



**Defending Liberty
Pursuing Justice**

**A LEGAL GUIDE FOR INS
DETAINEES:**

***ACTIONS BROUGHT AGAINST INS OR OTHER
LAW ENFORCEMENT OFFICIALS FOR
PERSONAL INJURY OR PROPERTY
DAMAGE OR LOSS***

American Bar Association
Commission on Immigration Policy, Practice, and Pro Bono
740 15th Street, NW, 9th Floor
Washington, DC 20005-1022

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PROPERTY DAMAGE OR LOSS**

Prepared by:

**American Bar Association
Commission on Immigration Policy, Practice and Pro Bono
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I. OVERVIEW

Welcome to *A Legal Guide for INS Detainees: Actions Brought Against INS or Other Law Enforcement Officials for Personal Injury or Property Damage or Loss*.

The American Bar Association's Commission on Immigration Policy, Practice, and Pro Bono created this Handbook to provide Immigration and Naturalization Service ("INS") detainees with guidelines for filing Federal Tort Claims Act ("FTCA") and *Bivens* complaints. This booklet was not prepared by the INS, or by any other part of the U.S. Government. The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be considered as representing the official policy of the American Bar Association.

INS detainees who have been injured due to the actions of federal officers before or during their stay in a federal, state, or local detention center may file **BOTH** a FTCA complaint against the United States **and** a *Bivens* complaint against individual federal officers **at the same time** in order to obtain monetary compensation for their injuries. As explained in the chart at the end of this Handbook, detainees may also file a 42 U.S.C. § 1983 complaint against individual state officers. The first section explains how and when an INS detainee may obtain monetary compensation through a lawsuit under the FTCA. A detainee may file a FTCA complaint when federal officers violated the laws of the state in which the detainee is held. The second section explains how and when an INS detainee may obtain monetary compensation through a *Bivens* action. Detainees should file a *Bivens* complaint when their constitutional rights have been violated.

A sample complaint – containing explanations of what the complaint should state – is provided at the end of each section, one for FTCA and one for *Bivens*. Following the sample complaint, a blank complaint is also provided that may be completed by a detainee and submitted to the appropriate court. Do **NOT** forget to sign the complaint or the court will reject it. Details about filing complaints without paying the required fees and about obtaining a *pro bono* (free) lawyer are provided at the end of each section. Additional resources are contained in **Appendices A, B, C, and D**.

Detainees should feel free to send questions or concerns to: American Bar Association, ATTN: Chris Nugent, ABA Commission on Immigration Policy, Practice, and Pro Bono, 740 15th Street, NW, 9th floor, Washington, DC 20005-1022; *tel*: (202) 662-1008; *fax*: (202) 638-3844; *email*: nugentc@staff.abanet.org. **PLEASE DO NOT SEND ORIGINAL DOCUMENTS – NO COLLECT CALLS.**

II. FEDERAL TORT CLAIMS ACT

The Federal Tort Claims Act (“FTCA”), originally adopted in 1946, permits recovery for claims for “injury or loss of property, or personal injury or death caused by the *negligent or wrongful act or omission* of a government employee while [the employee] is acting within the scope of his office or employment.” 28 U.S.C. § 1346(b) (emphasis added). Claims for wrongful acts or failures to act resulting in personal injury or property loss or damage are generally known as torts. The FTCA is a limited waiver of U.S. sovereign immunity.¹ The FTCA thus holds the United States responsible for the actions of its agencies and employees that injure another person in the same way a private person would be held responsible for such acts. 28 U.S.C. § 2674. The laws of the state in which the act or omission occurred determine whether the United States will be held responsible for a particular act or omission committed by a government employee or official.

A. CONSIDER THE FOLLOWING FACTS ABOUT FTCA SUITS

- A FTCA complaint is a lawsuit against the United States for the wrongful conduct of its employees.
- FTCA claims may proceed **ONLY** against the United States as the named defendant, **NOT** against the specific government agency or the federal employee (in his official or individual capacity). 28 U.S.C. § 2679(d)(2).
- FTCA actions against the United States may only be brought in federal courts, **NOT** state courts.
- The FTCA **INCLUDES** claims for the following torts (wrongful acts):
 - **Negligence:** the failure to exercise the standard of care that a reasonably prudent person would have exercised in the same situation.
 - **Intentional torts, including:**
 - **Assault:** the threat or use of force on another that causes a reasonable fear of imminent harmful or offensive contact.
 - **Battery:** the application of force on another resulting in harmful or offensive contact.
 - **False Imprisonment:** a confinement or restraint of a person to a bounded area without justification or consent.
 - **Abuse of process:** improper use of a legitimately issued court process to obtain a result that is either unlawful or beyond the person’s scope.

¹ In general, the U.S. Government may not be sued **unless** it permits individuals to do so. Congress therefore passes statutes like the FTCA in order to recognize specific circumstances in which private individuals may sue the U.S. Government.

- **Malicious prosecution:** institution of criminal or civil proceedings for an improper purpose without probable cause, when the conduct is committed by investigative or law enforcement officers, including INS and Border Patrol agents.
- The tort law of the *state in which the act or omission (the cause of the injury or harm to you) occurred* determines whether a cause of action exists as a result of the particular act or omission. 28 U.S.C. § 1346(b).
- Both citizens and aliens are eligible to obtain FTCA relief. No FTCA provision prevents non-U.S. citizens from suing under the Act.
- The FTCA bars suits against the United States for the acts or omissions of **independent contractors** working for the federal government. Precisely who qualifies as an *independent contractor* is complicated and is discussed in greater detail below.
- A FTCA claim must be filed in writing with the appropriate government agency within **two years** of when the action causing injury to the detainee occurs.²
- FTCA claims are **always** tried by a judge without a jury. 28 U.S.C. § 2402.
- The FTCA is strictly interpreted: all ambiguities are usually resolved in favor of the United States.

B. ADMINISTRATIVE REQUIREMENTS

Prior to filing a lawsuit in federal court, you must file a written administrative claim against the United States with the agency employing the person who caused the injury, or the case will be dismissed.

- *All* FTCA claims **must** first be submitted for administrative settlement before litigation begins. **Government Standard Form 95** (attached at the end of this section and available from federal agencies) should be used for the initial administrative claim. Other forms of written notification may also be accepted if a copy of **Form 95** is unavailable. Again, the administrative

² The FTCA contains a special statute of limitations: “a tort claim shall be *forever barred* unless it is presented in writing to the appropriate Federal agency within *two years* after such claim accrues.” 28 U.S.C. § 2401(b) (emphasis added). As a general rule, “a tort claim accrues at the time of the plaintiff’s injury,” but might extend in medical malpractice cases “until the plaintiff has discovered both his injury and its cause.” *United States v. Kubrick*, 444 U.S. 111, 120 (1979).

claim **MUST BE** filed within **two years** of the act or omission causing injury to the detainee.

- Filing a written administrative claim is likely to be the easiest and quickest way to receive compensation from the United States. If approved, there is no need for a lawsuit or additional litigation.
- The administrative claim must include a **specific dollar request** for damages and enough information to support an agency investigation.
- The agency then reviews the merits of the claim, deciding whether (1) to accept it and reach a monetary settlement; or (2) to deny it. Agency heads are authorized to settle or compromise such claims in any amount, but written approval of the Attorney General is required for amounts exceeding \$25,000. 28 U.S.C. § 2672.
- A detainee *must* wait for a **final agency denial** to initiate a FTCA case in federal district court. 28 U.S.C. § 2675(a). An agency's failure to issue a final ruling on an administrative claim **within six months** of its filing is considered a final denial. A detainee has **six months** to file a claim against the United States after the **final agency denial**. 28 U.S.C. § 2401(b).

