes, accessibility codes, safety codes, mental health laws, etc.
- Certify the jail administrator through the American Jail Association's Certified Jail Manager program.
- Provide training and certification of staff through local and state programs, as well as through programs offered by the American Correctional Association, the American Jail Association, and other professional organizations.
- Hire an independent consultant for a comprehensive audit of the facility to identify problem areas and assist with the development of a plan of action to resolve deficiencies.
- Develop a system of internal audits and inspections to monitor jail activities, identify problems, and track trends.
- Network with other jails in the area to discuss problems and to share ideas and resources.

Technical Assistance and Resources Available From the National Institute of Corrections

Chapter 5

Technical Assistance

The National Institute of Corrections (NIC) provides a range of technical assistance to agencies and jail-related organizations interested in developing jail standards and inspection programs or in updating existing programs. Technical assistance is generally short term and may focus on specific aspects of the development and implementation process, for example:

- Organizing the process and facilitating initial meetings.
- Facilitating the development of enabling legislation.
- Facilitating the development of the jail standards.
- Organizing the inspection process.
- Developing an implementation plan.
- Training inspection staff.

To request technical assistance, the agency or organization should send a letter on agency stationery, signed by the agency's chief executive officer, to the NIC's Jails Division.[9] The letter should:

- Briefly describe the problem for which assistance is requested.
- Identify the agency contact person by name (if different from the agency head), and provide the person's address, telephone number, and e-mail address (if available).
- Reference any supporting documentation or background materials that have an impact on the identified problem(s).
- Identify the NIC program staff person who assisted the applicant agency (if the current written request was preceded by a telephone call).
- Specify the desired timeframe for service delivery.

For more information on technical assistance from NIC, visit the Professional Services page of the NIC Web site: *http://www.nicic.org*.

State Jail Inspectors Network

NIC facilitates the State Jail Inspectors Network, which promotes the exchange of ideas and information between the directors of state jail inspection programs. The network is based on the view that the collective expertise and experience of existing jail inspection programs can provide significant ongoing support to individual programs and can assist states that do not currently have jail standards in developing and implementing them. The goals of the State Jail Inspectors Network are as follows:

- Identify and explore emerging and continuing issues facing jail inspection programs from the perspective of those who administer them.

[9] Letters of request should be mailed to the attention of the Jails Division Technical Assistance Manager at the National Institute of Corrections, 320 First Street, NW, Washington, DC 20534.

- Identify emerging and continuing issues facing jails that inspection programs may have a role in resolving.
- Discuss strategies and resources for dealing successfully with these issues.
- Discuss potential methods by which NIC can help jail inspection programs stay current and enhance their capacity to work with jails in their respective jurisdictions.
- Develop and enhance the lines of communication among the various state inspection programs.
- Assist states and jail-related organizations interested in establishing jail inspection programs.

Network activity takes place primarily through an annual meeting hosted by NIC and a private e-mail discussion list. Network members gain information they can use to improve their respective inspection programs, receive briefings on rapidly changing developments, have instant access to a national network of their peers, and establish face-to-face networking relationships.

The State Jail Inspectors Network offers representatives from states or jail-related organizations that are engaged in developing and implementing jail standards programs opportunities to participate in Network activities and communicate with Network members. Additionally, NIC may draw on the expertise of Network members to provide information or resources on specific issues or deliver technical assistance to requesting agencies or organizations.

To join the State Jail Inspectors Network or request assistance from the Network members, contact the NIC Jails Division.

Training

NIC offers specialized training for jail inspectors and related staff of inspection agencies. These resources include the companion publications *Jail Inspection Basics: An Introductory Self-Study Course for Jail Inspectors* and *Jail Inspection Basics: Supervisor's Guide* (Rosazza, 2007a and 2007b) and the 4½-day Detention Facility Inspector Training Program.

The *Jail Inspection Basics* self-study course is an entry-level course for new inspectors. It covers legal issues, standards, the inspection process, facility design and its impact on operations, communication, government structures and processes, and resources available to jail inspectors. The supervisor's guide is a resource to help supervisors facilitate and evaluate the new inspector's learning process. Supervisors can also use this guide to relate the material in the self-study course to the agency's needs and the state's specific standards and to support real-time assessments.

The Detention Facility Inspector Training Program highlights specific aspects of the jail inspector's job and addresses the inspection process, the provision of technical assistance, review of construction plans, ethics, current issues and trends, and how to stay on track. This training program, which is not typically included in NIC's annual service plan, is offered intermittently, depending on the availability of resources and the level of need. The program materials—lesson plans, participant manual, handouts, and slides—are available to states or organizations interested in offering the training on a local or regional basis. NIC also routinely accepts jail inspectors into other jail-related training programs to increase their overall knowledge and skills in jail administration, planning, and operations.

For information on NIC training programs, visit the NIC Web site, *http://www.nicic.org,* or consult NIC's annual service plan, *Technical Assistance, Information, and Training for Adult Corrections.* In addition to presenting the training programs being offered in a given year, this publication includes information on NIC satellite broadcasts and online training resources. The service plan can be ordered or downloaded from the NIC Web site.

Resource Information

NIC Information Center

The NIC Information Center was created to assist correctional policymakers, practitioners, elected officials, and others interested in corrections issues. It maintains a collection of the most current materials available in corrections and related fields, including unpublished materials developed by federal, state, and local agencies. Center staff have professional experience in corrections and are available to discuss specific information needs and provide personal research assistance on request. All services are provided at no charge.

NIC is continuously expanding its body of information and resources on jail standards and inspection programs. This includes the following types of materials from various state inspection programs in electronic or hardcopy format:

- Enabling legislation.
- Jail standards.
- Inspection checklists and related documentation.
- Inspection program operating procedures.
- Inspection program resource materials.

Contact the NIC Information Center. To request personal assistance or obtain copies of specific NIC publications and other resources, visit the NIC Information Center Virtual Help Desk at the NIC Web site, *http://www.nicic.org,* or call 800–877–1461.

NIC Web Site

In addition to information on training and technical assistance and access to the NIC Information Center, the NIC Web site, *http://www.nicic.org,* offers the following resources:

- A searchable database of more than 1,200 publications developed by NIC or with NIC funding. Publications can be downloaded or ordered through the online Help Desk.
- Access to agency news and updates and to corrections news.
- Links to pages devoted to current NIC initiatives.
- Opportunities to discuss issues and share information through the agency's new Corrections Community Web site (see page 36).

