

# Maine Jail Standards & Inspections

Newly Elected  
Official Training  
Day

December 14, 2018



# Ryan Andersen

## Maine Department of Corrections

- Manager of Correctional Operations  
(American Correctional Association Auditor)
- Director of Professional Standards  
(New Hampshire DOC)
- State Prison Rape Elimination Act (PREA) Coordinator
- Correctional Compliance Monitor
- Juvenile Corrections Officer (FTO)



# Why Have Jail Inspections?

## Audience Discussion



# Why Have Jail Inspections?

- Increasing number of problems in jails during the 20<sup>th</sup> century

Assaults/Violence

Escapes

Vandalism

Disruptive Behavior

Overcrowding

Poor Staff Morale/High Turnover

High Incidence of Staff Injury/Worker's Comp

Excessive Use of Force

Suicide (Attempts)

Inmate on Inmate Sexual Abuse

Contraband

Unsanitary Conditions

Disrepair

Excessive Staff Sick Leave

Staff Sexual Misconduct

Generally Unhealthy and Unsafe Environment



# Why Have Jail Inspections?

- Until the 1970s there was very little oversight of jails nationwide.
- 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).



# Why Have Jail Inspections?

## State Law



# Why Have Jail Inspections?

## State Law

### WE ARE NOT ALONE

Alabama  
Arkansas  
California  
Delaware  
Florida  
Idaho  
Illinois  
Indiana  
Iowa  
Kentucky  
Louisiana

Maryland  
Massachusetts  
Michigan  
Minnesota  
Montana  
Nebraska  
New Jersey  
New York  
North Carolina  
North Dakota  
Ohio

Oklahoma  
Oregon  
Pennsylvania  
South Carolina  
Tennessee  
Texas  
Virginia  
Utah  
Virginia  
Wisconsin



# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

The commissioner shall establish standards, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for **county** and municipal jails, **holding facilities** and **short-term detention areas**, referred to in this section as county and municipal detention facilities, as follows and shall enforce them. [1983, c.581, §§10, 59 (NEW).]

County Jail

Holding Facility

Short-Term Detention Area

Minimum Security Residential Facility (Title 30-A §1658)

Home Release and Electronic Monitoring (Title 30-A §1659)

Juvenile Temporary Holding Resource (Title 15 §3203-A)





# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

- 1. Establishment.** The commissioner shall establish both **mandatory** and **desirable** standards for all county and municipal detention facilities, setting forth requirements for maintaining safe, healthful and secure facilities.

**Mandatory Standards (125)**

**Desirable Standards (101)**

**Total = 226**



# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

2. Inspections. Inspections of county and municipal detention facilities are governed as follows.
  - A. The commissioner shall conduct a comprehensive inspection of each county and municipal detention facility every 2 years, in order to provide the department with information, verified by on-site inspection, regarding compliance with all department standards. The commissioner may dispense with this inspection if, when it is due, the facility is accredited by a nationally recognized correctional accrediting body.

#### Inspection Process

#### National Accreditation (ACA)



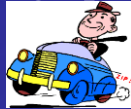
# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

B. The commissioner shall conduct every 2 years no fewer than 3 inspections of each county and municipal detention facility that are in addition to any comprehensive inspections conducted pursuant to paragraph A in order to determine continued compliance with standards. [2013, c. 27, §2 (AMD).]



C. The commissioner may inspect a county or municipal detention facility at any time, without prior notice, to determine compliance with standards. [1983, c. 581, §§10, 59 (NEW).]



C-1. As part of any inspection, the commissioner may access any records, including, but not limited to, the records of persons detained or committed in the facility, as considered necessary by the commissioner in order to determine compliance with standards. [2007, c. 102, §6 (NEW).]



# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

D. The commissioner shall prepare a written report of each inspection and shall send a copy of the report to **appropriate county or municipal officials within 15 days after the inspection.**



(1) The report shall summarize inspection findings.

(2) The report shall list the standards with which the facility does not comply and set forth the reasons for noncompliance. [1983, c. 581, §§10, 59 (NEW).]

E. The commissioner shall order the noncomplying county or municipality to respond to this report in accordance with subsection 3. [1983, c. 581, §§10, 59 (NEW).]