C. DAMAGES IN FTCA SUITS

- In general, monetary awards in FTCA claims are controlled by state law and are limited to "money damages." Money damages include reasonable compensation for personal injury or loss of property.
- Damages may not exceed the amount requested in the prior agency administrative claim, **except** where the increase is based on new evidence not reasonably discoverable at the time of presenting the claim to the agency.
- In FTCA cases, the United States therefore may **NOT** be sued for *punitive damages* designed to punish intentional or egregious (bad) conduct. The United States is only liable for *actual damages* caused to the detainee.
- The Supreme Court has held that plaintiffs may be entitled to monetary compensation for "loss of enjoyment of life." These damages must be based solely on a government employee's simple negligence, **NOT** on the government employee's intentional or egregious conduct. However, state law determines how much money may be recovered and whether the *loss of enjoyment of life* claim fits within the state's definition of compensatory damages. *Molzof v. United States*, 502 U.S. 301 (1992).

- Attorneys' fees are **limited** to no more than 25% of any judgment or settlement after suit is filed, or 20% of any administrative settlement prior to litigation. The FTCA does not specifically empower the court to award attorneys' fees in the absence of an agreement between the client and the attorney. 28 U.S.C. § 2678.

D. FTCA EXCEPTIONS & EXCLUSIONS

The FTCA includes specific exceptions, and where one applies, the United States may NOT be sued – the case will be dismissed for lack of jurisdiction.

- ❖ **Foreign Country Exception:** The FTCA exempts from coverage “any claim arising in a foreign country.” Thus, if a detainee’s injuries occurred outside the United States, no FTCA claim may be made.
- ❖ **Intentional Torts Exception:** Only investigative or law enforcement officers may be sued for intentional torts like “assault, battery, false imprisonment, malicious prosecution, and abuse of process.”
 - FTCA suits for intentional torts against individuals who are **NOT** law enforcement INS employees are prohibited.
 - An investigative or law enforcement officer is defined as an officer “who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.”
 - INS officers and agents, as well as federal prison officials in some circumstances, are investigative or law enforcement officers within the meaning of 28 U.S.C. § 2680(h).
- ❖ **Other Torts Excluded from the FTCA:** Libel (publication of something that injures the reputation of another person); slander (saying something that injures the reputation of another person); misrepresentation (telling you something untrue); deceit; or interference with contracts.
- ❖ **Detention of Goods Exclusion:** Any claim arising from the detention of any goods, merchandise, or other property by any customs or tax officer or any other law enforcement officer is excluded. 28 U.S.C. § 2680(c).
 - This exception covers claims based on the wrongful detention of goods and those based on injury to or loss of goods while being detained. For example, claims that INS agent negligently lost a detainee’s personal property due to a failure to inventory it properly upon arrest are not

permitted. *See, e.g., Kosak v. United States*, 465 U.S. 848 (1984); *Halverson v. United States*, 972 F.2d 654 (5th Cir. 1992).

- Seizures by INS officers and Border Patrol agents fit within this exception. *Ysasi v. Rivkind*, 856 F.2d 1520, 1524 (Fed. Cir. 1988).

❖ **Discretionary Function Exception:** Precludes suits “based upon an act or omission of an employee of the Government, exercising due care in the execution of a statute or regulation, or based upon the performance or the failure to exercise or perform a discretionary duty.” 28 U.S.C. § 2680(a).

- For the exception to apply, the challenged conduct must “be the product of judgment or choice” and does not include an employee’s mandatory acts according to “a federal statute, regulation, or policy [that] specifically prescribes a course of action.” *Berkovitz v. United States*, 486 U.S. 531, 536 (1988). Also, the conduct must be “based on considerations of public policy.” 29 U.S.C. § 2680(a).
- Section 2680(a) specifically provides that the discretionary function exception applies “whether or not the discretion involved be abused.”
- Detention decisions that are not directly mandated by statute are discretionary and fit within the exception. *Medina v. United States*, 259 F.3d 220, 226 (4th Cir. 2001). For example, a detention facility’s policy decision to require sick or injured detainees to go to hospitals rather than to receive in-house treatment is discretionary. However, a slip and fall claim based on an INS facility’s failure to maintain a walkway to the hospital during inclement weather would not be barred (if the INS failed to maintain it safely).
- As long as an officer’s decision to detain or parole a person is reasonable under state law, the discretionary function exception generally bars a FTCA claim for false arrest or imprisonment. “The United States has a privilege to protect its borders against unlawful entry . . . there is a heavy burden on would-be entrants to show a right to enter the U.S. without hindrance. The authorities may detain him with far less than probable cause to believe he has no right to enter.” *Caban v. United States*, 728 F.2d 68, 73 (2d Cir. 1984).
- The INS may not detain an alien for more than six months after the alien is ordered removed if there is no significant likelihood that the detainee can be returned to his country of origin in the near future. *Zadvydas v. Davis*, 533 U.S. 678 (2001). If you believe that you fall into this category, see the ABA’s *A Legal Guide for INS Detainees*:

Petitioning for Release from Indefinite Detention for more information on your legal rights.

E. DISTINGUISHING BETWEEN FEDERAL, STATE, AND MUNICIPAL EMPLOYEES AND GOVERNMENT CONTRACTORS

- In general, the FTCA permits lawsuits against the United States only for the acts or omissions of **federal government employees**. The United States therefore may be sued under the FTCA for the acts or omissions of anyone working directly for the INS, the Border Patrol, the Customs Service, the U.S. Marshal's Office, the Coast Guard, the FBI or the Federal Bureau of Prisons, for example, may be sued under the FTCA. In contrast, state and local law enforcement officers are **not** considered to be employees of the federal government. Thus, acts or omissions committed by these individuals generally do not give rise to a FTCA claim.
- The exception for **independent contractors** prevents claims against the United States under the FTCA for the acts or omissions of local officials and officers working under a government contract to provide typical federal services. The United States may **only** be held liable for the acts or omissions of independent contractors if federal employees directly supervise the day-to-day operations and physical performance of the contracted duties. For example, if INS officials were on-site or actively controlling operations of a state-run or private detention center and its state or local employees, there could be a FTCA cause of action for activities at the center.
- The United States may **NOT** be sued for the negligence of an independent contractor operating a detention facility. County jail officials, for example, have been considered independent contractors rather than federal employees even though they acted on behalf of the Federal Bureau of Prisons to care for federal prisoners and performed services that salaried government employees would otherwise perform. The United States may be sued, however, for the decision to place a detainee at the contract facility.
- Government contractors do not **fit** within the meaning of a federal agency. The test for whether someone is an independent contractor or a government employee focuses on control of the detailed physical performance of the contractor and the primary activity contracted for, not the peripheral administrative acts relating to the activity. Courts have looked at the following factors to determine if a federal agency has strict control over a contractor: (1) payment of salary; (2) insurance premiums; (3) payment of social security taxes or workmen's compensation; (4) ownership of tools; (5) instruments; and (6) place of work.

- When state or local officers act on behalf of the federal government under contract arrangements, the federal government often fixes specific and precise conditions or provides some funding to implement federal objectives. However, these regulations do **NOT** convert the acts of state governmental agencies or employees into acts of the federal government. Whether the federal government is responsible for the acts of the state or local officers it hires depends on the specific facts of the employment relationship between the state or local employees and the federal government.
- Under state laws, law enforcement officers are entitled to immunity for discretionary acts performed in good faith and in the scope of their employment. According to the *like circumstances* rule of the FTCA, the United States may claim any state law immunity that would be enjoyed by state officials if they were sued in the performance of similar duties. Accordingly, it is important to check state laws to see what kind of immunity or privileges different law enforcement or federal employees are granted.

F. FTCA CHECKLIST

Ask the following questions to determine if your case meets the basic requirements necessary to file a FTCA claim. If the answers to the questions are **YES**, you are likely to be eligible for a FTCA claim.

- ✓ Was the person who caused your injury or harm a **federal government employee** and not someone simply under contract to work for the government?
- ✓ Was the employee acting within the scope of his employment (normal duties) when the incident occurred?
- ✓ Was the employee's action against the law in the state where it occurred?
- ✓ Does state tort law provide a remedy for such acts (*e.g.*, if a detainee is injured while working, the state may **not** permit tort suits in addition to worker's compensation claims)?
- ✓ Did the government employee violate mandatory regulations, directives, or rules of the agency?
- ✓ Is your injury based on something **other than** misrepresentation (telling you something untrue), libel (publication of something that injures the reputation of another person), or slander (saying something that injures the reputation of another person)?

