

## Homeless in Miami? If you are, your *Pottinger* rights against arrest while living on the streets may soon be changed.

**You can voice your opinion to the federal court in Miami before it decides whether to approve the proposed changes. Here's how.**

**Your *Pottinger* rights now:** If you're homeless, Miami police must offer you the chance to go to a shelter in Miami instead of arresting you for certain offenses. These currently include:

- being in the park after hours or camping in parks
- building fires in parks or putting up a tent in a park
- lying or sleeping on the sidewalks or on park benches
- trespassing on public property
- littering
- loitering in restrooms
- living in a vehicle

City police, the "Green Shirts," and other City officials must also respect your property rights.

**What the proposed changes to *Pottinger* may mean for you:**

- For most homeless people, *Pottinger* rights will remain largely the same: City of Miami Police must offer you the chance to go to a shelter instead of arresting you for certain offenses.
- If the court approves the proposed changes, some rights against arrest will be eliminated or narrowed. These are the main changes:
  - You'll be subject to arrest *without* being offered the chance to go to a shelter if, after a warning by a police officer, you:
    - litter within 300 feet of a usable trash can, or
    - block a sidewalk so that others have to walk in the street, or
    - commit a minor offense in a way that poses an imminent threat of physical injury to you or others.
  - You'll be subject to arrest, with *no* warning by a police officer and *without* being offered the chance to go to a shelter, if you:
    - build a fire in a public park or put up a tent in a park, or
    - violate public nudity laws intentionally in plain view or don't use an open public restroom within a quarter mile.
  - The shelter you are offered instead of arrest may have a mat instead of a bed to sleep on.
- City officials can't take your belongings unless they pose an obvious safety hazard (for example, leaving an unattended backpack in front of a courthouse).
- If you are homeless and registered as a sex offender or predator, you will no longer be afforded the *Pottinger* protections.
- The ACLU will have better access to records to monitor City compliance.

**If you agree with these changes you don't need to do anything.**

**If you're homeless in Miami and want to object to any of these changes, you may file written objections to them by Feb. 14, 2014** with the Clerk of the U.S. District Court. (See the back of this sheet for information on how to do so.)

**If you're homeless in Miami you may appear at the Feb. 28, 2014 hearing at 10:00 am** before Judge Moreno, U.S. District Court, Courtroom 13-3, 400 N. Miami Avenue.

**More information from:**

- The ACLU, 4500 Biscayne Blvd., #340, Miami, FL 33137, [aclufl@aclufl.org](mailto:aclufl@aclufl.org), 786-363-2700
- Most homeless shelters in Miami.
- [aclufl.org/pottinger](http://aclufl.org/pottinger): This website has times and places of public information sessions at shelters, and a complete copy of the ACLU-City agreement.

### **Pottinger v. City of Miami (No. 88-2406-CIV-FAM)**

- In 1988 the American Civil Liberties Union (ACLU) sued the City of Miami on behalf of homeless people in Miami.
- In 1992 the U.S. District Court ruled that the City of Miami had violated homeless people's constitutional rights.
- In 1998 the ACLU and the City settled the case. *The Pottinger settlement is still in effect today.*
- In 2013 the City proposed changes to the *Pottinger* settlement. The ACLU and the City have now agreed to a set of changes. The Court must review them before they can take effect.
- **2/28/14 at 10:00 am:** public hearing on the proposals before U.S. District Court Judge Moreno, Courtroom 13-3, 400 N. Miami Ave, Miami FL 33128.

