

MICHAEL POTTINGER, PETER  
CARTER AND BERRY YOUNG,  
Plaintiffs

vs.  
CITY OF MIAMI,  
Defendant

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## INSTRUCTIONS TO PROOF OF CLAIM

**Please read these instructions completely before filling out the Proof of Claim Form, which follows these Instructions.**

### **Purpose of the Proof of Claim Form:**

In 1988, the American Civil Liberties Union (ACLU) brought a lawsuit against the City of Miami (City) on behalf of homeless people in Miami. The district court ruled that the City, through a municipal policy, had violated the constitutional rights of homeless people. It ordered the City not to arrest homeless people for involuntary, harmless acts they were forced to perform in public and not to seize and destroy homeless people's personal belongings without following the City's own procedures for handling found or seized property. The City appealed the case to the United States Court of Appeals for the Eleventh Circuit.

Under an order approved by the United States District Court in Miami on October 1, 1998, the ACLU and the City have now settled this lawsuit. Under the settlement, you may be eligible for an award of up to \$1,500.00 payable by check if you meet **all** the following four conditions:

1. You were homeless at some time between December 23, 1984 and October 1, 1998.
2. For at least part of the period(s) when you were homeless, you lived in Miami.
3. Any of the following happened to you while you were homeless in Miami:
  - a) you were arrested; or
  - b) you were taken to jail; or
  - c) you were convicted; or

If 400 or fewer people are awarded damages, each person's award will be exactly \$1,500.00. If more than 400 people are awarded damages, everyone's award will be reduced proportionately.

- d) A City police officer or other employee of the City (such as a sanitation worker) destroyed your personal belongings or forced you to abandon them.
4. The arrest, jailing, conviction, or property destruction happened because you had no place to live, and had to carry on life-sustaining activities such as eating, sleeping, sitting, congregating, or walking in public.

Some examples:

- a) You were arrested for loitering or sleeping in a park.
- b) You were arrested or taken to jail for waiting in line for food at a shelter.
- c) Your sleeping bag, clothes, or other items were destroyed by city workers.

If there was more than one occasion in which you were arrested or had property destroyed under these circumstances, you should supply information and documentation for each of the incidents. However, in order to streamline the determination of awards, each claimant will receive the same award, regardless of whether they were arrested or had property destroyed more than once.

Note: This form should be filled out by the person who was arrested or had property destroyed (or his or her lawyer). This form may be completed by someone else only if:

- the person who was arrested or had property destroyed is now dead or is legally incompetent; and
- you are their legal beneficiary (such as heir, devisee, assignee, next-of-kin), or their legal guardian.

These instructions explain:

- How to fill out the Proof of Claim Form and where to get help in filling out the Form
- What documents you need to support your claim, and how to obtain those documents if you do not already have them
- When and where to file the Form
- What happens after you file the Form
- What happens if your claim is accepted.

### **Help in Filling Out the Form**

If you need help in filling out the form, please call the ACLU at 305-576-2336. **Please do not call or write the court for assistance.**

### **Description of Your Arrest or the Destruction of Your Property**

In the Proof of Claim Form, you will need to provide a description of your arrest by a City police officer while you were homeless in Miami, or the destruction of your property by a City police officer or other employee of the City (such as a sanitation worker). You should provide as much information as you can. If you were arrested or had property destroyed more than one time while you were homeless in Miami, you should describe all the instances in one Proof of Claim Form.

### **Documents Needed to Support Your Claim**

You must attach some form of written proof to support your claim. These include:

**A. *Documentation of your identity:***

You must provide some evidence of who you are. That can be a photocopy of documents such as:

- an official ID with a photo on it (for example, a driver's license or a passport)
- other official ID cards
- other identification.

A copy of an official ID with your photo on it is the best documentation. If at all possible, please supply that.

If you are filling out this form for someone who is now dead or legally incompetent, you will also have to supply documentation of your status as the person's legal representative or beneficiary.

**B. *Documentation of your arrest or of the destruction of your property:***

To prove what happened to you, you need to submit some form of documentation.

***Records that you may submit to show what happened to you:***

- an arrest affidavit or arrest record
- a jail card
- a criminal court disposition
- other official records
- other documents that were created around the time of the incident (for example, newspaper articles, affidavits you signed around the time of the incident, letters you sent at the time of the incident).

An “arrest record” is any written record that

- says who you are (*e.g.*, has your name and birth date or social security number or some other information of that sort),
- shows the date you were arrested, and
- describes what laws you were charged with violating when you were arrested.