- ✓ Are you seeking only money damages for the actual amount of your injury, **NOT** a temporary restraining order from the court asking the detention facility or the individual employee to perform or refrain from performing a specific act (i.e., injunctive relief)?
- ✓ Did the incident or event occur **LESS than two years ago**?
- ✓ Did you file an administrative claim with the employee's supervising agency?
- ✓ Was the administrative claim denied or unanswered within **six months** of when it was filed?
- ✓ If you are filing an intentional tort, such as assault, battery, false imprisonment, malicious prosecution, or abuse of process, is the person who caused you harm an **investigative or law enforcement officer**?

G. INITIATING A FTCA COMPLAINT IN FEDERAL COURT

***** **File** the FTCA complaint with the appropriate court – a list of U.S. district courts is attached as **Appendix A**. The complaint must contain **ONLY TRUTHFUL** statements. The complaint must then be served by doing the following:

1. **Deliver a copy of the summons** from the court clerk and the complaint to the U. S. Attorney (or his designee) for the district where the action is brought or by sending a copy of the summons and complaint by registered or certified mail to the civil process clerk at the U.S. Attorney's office.
2. **Send the summons and complaint** by registered or certified mail to the following address:

*Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001*

A detainee should also:

3. **Pay all applicable fees.** The filing fee will vary depending on the U.S. district court in which you file your complaint:
 - **If you cannot afford to pay the applicable filing fees,** you may apply to the court to proceed *In Forma Pauperis* – a formal request to

the court to excuse the payment of the necessary filing fees as well as other legal costs. If the court approves your application, you may proceed in court without having to pay the filing fee or other costs. It is highly recommended that you apply for this status at the same time that you file your complaint.

- The forms necessary to proceed *In Forma Pauperis* are provided in **Appendix B**.
 - **First**, fill out the **Motion to Proceed *In Forma Pauperis***.
 - **Second**, fill out the **Prisoner Certificate**.
 - **Third**, fill out the **Trust Account Withdrawal Authorization**.

- Send these forms to the court along with your FTCA complaint. The court will then review your application to determine whether you must pay the filing fee and other costs. If a court does not believe that you are telling the truth about your financial status, it may hold a hearing or require you to submit additional proof of your financial status.

- **Finally, if the court denies your application**, the decision is appealable pursuant to 28 U.S.C. § 1291.

4. **Request a copy** of the court's local rules.

5. **Legal Assistance:** FTCA claims are civil actions. Consequently, there is no guarantee that an attorney will represent you if you are unable to afford counsel. However, you may request that the court appoint a lawyer for you. File the sample *Motion for the Appointment of Counsel* provided in **Appendix C** when you file your complaint. The court will then decide whether or not to provide a lawyer to you.

H. WHAT MAY HAPPEN AFTER YOU FILE YOUR COMPLAINT

- ❖ **Motion To Dismiss:** After you file your suit, the United States may immediately file a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b). Specifically, the United States is likely to file the motion to dismiss pursuant to 12(b)(6) – “for failure to state a claim upon which relief can be granted.”
 - A 12(b)(6) dismissal challenges the merits of your complaint. By filing this motion, the United States claims that the “wrong” you have described in your complaint does not entitle you to any legal assistance. If a court finds this to be true, it will not award you damages – even if you can prove all of the facts alleged in your complaint.

- **How to Defend Against a 12(b)(6) – Motion to Dismiss**
 - **Always file a response to let the judge know that you oppose the motion.** You must check the local rules of the court to determine how much time you have to respond to the motion. Most local rules grant a party 20 days to respond to a motion to dismiss. If you fail to file a response within the time required by the local rule, the court is likely to consider the motion uncontested and *will ordinarily grant the motion without further notice.*
 - In addition to filing a response, you may also **amend** your complaint.
 1. **Amendment as of right.** You may *automatically* amend the complaint once – in accordance with Federal Rule of Civil Procedure 15(a) – before the United States makes a responsive pleading (i.e., **files an answer, not a motion to dismiss**).
 2. **Amendment by leave of court.** If the United States serves its answer or makes another responsive pleading, then you may amend your complaint only by obtaining the **permission** of the court.

- **If the complaint is dismissed in response to the U.S. motion, a court may give you the opportunity to amend your complaint and to refile it with the court. You may be able to cure a technically defective complaint by adding some missing information.**

- ❖ **Discovery:** If your complaint is not dismissed and your lawsuit continues, then you and the defendants will engage in a procedure known as “discovery.” Discovery is the process by which the plaintiff and the defendant exchange materials in order to “discover” the claims and defenses that each side has raised in the lawsuit. The purpose of discovery is to obtain enough facts and information from the United States so that you will be prepared for trial. *See generally Federal Rules of Civil Procedure 26-37 for information about discovery.*

- ❖ **Discovery** lasts for as little as two months or as much as two years, and generally includes the following:
 - **Interrogatories.** These are written answers about the case that you may submit to the United States and that the United States may submit to you. Answers to interrogatories must be given under oath, *i.e.*, the person answering the questions must swear under penalty of perjury that his answers are true. Consult Federal Rule of Civil Procedure 33 for more information about **interrogatories**.

- **Document Requests.** You and the United States may exchange written requests for documents about the case. Consult Federal Rule of Civil Procedure 34 for more information about **document requests**.
 - **Depositions.** In a deposition, one party asks oral questions of another party or a witness who is under oath. The deposition is usually conducted outside of the courtroom, and a transcript (a word-for-word account) is made of the proceedings. Consult Federal Rule of Civil Procedure 30 for more information about **depositions**.
 - **Requests for Admission.** These are written statements of facts about the case which you submit to the United States (or which the United States submits to you) and which must either be admitted or denied. Admitted statements are treated by the court as having been established and need not be proven at trial. Consult Federal Rule of Civil Procedure 36 for more information about requests for **admissions**.
- ❖ **Motions for Summary Judgment:** At the conclusion of discovery, you or the United States may file a motion for summary judgment. This motion asks the court to find that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. See Federal Rule of Civil Procedure 56.
- **If summary judgment is granted on all issues,** then judgment will be entered for the prevailing party and no trial will be held.
 - **If summary judgment is denied on some or all issues,** then a trial will be held to determine the remaining issues in dispute.
- ❖ **Trial:** Trial will be held in court before a judge. Consult your court's local rules and Federal Rules of Civil Procedure 38-53 for more information on how your trial may be conducted.
- ❖ **Post-trial motions:** The parties may file motions with the court after the trial to ask for a new trial or to request judgment as a matter of law on the basis of the evidence that was presented at trial. Consult Federal Rules of Civil Procedure 50 and 59 for more information on post-trial motions.
- ❖ **Appeal:** The court will enter a final **Judgment** on all claims at the conclusion of the trial and after the court decides any post-trial motions. The losing party has the right to appeal the final Judgment. Generally, the losing party must file a **Notice to Appeal within 30 days** after **Judgment** is entered, although this time may be extended if post-trial motions are filed. Consult the Federal Rules of Appellate Procedure for more information on how and when to file an appeal.

GOVERNMENT FORM 95

CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO.
1105-0008
EXPIRES 8-31-02

1. Submit To Appropriate Federal Agency:	2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code)
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3. TYPE OF EMPLOYMENT MILITARY CIVILIAN	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M)
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8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.)

9. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side)

10. PERSONAL INJURY/WRONGFUL DEATH

STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT

11. WITNESSES

NAME	ADDRESS (Number, street, city, State, and Zip Code)

12. (See instructions on reverse) AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)
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I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)	13b. Phone number of signatory	14. DATE OF CLAIM
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<p>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</p> <p>The claimant shall forfeit and pay to the United States the sum of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)</p>	<p>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</p> <p>Imprisonment for not more than five years and shall be subject to a fine of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 18 U.S.C.A. 287.)</p>
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PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.
A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims
C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

INSTRUCTIONS

Complete all items – Insert the word NONE where applicable

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item #12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT, THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

(b) In support of claims for damage to property which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to completely execute this form or to supply the requested material within two years from the date the allegations accrued may render your claim "invalid". A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

**Failure to specify a sum certain will result in invalid presentation of your claim
 And may result in forfeiture of your rights.**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or other aspect of this collection of information, including suggestions for reducing this burden,

to Director, Torts Branch
 Civil Division
 U.S. Department of Justice
 Washington, DC 20530

and to the
 Office of Management and Budget
 Paperwork Reduction Project (1105-0008)
 Washington, DC 20503

INSURANCE COVERAGE

In order that subrogation claims be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? Yes, if yes give name and address of insurance company (*Number, street, city, State, and Zip Code*) and policy number. No

16. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? 17. If deductible, state amount

18. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (*It is necessary that you ascertain these facts*)

19. Do you carry public liability and property damage insurance? Yes, If yes, give name and address of insurance carrier (*Number, street, city, State, and Zip Code*) No

SAMPLE FTCA COMPLAINT

[SAMPLE COMPLAINT: DO NOT SUBMIT]

UNITED STATES DISTRICT COURT
FOR THE
[_____] DISTRICT OF [_____]

- For example, Southern District of New York

[YOUR NAME])	
)	
Plaintiff,)	
)	
v.)	Case No. [_____]
)	• <i>Leave blank for now – Case</i>
)	<i>number will be filled in by</i>
)	<i>Clerk of Court</i>
UNITED STATES OF AMERICA)	
)	
Defendant.)	
)	
)	

COMPLAINT

JURISDICTION

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-80, as hereinafter more fully applies.
2. Jurisdiction is conferred upon this court by 28 U.S.C. § 1346(b).
3. Pursuant to 28 U.S.C. § 2675(a) the claim set forth herein was presented to **[specify the appropriate federal agency here, e.g., the Immigration and Naturalization Service]** on **[date your administrative complaint was filed]**.
4. **EITHER** The **[agency, e.g., INS]** denied the claim on **[insert date administrative claim was denied]**.
–OR–if the claim was not denied in writing:

More than six months before this action was instituted, the claim set forth herein was presented to **[insert agency name]**. Said agency having failed to make a final disposition of the claim within that time, plaintiff deems such failure to be a denial thereof.

- *Provide an account of proper filing and denial of your administrative claim with the agency.*

VENUE

5. Venue is proper in the [_____] District of [_____] pursuant to 28 U.S.C. § 1402(b).

PARTIES

6. Plaintiff **[your name]** is a citizen of **[your country]**. Plaintiff resides at **[your address]**, within the confines of this court. The alleged act or omission occurred in the [_____] District of [_____].

- *Establish that the court has jurisdiction based on your residency or the location of the government employee's act or omission.*

FACTS

7. On **[the date of the alleged act]**, plaintiff **[your name]** **[concisely explain what the government employee did to cause your injury, where, when and how the act or incident occurred]**.

- *Set forth the facts of your case, as a short and plain summary, in numbered paragraphs.*

8. At such time and place **[Government Employee's name(s)]** was/were an employee of the **[Agency name, e.g., Immigration and Naturalization Services]**, an agency of the United States of America, and was/were acted within the scope of employment.

9. As a result, plaintiff was **[concisely state your injury or the property damage you sustained]**.

- *Explain the extent of your injuries providing a basis for a damages award.*

10. If the defendant were a private person, it would be liable to the plaintiff in accordance with the law of the state of **[name the state where the court sits]**.

PRAYER

11. Wherefore plaintiff demands judgment against defendant in the sum of **[_____]** dollars and costs. **[Insert the requested dollar amount for damages—it must not be higher than the amount stated in your administrative claim].**

Respectfully Submitted,

-
- *Your or your Attorney's Signature*
 - *Your name printed*
 - *Your Address*
 - *City, State, Zip Code*

 - *DATE*

UNITED STATES DISTRICT COURT
FOR THE
_____ DISTRICT OF _____

)
)
)
Plaintiff,)
)
v.) Case No. _____
)
UNITED STATES OF AMERICA)
)
Defendant.)
)
_____)

COMPLAINT

JURISDICTION

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-80, as hereinafter more fully applies.

2. Jurisdiction is conferred upon this court by 28 U.S.C. § 1346(b).

3. Pursuant to 28 U.S.C. § 2675(a) the claim set forth herein was presented to _____
_____ on _____.

4. _____

8. At such time and place _____ was/were an employee of the _____, an agency of the United States of America, and acted within the scope of government employment.

9. As a result, plaintiff was _____

10. If the defendant were a private person, it would be liable to the plaintiff in accordance with the law of the state of _____.

PRAYER

11. Wherefore plaintiff demands judgment against defendant in the sum of _____ dollars and costs.

Respectfully submitted,

III. *BIVENS* CLAIMS: LAWSUITS AGAINST FEDERAL OFFICERS FOR VIOLATIONS OF YOUR CONSTITUTIONAL RIGHTS

A *Bivens* action is a lawsuit against individual employees of the federal government for money damages to remedy violations of the First, Fourth, Fifth, Sixth, and/or Eighth Amendment of the U.S. Constitution. A *Bivens* claim may not be brought against either a federal agency, *F.D.I.C. v. Meyer*, 510 U.S. 471 (1994), or against private corporations, *Correctional Services Corp. v. Malesko*, 534 U.S. 61 (2001). In some cases, however, an individual (plaintiff) may not be able to bring a *Bivens* suit because there are other statutory or administrative remedies available or because the defendant (individual officer) is immune from liability. All of these considerations are discussed below.

A. ORIGINS OF A *BIVENS* CLAIM

In *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the U.S. Supreme Court decided that plaintiffs could sue individual federal officers for money damages if they violated the plaintiff's constitutional rights.³ *Bivens* involved the violation of a prisoner's Fourth Amendment rights by agents of the Federal Bureau of Narcotics. The officers handcuffed the plaintiff in front of his family, searched his apartment, and took him to the courthouse for interrogation and a visual strip search. *Id.* at 389. The Supreme Court held that these facts entitled the prisoner to monetary damages from the agents who conducted the arrest and searches. In a *Bivens* complaint, a detainee may ask the court to award **BOTH compensatory damages** for injuries suffered due to the actions of a federal officer and **punitive damages** to punish the officer for her actions and to deter future unjust acts. *Carlson v. Green*, 446 U.S. 14, 21-22 (1980).

The *Bivens* case itself permitted a plaintiff to sue individual federal officers for violations of the Fourth Amendment. Today, courts also allow *Bivens* claims under the First, Fifth, Sixth, and Eighth Amendments even if state law would punish the officer for the same behavior.⁴ In bringing a *Bivens* action against individual federal officials, INS detainees should begin by alleging the following:

³ "... where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal courts may use any available remedy to make good the wrong done." 403 U.S. at 392 (quoting *Bell v. Hood*, 327 U.S. 678, 684 (1946)).

⁴ See *Bush v. Lucas*, 462 U.S. 367 (1983); *Carlson v. Green*, 446 U.S. 14 (1980); *Davis v. Passman*, 442 U.S. 228 (1979). See also *Kotarski v. Cooper*, 799 F.2d 1342 (9th Cir. 1986); *Jones v. City of Memphis*, 586 F.2d 622 (6th Cir. 1978), cert. denied, 440 U.S. 914 (1979).

- The actions of the individual officers violated the First, Fourth, Fifth, Sixth, and/or Eighth Amendment in a manner that is generally recognized by the courts.
- The individuals being sued are federal law enforcement officers who acted under the color of federal law.

Next, detainees should consider whether the individual officers are entitled to qualified or absolute immunity, thereby barring relief. Finally, plaintiffs should investigate whether there are alternative remedies that need to be exhausted before bringing a *Bivens* claim.