**Appropriate County Officials (who?)**



# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

3. Standards compliance. Each county and municipal detention facility shall, unless granted a variance pursuant to subsection 5, comply with the mandatory standards established by the commissioner.

A. Within 60 days from the receipt of an inspection report for each mandatory standard listed in subsection 2, paragraph D, subparagraph (2), the county or municipality shall either:

(1) Correct deficiencies listed in the report and submit to the department a written response listing the corrections made; or

(2) Offer a plan to correct those deficiencies for consideration by the department. [1983, c.581, §§10, 59 (NEW).]



# Why Have Jail Inspections?

## State Law

### **Title 34-A: CORRECTIONS**

#### **§1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES**

B. If a county or municipality fails to correct deficiencies and offers no plan of correction, or if the plan of correction offered to the department is determined inadequate by the commissioner, the commissioner shall determine an appropriate action to restrict or modify the operations of the facility, consistent with the nature of the uncorrected deficiencies, which action may include ordering an entire facility closed until the deficiencies have been corrected.

- (1) Before any such action is taken, the commissioner shall notify the county or municipality in writing of the planned action and shall offer the opportunity to meet and discuss the planned action.
- (2) If a meeting is not requested by the county or municipality within 15 days after the county or municipality receives notice of the planned action, or if a meeting is held and fails to produce a plan of correction acceptable to the commissioner, the commissioner shall take the planned action. [1983, c. 581, §§10, 59 (NEW).]



# Why Have Jail Inspections?

## State Law

### **Title 34-A: CORRECTIONS**

#### **§1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES**

4. Emergency powers. The commissioner may take immediate action in response to noncompliance with a mandatory standard, if the noncompliance is determined to endanger the safety of the staff, inmates or visitors of any county or municipal detention facility.
- A. The commissioner's action under this subsection shall expire within 90 days or upon compliance with the mandatory standard. [1983, c. 581, §§10, 59 (NEW).]
  - B. After having taken action under this section, the commissioner shall send a written inspection report to the affected facility. [1983, c. 581, §§10, 59 (NEW).]
  - C. The commissioner shall decide what long-term action to take with respect to the affected facility on the basis of county or municipality response to the inspection report and subsequent meetings. [1983, c. 581, §§10, 59 (NEW).]



# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

5. Variances. The commissioner shall establish written procedures to govern the submission and consideration of requests for variances from established departmental standards, including provisions for department consideration of appeals of decisions.
- A. The commissioner may grant a variance only when he determines that the variance will not result in diminishing the safety, health or security of staff, inmates or visitors of a county or municipal detention facility. [1983, c. 581, §§10, 59 (NEW).]
  - B. The commissioner may grant variances to counties and municipalities for periods of up to 2 years. [1983, c. 581, §§10, 59 (NEW).]
  - C. County and municipal officials may request variances from mandatory department standards if:
    - (1) Efforts are underway to achieve compliance and continued failure to comply is only temporary; or
    - (2) The intent and spirit of the standards may be attained through other means. [1983, c. 581, §§10, 59 (NEW).]
  - D. The officials applying for a variance have the burden of showing clear justification for the variance. [1983, c. 581, §§10, 59 (NEW).]





# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

6. Advisory review. The commissioner shall create and maintain a county and municipal detention facility advisory committee.
- A. The committee shall consist of representatives of the Department of Corrections, **Maine Sheriff's Association**, **Maine County Commissioners' Association**, Maine Chiefs of Police Association, Attorney General, Legislature and citizens. [1983, c. 581, §§10, 59 (NEW).]
  - B. The terms of members of this committee shall be one year. [1983, c. 581, §§10, 59 (NEW).]
  - C. Members of the county and municipal detention facility advisory committee are eligible for reappointment at the expiration of their term. [1983, c. 581, §§10, 59 (NEW).]
  - D. The commissioner shall consult the committee when promulgating standards and may consult the committee when variances are sought, when actions are contemplated by the commissioner in response to a failure to comply with standards and when the commissioner determines that the consultation is necessary for other reasons. [1983, c. 581, §§10, 59 (NEW).]



# Why Have Jail Inspections?

## State Law

### Title 34-A: CORRECTIONS

#### §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

7. Technical assistance. The commissioner may provide **technical assistance** to county and municipal detention facilities to facilitate compliance with standards.