Summary

Jail standards and inspection agencies can play a pivotal role in improving jail facilities, management, and operations. State agencies or jail-related organizations interested in developing jail standards and inspection programs or improving existing programs are encouraged to use the resources discussed in this section or contact NIC's Jails Division directly at 800–995–6423 for more information about what assistance might be available to support their initiatives.

Corrections Community Web Site

In July 2007, the National Institute of Corrections (NIC) launched a new Web site that provides a place for corrections professionals to work together, share information, and stay current in their profession. The Corrections Community Web site, *http://community.nicic.org/* (also accessible through the agency's main Web site, *http://www.nicic.org*), offers three venues for interaction and collaboration:

- **Corrections News/Blogs:** NIC experts deliver relevant and current corrections and criminal justice news and information through online news columns (blogs). Members can share their thoughts on the news and stay current through e-mail alerts and other subscription tools.
- **Discussion Forums:** Public and private forums covering a wide variety of topics offer participants a way to get answers from fellow professionals. Public forums are moderated and open to everyone; private forums are restricted to specific groups that require a higher level of security and privacy.
- **Shared Files:** Members can upload their own files to share and browse through the public file library to locate material that others have shared.

Thousands of professionals have joined the Corrections Community Web site since it was launched in July 2007. Membership is free and provides instant access to all of the public forums and the opportunity to request access to the private and secure forums.

References

American Correctional Association. 2004. *Performance-Based Standards for Adult Local Detention Facilities.* 4th ed. Alexandria, VA: American Correctional Association.

Collins, W. 2004a. *Correctional Law Reporter.* Volume XIV, No. 81. Kingston, NJ: Civic Research Institute.

Collins, W. 2004b. *Correctional Law Reporter.* Volume XV, No. 54. Kingston, NJ: Civic Research Institute.

Collins, W. 2004c. *Correctional Law Reporter.* Volume XV, No. 85. Kingston, NJ: Civic Research Institute.

Collins, W. 2004d. *Jail and Prison Legal Issues: An Administrator's Guide.* Hagerstown, MD: American Jail Association.

Harlow, C. 1998. *Profile of Jail Inmates 1996.* BJS Special Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 164620.

Hansen, R., and H. Daly. 1994. *Challenging the Conditions of Prisons and Jails: A Report on Section 1983 Litigation.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 151652.

Harrison, P., and A. Beck. 2006. *Prison and Jail Inmates at Midyear 2005.* BJS Bulletin. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 213133.

Hughes, K. 2006. *Justice Expenditure and Employment in the United States, 2003.* BJS Bulletin. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 212260.

James, D. 2004. *Profile of Jail Inmates, 2002.* BJS Special Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 201932.

James, D., and L. Glaze. 2006. *Mental Health Problems of Prison and Jail Inmates.* BJS Special Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 213600.

Logan, C. 1993. "Criminal Justice Performance Measures for Prisons," in *Performance Measures for the Criminal Justice System.* Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, pp. 19–60. NCJ 143505.

Mumola, C. 2005. *Suicide and Homicide Rates in State Prisons and Local Jails.* BJS Special Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 210036.

Rosazza, T. 2007a. *Jail Inspection Basics: An Introductory Self-Study Course for Jail Inspectors.* Washington, DC: U.S. Department of Justice, National Institute of Corrections. NIC Accession Number 022124.

Rosazza, T. 2007b. *Jail Inspection Basics: Supervisor's Guide.* Washington, DC: U.S. Department of Justice, National Institute of Corrections. NIC Accession Number 022123.

Scalia, J. 2002. *Prisoner Petitions Filed in U.S. District Courts, 2000, with Trends 1980–2000.* BJS Special Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. NCJ 189430.

Topics of Litigation

Appendix A

The following list indicates the enormous breadth and scope of issues that may be the subject of litigation. This list is not exhaustive. Some of the topics (e.g., medical care) will be relatively obvious to the lay person; others, such as access to the courts and law libraries or the requirements of various Supreme Court decisions, are much more esoteric. The intention of the list is to illustrate the very large number of inmate-related legal concerns that confront the jail administrator.

Access to the Courts

- Law libraries:
  - Contents.
  - Illiterate inmates.
  - Providing access for segregated inmates.
  - The pro se criminal defendant and access to a law library.[10]
- Jailhouse "lawyers,"[11] a somewhat protected vocation:
  - Charging for services.
  - Possessing the legal papers of another.
  - Jailhouse lawyer-client privilege.
  - Communication between jailhouse lawyers and their "clients."
- Typewriters and copy machines.
- Storage of legal materials.

The Eighth Amendment: Overview and Use of Force

- Use of force:
  - Duty to intervene.
  - Restraints.
  - Hog-tying.
  - Stun guns.
  - Stun belts.
  - Stun devices and medical needs.
  - Chemical agents.
  - Using force to enforce orders.
- Deadly force:
  - Escapes and deadly force.
  - Warning shots.

The Eighth Amendment: Medical Care

- Cost of treatment.
- Delayed care.
- "Elective" treatment.
- Admission screening.
- Abortion.
- Preexisting conditions.
- Organ transplants.

[10] A party to a lawsuit who represents himself is appearing in the case pro se.

[11] A jailhouse lawyer is a jail inmate who assists other inmates with litigation.

- Paraplegic inmates.
- Officers administering medications to inmates.
- Deviation from established policy.
- Ignoring instructions of treatment staff.
- Medical custody conflict resolution process.
- Medical copay plans.
- Medical records and the right to privacy.
- Interpreters.
- Right to postrelease care.
- HIV/AIDS:
  - HIV deliberate indifference for failure to treat as a serious medical condition.
  - Mandatory segregation.
  - Right to privacy/disclosure.
  - Protection.
  - HIV/AIDS, the Americans with Disabilities Act (ADA), and the Rehabilitation Act.
  - Security concerns and ADA issues.
- Dental care:
  - Extraction-only policies.
- Smoking:
  - Secondhand smoke.
  - Smoke-free jails.
  - Employees and smoke-free jails.
- Tuberculosis:
  - Screening.
  - Response to active tuberculosis.
  - Mandatory testing.
- Mental health:
  - Consent and involuntary medication.
  - Emergency medication.
  - Inmate refusals and deliberate indifference.[12]
  - Involuntary medications and pretrial detainees.
  - Danger to self or others.
  - Involuntary medications and incompetence to stand trial.
  - Managing inmates who are both dangerous and incompetent
  - Forced medical treatment during hunger strikes and other involuntary treatment.
  - Court orders for medical care.
  - Transsexuals.
  - Transsexuals and operational implications of their management.
  - Housing.
  - Searches.
- The Health Insurance Portability and Accountability Act (HIPAA):
  - Application of HIPAA to jails and prisons.
  - HIPAA requirements.
  - Exception for correctional facilities.
  - Right of access.
  - Complaints about HIPAA violations.

