

ORDINANCE NO. 18

AN ORDINANCE PROVIDING FOR BASIC, INCENTIVE, AND MERITORIOUS GAIN TIME ALLOWANCES FOR COUNTY INMATES; ESTABLISHING PROCEDURES FOR THE AWARD OF INCENTIVE AND MERITORIOUS GAIN TIME ALLOWANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 951.21, Florida Statutes, authorizes Counties to adopt extra gain time allowances for meritorious or exceptional industry by county prisoners;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MADISON COUNTY, FLORIDA:

Section 1 - Authority. The Sheriff, as chief correctional officer for Madison County, Florida, is hereby authorized and empowered to grant basic gain time and to recommend awards of incentive and meritorious gain time to the Board of County Commissioners of Madison County, Florida for prisoners sentenced or incarcerated as a condition of probation in the Madison County Jail.

Section 2 - Definitions. For the purposes of this Ordinance, the following words shall have the meaning indicated:

(1) "Basic gain time" means deduction from sentence based upon the length of sentence under the provisions of Section 951.21(1), Florida Statutes, and Section 5 of this Ordinance.

(2) "Incentive gain time" means deductions from sentence in an amount of up to 20 days per month, earned for diligent work, participation in authorized training programs, or other positive activity as approved by the Sheriff for inmates whose conduct is in compliance with the rules of the Madison County Jail, the Rules of the Department of Corrections, and the laws of Florida.

(3) "Meritorious gain time" - a lump sum deduction from sentence in an amount from 1 to 60 days, awarded to an inmate

who in the opinion of the Sheriff, performs some outstanding deed, such as saving a life or assisting in capturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions.

(4) "Unsatisfactory performance" means performance that does not meet minimum requirements.

(5) "Satisfactory performance" means average or normal performance that meets with minimum requirements.

(6) "Above satisfactory performance" means performance that exceeds what is expected.

Section 3 - Limitation on Gain Time Deductions. The total of extra gain time received by an inmate may not exceed the number of days in the month in which the awards are made, unless the award is for meritorious gain time.

Section 4 - Basic Gain Time. Basic gain time shall be awarded or withheld monthly by the chief correctional officer as follows:

(1) Eligibility - When no charge of misconduct is sustained against an inmate, the deduction shall be deemed earned and the inmate shall be entitled to credit for a month as soon as the inmate has served such time as, when added to the deduction allowable, will equal a month. An inmate under two or more cumulative sentences shall be allowed commutation as if they were all one sentence and a portion of a month will be prorated on the basis of a 30-day month.

(2) Ineligibility - inmates are ineligible to receive Basic Gain Time awards who:

(a) are found guilty of a disciplinary report violation or violation of state law, but only for the month in which the violation occurred; or

(b) are serving a portion of a mandatory sentence which precludes a gain time award.

(3) Eligible inmates will be awarded deductions for this gain time from their sentences in the amount of:

- (a) five (5) days per month off the first and second year of the sentences;
- (b) ten (10) days per month off the third and fourth years of the sentence;
- (c) fifteen (15) days per month off the fifth and all succeeding years of the sentence.

Section 5 - Incentive gain time. Incentive gain time may be awarded by the Board of County Commissioners of Madison County, Florida upon recommendation of the chief correctional officer as follows:

(1) Eligibility - All county prisoners sentenced to a county detention facility who participate in work or programs authorized by the chief correctional officer, who use time constructively, or who otherwise engage in positive activities, may be awarded incentive gain time. A county prisoner shall be considered to have used time constructively or engaged in positive activities if he performs at a level which is above satisfactory or outstanding. Inmates who are medically unable to perform work or other assignments may be recognized with incentive gain time through participation in self-betterment programs and other positive activities such as Alcoholics Anonymous and Jaycees.

(2) Ineligibility - No county prisoner committed to a mandatory minimum sentence for a firearm violation in accordance with Section 775.087, Florida Statutes, shall be eligible for any incentive gain time award until completion of the mandatory portion of the sentence. County prisoners shall also be considered ineligible if the following conditions exist:

(a) Disciplinary or court action. A county prisoner is not eligible to receive incentive gain time for the month in which there is an infraction of the policies or procedures of the Madison County Jail or the laws of the state for which he is found guilty. Additionally, those county prisoners on escape status and detained by other agencies may not be awarded incentive gain time for the period of time out of county custody even though lodged in another confinement facility.

(b) Disciplinary confinement. If a county prisoner remains in disciplinary confinement beyond the month in which the infraction was committed, the prisoner shall be ineligible for incentive gain time unless otherwise engaged in self-betterment programs or other positive activities at a level which is above satisfactory or outstanding.