B. OFFICER ACTIONS GIVING RISE TO A *BIVENS* ACTION UNDER THE FEDERAL CONSTITUTION

1. *First Amendment*

The First Amendment protects the right to free speech and religious freedom. In *Bush v. Lucas*, 462 U.S. 367 (1983), the Supreme Court acknowledged that the First Amendment could give rise to a *Bivens* suit. Many of the First Amendment cases in the detention context involve interference with prisoners' mail or interference with a detainee's right to speak to or see certain individuals.

- **General legal standard:** Detainees enjoy the protections of the First Amendment but not at the expense of the security of other inmates or prison administration in general. *Thornburgh v. Abbott*, 490 U.S. 401 (1989).
- **But NOTE:**
 - Courts are **more reluctant** to recognize First Amendment rights for pretrial detainees as opposed to convicted inmates. *Procunier v. Navarette*, 434 U.S. 555, 564 n.11 (1978).
 - Courts will often consider INS detainees to be **pretrial detainees** because they are often awaiting deportation proceedings or hearings to determine their status rather than facing detention for a specified amount of time.
- **Outgoing mail.**
 - Legal standard: If an officer interfered with a detainee's outgoing mail, his/her actions must have been reasonable under *Turner v. Safley*, 482 U.S. 78 (1987). Courts consider the following factors in determining whether the government's reason for a mail restriction is acceptable.
 - Whether the government's reason for the restriction is based on the content of the expression. (**NOTE: if the interference is based on**

content, then the restriction is **UNREASONABLE** and the detainee is likely to be entitled to money damages).

- Whether the government regulation (restriction on mail) relates to the goal, i.e., is it sensible to use such a regulation to accomplish the government's goal.
 - Whether there are alternative regulations that would accomplish the same goals and would have a lesser effect on expression.
 - The effect of permitting the expression on others in the prison such as guards and other inmates.
 - There is strong First Amendment protection for outgoing mail. *Procunier v. Martinez*, 416 U.S. 396 (1974).
 - The detainee should win if a prison official interferes with outgoing mail.
 - In order to win, plaintiffs should characterize the regulation as unreasonable as well as unnecessary to achieve the stated purpose of the regulation because less burdensome regulations are available.
- Incoming mail.
 - Uses the same general legal standard as cases involving "outgoing mail."
 - These cases are more difficult to win, however, because of concerns for prison security. *Thornburgh v. Abbott*, 490 U.S. 401 (1989).
 - Examples of First Amendment violations:
 - Officers open mail.
 - Mail is delivered late.
 - No radios, books, or magazines allowed at the detention facility.
 - No mail allowed other than legal mail.
 - No access to personal mail.

2. *Fourth Amendment*

The Fourth Amendment protects individuals against unreasonable searches and seizures.

- **General legal standard:** A search or seizure violates the Fourth Amendment if it interferes with a person's legitimate expectation of privacy and security. In making this determination in the context of detainees, the courts will balance "the need for the particular search against the invasion of personal rights that the search entails." *Bell v. Wolfish*, 441 U.S. 520, 559 (1979).
- Factual situations under the Fourth Amendment.
 - Searching or removing detainees' belongings, including INS documents.
 - Stripping detainees of clothes and/or conducting a cavity check without a court order.

- Holding a detainee unreasonably. *Rhoden v. United States*, 55 F.3d 428 (9th Cir. 1995).
- Strip searches: “The law is clear that, although strip searches of prisoners may be reasonable under the Fourth Amendment, they must be conducted in such a manner as to protect inmates’ privacy rights to the extent possible given legitimate institutional security interests.” *Farmer v. Perrill*, 288 F.3d 1254, 1258 (10th Cir. 2002).
 - Officials may strip search detainees – like individuals arrested for minor offenses – **only** if there is a reasonable suspicion that the detainee is hiding weapons or contraband. *Kelly v. Foti*, 77 F.3d 819 (5th Cir. 1996).

3. *Fifth Amendment*

The Supreme Court has also recognized a *Bivens* cause of action arising from the Fifth Amendment’s due process clause. *Davis v. Passman*, 442 U.S. 228 (1979).

- **General legal standard:** Did the officer deprive the plaintiff of life, liberty, or property without due process?
- What is due process?
 - Due process generally requires notice and an opportunity to be heard.
 - Therefore, an administrative hearing or a court proceeding may be required before federal officers take some actions against detainees.
 - Also, in some cases, detainees must be provided with an opportunity to complain – a hearing or grievance mechanism – about an officer’s action.
 - Whether a due process claim will be successful, according to *Parratt v. Taylor*, 451 U.S. 527, 543-44 (1981), can be answered by asking the following question: were the officer’s actions **negligent**?
 - **IF YES:** money damages may **NOT** be collected under *Bivens*. The reason for this is simple: negligent conduct by a government official, even though causing injury, does **NOT** constitute a *deprivation* under the Due Process Clause. *Daniels v. Williams*, 474 U.S. 327, 331 (1986). A detainee may, however, be able to sue the United States, in accordance with state tort law, under the FTCA.
 - **IF NO:** the plaintiff may be able to win and recover monetary compensation under *Bivens* even if the actions were random and unauthorized.
 - As a result, *Bivens* actions under the Fifth Amendment’s Due Process clause are **rarely** successful.
 - In order to make a successful due process claim, detainees therefore should **always** try to prove that the deprivation of a life, liberty, or

process could have been **prevented** by a better-designed government regulation or procedure.

- Administrative situations potentially violating the Due Process Clause:
 - Complaints never resolved.
 - Ineffective procedures for bringing complaints.
 - Improper disciplinary procedures.
 - Pay for labor is delayed.

- Claims **unlikely** to succeed under the Fifth Amendment.
 - Complaints concerning the type of facility in which a prisoner is housed. *See Lato v. Attorney General*, 773 F. Supp. 973 (W.D. Tex. 1991).
 - Complaints challenging prison conditions **unless** the detainee has been deprived of essential items, such as food, shelter, clothing, or medical care. *See, e.g., Ortega v. Rowe*, 796 F.2d 765 (5th Cir. 1986); *Brown v. McElroy*, 160 F. Supp. 2d 699 (S.D.N.Y. 2001); *Oladipupo v. Austin*, 104 F. Supp. 2d 643 (W.D. La. 2000).
 - Complaints alleging that an individual should have been assigned to a different detention facility than the one in which she is held. *Olim v. Wakinekona*, 461 U.S. 238 (1983).
 - Complaints alleging that a detainee has been held for a long period of time without a hearing. **Instead**, detainees should ask for a *writ of habeas corpus* as discussed below with regard to the Sixth Amendment.

- Claims that a detainee has been subject to *cruel and unusual punishment* are often brought under the Fifth Amendment.⁵
 - Deciding to use the Eighth Amendment as opposed to the Fifth Amendment depends on whether the detainee has been convicted of a crime.
 - Use the Fifth Amendment if the detainee is considered a pretrial detainee (i.e., awaiting a deportation hearing or deportation).
 - Use the Eighth Amendment for detainees convicted of crimes who are or were held in prison.
 - Pretrial prisoners, such as INS detainees awaiting deportation, must bring claims about poor prison conditions under the Fifth Amendment's due process clause **rather than** the Eighth Amendment's cruel and unusual punishment provision. *See Bell v. Wolfish*, 441 U.S. 520 (1979).⁶

⁵ Further discussion of the Eighth Amendment is provided below.

⁶ INS detainees who are being held for deportation are considered to be the equivalent of a pretrial detainee. *See Ortega v. Rowe*, 796 F.2d 765, 767 (5th Cir. 1986). *cert. denied*, 481 U.S. 1013 (1987).