An “arrest affidavit” is an official form filled out by the officer who arrested you, when he or she arrested you, that

- says who you are (*e.g.*, has your name and birth date or social security number or some other information of that sort)
- shows the date you were arrested, and
- describes what laws you were charged with violating when you were arrested.

A “jail card” is a record created at a local jail (Dade County Jail, TGK, etc.) that

- says who you are (*e.g.*, has your name and birth date or social security number or some other information of that sort), and
- gives information about your stay in the jail (when you were put in jail, when you were released, etc.)

A “criminal court disposition” is a document created by the court that

- says who you are (*e.g.*, has your name and birth date or social security number or some other information of that sort)
- states the charges against you, and
- states how they were resolved (dismissal, conviction, etc.)

If you do not have copies of them already, you can obtain official copies of the documents as follows:

- **Arrest records, arrest affidavits.** Fill out and sign this Proof of Claim Form, and then take it to the Public Window of the Records Unit of the City of Miami Police Department, Central Station, located at 400 N.W. 2nd Avenue, Miami, during the hours of 8:00 a.m. to 4:00 p.m., Monday, Tuesday, Thursday, and Friday. The Records Unit will then give you certified copies of the records you need, if available, at no charge.

- **Criminal Court Dispositions.** These may be obtained from:  
Office of the Clerk, 11th Judicial Circuit  
Richard E. Gerstein Justice Building  
1351 N.W. 12th Street, 8th & 9th Floors  
Miami, FL 33125  
Telephone: 305-275-1155  
Hours: 9:00 a.m. to 4:00 p.m. Monday through Friday.  
There may be a charge for this.
- **Jail Cards.** These may be obtained from the jail where you were detained.

***Certifying official records:***

Although it is not required, it will help to have any official records “certified.” A certified record is one that is stamped by a city official as being a genuine copy. Official records that you obtain from the City at the Public Window of the Records Unit of the City of Miami Police Department, Central Station, 400 N.W. 2nd Avenue, Miami, during the hours of 8:00 a.m. to 4:00 p.m., Monday, Tuesday, Thursday, and Friday, will be certified at no cost to you. If you already have a copy of an arrest record or arrest affidavit that is not certified, you may still wish to go to the Public Window of the Records Unit to get a certified copy.

If you already have a copy of a jail card that is not certified, you may still wish to go to the jail where you were detained to get a certified copy. There may be a charge for this.

If you obtain any court records from the Office of the Clerk, you should ask to have them certified. There may be a charge for this.

**Signing the Form**

You must sign a statement at the end of the Proof of Claim Form stating that the information contained in it is true and correct. Your signature is required.

In addition, you should have your signature “notarized” if at all possible. A notary public is a person who is authorized to examine identity documents and verify your signature and identify. A notary public does *not* give legal advice. You are not required to have your signature notarized, but it will help prove your claim if you do. To get your signature notarized, you will need to show satisfactory evidence of your identity to a notary public. Examples include a drivers’ license, passport, military ID, or ID card issued by the INS. If you do not have any of these IDs, the notary public will explain to you what is required to have your signature notarized.

Many notaries public will expect you to pay them for notarizing your signature. The City will make the services of a notary public available to you for free at the Public Window of the Records Unit of the City of Miami Police Department, Central Station,

400 N.W. 2nd Avenue, Miami, during the hours of 8:00 a.m. to 4:00 p.m., Monday, Tuesday, Thursday, and Friday.

### **When to File the Form**

**Your Proof of Claim Form must be received at the address below (see “Where to File the Form”) no earlier than Monday, January 4, 1999, and no later than Monday, April 5, 1999.**

### **Where to File the Form**

You must file this form with the Office of the Clerk, United States District Court for the Southern District of Florida.

You can submit this form to the Office of the Clerk either

- by mailing it, or
- by bringing it in person.

The address of the Office of the Clerk is:

Office of the Clerk  
United States District Court  
Southern District of Florida  
Room 150  
301 N. Miami Avenue  
Miami, FL 33128-7788

The Office of the Clerk is open from 9:00 a.m. to 4:30 p.m. Monday through Friday.

### **What Happens after You File the Form**

After the period for filing Proof of Claims Forms expires on Monday, April 5, 1999, a United States Magistrate will consider your Proof of Claim Form to decide whether you are eligible for an award. The City has the right to file an objection to your claim within 20 days. If so, you will be notified of the objection at the mailing address you fill in on the Proof of Claim Form. It is difficult to estimate how long it will take for a final decision to be made on your Claim, but the decision will be made no earlier than Monday, April 26, 1999. The Magistrate may need more information about your claim, in which case there may be a hearing. If so, you will receive a notice of the hearing date.