The Eighth Amendment: Suicide

Litigation themes—identification, protection, and response:

- Identifying the suicide risk.
- Screening and profiles.
- Passing on information.

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[12] In *Estelle* v. *Gamble,* 429 U.S. 97 (1976), the "deliberate indifference" test is applied in areas other than just medical, including safety and other general living conditions. It has effectively expanded to mean "deliberate indifference to the basic human needs" of the inmate.

- Records and threat identification.
- Protecting the identified suicide risk.
- Suicidal comments.
- Frequency of checks.
- Use of video surveillance as a supervision tool.
- Removal from suicide watch.
- Response to suicide attempts.
- Postadmission suicides.
- Jail design issues.

The Eighth Amendment: General Conditions of Confinement

- Personal safety.
- Classification.
- Shelter.
- Food.
- Withholding meals.
- Food loaf.
- Vegetarian meals.
- Hot food.
- Sanitation.
- Showers and personal hygiene.
- Inmate cleaning requirements.
- Clothing.
- Exercise.
- Outdoor exercise.
- Exercise in the cell.
- Duration of conditions.

The Fourteenth Amendment: Inmate Discipline and Other Procedural Due Process Issues

- Property interests:
  - Fines in disciplinary hearings.
  - Disciplinary hearing "fees."
  - Taking inmate property.
  - Control of cash.
  - *Sandin* v. *Connor* and property interests.
- Inmate discipline and due process:
  - *Sandin* only limits due process for sentenced offenders.
  - Jails, discipline of pretrial detainees, and the liberty interest question.
  - Good time earned vs. expectations of good time and due process.
- Major disciplinary infractions: The procedural requirements of *Wolff* v. *McDonnell:*
  - Miranda warnings.
  - Privilege against self-incrimination in disciplinary hearings and Miranda warnings.
  - Notice and the hearing.
  - Inmate's presence at the hearing.
  - Waiver.
  - Refusal to attend the hearing.
  - Excluding the inmate for safety or security reasons.
  - Witnesses to infractions.
  - Institution must justify denials.
  - Grounds for denying witness requests.
  - Advance notice of witness requests and witness summaries.
  - Relevance.
  - Security concerns: "unduly hazardous to institutional safety."
  - Cumulative testimony.
  - Witness statements.
  - Grounds for *not* denying witnesses.
  - Blanket denials.
  - Credibility.
  - Refusal to testify.

- Officer refusals.
- Inmate refusals.
- Stating reasons for denying witnesses.
- Right to assistance.
- Interpreters and the hearing-impaired.
- Role of the assistant.
- No right to legal counsel.
- The hearing officer(s).
- Impartiality.
- Inmate lawsuits against hearing officers and bias.
- Role of the hearing officer.
- Hearing officers vs. hearing committees.
- Evidence: When is an inmate guilty?
- The burden of proof.
- Officers' reports as evidence of guilt.
- Anonymous informants.
- Hearsay.
- Constructive possession.
- Statement of the evidence relied on.
- The hearing record and its importance.
- Prehearing confinement.

- Miscellaneous disciplinary issues:
  - Polygraph.
  - Settlement.
  - Appeals.
  - Overlapping disciplinary and criminal charges.
  - Major vs. minor offenses: Where is the line drawn? Is some "process due" for minor infractions?
  - Due process and long-term administrative segregation.

The First Amendment: Religion, Publications, Mail, Telephone Use, Grievances, and Inmate Marriages

- The *Turner* test (imposing restrictions on first amendment rights):
  - What are "legitimate penological interests?"
  - *Turner:* the four questions.
  - Why understand the *Turner* test?
  - Are cost concerns a legitimate penological interest?
  - What constitutional issues does *Turner* apply to?
  - Must a problem have occurred?
  - Exaggerated responses.
  - Consistency.
  - Burden.
- Religious issues:
  - The Religious Land Use and Institutionalized Persons Act.
  - What is a religion? What constitutes sincerity of beliefs?
  - Must a religious practice be required by a faith to be constitutionally protected?
- Particular religious practices:
  - Mandates from faith not required.
  - Hair and beards.
  - Hair: male inmates vs. female inmates.
  - Personal appearance.
  - Group religious services.
  - Religious diets.
  - Native American practices.
  - Satanic materials and practices.

- Establishment clause: Can the jail "establish" a religion?
- Equal protection.

- Publications and mail:
  - Total bans of all publications.
  - "Publisher only" rules.
  - Complete bans on hardbound books.
  - Due process, rejection notices to inmate and sender.
  - Reading incoming and outgoing mail.
  - Rejection of letters and publications.
  - Censoring outgoing mail.
  - Bulk mail publications.
  - Content-based restrictions.
  - Racist/religious material.
  - Sexual publications.
  - Criticism of institution officials.
  - Photos of wives and girlfriends.
  - All-or-nothing censorship.
  - Segregation and mail access.
  - Mail between inmates.
  - Gift subscriptions.
  - Copying outgoing mail.
  - Obstruction of justice.
  - Foreign language.
  - Delays in mail delivery.
  - "Privileged" or "legal" mail.
  - General rules for handling privileged mail.
  - Media mail and privilege.
  - Opening privileged mail by mistake.
- Telephone use:
  - Recordings.
  - Calls to lawyers.
- Grievances:
  - Disrespectful language.
  - False statements.
  - Abuse of the system.
- Inmate marriages.

Retaliation

- Grievance system abuse: points to remember.

First Amendment: Visitation

- Denial of visiting rights, *Turner,* and due process.
- Children's visits.
- Contact and conjugal visiting.
- Visitor searches—general.

Fourth Amendment: Searches

- Cell searches.
- Pat searches.
- Strip searches.
- "Arrestee" strip searches:
  - Offense-based reasonable suspicion.
  - Drugs and alcohol.
  - Nature of the offense and criminal history.
  - General population placement.
  - Medical concerns.
  - Clothing exchanges.
  - Bullpens and holding areas.
  - When does an arrestee become an inmate?

- Inmate strip search:
  - Out-of-institution contacts.
  - Inmates in segregation.
  - Incident to cell block searches.
  - Random general population strip searches.
  - Reasonable suspicion strip searches.
  - Emergency situations.
  - How/where search conducted.
  - Privacy concerns.
- What creates "reasonable suspicion"?
- Body cavity probe searches:
  - Probe searches and high-security settings.
  - Ad hoc probe searches: reasonable suspicion or probable cause?
  - Manner of search.
  - Eighth amendment.
- Visitor searches:
  - Pat-downs and searches of bags and purses.
  - Vehicle searches.
  - Visitor strip searches.
  - "Consent" conditions.
- Informant tips and reasonable suspicion.

