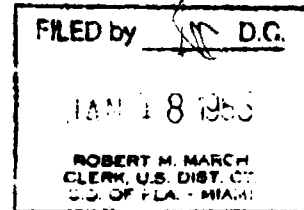


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. Administrative Order 85-4

PLAN FOR THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF FLORIDA PURSUANT TO
THE CRIMINAL JUSTICE ACT OF 1964
AS AMENDED



The Comprehensive Crime Control Act of 1984 has increased the rate of compensation allowed for services provided to indigent defendants by attorneys appointed by a District Judge or a Magistrate. It being the Court's decision to modify Section XVIII of the Plan for the Southern District of Florida pursuant to the Criminal Justice Act of 1964, subject to the approval of the Eleventh Circuit Judicial Council, as described in the amendment appended hereto and made a part of this order, it is

ORDERED, ADJUDGED and DECREED that, effective October 12, 1984, the Plan be amended and services compensated under the rates herein described.

DONE and ORDERED in the United States District Court for the Southern District of Florida, Miami, Florida, this 17 day of Jan, 1985.

FOR THE COURT:

James Lawrence King
CHIEF UNITED STATES DISTRICT JUDGE

2. The following fees are hereby prescribed for this District for services performed on or after October 12, 1984:

(a) Maximum Hourly Rate for Counsel. The maximum hourly rate for attorneys shall not exceed \$60 per hour for time expended in Court or before a United States Magistrate, and \$40 per hour for time reasonably expended out of Court or a hearing. In addition, however, such attorney shall be reimbursed for expenses reasonably incurred, including the cost of any necessary transcripts authorized by the Court or the Magistrate.

(b) Maximum Amounts for Counsel. For representation of a defendant before a Magistrate or this Court, or both, the maximum compensation to be paid to an attorney (other than the Federal Public Defender shall not exceed \$2,000 for each attorney in a case in which one or more felonies are charged, and \$800 for each attorney in a case in which only misdemeanors are charged. Representation of a defendant of a new trial shall be considered a separate case, and fees shall be paid on the same basis as on the original trial. A maximum of \$500 per attorney is provided by any of the following representations.

- (1) a post-trial motion made after entry of judgment,
- (2) a probation revocation proceeding,
- (3) a parole revocation proceeding,
- (4) representing a material witness,
- (5) representing a person seeking relief under 28

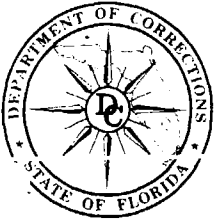
U.S.C. 2241, 2254, or 2255, and 18 U.S.C.
4245.

3. Waiving Maximum Counsel Fees. Payment in excess of any maximum amount provided in paragraph 2 above, may be made for extended or complex representation whenever the Court in which the representation was rendered, or the Magistrate, if the representation was furnished exclusively before him, certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the Chief Judge of the Eleventh Judicial Circuit.

4. Payment for Services Other than Counsel

(a) Previously Approved Services. Where counsel has received prior authorization for services, the maximum which may be paid per person so authorized shall not exceed \$300 exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the Court, or by the Magistrate (if the services were rendered in connection with a case disposed of entirely before him) as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the Chief Judge of the Eleventh Judicial Circuit.

(b) Services Furnished Without Prior Request. The total cost of all services obtained without prior authorization may not exceed a total of \$150 and expenses reasonably incurred. Waiver of such limit is not provided for in this Plan.



FLORIDA
DEPARTMENT of
CORRECTIONS

85-4

Governor
BOB GRAHAM
Secretary
LOUIE L. WAINWRIGHT

1311 Winewood Boulevard • Tallahassee, Florida 32301 • Telephone: 904/488-5021

September 20, 1985

Mr. Robert M. March
Clerk, United States District Court
Southern District of Florida
301 North Miami Avenue
Miami, Florida 33128-7788

Dear Mr. March:

Pursuant to the Requirements of the Standards for Inmate Grievance Procedures, 28 Code of Federal Regulations Section 40.12, the Florida Department of Corrections is providing the attached Notice of Intent to Re-apply for Certification to United States District Courts having jurisdiction over the Department of Corrections' facilities.