- Fifth Amendment Due Process Clause claims also include complaints that involve issues of Equal Protection.⁷
 - **General legal standard:** A plaintiff must allege that he or she was treated differently than other detainees on the basis of some impermissible factor, such as race, sex, or religion.
 - Equal Protection Clause/Due Process Clause claims require that the plaintiff prove three elements:
 1. He was treated differently than other prisoners based on some characteristic.
 2. The characteristic was not an acceptable basis for discriminating between inmates, *e.g.*, race, sex, or religion.
 3. Because of the differential treatment, he suffered some injury.
 - Examples of Equal Protection Clause cases:
 - A Hindu prisoner brought a *Bivens* claim because the prison allegedly accommodated the dietary needs of Moslem and Jewish inmates but failed to accommodate his own dietary needs. *See Patel v. Wooten*, 15 Fed. Appx. 647 (10th Cir. 2001). The impermissible factor (discrimination) involved in the prisoner’s treatment was religion.
 - An African-American prisoner alleged that he was denied prison job assignments as a result of his race and physical handicap. Though his *Bivens* claim was denied because the officers’ actions were found not to have been discriminatory, the court noted that the Fifth Amendment prohibited prison officials from discriminating against him on the basis of race or handicap in deciding what job to assign him. *Williams v. Meese*, 926 F.2d 994, 998 (10th Cir. 1991).

4. *Sixth Amendment*

The Sixth Amendment provides certain protections to defendants in criminal trials. In particular, the Sixth Amendment requires that criminal defendants have the assistance of legal counsel **both** before and during trial. *Maine v. Moulton*, 474 U.S. 159, 170 (1985). Aliens enjoy the protections of the Sixth Amendment “in all criminal prosecutions.” *Wong Wing v. United States*, 163 U.S. 228, 238 (1896). However, the Sixth Amendment does not apply to deportation proceedings, which are considered civil actions. *See Chowdhury v. Ashcroft*, 241 F.3d 848, 854 (7th Cir. 2001); *Montell v. Immigration & Naturalization Service*, 798 F.2d 124, 127 (5th Cir. 1986); *Mohsseni Behbahani v. Immigration & Naturalization Service*, 796 F.2d 249, 251 (9th Cir. 1986).⁸ All *Bivens* actions involving defects in a

⁷ The Due Process Clause of the Fifth Amendment extends the same protections to individuals injured by acts of the federal government that the Equal Protection Clause of the Fourteenth Amendment provides to those injured by state government actions.

⁸ Though no Supreme Court case has decided this issue, the circuit courts are in agreement on this point.

deportation proceeding should be brought under the Fifth Amendment rather than the Sixth Amendment. Consequently, few *Bivens* claims have been brought under the Sixth Amendment.

- **Questions to ask:**
 - Was the detainee deprived of legal counsel or a proper trial in a criminal prosecution? If yes, a Sixth Amendment violation has occurred – thus a *Bivens* claim would be possible.
 - Were the detainee’s rights violated in a deportation proceeding? If yes, the Sixth Amendment does **NOT** apply. The detainee instead should ask for a *writ of habeas corpus* (request that the court free her) instead of a *Bivens* action.
- Most Sixth Amendment cases in the detainee context pertain to **the right of access to the courts.**
 - This “requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from the persons trained in the law.” *Bounds v. Smith*, 430 U.S. 817, 828 (1977).
 - This right does **not** guarantee a “right to state-financed resources where state-financed legal assistance is available,” *Spates v. Manson*, 644 F.2d 80, 85 (2d Cir. 1981), and the detainee must show that “the alleged shortcomings in the library or legal assistance program *hindered his efforts to pursue a legal claim.*” *Lewis v. Casey*, 518 U.S. 343, 351 (1996).

5. *Eighth Amendment*

In *Carlson v. Green*, 446 U.S. 14 (1980), the Supreme Court recognized a *Bivens* claim under the Eighth Amendment. A detainee may make an Eighth Amendment claim **only** if she was convicted of a crime and spent time in prison.

- **Legal standard:** Did the officer’s actions constitute **deliberate indifference** to the health and safety of the detainee?
 - Deliberate indifference requires that “the official knows of or disregards an excessive risk to inmate health and safety.” *Farmer v. Brennan*, 511 U.S. 825, 836 (1994).
- Factual examples of cases.
 - Detainee has a particular medical condition, and the officers do not permit him proper treatment (e.g., insulin for diabetes). *Hill v. Marshall*, 962 F.2d 1209 (6th Cir. 1992).
 - A detainee is assaulted, and the officers “had knowledge about the substantial risk of serious harm to a particular class of persons.” *Taylor v. Michigan Department of Corrections*, 69 F.3d 76, 81 (6th Cir. 1995).

C. STATE OFFICERS “ACTING UNDER COLOR OF FEDERAL LAW”

Bivens actions may only be brought against officers “acting under color of federal law.” If it is clear that the defendant is a federal officer, then detainees do not have to worry about this element of *Bivens* actions. However, if a facility housing INS detainees employs state or local officers, a detainee must show that the federal agency has sufficient control over the officer to make her a federal officer.

- **General legal standard:** Detainees must demonstrate a close relationship between the individual defendants and the federal agency (the INS). See *West v. Atkins*, 487 U.S. 42 (1988) (involving the definition of “acting under color of state law” for a claim under 42 U.S.C. § 1983); *Blum v. Yaretsky*, 457 U.S. 991 (1982).
- This *close relationship* can be demonstrated by examining a number of factors, including whether the officer:
 - Reported to or is responsible to a federal agency or officer.
 - Received instruction and/or training from the federal agency.
 - Performed functions traditionally carried out by the federal agency.
- **CAUTION:** If there is **any doubt** about whether the individual responsible for a detainee’s injuries is a federal officer – as opposed to a state or local officer – then the detainee should bring **BOTH** a 42 U.S.C. § 1983 claim **AND** a *Bivens* claim. Section 1983 was specifically designed to provide protections to individuals for acts committed by state or local government officials. The sample *Bivens* complaint provided in this Handbook may also be used to file a § 1983 claim. For more information on the relationship between *Bivens* and a § 1983 claim, see § IV of this Handbook.

D. IMMUNITY FOR FEDERAL OFFICERS

An individual officer may be able to assert that she is *immune* from liability, thereby preventing an otherwise valid *Bivens* claim. In such cases, even if the court agrees that the detainee’s constitutional rights were violated, the detainee will be unable to collect damages.

- Two kinds of immunity are relevant to *Bivens* actions:
 - **Qualified Immunity:** law enforcement officers, such as the officers that run INS detention centers, are usually entitled to qualified immunity. See *Butz v. Economou*, 438 U.S. 478 (1978).
 - **Absolute Immunity:** prosecutors and the administrators who decide whether a detainee may have a hearing or when the hearing is to be scheduled are generally entitled to absolute immunity.

1. *Qualified Immunity for Prison Officials*

Federal officers, such as INS agents, who work in INS detention centers are covered by qualified immunity.

- **General legal standard:** Officers protected by qualified immunity will only be liable for *Bivens* claims if they violated a *clearly established constitutional right*.⁹ *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).
- **“Clearly established constitutional right”:**
 - “For a constitutional right to be clearly established, its contours must be sufficiently clear that a *reasonable official* would understand that what he is doing violates that right.” *Hope v. Pelzer*, 122 S. Ct. 2508, 2515 (2002) (emphasis added).
 - For example, in order to make a successful claim under the Eighth Amendment’s cruel and unusual punishment clause, a detainee must prove that a reasonable prison official would understand that his actions amounted to **deliberate indifference** for the safety of the detainee. In a recent case, the Supreme Court found that the use of a hitching post as a means of punishing detainees constituted deliberate indifference. Specifically, the Court found that because previous court cases, a Department of Corrections regulation, and a Department of Justice report informed prison officials that using a hitching post violated the Eighth Amendment, a reasonable person would have known that using such punishment violated a *clearly established constitutional right*. *Id.* at 2616-18.

2. *Absolute Immunity*

- **General legal standard:** Federal officers and officials will not be held liable for any decisions regarding whether or when to give a detainee an administrative hearing.
- Officials working within the INS administrative (rather than law enforcement) system (i.e., decisionmakers) are usually protected by absolute immunity rather than qualified immunity.
- As these officials perform functions similar to prosecutors, they will not be liable in a *Bivens* action for any of their discretionary decisions, such as deciding in which facility to place a particular detainee. *See Cleavinger v. Saxner*, 474 U.S. 193 (1985); *Yaselli v. Golf*, 275 U.S. 503 (1927).