Cross-Gender Supervision

- Female officers and male inmates: observation, pat searches, and strip searches.
- Male officers and female inmates: observation, pat searches, and strip searches.
- Same-sex posts: bona fide occupational qualification (BFOQ) issues.
- BFOQs in small jails.
- Men working in women's facilities.
- Limited ban on male officers approved.
- Sexual contact between staff and inmates.

Summary of State Standards and Inspection Programs

Appendix B

Survey information was collected from the chief jail inspectors and other key officials in each state known to have a jail standards and inspection program. Prior surveys of inspection programs were also reviewed to confirm and fill in the gaps of the collected information. The results are summarized in the table on the following pages. Contact information for agencies administering the jail standards programs also is provided.

Inspection programs across the country are as varied as the jails they regulate. The table provides information on the key features and characteristics of those programs organized in a way that allows readers to compare and contrast the approaches the various states have taken to developing and implementing standards. Some states are noticeably missing from the survey. In some cases, the jails are part of a state-operated jail system. Although there may be some internal auditing and compliance management function within the agency overseeing the state-run jails, there may not be a separate, independent inspection authority. In other states, efforts to establish jail standards programs may not have been undertaken or may not have been successful. In a very few states, the jail standards programs have been eliminated or greatly diminished.

Policymakers in states interested in developing jail standards and inspection program can learn from both the successes and failures of other states that have gone through the process. Readers are encouraged to contact inspection officials directly for more information about their respective programs.

Existing Standards and Inspections Programs

State[a]	Mandatory Standards	Inspection Program	Frequency	Administrative Agency	Model[b]	Enabling Statute	Applicability[c]	Facility Types Inspected/ Governed[d]	Sanctioning Authority	Enforcement Options	Assistance to Jails[e]	Coordination With Other Agencies[f]
AL	Yes	Yes	Semiannual	Alabama Department of Corrections	DOC	AL Title 14	Cities over 10,000 population, county	J, HF (city lockups)	None	Closure (Governor)	TR, TA, FP, RM	FM, HD
AR	Yes	Yes	Annual	Correctional Facility Review Committee	Commission	Code, 12-26.10-108	City, county, private	J, HF, JD, WR, PVT	Attorney general	Closure	TR, TA, FP, PR	FM, HD (volunteer inspectors)
CA	No	Yes	Biennial	Corrections Standards Authority	DOC	CA Penal Code, sec. 6030	City, county, state	J, HF, JD, P, WR	Informal	Withholding of funds	TR, TA, FP, PR, RM, FS	FM, HD
DE	No	Yes	Annual	Delaware Department of Correction	DOC	Title 11	State	J, HF, WR	Agency	Corrective action	TR, TA	N/A
FL	Yes	Yes	Annual	Florida Sheriffs' Association, Jail Standards Committee	State sheriffs' association	FL Statutes, ch. 951.23	County	J, HF, WR	None	None	N/A	N/A
IA	Yes	Yes	Annual	Iowa Department of Corrections, Jail Inspections	DOC	Iowa Code, ch. 356	City, county	J, HF	Agency, court	Closure, restricted use	TR, TA, PR, RM	FM, HD
ID	No	Yes	Biannual	Idaho State Sheriffs' Association	State sheriffs' association	na	County	J, HF, WR	Informal	None	TR, TA, PR, RM, AD	None
IL	Yes	Yes	Annual	Illinois Department of Correction, Office of Jail and Detention Standards	DOC	IL Compiled Statutes, ch. 730, 5/3-15-3 (b)	City (V), county (M)	J, HF	Attorney general	Court order	TR, TA, PR, RM	FM, HD, Department of Natural Resources
IN	Yes	Yes	At least annual	Indiana Department of Correction	DOC	IN Code 11-12-4	County, state	J, JD, P, PVT	Court	Grand jury, court order	TR, TA, PR,	FM, HD
KY	Yes	Yes	Semiannual	Kentucky Department of Corrections	DOC	KY Rev. Statutes 441.064	County	J, PVT	Agency	Closure	TR, TA, FP, PR, RM, AD, FS	None
LA	Yes	Yes	Quarterly to every 3 years	Louisiana Department of Public Safety and Corrections	DOC	Consent decree	City, county	J, HF	Agency	Restricted use	TR, TA, FS	FM, HD
MA	Yes	Yes	Biannual	Massachusetts Department of Corrections	DOC	103 Code of MA Reg., 900 et seq.	County	J	Agency	None	TR, TA, PR, RM	FM, HD

na = not applicable, N/A = not available (the information was not included in the survey information collected for the state).

[a] The following states have not adopted standards and have no provision for jail inspection: Alaska, Arizona, Colorado, Connecticut, Hawaii, Kansas, Missouri, Mississippi, New Hampshire, New Mexico, Nevada, Rhode Island, South Dakota, Vermont, Washington, West Virginia, and Wyoming. Of these states, Alaska, Connecticut, Rhode Island, and Vermont have state-operated jails and West Virginia has a regional jail system. Georgia adopted standards but did away with its inspection program years ago; the state still has standards but does not actively enforce them.

[b] DOC = Department of Correction.

[c] M = misdemeanors, V = ordinance violations.

[d] HF = holding facilities, J = jails, JD = juvenile detention facilities, P = prisons, PVT = private, WR = work release.

[e] AD = advocacy, FP = facility planning, FS = financial subsidies/grants, PR = plans review, RM = resource material, TR = training, TA = consultation/technical assistance.

[f] FM = fire marshal, HD = health department.

