



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 6, 1996

Mr. Jack E. Crump  
Executive Director  
Texas Commission on Jail Standards  
P.O. Box 12985  
Austin, Texas 78701

Letter Opinion No. 96-046

Re: Frequency of county jail inspections  
required of the Commission on Jail  
Standards under Government Code section  
511.009 (ID# 36043)

Dear Mr. Crump:

You request this office to address the frequency with which Government Code section 511.009 requires the Commission on Jail Standards (the "commission") to inspect a county jail. Section 511.009 establishes the commission's duties, and it requires the commission to, among other things, "at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter." Gov't Code § 511.009(a)(11).<sup>1</sup>

You aver that the commission interpreted section 511.009(a)(11) to require yearly inspections and originally adopted a fiscal year schedule that coincided with performance measures and other reporting criteria. Indeed, we note that section 297.2 of title 37, Texas Administrative Code, states, "Not less than once each fiscal year, the commission staff shall visit and inspect each facility under commission jurisdiction and shall inquire into security, control, conditions, and compliance with the established minimum standards." You indicate, however, that you have been advised that the inspections must occur on a calendar, not a fiscal, year basis. Consequently, the commission now inspects on a calendar year basis.

You ask whether the commission may inspect a county jail at any time during the calendar year or whether the commission must conduct successive inspections of a county jail within 365 days of each other. If this office interprets section 511.009(a)(11) to permit inspection at any time during the year, the commission may inspect a county jail

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<sup>1</sup>Prior to 1995, the text we have just quoted as section 511.009(a)(11) was found in section 511.009(10). See Gov't Code § 551.009(a)(10), *renumbered by Act of May 27, 1995, 74th Leg., R.S., ch. 722, § 2, 1995 Tex. Sess. Law Serv. 3815, 3816.* In all, the Seventy-fourth Legislature enacted three subsections (a)(11). See Act of May 12, 1995, 74th Leg., R.S., ch. 171, § 1, 1995 Tex. Sess. Law Serv. 1884, 1884; Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 89, 1995 Tex. Sess. Law Serv. 2517, 2585-86; Act of May 27, 1995, 74th Leg., R.S., ch. 722, § 2, 1995 Tex. Sess. Law Serv. 3815, 3815-16. For purposes of this opinion, we will cite as section 511.009(a)(11) that section enacted by Act of May 27, 1995, 74th Leg., R.S., ch. 722, § 2, 1995 Tex. Sess. Law Serv. 3815, 3815-16.

facility in January of one year and December of the succeeding year. On the other hand, if this office interprets section 511.009(a)(11) to require the commission to conduct an inspection within 365 days of the prior inspection of the same county jail, the commission must reinspect by January 31 a county jail that it had inspected on January 31 of the previous year.

As we have stated, section 511.009(a)(11) requires the commission to inspect a county jail "at least annually." Consequently, to resolve the issue you raise, we must define the term "annually" for purposes of section 511.009(a)(11). Chapter 511 of the Government Code does not define "annually," nor does section 311.005 of the Government Code, which provides general definitions for the state codes. The judiciary has defined the term to mean "yearly or once a year," although the word "does not signify what time in a year." *Phillips Petroleum Co. v. Harnly*, 348 S.W.2d 856, 860-61 (Tex. Civ. App.--Amarillo 1961, writ ref'd n.r.e.) (citing *Thomas v. Groebl*, 212 S.W.2d 625, 632 (Tex. 1948)).

The commission has adopted a calendar year schedule. In accordance with the judicial definition of the term "annually," we conclude that the commission must inspect each county jail once each calendar year. The commission need not inspect a county jail within 365 days of a previous inspection.

You also ask whether the commission may revert to the fiscal year inspection schedule it had adopted before the commission adopted the present calendar year inspection schedule. In our opinion, so long as the commission inspects each county jail once every twelve-month period, we do not believe it matters whether the twelve-month period corresponds to a calendar year or a fiscal year. The legislative history of section 511.009(a)(11) reveals that the legislature intended the commission to "inspect county jails *regularly* to insure compliance" with minimum jail standards.<sup>2</sup> House Comm. on State Affairs, Bill Analysis, H.B. 272, 64th Leg., R.S. (1975) (emphasis added). Regularity, not prescribing the beginning and ending dates of the inspection year, thus was primary in the legislature's motivation. Thus, the commission's original decision to inspect county jails on a fiscal year schedule was not improper, and nothing precludes the commission from once again implementing a fiscal year inspection schedule.

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<sup>2</sup>As introduced, the bill that enacted section 511.009(a)(11) of the Government Code, House Bill 272, proposed to require the commission to determine, "[a]t least once each year," whether a county jail is in compliance with commission standards. The House Committee on State Affairs proposed an amendment on the floor of the House to revise the language to require inspection "annually," instead of "[a]t least once each year." H.J. of Tex., 64th Leg., R.S., at 3881, 3883 (1975). We found no indication in the legislative history of the reason for the amendment. We believe it possible, however, that the legislature thought the reference to "year" might impose upon the commission a calendar year inspection schedule, while the term "annually" tends to leave to the commission the beginning and ending dates of the twelve-month period.

**S U M M A R Y**

Pursuant to section 511.009(a)(11) of the Government Code, the Commission on Jail Standards must inspect each county jail once each twelve-month period. The commission need not inspect a county jail within 365 days of a previous inspection.

Section 511.009(a)(11) does not require the commission to adopt an inspection year that corresponds to the calendar year. The commission may adopt an inspection year that corresponds to a fiscal year.

Yours very truly,



Kimberly K. Oltrogge  
Assistant Attorney General  
Opinion Committee