Once the Magistrate has decided your claim, you will receive a notice of the Magistrate’s decision.

- If the Magistrate's decision is in your favor, the City of Miami has the right to ask the Magistrate to reconsider the decision within 15 days. After that period is over, you can collect your award (see below) unless the Magistrate grants the motion to reconsider and then denies your claim.
- If the Magistrate's decision is against you, you will have the right to ask the Magistrate to reconsider the decision within 15 days.

You will be given more information about these matters when you receive the notice of the Magistrate's decision.

### **What Happens If Your Claim Is Accepted**

If the Magistrate accepts your claim, then you will be awarded up to \$1,500.00, which will be payable by check. The distribution will be through the City's Office of Homeless Programs. You will be given information about how to claim your award at the time you are notified of the Magistrate's decision.

*If 400 or fewer people are awarded damages, each person's award will be exactly \$1,500.00. If more than 400 people are awarded damages everyone's award will be reduced proportionately.*

***NOTE: Keep these Instructions for your future reference. File only the Proof of Claim Form which follows.***

# PROOF OF CLAIM

*Pottinger v. City of Miami*  
Case No. 88-2406-CIV-ATKINS

***This form must be filled out in full. Each item must be answered, unless it says "optional." Please print neatly in dark ink, or type. If you need more space, attach additional sheets with the claimant's name, address and date of birth on them.***

## Part I. Identifying Information

1. Name of the claimant:

*✍ Write your own name in Question 1 if you were the person who was arrested or had property destroyed, and you are filing this Form for yourself. If you are filing this Form for someone else who was arrested or had property destroyed, write that person's name here, not your own name.*

\_\_\_\_\_  
FIRST NAME MIDDLE NAME LAST NAME SUFFIX

2. Birth date of the claimant:

*✍ Write your own birth date in Question 2 if you were the person who was arrested or had property destroyed, and you are filing this Form for yourself. If you are filing this Form for someone else who was arrested or had property destroyed, write that person's birth date here, not your own birth date.*

\_\_\_\_/\_\_\_\_/\_\_\_\_  
month date year

3. What is your relationship to the claimant?

**A**  
**Self**

**B**  
**Other**

I am the claimant (the person who was arrested or had property destroyed), and I am filing this Proof of Claim for myself.

*If you are filing this Proof of Claim Form for someone else ...*

- Check the applicable boxes below
- Fill in your own name below
- Look for special instructions marked by *✍* throughout the rest of the Form.

I am filing this Proof of Claim Form for someone who was arrested or had property destroyed, and is now dead, and:

- I am his or her next of kin.
- I am the person named in his or her will as the beneficiary.
- I am the person named in his or her will as the executor.

I am filing this Proof of Claim Form for someone who was arrested or had property destroyed, and has been declared legally incompetent, and I am his or her legal guardian.

Other (explain):

\_\_\_\_\_

**My name:** \_\_\_\_\_

FIRST NAME MIDDLE NAME LAST NAME SUFFIX

(**Jr., III, etc.**)



**4.** Mailing address: \_\_\_\_\_  
*If you do not have a permanent address, please put an address here where you can receive mail.*

Street or Post Office Box: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**5.** I  do  do not have a telephone number where I can be reached.

*If you do have a telephone number where you can be reached, then you must fill in the following information:*

Telephone number(s): \_\_\_\_\_ / \_\_\_\_\_  
*Area code Telephone number Area code Telephone number*

Times when I can be reached by phone: \_\_\_\_\_

**6.** There  is  is not someone who can contact me if necessary (a friend, neighbor, social worker, family member, etc.)

*If you do have a contact person, you must fill out the following information:*

Name of contact person: \_\_\_\_\_

Address of contact person: \_\_\_\_\_  
*Street or P.O. Box address*

\_\_\_\_\_ *City/County* \_\_\_\_\_ *State* \_\_\_\_\_ *Zip Code*

Telephone number of contact person: \_\_\_\_\_  
*Area code Telephone number*

**7.** I  do  do not have a lawyer.

*If you do have a lawyer, then you must fill in the following information:*

Name of lawyer: \_\_\_\_\_

Address of lawyer: \_\_\_\_\_  
*Street or P.O. Box address*


\_\_\_\_\_ *City/County* \_\_\_\_\_ *State* \_\_\_\_\_ *Zip Code*

Telephone number of lawyer: \_\_\_\_\_  
*Area code Telephone number*

**Part II. Description of the Arrest or Destruction of Property**

**8. What happened:**

*Check all that apply. You may check more than one box if applicable. Keep in mind that awards will be made for persons who were arrested, jailed, convicted, or had property destroyed in Miami because they were homeless and were forced to perform innocent activities such as eating and sleeping in public places.*