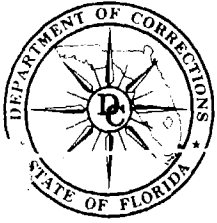
Sincerely,

A handwritten signature in cursive script, appearing to read "L. L. Wainwright".

LOUIE L. WAINWRIGHT
Secretary

LLW/gbt

Attachment



FLORIDA
DEPARTMENT of
CORRECTIONS


Governor
BOB GRAHAM
Secretary
LOUIE L. WAINWRIGHT

1311 Winewood Boulevard • Tallahassee, Florida 32301 • Telephone: 904/488-5021

NOTICE OF INTENT TO RE-APPLY FOR
CERTIFICATION OF THE INMATE GRIEVANCE PROCEDURE

The Florida Department of Corrections intends to re-apply for certification pursuant to 28 C.F.R. Part 40 (1983) of the attached Inmate Grievance Rule. The Inmate Grievance Rule has been implemented statewide in all Department of Corrections facilities. The application will be filed in the latter part of September, 1985.

Comments on the Inmate Grievance Rule are invited and may be submitted to the Attorney General of the United States, Department of Justice, Main Justice Building, Washington, D. C., 20530.



LOUIE L. WAINWRIGHT
Secretary

33-3.07 Inmate Grievance Procedure.

(1) The purpose of this procedure is to provide an inmate with a channel for the administrative settlement of a legitimate grievance. A grievance is defined as a formal complaint by an inmate concerning an incident, policy, or condition within an institution or the Department which affects that inmate personally. In addition to providing the inmate with the opportunity of having a grievance heard and considered, such procedure will assist the Department by providing additional means for internal resolution of problems and improve lines of communication. This procedure will also provide a written record in the event of subsequent judicial or administrative review.

(2) Each inmate shall be entitled to invoke the grievance procedure regardless of any disciplinary, classification or other administrative or legislative decision to which the inmate may be subject. The institution shall ensure that the grievance mechanism is accessible to impaired and handicapped inmates. This may be accomplished by providing assistance through the institution library if requested.

(3) Inmates can grieve the following matters:

- (a) The substance, interpretation, and application of policies, rules, and procedures of the facility and Department that affect them personally;
- (b) Reprisals against inmates for filing a grievance or appeal under the inmate grievance procedure, or for participating in an inmate grievance proceeding;
- (c) Incidents occurring within the institution that affect them personally;
- (d) Any matter relating to conditions of care or supervision within the authority of the Florida Department of Corrections, except as noted herein.

(4) Inmates cannot grieve the following matters:

- (a) State and federal court decisions;
- (b) State and federal laws and regulations;
- (c) Parole Board decisions;
- (d) Other matters beyond the control of the Department.

(5) Inmate and employee participation in the grievance process will take the form of

solicitation of written comments by inmates and employees on posted or published abstracts of grievances prior to the initial adjudication of the grievances. No inmate or employee who appears to be involved in the matter shall participate in any capacity in the resolution of the grievance.

(6)(a) Most valid grievances can be quickly resolved through the informal grievance process. Inmates must utilize the informal process prior to initiating a formal grievance, except in the case of emergency grievances or grievances of a sensitive nature and where the Department decides that the inmate should not have to go through the informal process. The inmate can often resolve the problem by discussing it with the following persons:

- 1. The staff member who is responsible in the particular area of the problem;
- 2. The Classification Team;
- 3. The appropriate section head;
- 4. Other institutional staff.