#### Technical Assistance

- Mock Audits
- Field Specialists
- General Console



# Why Have Jail Inspections?

## State Law

- Considerations When Promulgating Standards

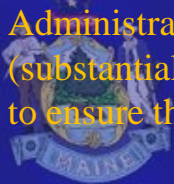
### New Laws (Federal & State)

§1582. Restraint of pregnant prisoners and pregnant juveniles

1. Restraints prohibited. A jail may not use restraints on a prisoner or juvenile known to be pregnant, including during transport to a medical facility or birthing center, labor, delivery and postpartum recovery, unless the jail administrator or the designee of the jail administrator makes a determination that the prisoner or juvenile presents an extraordinary circumstance as described in subsection 2. [ 2015, c. 315, §2 (NEW) .]

#### C.14. MANDATORY

Leg or waist restraints may not be used at any time on a pregnant inmate. No restraints may be used on an inmate while in labor or during childbirth. If wrist restraints are used on a pregnant inmate at another time, the corrections officer must apply the least restrictive type of restraints in the least restrictive manner necessary. The Administrator or designee shall produce written findings within 10 days as to the extraordinary circumstance (substantial flight risk or other extraordinary medical or security circumstance that requires restraints to be used to ensure the safety and security of the pregnant inmate) that required the use of the restraints.



# Why Have Jail Inspections?

## State Law

- Considerations When Promulgating Standards cont.

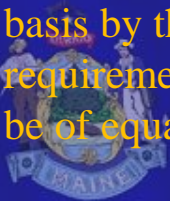
## Case Law

*In Foster v. Runnels, the United States Court of Appeals for the Ninth Circuit held that “it is clearly established under the Eighth Amendment that prison officials are obligated to provide inmates with nutritionally adequate meals on a regular basis.”*



## L.3. MANDATORY

There is documentation that the facility’s dietary allowances are reviewed when there is a permanent change by a qualified nutritionist or dietitian to ensure that they meet the nationally recommended allowances for basic nutrition. Menu evaluations shall be conducted on an ongoing basis by the facility food service manager to verify adherence to the established daily dietary requirements. Any temporary changes in menu items shall be documented and substitutions shall be of equal nutritional value.



# Why Have Jail Inspections?

## State Law

- Considerations When Promulgating Standards cont.

### National Standards

*ACA 4-4390 First aid kits are available in designated areas of the facility based on need.*

#### K.2.

The medical care provider in conjunction with the Administrator should determine strategic locations for first aid kits and establish an inventory of their contents. Medical staff should have a written procedure to inspect first-aid kits and document the inspection at least quarterly. First aid kits should contain the established inventory at all times.



# Why Have Jail Inspections?

## Staff Safety



# Why Have Jail Inspections?

## Staff Safety

[https://youtu.be/5vRSMrc99\\_I](https://youtu.be/5vRSMrc99_I)



# Why Have Jail Inspections?

## Staff Safety

### Maine Standards for County and Municipal Detention Facilities

4<sup>th</sup> Edition (2017)

#### E.4. MANDATORY

All inmates either being admitted or returning from off-grounds activities should be searched when entering the facility's secure perimeter. At a minimum, the admitting officer should conduct a complete and thorough pat search of all individuals being admitted. Searches of arrestees shall be conducted in compliance with the rules promulgated by the Maine Attorney General.





# Why Have Jail Inspections?

Staff Safety

Google Search

- Slain corrections officer's family settles lawsuit (HeraldNet)
- Family of jail guard killed sues Scotts Bluff County (Lincoln Journal Star)