⁹ In *Bivens* cases, the Supreme Court has adopted the same immunity rules used in cases brought under 42 U.S.C. § 1983.

E. EXHAUSTION OF ALTERNATIVE REMEDIES

In some situations, courts require plaintiffs to use other remedies to address their complaint before bringing a *Bivens* action in federal court. Exhaustion is required because it serves two purposes: (1) protective administrative agency authority; and (2) promoting judicial authority. *McCarthy v. Madigan*, 503 U.S. 140, 145 (1992). As a result, if an administrative agency, such as the INS, has internal processes addressing the plaintiff's complaint, a court may require the plaintiff to use those procedures before bringing a *Bivens* action.

- **Exhaustion for INS Detainees**
 - INS detainees who are being held in federal detention centers and who are suing INS officials can bring *Bivens* actions without exhausting any other administrative remedies, including internal INS procedures. *See, e.g., Edwards v. Johnson*, 209 F.3d 772 (5th Cir. 2000).
 - As Congress has not specifically mandated that INS detainees exhaust (use) their administrative remedies before bringing a *Bivens* claim, it is likely that detainees do not have to exhaust (use) other available administrative remedies prior to filing suit in federal court under *Bivens*.¹⁰

F. INITIATING A *BIVENS* COMPLAINT IN FEDERAL COURT

***** **File the *Bivens* complaint with the appropriate court – a list of U.S. district courts is attached in **Appendix A**. The complaint must contain **ONLY TRUTHFUL** statements. Also complete the following:**

1. *Pay all applicable fees.* The filing fee will vary depending on the U.S. district court in which you file your complaint steps:
 - **If you cannot afford to pay the applicable filing fees, you may apply to the court to proceed *In Forma Pauperis* – a formal request to the court to excuse the payment of the necessary filing fees as well as other legal costs. If the court approves your application, you may proceed in court without having to pay the filing fee or other costs.**

¹⁰ Whether a plaintiff must exhaust her administrative remedies prior to bringing a *Bivens* claim is a complex legal question that remains undecided by the Supreme Court. *Compare Whitley v. Hunt*, 158 F.3d 882 (5th Cir. 1998) (finding exhaustion to be unnecessary in *Bivens* claims brought for monetary damages because federal prison regulations do not allow for administrative review at all if the federal prisoner seeks damages), *with Alexander v. Hawk*, 159 F.3d 1321, 1325 (11th Cir. 1998) (requiring the exhaustion of administrative remedies even though the federal prison system denies review in such money damages cases).

It is highly recommended that you apply for this status at the same time that you file your complaint.

- The forms necessary to proceed *In Forma Pauperis* are provided in **Appendix B**.
 - **First**, fill out the **Motion to Proceed *In Forma Pauperis***.
 - **Second**, fill out the **Prisoner Certificate**.
 - **Third**, fill out the **Trust Account Withdrawal Authorization**.
 - Send these forms to the court with your *Bivens* complaint. The court will then review your application to determine whether you must pay the costs. If a court does not believe that you are telling the truth about your financial status, it may hold a hearing or require you to submit additional proof of your financial status.
 - **Finally, if the court denies your application**, the decision is appealable pursuant to 28 U.S.C. § 1291.
2. **Request a copy of the court's local rules.**
 3. **Complete all other necessary paperwork as instructed by the local rules or the clerk (e.g., summons, civil cover sheet, etc.).**
 4. **Legal Assistance.** *Bivens* suits are civil actions. Consequently, there is no guarantee that an attorney will represent you if you are unable to afford one. 28 U.S.C. § 1915(e)(1). However, you may request that the court appoint a lawyer for you. File the sample *Motion for the Appointment of Counsel* provided in **Appendix C** when you file your complaint. The court will then decide whether or not to provide a lawyer to you.

G. WHAT MAY HAPPEN AFTER YOU FILE YOUR COMPLAINT

- ❖ **Motion To Dismiss:** After you file your suit, the defendant may immediately file a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b). Specifically, the defendant is likely to file the motion to dismiss pursuant to 12(b)(6) – “for failure to state a claim upon which relief can be granted.”
 - A 12(b)(6) dismissal challenges the merits of your complaint. By filing this motion, the officer claims that the “wrong” you have described in your complaint does not entitle you to any legal assistance. If a court finds this to be true, it will not award you damages – even if you can prove all of the facts alleged in your complaint. Furthermore, if a court

grants this motion, your suit will be dismissed – you will not be able to present your case to a jury.

- **How to Defend Against a 12(b)(6) – Motion to Dismiss**
 - **Always file a response to let the judge know that you oppose the motion.** You must check the local rules of the court to determine how much time you have to respond to the motion. Most local rules grant a party 20 days to respond to a motion to dismiss. If you fail to file a response within the time required by the local rule, the court is likely to consider the motion uncontested and *will ordinarily grant the motion without further notice.*
 - Besides filing a response, you may also **amend** your complaint.
 1. **Amendment as of right.** You may *automatically* amend the complaint once – in accordance with Federal Rule of Civil Procedure 15(a) – before the United States makes a responsive pleading (i.e., **files an *answer to the complaint, not a motion to dismiss.***
 2. **Amendment by leave of court.** If the defendant serves his answer or makes another responsive pleading, then your complaint may be amended only with the court’s **permission.**

- **If the complaint is dismissed in response to the defendant’s motion,** a court may give you the opportunity to amend your complaint and to refile it with the court. You may be able to cure a technically defective complaint by adding some missing information.

- ❖ **Discovery:** If your complaint is not dismissed and your lawsuit continues, then you and the defendants will engage in a procedure known as “discovery.” In discovery, the plaintiff and the defendant exchange materials in order to “discover” the claims and defenses that each side has raised in the lawsuit. The purpose of discovery is to obtain enough facts and information from your opponent so that you will be prepared for trial. *See generally Federal Rules of Civil Procedure 26-37* for information about **discovery.**

- ❖ **Discovery** lasts for as little as two months or as much as two years, and generally includes the following:
 - **Interrogatories.** These are written answers about the case that you may submit to your opponent and that your opponent may submit to you. Answers to interrogatories must be given under oath, *i.e.*, the person answering the questions must swear under penalty of perjury that his answers are true. Consult Federal Rule of Civil Procedure 33 for more information about **interrogatories.**

- **Document Requests.** You and your opponent may exchange written requests for documents about the case. Consult Federal Rule of Civil Procedure 34 for more information about **document requests**.
 - **Depositions.** In a deposition, one party asks oral questions of another party or a witness who is under oath. The deposition is usually conducted outside of the courtroom, and a transcript (a word-for-word account) is made of the proceedings. Consult Federal Rule of Civil Procedure 30 for more information about **depositions**.
 - **Requests for Admission.** These are written statements of facts about the case which you submit to your opponent (or which your opponent submits to you) and which must either be admitted or denied. The court treats admitted statements as having been established and need not be proven at trial. Consult Federal Rule of Civil Procedure 36 for more information about requests for **admissions**.
- ❖ **Motions for Summary Judgment:** At the conclusion of discovery, you or your opponent may file a motion for summary judgment. This motion asks the court to find that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. See Federal Rule of Civil Procedure 56.
- **If summary judgment is granted on all issues,** then judgment will be entered for the prevailing party and no trial will be held.
 - **If summary judgment is denied on some or all issues,** then a trial will be held to determine the remaining issues in dispute.
- ❖ **Trial:** Trial will be held in court before a judge and/or a jury. Consult your court's local rules and Federal Rules of Civil Procedure 38-53 for more information on how your trial may be conducted.
- ❖ **Post-trial motions:** The parties may file motions with the court after the trial to ask for a new trial or to request judgment as a matter of law on the basis of the evidence that was presented at trial. Consult Federal Rules of Civil Procedure 50 and 59 for more information on post-trial motions.
- ❖ **Appeal:** The court will enter a final **Judgment** on all claims at the conclusion of the trial and after the court decides any post-trial motions. The losing party has the right to appeal the final **Judgment**. Generally, the losing party must file a **Notice to Appeal** within 30 days after **Judgment** is entered, although this time may be extended if post-trial motions are filed. Consult the Federal Rules of Appellate Procedure for more information on how and when to file an appeal.