(b) Inmates can initiate this informal process by filing the Request for Interview, Form DC3-005, which is hereby incorporated by reference. A copy of the Request for Interview may be obtained from the housing officer of each living unit or from the Bureau of Inmate Grievances, 1311 Winewood Boulevard, Tallahassee, Florida 32301. If the form is to be mailed, the request must be accompanied by a self-addressed stamped envelope. The effective date of this form is May 7, 1985. A Request for Interview will be responded to within 15 working days of its receipt by the appropriate staff member. Distribution of the response shall be as follows:

- 1. The original and one copy will be returned to the inmate.
- 2. A second copy will be retained by the responding staff member.

(7) When an inmate wishes to file a formal grievance, he should do so by completing the Request for Administrative Remedy or Appeal, Form DC1-303, which is hereby incorporated by reference. A copy of the Request for Administrative Remedy or Appeal may be obtained from the institution library, classification department or from the Bureau of Inmate Grievances, 1311

Winewood Boulevard, Tallahassee, Florida 32301. If the form is to be mailed, the request must be accompanied by a self-addressed stamped envelope. The effective date of this form is May 7, 1985. The inmate shall fill out the identifying data at the top of the form and also Part A. The form must be legible and all facts must be accurately listed. Only one issue or question can be listed on each form.

(a) Inmates who cannot read or write, or cannot write legibly are allowed to seek assistance from other inmates as long as the assistance requested does not interfere with the security and order of the institution. In those cases where inmate assistance is either unavailable or cannot be made available, staff members will assist the inmate.

(b) The Request for Interview used in the informal grievance process must be attached to the Request for Administrative Remedy or Appeal. The form and attachment should then be forwarded to the Superintendent or Assistant Superintendent.

(8) The formal grievance must be received no later than 30 calendar days from the date on which the incident or action being grieved occurred. An extension of the 30-day period may be granted when it is clearly demonstrated by the inmate to the satisfaction of the Superintendent or Assistant Superintendent that it was not feasible to file the grievance within the 30-day period. The Superintendent may designate the Assistant Superintendent as his representative, delegating the authority to receive, review and investigate any grievance of an institutional nature, and to grant and implement relief as approved by the Superintendent. The Superintendent or Assistant Superintendent will have the grievance logged and will have a receipt sent to the inmate. The Superintendent or Assistant Superintendent may investigate and prepare a report. The Superintendent or Assistant Superintendent will evaluate the investigative report for use in formal consideration of the grievance.

(9) The Superintendent or Assistant Superintendent shall respond to the grievance by completing Part B of the Request for

Administrative Remedy or Appeal. Institutional officials shall have up to 30 working days from receipt of the grievance to take action and respond to the grievance. If approved, the response shall state what action will be taken to correct the problem. If denied, the response shall state the information justifying the denial. Distribution of the response shall be as follows:

(a) The original and one copy will be returned to the inmate with the Request for Interview attached.

(b) A second copy will be placed in the inmate record.

(10) All grievances except those filed directly with the Secretary must be filed at the institution to which the inmate is presently assigned. When the grievance complaint concerns a grievance that occurred at another location, it will remain the responsibility of the staff at the inmate's present location to handle the grievance. Direct contact with staff at the inmate's prior location may be necessary in resolving the grievance.

(11) In the event an inmate feels the grievance has not been satisfactorily resolved at the institutional level, an appeal may be submitted using the Request for Administrative Remedy or Appeal to the Office of the Secretary without interference from the facility staff. In such cases, the factual basis for the appeal must be clearly stated in Part A of the form; a copy of the Request for Interview and a copy of the original grievance and response at the institutional level must be attached to the form. Appeals should be forwarded to the Secretary through routine mail channels.

(12) Appeals must be received in the Office of the Secretary within 20 calendar days of the institutional response. If it is determined that a substantial reason for the appeal was not provided or lacks support, or if a copy of the Request for Interview, and a copy of the original grievance and institutional response are not attached, the appeal request will be returned to the inmate and reasons for the return will be specified.