 *If you are filing this Form for someone else, you should answer Questions 8-12 with information pertaining to the claimant. For example, if the claimant was arrested by a City of Miami police officer, then check the first box in Question 8.*

- I was arrested by a City police officer.
- I was taken to jail by a City police officer.
- I was convicted after being arrested by a City police officer.
- A City police officer, or other City worker (such as a sanitation worker), destroyed some of my personal belongings or forced me to abandon them.
- Other.

For each box you checked, provide the following information requested in Questions 9 through 12. If you suffered an arrest or had property destroyed more than once, please provide the following information for each incident in answering the Questions.

**9. When the incident(s) happened:** \_\_\_\_\_

*(You need not give an exact date, but the more specific you can be, the better.)*

\_\_\_\_\_

**10. Where the incident(s) occurred:** \_\_\_\_\_


*(Once again, the more specific you can be, the better.)*

\_\_\_\_\_

**11.** I  was homeless at the time the incident(s) happened to me.

was not

*“Homeless” means that you had no fixed and regular home or apartment of your own, and spent the nights in shelters or on the streets or in parks or other public places.*

*continued on the next page* 



**Part III. Documentation**

**13. Your claim must be supported by documentation. You should attach all documentation you may have concerning your identity and each incident in which you were arrested or your property was destroyed.**

**A. Please check below what documents you have attached showing who you are:**

- a photocopy of your driver's license
- a photocopy of your passport
- a photocopy of other official ID with your photo on it
- other (describe): \_\_\_\_\_

Are you filing this Proof of Claim on behalf of someone else?     Yes     No

If you checked "yes," you must fill out the box below; otherwise, you may go on to Question 13.B on the next page.

<p>1. If you are filing a Proof of Claim for someone who is now dead ...</p>	<p>You must attach a <b>certified copy of the will</b> naming you as their beneficiary or executor. (If there is no will, attach a <b>certified copy of the death certificate</b> and <b>documents establishing that you are the dead person's next of kin</b>).</p> <p><i>Check here to indicate that you have attached the required documents:</i>    <input type="checkbox"/> (If you do not, your Claim may be rejected.)</p>								
<p>2. If you are the legal guardian of the person for whom you are filing a Proof of Claim ...</p>	<p>You must attach a <b>certified copy of the court order</b> appointing you as the legal guardian.</p> <p><i>Check here to indicate that you have attached the required documents:</i>    <input type="checkbox"/> (If you do not, your Claim may be rejected.)</p>								
<p>3. If there is some other reason why you are filing this Proof of Claim for someone else, please give a brief explanation of your relationship to the person, and why that person is unable to file for himself or herself . . .</p> <table border="1" data-bbox="381 1470 894 1829"><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr></table>									<p>You must attach some form of documentation to show your relationship to the person.</p> <p><i>Check here to indicate that you have attached the required documents:</i>    <input type="checkbox"/> (If you do not, your Claim may be rejected.)</p> <p><i>If you need additional space, please attach a paper with your name, address, and date of birth on it.</i></p>

**B. Please check below what documents you have attached concerning the incident(s):**

- an arrest affidavit or arrest record
- a jail card
- a criminal court disposition
- other official records
- other documents that were created around the time of the incident(s) (for example, newspaper articles, affidavits you signed around the time of the incident(s), letters you sent at the time of the incident(s)).

**Part IV. Affirmation**

**14.** I declare under penalty of perjury that the foregoing is true and correct. Executed

on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
month date year.

\_\_\_\_\_  
*Signature*

... continued on next page ⇨

**Part V. Notarization (Optional but strongly recommended)**

STATE OF FLORIDA  
COUNTY OF DADE

**16.** The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by \_\_\_\_\_.  
*name of person acknowledging*

\_\_\_\_\_  
*Signature of Notary Public -- State of Florida*

\_\_\_\_\_  
*Commissioned Name of Notary Public*

Personally known \_\_\_\_ or produced identification \_\_\_\_

Type of Identification produced \_\_\_\_\_

***File this Proof of Claim Form (all 7 pages), together with your documentation, at the address given on page 6 of the Instructions. File only the Proof of Claim Form itself. Keep the Instructions for your own reference.***