(c) Protective confinement. A county prisoner who is assigned to protective confinement but who is otherwise eligible for work or other assignments while in protective confinement status but refuses, shall be ineligible for an award of incentive gain time for the time this condition exists.

(3) Award of gain time.

(a) Correctional officers or any other staff member shall either individually or as a group compile information on the prisoner's performance in work, education or in self-betterment programs or other positive activities, which shall be forwarded to the chief correctional officer for a gain time determination. The following areas should be examined by the staff when evaluating a prisoner for incentive gain time:

1. Work or study habits;
2. Desire to learn the work or educational requirements;
3. Development of skills and knowledge;

4. Attentiveness in work or studies;
5. Adherence to instructions;
6. Attitude;
7. Ability to get along with others;
8. Courtesy and respect;
9. Emotional control;
10. Program participation;
11. Adherence to recommendations; and
12. Achievement.

(b) Incentive gain time allows for a range in an amount of up to 20 days per month so that prisoners may be recognized for individual effort. When the chief correctional officer or his designee determines that the prisoner has performed in an above-satisfactory or outstanding manner, a recommendation for an award of incentive gain time may be made at the end of each month to the Board of County Commissioners of Madison County, Florida.

(c) Upon approval by the Board of County Commissioners of Madison County, Florida, incentive gain time shall be awarded as soon as practicable by the chief correctional officer to those eligible prisoners and such prisoners shall have their sentences reduced accordingly.

Section 6 - Meritorious Gain Time.

(1) Eligibility. A county prisoner who is otherwise eligible for meritorious gain time may be recommended by the chief correctional officer or his designee for up to 60 days meritorious gain time when he has performed an outstanding deed.

(2) Award of meritorious gain time. The recommendation for meritorious gain time should be made to the Board of County Commissioners of Madison County, Florida as soon after the deed was performed as practical but in a timely manner.

Examples of actions that merit consideration for meritorious gain time are:

(a) A prisoner who has performed an outstanding deed such as saving of another life, the protection of an employee, or the recapture of an escaped prisoner; or

(b) A prisoner who provides information to the administration that assists in preventing an escape, preventing introduction of contraband, or the seizure of contraband already in the facility, or other serious, planned violations.

(3) Upon approval by the Board of County Commissioners of Madison County, Florida, meritorious gain time shall be awarded as soon as practicable by the chief correctional officer to those eligible prisoners, and such prisoners shall have their sentences reduced accordingly.

Section 7 - Award Period if Sentence is Expiring or Inmate is Transferred. In the event an inmate is being transferred or his expiration date falls before the regular progress report/review period and he meets all of the requirements for eligibility, he may be granted incentive or meritorious gain time for a shorter period of time.

Section 8 - Withholding or Forfeiture of Gain Time.

(1) Any inmate found guilty of a charge of misconduct shall forfeit the award of any gain time, of whatever kind, for the month in which the infraction occurred.

(2) After determination of guilt by designated Sheriff's personnel, the Board of County Commissioners of Madison County, Florida may cause to be forfeited, or may restore, any accrued amount of gain time permitted by this Ordinance or by Statute, upon recommendation of the chief correctional officer.

(3) For each sustained charge of escape or attempted escape, mutinous conduct or other serious misconduct, all the commutation which shall have accrued in favor of the county prisoner up to that day shall be forfeited, except that in case of escape if the prisoner voluntarily returns without expense to the State or County, then such forfeiture may be set aside by the Board of County Commissioners of Madison County, Florida, if, in its judgment, the prisoner's subsequent conduct entitles him to have the gain time restored.

Section 9 - Savings Clause. If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this Ordinance; and it shall be construed to have been the County Commission's intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such parts shall remain in full force and effect as if such excluded parts had not been included therein; or if this Ordinance or any provisions thereof shall be held inapplicable to any person, groups of persons, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any person, property or circumstances.

Section 10 - Effective Date. This Ordinance shall become effective on January 1, 1988, following its passage and filing with the Secretary of State, as provided by law.

ADOPTED by the Board of County Commissioners of Madison County, Florida, in Regular Meeting assembled, this 17th. day of December, 1987.

BOARD OF COUNTY COMMISSIONERS OF
MADISON COUNTY, FLORIDA

By: Bert L. Higgins
Its Chairman

ATTEST:

Alfred F. Welch
Clerk, Board of County Commissioners
of Madison County, Florida

(SEAL)