(13) The Secretary, through the Inmate Grievance Administrator, will have a record

made of all grievance appeals received and will have a receipt sent to the inmate. An appeal to the Secretary's office shall be investigated and responded to within 40 working days from receipt of the appeal. Distribution of the response to the appeal shall be as follows:

- (a) The original will be returned to the inmate;
- (b) One copy will be placed in the inmate record in the Bureau of Admission and Release Authority with accompanying documents attached;
- (c) A second copy will be sent to the Superintendent for review and subsequent filing in the institutional inmate record;
- (d) A complete copy of the grievance appeal will be kept on file in the office of the Inmate Grievance Administrator.

(14) The time limit for responding to grievances and appeals may be extended for a reasonable period agreeable to both parties if the extension is agreed to in writing by the inmate. Unless the grievant has agreed in writing to an extension, expiration of a time limit at any stage of the process shall entitle the grievant to proceed to the next stage of the grievance process.

(15) Emergency grievances, or grievances of reprisals or of a sensitive nature may be grieved directly to the Secretary using the Request for Administrative Remedy or Appeal form. Emergency grievances are defined as those matters which, if disposed of according to the regular time limits, would subject the inmate to a substantial risk of personal injury, or cause other serious and irreparable harm to the inmate. The inmate must clearly indicate the reason for not initially bringing the complaint to the attention of the institution staff. Emergency grievances will be responded to within 15 working days from receipt of the grievance. Grievances of reprisals or of a sensitive nature will be responded to within 40 working days from receipt of the grievance.

(16) Upon receipt of the direct grievance, the Inmate Grievance Administrator shall have the grievance logged and a receipt sent to the inmate. If the Grievance Administrator feels that the inmate's reason for not

processing the complaint through institutional channels is invalid, the grievance will be returned to the inmate with the reasons for return specified. Should it be determined that the grievance was properly channeled to the Secretary, the complaint will then be investigated and Part B of the Request for Administrative Remedy and Appeal will be completed. If approved, the response must state what action will be taken to correct the problem. If denied, the response must state the reasons for denial. Distribution of the response shall be as follows:

- (a) The original will be returned to the inmate;
- (b) One copy will be placed in the inmate record in the Bureau of Admission and Release Authority with any accompanying documents attached;
- (c) A second copy will be sent to the Superintendent for review and subsequent filing in the institutional inmate record;
- (d) A complete copy of the direct grievance will be kept on file in the Office of the Inmate Grievance Administrator.

(17) A log shall be made of each grievance or appeal and shall contain, at a minimum, the following information:

- (a) Inmate name;
- (b) Prison number;
- (c) Date the grievance was received;
- (d) Nature of grievance or appeal and issue or question to be resolved;
- (e) Disposition of grievance or appeal;
- (f) Reason or reasons for disposition;
- (g) Date of disposition.

This log must be retained on file for a minimum of 3 years following final disposition of the grievance. A report will be compiled from this log and filed monthly with the Superintendent and the Secretary's Office.

(18) All incoming inmates shall receive orientation in the grievance procedure at the Reception and Orientation Institutions. Orientation in the grievance procedure shall also be provided to Department employees. The orientation program must include the following:

- (a) Receipt of written notification of the grievance procedure. The written procedure

shall be available in English and Spanish;
(b) Participation in an orientation class in which the grievance procedure is explained and there is an opportunity to ask questions and have them answered orally.

Provisions will be made for the impaired and the handicapped to participate in an orientation program. All superintendents will ensure that inmates incarcerated prior to the adoption of the grievance procedure receive orientation on the procedure in the same manner as described above.

(19) No action will be taken against inmates as the result of the submission of a grievance unless the grievance contained intentionally false or misleading statements. Good faith use of or good faith participation in the grievance process will not result in formal or informal reprisal against inmates.

Specific Authority 20.315, 944.09, 945.21
FS. Law Implemented 944.09, 945.21 FS.
History--New 10-8-76, Amended 5-7-85.