# Why Have Jail Inspections?

- Inmate Safety

**Number of local jail inmate deaths, by cause of death, 2000–2013**

Cause of death	Total	2000	2001	2002	2003	2004	2005	2006	2007	2008 <sup>a</sup>	2009	2010	2011	2012	2013
All causes	13,728	904	942	970	1,002	1,021	1,045	1,094	1,100	958	960	918	889	958	967
Illness	7,111	516	485	508	512	529	501	604	608	444	491	477	425	529	482
Heart disease	3,176	198	216	221	240	227	202	246	231	186	202	242	234	271	260
AIDS-related	552	57	59	53	55	52	40	54	43	32	27	26	13	21	20
Cancer	498	31	25	39	34	29	37	39	42	25	47	34	32	44	40
Liver disease	393	24	27	25	31	32	32	25	39	35	32	29	14	29	19
Respiratory disease	384	31	18	22	21	35	21	27	48	33	31	18	20	28	31
All other <sup>b</sup>	2,108	175	140	148	131	154	69	213	205	133	152	128	112	136	112
<b>Suicide</b>	<b>4,134</b>	<b>289</b>	<b>313</b>	<b>314</b>	<b>296</b>	<b>299</b>	<b>286</b>	<b>278</b>	<b>284</b>	<b>228</b>	<b>304</b>	<b>305</b>	<b>311</b>	<b>300</b>	<b>327</b>
Drug/alcohol intoxication	925	37	58	54	89	76	83	87	79	44	64	54	73	57	70
Accident	371	25	36	34	28	33	24	33	18	15	26	23	27	18	31
Homicide <sup>c</sup>	302	17	19	18	15	25	22	36	20	16	23	20	21	22	28
Other/unknown	520	17	24	35	52	50	110	52	71	8	24	13	22	24	18



# Why Have Jail Inspections?

## Inmate Safety

### Google Search

- L.A. County settles jail suicide case for \$1.6 million (LA Times)
- \$1.75M settlement for family of inmate who killed self on suicide watch at OPP in 2011 (The Times-Picayune)
- Jury awards \$10 million in jail suicide case (The Capital-Journal)
- \$250,000 Settlement in Ohio Detainee's Jail Suicide (Prison Legal News)
- California to pay \$1 million to family of inmate who committed suicide (The Sacramento Bee)



# Why Have Jail Inspections?

## Inmate Safety

### Maine Standards for County and Municipal Detention Facilities 4<sup>th</sup> Edition (2017)

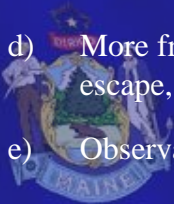
#### B.12. MANDATORY

Written policy, procedure and practice provide that all correctional officers shall receive annual training in inmate **suicides**. Training shall include, at a minimum: **suicide** risk factors, **suicide** prevention, and facility **suicide** procedures and intervention practices. **Suicide** training shall be reviewed and approved by a qualified medical or mental health professional.

#### D.3. MANDATORY

All inmates shall be personally supervised by a correctional officer(s) within the following minimum time intervals:

- a) Every 60 minutes for Minimum and Medium Security inmates;
- b) Every 30 minutes for Maximum Security inmates;
- c) Every 15 minutes for disciplinary, pre-hearing detention, administrative segregation, protective custody, mental health, and escape risk inmates;
- d) More frequent for supervision of inmates as needed on a case by-case-basis, such as those who may pose a risk of **suicide**, escape, or violence;
- e) Observation with the ability to immediately intervene in the case of inmates who are out of control or attempting **suicide**.



# Why Have Jail Inspections?

## Inmate Safety

### Maine Standards for County and Municipal Detention Facilities

#### 4<sup>th</sup> Edition (2017)

##### E.6. MANDATORY

Written policy, procedure and practice provide that admission forms and intake screenings be completed for each inmate. Screening shall be completed by trained correctional staff or the facility medical/mental health provider, as applicable. Training in intake health screening for correctional staff shall be reviewed and approved, in writing, by medical/mental health professionals. At a minimum this documentation will include the following:

f.) **Suicide** screening.

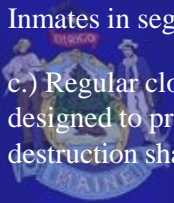
##### I.2. MANDATORY

Any cell used for segregation shall be as large as any other cell of similar capacity in the facility. The cell will be clean, well-lit, and have adequate heat and ventilation. There shall be a toilet, water for drinking and washing, and bedding. An inmate may be moved to an unequipped or specially equipped cell only if it is necessary to prevent **suicide** or other self-destructive acts, injury to others, or to prevent damage to a cell, its furnishings, or equipment.

