

Homeless in Miami? These are your *Pottinger* rights.

- **Miami police must offer you the chance to go to a shelter in Miami instead of arresting you for certain minor offenses.**
- **All City officials, including the police and the “Green Shirts,” must respect your property rights.**

1. How do the *Pottinger* protections against arrest work?

a. Police officers who see you committing one of the following violations may **not arrest you or threaten to arrest you unless they offer you shelter space for the night, and you refuse that offer.** If there's no shelter space or if there is and you take it, you can't be arrested for these offenses:

- Being in a public park after closing hours
- Camping in a public park (so long as you don't use a tent)
- Trespassing on public property (owned by the government, not by a private individual or business)
- Loitering in restrooms
- Living in a vehicle

The shelter space offered you must be in the City of Miami. It may have a mat rather than a bed. You don't have to stay at the shelter beyond one night and you don't have to take part in any of its programs or services, though of course you may if you wish.

b. Police officers who see you committing one of the following violations **may arrest or cite you even if there is no available shelter space for you, but only if they first warn you and give you a chance to stop committing the violation:**

- Littering within 300 feet of a usable trash
- Blocking a sidewalk so that others have to walk in the street
- Committing any minor offense (including those listed in a, above) in a way that poses an *imminent threat of physical injury* to you or others.

If there is no usable trash can within 300 feet, you can't be cited for littering unless the police offer you shelter space in Miami for the night, and you refuse that offer of shelter. If you move in response to a warning about blocking a sidewalk – for example, if you are lying on the sidewalk perpendicular to the street and move so that you are parallel to it, so that people can walk by you without going into the street – then you are not obstructing the sidewalk.

c. Police officers who see you committing one of the following violations **may arrest you even if there is no available shelter space for you, without any warning:**

- building a fire in a public park or putting up a tent or temporary structure in a park
- committing lewd conduct (violating public nudity laws intentionally in plain view of other people)
- not using an open public restroom within a quarter mile. A “public” restroom means a restroom in a government-owned building. If there is no such restroom within 1/4 mile, or if it's closed, then you cannot be arrested for failing to use it unless you're offered shelter and refuse it.

2. How do the *Pottinger* property protections work?

a. All City officials must respect your property rights. No City official, including the police or Green Shirts, may destroy or seize property that is identifiably the property of a homeless person, unless it poses an obvious safety hazard (for example, an unattended backpack left in front of a government building) or they reasonably believe it is abandoned.

b. If you are arrested, police must secure your property so you don't lose it. Large or bulky items that aren't contaminated or unsafe or unhealthy must be secured by an outreach worker. Mattresses do not have to be secured.

3. What if I believe my *Pottinger* rights are being violated? See the back side of this flyer.

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

- The *Pottinger* rules were created in 1998 to settle a lawsuit brought in 1988 by the American Civil Liberties Union (ACLU). The ACLU sued the City of Miami in federal District Court on behalf of homeless people in Miami. The Court found that the City had violated homeless people's constitutional rights.
- The *Pottinger* rules have the full force of law. They protect all homeless people within the City of Miami, except for sexual offenders and predators.
- The Court made some changes to the rules in March 2014. This flyer reflects those changes.

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3/31/14