Existing Standards and Inspections Programs (continued)

State[a]	Mandatory Standards	Inspection Program	Frequency	Administrative Agency	Model[b]	Enabling Statute	Applicability[c]	Facility Types Inspected/ Governed[d]	Sanctioning Authority	Enforcement Options	Assistance to Jails[e]	Coordination With Other Agencies[f]
MD	Yes	Yes	Every 3 years	Maryland Commission on Correctional Standards	Independent commission	20:7 MD R. 642	County, state	J, P, WR	Agency	Reprimand, closure	TR, TA	N/A
ME	Yes	Yes	Biannual	Maine Department of Corrections	DOC	ME Title 34	City, county, regional, state	J, HF, P, WR	Agency	Closure	TR, TA	FM, HD
MI	Yes	Yes	Annual	Michigan Department of Corrections	DOC	MI Compiled Laws, 791.262	County	J, WR	Attorney general, court	Closure (court order)	TA, PR, RM	FM, HD
MN	Yes	Yes	Annual or biennial	Minnesota Department of Corrections	DOC	MN Title 241.021	County	J, HF, JD, WR, PVT	Agency	Closure (sunset order)	TR, TA, FP, PR, RM, AD	FM, HD
MT	No	No	na	Montana Sheriffs and Peace Officers Association	State sheriffs' association	na	County	J	None	None	N/A	N/A
NC	Yes	Yes	Biannual	North Carolina Department of Health and Human Services, Division of Facility Services, Jail and Detention Section	North Carolina Department of Health and Human Services	General Statutes 143B-153; 153A-221	City, county	J, JD, HF	Secretary, Department of Health and Human Services	Corrective action, closure	PR	N/A
ND	Yes	Yes	Annual	Department of Corrections & Rehabilitation	DOC	12-44.1	N/A	N/A	Agency	Closure	TR, TA, PR	FM, HD
NE	Yes	Yes	Annual	Nebraska Crime Commission, Jail Standards Division	Independent commission	NE Rev. Statutes, 83-4, 124–134	City, county	J, JD, HF	Attorney general	Depopulation, restricted use, closure,		FM, HD
NJ	Yes	Yes	Annual	New Jersey Department of Corrections	DOC	N/A	City, county	J, HF	Agency	Limit capacity, closure	TR, TA	FM, HD
NY	Yes	Yes	Annual	New York State Commission of Correction	Independent agency	Article 3 sec. 45, NY State Corr. Law	City, county	J, HF (city lockups)	Agency, court	Closure	TR, TA, PR, RM	HD
OH	Yes	Yes	Annual	Ohio Department of Rehabilitation and Correction, Bureau of Adult Detention	DOC	OH Rev. Code, 5120.10	City, county	J, HF	Agency	Decertification	TR,TA, PR, RM	N/A

na = not applicable, N/A = not available (the information was not included in the survey information collected for the state).

[a] The following states have not adopted standards and have no provision for jail inspection: Alaska, Arizona, Colorado, Connecticut, Hawaii, Kansas, Missouri, Mississippi, New Hampshire, New Mexico, Nevada, Rhode Island, South Dakota, Vermont, Washington, West Virginia, and Wyoming. Of these states, Alaska, Connecticut, Rhode Island, and Vermont have state-operated jails and West Virginia has a regional jail system. Georgia adopted standards but did away with its inspection program years ago; the state still has standards but does not actively enforce them.

[b] DOC = Department of Correction.

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[f] FM = fire marshal, HD = health department.

Existing Standards and Inspections Programs (continued)

State[a]	Mandatory Standards	Inspection Program	Frequency	Administrative Agency	Model[b]	Enabling Statute	Applicability[c]	Facility Types Inspected/ Governed[d]	Sanctioning Authority	Enforcement Options	Assistance to Jails[e]	Coordination With Other Agencies[f]
OK	Yes	Yes	Annual (three times per year by practice)	Oklahoma State Department of Health	Oklahoma State Department of Health	OK Admin. Code 310:670	City, county	J, HF	Agency, attorney general, court	Closure	TR, TA, FP, PR, RM	FM, HD
OR	Yes (statutes) No (standards)	Yes	Biennial	Oregon State Sheriffs' Association	State sheriffs' association	na	N/A	N/A	None	None	N/A	N/A
PA	Yes	Yes	Annual	Pennsylvania Department of Corrections	DOC	Title 37, ch. 95	County	J, WR, PVT	Court	Closure, restricted use	TR, TA, FP, PR (on request), RM	FM, HD, Department of Labor and Industry
SC	Yes	Yes	Annual	South Carolina Department of Corrections	DOC	SC Code of Laws 24-9-10	City, county, private	J, HF, JD, WR, PVT	Agency, court	Closure or other, as determined by judge	PR	FM, HD
TN	Yes	Yes	Annual	Tennessee Corrections Institute, Division of Compliance, Standards & Inspections	Independent state agency	TN Statute 1400	City, county, private	J, HF, PVT	None	Withholding of certification	TR, TA, FP, PR, RM, FS, AD	FM, HD
TX	Yes	Yes	Annual	Texas Commission on Jail Standards	Independent state agency	TX Govt. Code, ch. 511	County	J, HF, PVT, county, court holding	Agency, attorney general, court	Closure	TR, TA, PR, RM	FM
UT	No	Yes	Annual	Utah Sheriffs' Association	State sheriffs' association	na	County	J	None	None	TR, TA, FP, PR, RM, AD	FM, HD
VA	Yes	Yes	Annual	Virginia Department of Corrections	DOC	Code of VA, sec. 53.1.5 et seq.	City, county, state	J, HF, P, WR	Court	Closure (extreme cases)	TA, FR, PR, RM, FS	FM, HD
WI	Yes	Yes	Annual	Wisconsin Department of Corrections, Office of Detention Facilities	DOC	Sec. 301-37(3)	City, county	J, JD, HF	Attorney general	Closure	TR, TA, FP, PR, RM, AD	FM, HD

na = not applicable, N/A = not available (the information was not included in the survey information collected for the state).

[a] The following states have not adopted standards and have no provision for jail inspection: Alaska, Arizona, Colorado, Connecticut, Hawaii, Kansas, Missouri, Mississippi, New Hampshire, New Mexico, Nevada, Rhode Island, South Dakota, Vermont, Washington, West Virginia, and Wyoming. Of these states, Alaska, Connecticut, Rhode Island, and Vermont have state-operated jails and West Virginia has a regional jail system. Georgia adopted standards but did away with its inspection program years ago; the state still has standards but does not actively enforce them.

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[e] AD = advocacy, FP = facility planning, FS = financial subsidies/grants, PR = plans review, RM = resource material, TR = training, TA = consultation/technical assistance.

[f] FM = fire marshal, HD = health department.