##### I.3. MANDATORY

Inmates in segregation shall have access to the same rights and services as the rest of the facility general population to include:

c.) Regular clothing or bedding except when the inmate poses a real and present danger to himself/herself. Special clothing and bedding designed to prevent **suicide**/self-harm shall be provided as a substitute for regular clothing and bedding. Anything that could be used for self-destruction shall be removed from a self-destructive or **suicide**-prone inmate;



# Why Have Jail Inspections?

- Public Safety



# Why Have Jail Inspections?

## Public Safety

### How Two Prisoners Escaped From A Maximum Security Prison

The manhunt for two escaped killers last year ended on its 23rd day with the shooting and capture of the second fugitive two days after the first was killed. Richard W. Matt, 49, and David Sweat, 35, were discovered missing in June from the Clinton Correctional Facility in Dannemora, N.Y. Mr. Matt was killed. As 1,300 officers searched for Mr. Sweat, he was shot by a state trooper who confronted him on a road in Constable, N.Y., about three miles from the Canadian border. (The New York Times)



# Why Have Jail Inspections?

## Public Safety

### C.15.

Searches of the facility, staff, contractors, volunteers, student interns, civilians, and inmates to control contraband and maintain security should be governed by written policies and procedures. At no time are searches to be used to intimidate, degrade, harass, or punish any person.

### C.18.

The Administrator or supervisory designee shall promote facility security by utilizing the following search protocols:

- a) A complete facility shakedown conducted on at least a semiannual basis. Such searches should be recorded in a facility log;
- b) Random searches of inmate-occupied areas conducted on an ongoing basis. Such searches should be recorded in a facility log; and
- c) Searches of inmate areas conducted in a reasonable manner, which protects property and leaves the area in good order. When possible, inmates should be present when their cells or dorms are searched.





# Why Have Jail Inspections?

## Public Safety

Family of woman killed by escaped inmate sues Pa. jail

Robert Edward Crissman Jr. is charged with first-degree murder in the beating and strangulation death of Tammy Long

Nov 5, 2015

The Valley News-Dispatch

TARENTUM, Pa. — The family of a Rayburn Township woman who police say was murdered by an Armstrong County Jail escapee has filed a wrongful death suit against Armstrong County, the jail and former warden David Hogue.

Robert Edward Crissman Jr. is charged with first-degree murder in the beating and strangulation death of Tammy Long, 55, on July 30.

Crissman, 38, [escaped from the jail that morning while taking breakfast trays into the jail.](#)

He ran from the [unfenced jail](#) to Long's home, which is within sight of it, to see her boyfriend, Terry Slagle. Slagle was a friend of Crissman's.

According to the suit, Slagle left for work and came home at 2:30 p.m. and found Long's body. Crissman wasn't there, and Long's truck was missing. Crissman was apprehended the next day after a high-speed chase.

The lawsuit, filed by Long's son and daughter, Todd and Tara Long, alleges that Crissman's escape was a direct result of “misuse of authority, as evidenced by defective policies and conduct.”

“The jail's deliberate and conscious decisions concerning said policies demonstrate deliberate intent and/or willful deliberate indifference to the residents of the community in which the jail operated,” it says.

John Bechtol, the Armstrong County jail oversight board's solicitor, said he would not comment on pending litigation “other than to say that the county intends to defend itself rigorously.”

County Commissioner David Battaglia, who is a jail board member, declined to comment. He referred questions to Bechtol and jail board President Rich Fink, who did not return calls. Fink also is a county commissioner.



# Why Have Jail Inspections?

## Public Safety

### Maine Standards for County and Municipal Detention Facilities 4<sup>th</sup> Edition (2017)

#### F.1. MANDATORY

Each facility shall have a Classification Specialist or a staff member trained in classification techniques and theory who is responsible for the administration of classification procedures.

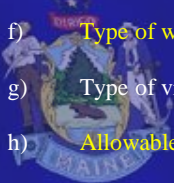
#### F.4.

The facility classification process should involve collecting information on each inmate and verifying information where possible. The classification process shall be consistently applied by all staff. The basis for all classification decisions shall be described in writing.

#### F.3.

Each classification level should reflect the:

- a) Level of risk/danger posed to staff, inmates, and community;
- b) Housing assignment;
- c) Level of staff supervision;
- d) Type of program participation (individual or group);
- e) Access to services, if allowed;
- f) Type of work assignment allowed;
- g) Type of visitation allowed;
- h) Allowable movement within and outside the facility; and
- i) Program needs of the inmate.



# Why Have Jail Inspections?

SAFETY  
RISK MANAGEMENT



# Maine Jail Standards & Inspections

# Questions?

# Your Free!