Contact Information for Agencies Administering Jail Standards

Alabama
Department of Corrections
2265 Maron Spillway Road
Elmore, AL 36025
334–567–1554
www.doc.state.al.us

Arkansas
Correctional Facility Review Committee
1515 West Seventh Street, Suite 20
Little Rock, AR 42201
501–324–9493

California
Corrections Standards Authority
Department of Corrections and Rehabilitation
600 Bercut Drive
Sacramento, CA 95814
916–445–5073
www.cdcr.ca.gov/DivisionsBoards/CSA/

Delaware
Department of Correction
245 McKee Road
Dover, DE 19904
302–739–5601
www.state.de.us/correct/

Florida
Sheriffs' Association
Jail Standards Committee
2617 Mahan Drive
Tallahassee, FL 32308
850–877–2165
www.flsheriffs.org

Idaho
State Sheriffs' Association
P.O. Box 446
Orofino, ID 83544–0446
208–476–4832
www.idahosheriffs.com

Illinois
Department of Correction
Office of Jail and Detention Standards
1301 Concordia Court
Springfield, IL 62794
217–522–2666, ext. 4212
www.idoc.state.il.us

Indiana
Department of Correction
IGCS
302 West Washington Street, Room E334
Indianapolis, IN 46204
317–232–5711
www.in.gov/indcorrection/

Iowa
Department of Corrections
Jail Inspections
510 East 12th Street
Des Moines, IA 50319
515–725–5731
www.doc.state.ia.us

Kentucky
Department of Corrections
275 East Main Street
Frankfort, KY 40602
502–564–7290
www.corrections.ky.gov

Louisiana
Department of Public Safety and Corrections
P.O. Box 94304
Baton Rouge, LA 70804
225–342–6794
www.doc.louisiana.gov/

Maine
Department of Corrections
State House Station #111
Augusta, ME 04333
207–287–2711
www.maine.gov/corrections/

Maryland
Commission on Correctional Standards
115 Sudbrook Lane
Pikesville, MD 21208
410–585–3830
www.dpscs.state.md.us

Massachusetts
Department of Corrections
50 Maple Street
Milford, MA 01757
508–422–3300
www.mass.gov

Michigan
Department of Corrections
206 East Michigan Avenue
Grandview Plaza
P.O. Box 30003
Lansing, MI 48909
517–335–1426
www.michigan.gov/corrections

Minnesota
Department of Corrections
1450 Energy Park Drive
Suite 200
St. Paul, MN 55108
651–361–7146
www.corr.state.mn.us/

Montana
Sheriffs and Peace Officers Association
34 West Sixth Avenue
Helena, MT 59601
406–443–5669
www.mspoa.org

Nebraska
Crime Commission
Jail Standards Division
301 Centennial Mall South
Lincoln, NE 68509
402–471–2194
www.ncc.state.ne.us

New Jersey
Department of Corrections
P.O. Box 863
Trenton, NJ 08625
609–292–6158
www.state.nj.us/corrections/

New York
State Commission of Correction
80 Wolf Road
Albany, NY 12205
518–485–2346
www.scoc.state.ny.us

North Carolina
Department of Health and Human Services
Division of Facility Services
Jail and Detention Section
701 Barbour Drive
Raleigh, NC 27699–2710
919–855–3857
www.dhhs.state.nc.us/

North Dakota
Department of Corrections & Rehabilitation
3100 Railroad Avenue
Bismarck, ND 58502
701–328–6390
www.state.nd.us/docr/

Ohio
Department of Rehabilitation and Correction
Bureau of Adult Detention
1030 Alum Creek Drive
Columbus, OH 43209
614–752–1066
www.drc.state.oh.us/web/bad.htm

Oklahoma
State Department of Health
1000 Northeast 10th Street
Oklahoma City, OK 73117–1298
405–271–3912
www.health.state.ok.us

Oregon
State Sheriffs' Association
P.O. Box 7468
Salem, OR 97303
503–364–4204
www.oregonsheriffs.org

Pennsylvania
Department of Corrections
P.O. Box 598
Camp Hill, PA 17001
717–731–7841
www.cor.state.pa.us/

South Carolina
Department of Corrections
P.O. Box 21787
Columbia, SC 29221
803–896–8502
www.doc.sc.gov/

Tennessee
Corrections Institute
Division of Compliance
Standards & Inspections
Rachel Jackson Bldg.
320 Sixth Avenue North, Eighth Floor
Nashville, TN 37243–1420
615–741–3816
(No Web site)

Texas
Commission on Jail Standards
P.O. Box 12985
Austin, TX 78711
512–463–5505
www.tcjs.state.tx.us

Utah
Sheriffs' Association
P.O. Box 489
Santa Clara, UT 84765
435–674–5935
www.utahsheriffs.org

Virginia
Department of Corrections
6900 Atmore Drive
Richmond, VA 23225
804–674–3499
www.vadoc.state.va.us/

Wisconsin
Office of Detention Facilities
Department of Corrections
819 North Sixth Street, Room 510
Milwaukee, WI 53203
414–227–5199
www.wi-doc.com

Profiles of Three Organizational Models of Standards Programs

Appendix C

Executive Branch/Department of Correction Model: Indiana

Parent agency: Indiana Department of Correction (DOC).

Administering entity: Detention services.

Legal authority: Authority for standards, inspections, and enforcement is established in statute (Indiana Code 11-12-4).

How promulgated: Standards are promulgated by the Jail Standards Committee, composed of "at least five" sheriffs representing small, moderate, and densely populated counties.

Basis in law: Standards are administrative regulations promulgated under the state Administrative Code Act (ACA). As such, they carry the force of law.

Scope: The jail standards are minimum standards; the statute defines the functions and conditions to be addressed. Existing jails are considered "grandfathered," and only the courts may force an existing facility to come into compliance.

Applicability: Adult jails, adult holding facilities (under-24-hour facilities and under-96-hour facilities), and juvenile detention facilities.

Enforcement: The Indiana DOC commissioner may petition the circuit court of the county concerned for corrective action after the county has received a 180-day notice of noncompliance. As an alternative, a grand jury may be requested.

Inspections: At least annually.

Followup: Followup inspections and technical assistance visits are conducted based on the totality of conditions.

Support services: Facility planning assistance, review and approval of plans, training, collection of jail population "snapshots," technical assistance, resource documents, etc.

Staffing: Historically, one division chief (chief jail inspector) and one jail/juvenile inspector. Recently combined with a state facility ACA audits team, which added a fire safety and environmental specialist.

Resource materials: Comprehensive Indiana Jail Compact Disk updated and provided annually. Technical assistance provided to individual counties, and training provided statewide, based on annual review of deficiencies noted in jail inspection reports. E-mail list server maintained by chief jail inspector for dissemination of information and issues affecting jails.

Description:

Indiana inspected county jails from 1953 to 1979 without benefit of written standards. The Indiana Jail Standards Committee was created in 1979 by statutory authority at the request of Indiana sheriffs to develop and implement minimum written standards for adult jails. Professional and technical "experts" are added as ad hoc members to advise the Standards Committee. The chief jail inspector historically chairs the committee. The Committee may also be used to hear and resolve inspection issues and provide interpretation of standards upon request.

The program is designed so that the Indiana DOC has no authority over county jails, with one exception: By statute, the chief jail inspector establishes the rated capacity of each jail. Indiana sheriffs develop jail standards, and the Indiana DOC promulgates the standards and provides an inspection service to the counties.

Jail inspection reports enter the public record 10 days from the date mailed. An electronic copy of the report is sent after each inspection, followed by a hard copy. The county sheriff reviews the report and provides written comment and forwards a copy of the report to each county official concerned.

Independent Commission Model: Nebraska

Parent agency: Nebraska Commission on Law Enforcement and Criminal Justice.

Administering entity: Jail Standards Board (JSB).

Legal authority: Authority for standards, inspections, and enforcement is established in statute (Nebraska Revised Statutes 83-4,124 through 83-4,134).

How promulgated: Standards are promulgated by JSB.

Basis in law: Standards are administrative regulations promulgated under the state Administrative Procedures Act. As such, they carry the force of state law.

Scope: The jail standards are comprehensive, i.e., the statute defines the functions and conditions to be addressed. Existing physical plant standards were never approved. However, standards for the renovation and construction of new facilities are in force.

Applicability: Adult jails, adult holding facilities (under-24-hour facilities and under-96-hour facilities), juvenile detention facilities.

Enforcement: JSB has the authority to petition the district court for closure; the district court has the authority to order compliance or close the facility.

Inspections: Annual.

Followup: Inspectors present inspection report to JSB, which cites facility for noncompliance or finds facility in full compliance. Noncompliant facilities must prepare and submit a corrective action plan for JSB approval. Inspectors monitor completion of corrective action; once deficiencies are corrected, JSB finds facility in full compliance.

Support services: Facility planning assistance, review and approval of plans, training, collection of jail population data, technical assistance, resource documents, etc.

Staffing: Division chief; two inspectors; two part-time clerical staff.

Resource materials: Model policy and procedure manual, model jail records, jail planning and construction guide, jail management information system, compliance management handbook.

Description:

The Nebraska JSB was created in 1978 with statutory authority to develop and implement minimum standards for adult jails and temporary holding facilities throughout Nebraska. With the passage of Legislative Bill (LB) 328 in August 1981, JSB was placed under the authority of the state's Crime Commission. The enactment of Minimum Jail Standards for Juvenile Detention Facilities in August 1993 expanded JSB's purview to include juvenile detention facilities.

Nebraska is one of only a few states to have its standards and inspection program administered by a "grassroots" representative board, giving those affected by the standards ample opportunity to have input into the process. Although JSB operates as an independent governing board, the Crime Commission's Jail Standards Division provides staff and administrative support.

JSB is composed of 11 members, 9 of whom are appointed by the governor for 3-year terms. Statutorily, the state fire marshal and director of the Department of Correctional Services serve on the board. Appointed board members include two county commissioners or supervisors, a county sheriff, a police chief, a juvenile detention facility administrator, an administrator of a large jail (average daily population greater than 50 persons), a member of the Nebraska State Bar Association, and two laypersons.

Professional Association Model: Idaho

Parent agency: Idaho Sheriff's Association (ISA).

Administering entity: Jail Standards Committee (JSC).

Legal authority: None.

How promulgated: Standards are promulgated by JSC with approval of ISA.

Basis in law: Voluntary.

Scope: The jail standards are comprehensive.

Applicability: Adult jails.

Enforcement: None.

Inspections: Annual.

Followup: Inspectors present inspection report to the jail standards coordinator, who mails a copy to the sheriff and/or jail administrator. If deficiencies are identified, the jail prepares a compliance plan and submits it to the jail standards coordinator, who evaluates the plan and makes written recommendations to JSC. JSC either issues a certificate of compliance or approves/rejects the compliance plan. If the plan is rejected, the jail must revise and resubmit it; if the plan is approved, the coordinator monitors the corrective action.

Staffing: Jail coordinator, volunteer peer inspectors.

Description:
ISA adopted the Idaho Jail Standards in 1990. To implement these standards, ISA established an inspection and certification process. A jail standards coordinator position was funded through assessments to participating counties. Sheriffs, commissioners, and jail administrators serve on inspection teams to work with the jail coordinator as peer inspectors. JSC was designated as the authority to review inspections and certify jails. The Idaho County Risk Management Program, which insures 39 of the 40 jails in Idaho, uses the standards as a basis for decisions regarding insurance coverage. Failure to comply with standards may result in a loss of coverage.

Example of a Group Charter for a Jail Standards Planning Committee

Appendix D

Date of the Charter: _____

Purpose

The planning committee's purpose is to lead the design and development of a jail standards and inspection program (established in statute), which will provide oversight of city and county jails in the state and assist local officials in complying with minimum legal requirements. In providing this assistance, the planning team will:

- Secure and/or share information needed to make decisions regarding development of the standards program.
- Identify the problems, conditions, and forces in the state driving the need for standards.
- Establish a vision, mission, and goals for the initiative.
- Explore and recommend strategies and approaches for the development and implementation of standards.
- Develop recommendations and/or draft language for enabling legislation for a standards program.
- Assist in the development of action agendas to implement the recommendations developed by the committee.

The planning committee may also recommend changes in justice system policy to make proper and best use of local detention resources in accordance with established standards.

Authority

The planning committee has the authority to research and prepare work products pursuant to assigned tasks. The work products will be submitted to the facilitator for inclusion in the overall plan.

Responsibilities

- **Planning Committee:**
  - Establish a work plan for assignment of tasks.
  - Seek information or assistance from the facilitator and/or committee chair when needed.
  - Deliver work products on time.
  - Get maximum benefit from expertise of all members.
- **Individual Members:**
  - Attend scheduled meetings.
  - Complete work assignments on time.
  - Share expertise.
  - Do the homework.
- **Facilitator:**
  - Provide background information on the jails in the state and their current condition.
  - Provide information on the factors driving the need for standards at this time.

- ❑ Provide “best practice” information and research on jail standards.
- ❑ Facilitate meetings and work sessions.
- ❑ Prepare the final plan.

Timeframe for the Work of the Planning Team

The final plan must be ready by _____.

Excerpted Sections of Enabling Legislation for Nebraska Jail Standards

Appendix E

Section 83-4, 124 ***Legislative intent; Jail Standards Board; created; administration by Nebraska Commission on Law Enforcement and Criminal Justice; members; qualifications; terms; expenses.***

It is hereby declared to be the policy of the State of Nebraska that all criminal detention facilities and juvenile detention facilities in the state shall conform to certain minimum standards of construction, maintenance, and operation.

Section 83-4, 126 ***Jail Standards Board; powers and duties; enumerated.***

The Jail Standards Board shall have the authority and responsibility:

(1) To develop minimum standards for the construction, maintenance, and operation of criminal detention facilities;

(2) To perform such other duties as may be necessary to carry out the policy of the state regarding such criminal detention facilities and juvenile detention facilities as stated in sections 83-4, 124 to 83-4, 134; and

(3) Consistent with the purposes and objectives of the Juvenile Services Act, to develop standards for juvenile detention facilities, including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures, and to develop guidelines pertaining to the operation of such facilities.

Section 83-4, 131 ***Detention facility; inspection; report.***

Personnel of the Nebraska Commission on Law Enforcement and Criminal Justice shall visit and inspect each criminal detention facility and juvenile detention facility in the state for the purpose of determining the conditions of confinement, the treatment of persons confined in the facilities, and whether such facilities comply with the minimum standards established by the Jail Standards Board. A written report of each inspection shall be made within thirty days following such inspection to the appropriate governing body responsible for the criminal detention facility or juvenile detention facility involved. The report shall specify those areas in which the facility does not comply with the required minimum standards.

Section 83-4, 132 ***Detention facility; inspection; failure to meet minimum standards; corrective action.***

If an inspection under sections 83-4, 124 to 83-4, 134 discloses that the criminal detention facility or juvenile detention facility does not meet the minimum standards established by the Jail Standards Board, the board shall send notice, together with the inspection report, to the governing body responsible for the facility. The appropriate governing body shall promptly meet to consider the inspection report, and the inspection personnel shall appear to advise and consult

concerning appropriate corrective action. The governing body shall then initiate appropriate corrective action within six months of the receipt of such inspection report or may voluntarily close the facility or the objectionable portion thereof.

Section 83-4, 133 ***Detention facility; governing body; failure to take corrective action; petition by Jail Standards Board; hearing; order; appeal; effect on reimbursement.***

If the governing body of the juvenile detention facility or criminal detention facility fails to initiate corrective action within six months after the receipt of such inspection report, fails to correct the disclosed conditions, or fails to close the criminal detention facility or juvenile detention facility or the objectionable portion thereof, the Jail Standards Board shall advise the Department of Correctional Services that the criminal detention facility does not qualify for reimbursement for state prisoners under section 47-119.01 and at the same time or at a later date may petition the district court within the judicial district in which such facility is located to close the facility. Such petition shall include the inspection report regarding such facility. The local governing body shall then have thirty days to respond to such petition and shall serve a copy of the response on the Jail Standards Board by certified mail, return receipt requested. Thereafter, a hearing shall be held on the petition before the district court, and an order shall be rendered by such court which either:

(1) Dismisses the petition of the Jail Standards Board;

(2) Directs that corrective action be initiated in some form by the local governing body of the facility in question; or

(3) Directs that the facility be closed. An appeal from the decision of the district court may be taken to the Court of Appeals.

Competency Profile of a Detention Facility Inspector

Appendix F

An effective detention facility inspector assesses compliance with applicable standards and promotes professionalism through inspections, technical assistance, investigations, studies, and staff development to ensure safe, secure, effective, and legally operated facilities. The tasks associated with each of the inspector's duties are enumerated below.

Duty A: Conduct Facility Inspections

1. Determine inspection type (announced or unannounced).
2. Collect/review materials.
3. Conduct initial interview.
4. Review policies and procedures.
5. Conduct initial facility tour.
6. Review facility documentation (intake/release, classification, logs, inmate management files).
7. Verify other required inspections.
8. Inspect medical services.
9. Inspect offender housing units.
10. Interview staff and/or offenders.
11. Calculate/verify rated capacity compliance.
12. Inspect food service.
13. Analyze emergency preparedness.
14. Inspect facility programs.
15. Examine laundry practices.
16. Review offender account.
17. Review disciplinary proceedings.
18. Review offender grievances.
19. Review offender-generated funds.
20. Examine offender classification systems.
21. Verify staff training.
22. Inspect physical plant.
23. Inspect perimeter security.
24. Verify secure practices.
25. Verify operational practices (policies and procedures, post orders).
26. Provide exit interview.
27. Prepare narrative/written report.
28. Provide inspection appeal responses.
29. Analyze/verify facility responses/actions.
30. Conduct followup inspections.
31. Determine/initiate enforcement action.

Duty B: Provide Technical Assistance Tasks

1. Provide technical consultation (legal, standard interpretation, legislative).
2. Provide staffing analysis.
3. Provide assistance in the development of policies and procedures.
4. Provide assistance with construction plans.
5. Address public forums.
6. Conduct security audits.
7. Provide requested presentations.
8. Conduct requested surveys/analysis.
9. Provide inmate program/service consultation.
10. Provide facilitation/mediation services.
11. Coordinate with consultants.

Duty C: Perform Administrative Tasks

1. Manage records system.
2. Develop/maintain statistical profiles.
3. Generate administrative reports.
4. Network with peers.
5. Attend staff meetings.
6. Provide supervision/guidance.
7. Participate in standards review/revision.
8. Provide public relations information.
9. Assist with strategic planning.
10. Provide testimony (court, legislative, personnel advisory board).
11. Participate in hiring process

Duty D: Conduct Investigations

1. Analyze complaints/allegations.
2. Document receipt of complaint.
3. Contact site personnel.
4. Review relevant documentation.
5. Protect chain of evidence.
6. Interview complainant (record and document).
7. Conduct onsite analysis.
8. Acquire appropriate guidance.
9. Make appropriate referrals.
10. Provide complaint responses.
11. Conduct followup contacts.
12. Develop final report.
13. Initiate/determine enforcement action.

DUTY E: Oversee Construction Plan Review Process

1. Provide construction standards.
2. Coordinate planning meetings.
3. Review schematics.
4. Review construction specifications.
5. Approve construction plans.
6. Conduct onsite inspections.
7. Evaluate staff analysis.
8. Review transition/occupancy plan.
9. Develop final inspection report.

Duty F: Provide Training Programs

1. Conduct needs assessment.
2. Develop/revise lesson plans.
3. Develop pre- and postevaluation processes.
4. Identify training aids.
5. Identify resources (training assistance, subject matter experts, consultants).
6. Coordinate training schedule.
7. Coordinate logistical issues.
8. Ensure site/class preparation.
9. Conduct training presentation.
10. Provide on-the-job training/mentoring program.

Duty G: Promote Professional Growth

1. Network with peers.
2. Attend personal training.
3. Maintain professional organization memberships.
4. Attend academic opportunities.
5. Represent state on national level.
6. Maintain professional certifications.
7. Review professional publications.
8. Generate professional articles.
9. Attend/coordinate conferences.

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