SAMPLE *BIVENS* COMPLAINT

[SAMPLE COMPLAINT: DO NOT SUBMIT]

UNITED STATES DISTRICT COURT
FOR THE

[] DISTRICT OF []

- *For example, Southern District of New York*

[YOUR NAME])
)
)
 Plaintiff,)
)
 v.) Case No. []
) • *Leave blank for now –*
) *Case number will be filled in*
) *by Clerk of Court*
)
 [NAME(S) OF INDIVIDUAL)
 OFFICER(S)].)
)
 Defendant,)
)
 _____)

COMPLAINT

JURISDICTION

1. This action arises under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

2. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331.

3. The Court has personal jurisdiction over the defendant because the alleged incidents occurred within the confines of this Court.

- *Explain in what specific facility the incidents occurred, i.e., the name of the facility and city/state so that it is clear that the incidents occurred within the court's jurisdiction.*

VENUE

4. Venue is proper in the [_____] District of [_____] pursuant to 28 U.S.C. § 1391.

- *Same court as at the top of the first page of the complaint.*

PARTIES

5. Plaintiff **[your name]** is a citizen of **[your country]**. Plaintiff resides at **[your address]**, within the confines of this court.

6. Defendants **[names of defendant(s)/government employee(s)]** were employees of the **[name of federal agency, e.g., the Immigration and Naturalization Service]**, an agency of the United States of America, and acted within the scope of federal employment, at the time of the incident.

- *If there is a question about whether the defendant is a federal officer – i.e., the defendant is a state or county employee – then this part of the complaint should contain more details. For example, explain that the defendant should be considered an agent/employee of the INS or other federal agency because he was acting under federal guidelines or at the instruction of federal officials.*

FACTS

7. On **[date of incident]**, defendants, **[names of defendants]**, **[generally explain what the government employee did that gave rise to a constitutional violation(s)]**.

8. As a result of these unconstitutional actions by defendants, plaintiff was **[explain the injuries that resulted from defendant's actions. Use more than one numbered paragraph if multiple injures resulted from defendant(s)'s actions]**.

CAUSES OF ACTION

- *If there is more than one constitutional violation, it may be easier to separate them from each other. Briefly explain each constitutional violation using the specific facts related to that violation and the legal basis for finding a violation. Only list those constitutional violations that apply to your case.*

First Amendment Freedom of Speech & Religion

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech.” U.S. Const. amend. I.

9. **[If applicable, explain what the government did to violate your freedom of expression.]**

- *Could the officer have protected prison safety without violating plaintiff's right to freedom of expression and freedom of religion as much?*

Fourth Amendment Unlawful Search and/or Seizure

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and now warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV

10. **[If applicable, explain why the defendant's actions constitute an unlawful search and/or seizure.]**

- *The court will balance the need for the search against the individual's right to privacy.*
- *How reasonable was the officer's search or seizure in light of the need for prison safety and plaintiff's right to privacy?*

Fifth Amendment Due Process/Equal Protection Clause

“No person shall . . . be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

11. **[If applicable, explain why defendant(s) actions constituted deprivation of life, liberty, or property without due process. NOTE: was it possible to prevent the actions with process?]**

- *Were you denied a right to a hearing, to counsel, or to other constitutional rights without a hearing?*
- *Were you discriminated against because of your religion, race, sex, or national origin? These Equal Protection claims **MUST BE INCLUDED HERE**.*
- *Pretrial detainees should also include claims under the Cruel and Unusual Punishment Clause of the Eighth Amendment.*

Sixth Amendment

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . .” U.S. Const. amend. VI

12. **[If applicable, explain why you were denied the right to counsel or legal materials or access to the courts. NOTE: This Amendment does NOT apply to deportation proceedings]**

Eighth Amendment Cruel and Unusual Punishment

“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amend. VIII.

13. **[If applicable, explain why the government employee’s actions constitute cruel and unusual punishment. Did the officers show *deliberate indifference* to your health or safety?] [NOTE: For pretrial detainees, these claims should be included under the Fifth Amendment Due Process Clause.]**

- *Did the officer know of a risk to an inmate that he purposefully ignored?*

PRAYER

14. Wherefore plaintiff demands judgment against defendant(s) in the sum of \$ [____] dollars and costs.

JURY DEMAND

15. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff [**your name**] hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

-
- *Your Signature or Your Attorney's Signature*
 - *Your name printed*
 - *Your Address*
 - *City, State, Zip Code*

 - *DATE*

UNITED STATES DISTRICT COURT
FOR THE
_____ DISTRICT OF _____

Plaintiff,

v. _____ Case No. _____

Defendant,

COMPLAINT

JURISDICTION

1. This action arises under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).
2. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331.
3. The Court has personal jurisdiction over the defendant because the alleged incidents occurred within the confines of this Court.

VENUE

4. Venue is proper in the _____ District of _____ pursuant to 28 U.S.C. § 1391.

8. As a result of these unconstitutional actions by defendants, plaintiff was _____

CAUSES OF ACTION

**First Amendment
Freedom of Speech & Religion**

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech.” U.S. Const. amend. I.

9. _____

**Fourth Amendment
Unlawful Search and/or Seizure**

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and now warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV

10. _____

**Fifth Amendment
Due Process/Equal Protection Clause**

“No person shall . . . be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.

11. _____

_____.

Sixth Amendment

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . .” U.S. Const. amend. VI

12. _____

_____.

**Eighth Amendment
Cruel and Unusual Punishment**

“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amend. VIII.

13. _____

_____.

PRAYER

14. Wherefore plaintiff demands judgment against defendant(s) in the sum of \$ ____dollars and costs.

JURY DEMAND

15. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff _____
_____ hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

IV. Relationship Between FTCA, *Bivens*, and § 1983 Claims

- ❖ Detainees may be able to make a FTCA claim against the United States **AND** *Bivens* action **AND/OR** a 42 U.S.C. § 1983 claim against individual officers on the basis of the same incident or factual situation. FTCA claims are brought against the federal government under state tort law. The FTCA is designed to provide monetary compensation for wrongful acts or failures to act that result in personal injury or property loss or damage. *Bivens* and § 1983 claims provide monetary compensation for violations of constitutional rights. *Bivens* claims are made against federal officials or officers, while § 1983 claims are brought against state or local officials or officers.
- ❖ Once an individual obtains a FTCA judgment against the United States, however, *Bivens* actions against individual federal defendants based on the same acts and events are prohibited. Accepting any FTCA judicial award, compromise, or settlement “shall be *final and conclusive* on the claimant, and shall constitute a complete release of any claim against the United States and against the employee whose act gave rise to the claim based on the same subject matter.” *Serra v. Pichardo*, 786 F.2d 237, 239-40 (6th Cir. 1986) (emphasis added).
- ❖ A detainee who files *Bivens* and FTCA claims based on the same facts **MUST ASK** the court to try the *Bivens* claims in front of the jury **BEFORE** a decision is rendered or a judgment is entered with regard to the FTCA claims. The reason for this is simple: if a decision is rendered or a judgment is entered with regard to the FTCA claims, the *Bivens* claim is immediately **BARRED**. As a result, the detainee will be **UNABLE TO RECEIVE ANY DAMAGES** from the *Bivens* claim. See, e.g., *Rodriguez v. Handy*, 873 F.2d 814, 816 (5th Cir. 1989); *Arevalo v. Woods*, 811 F. 2d 487, 490 (9th Cir. 1987); *Serra v. Pichardo*, 786 F.2d 237, 241 (6th Cir. 1986).
- ❖ Refer to the Handbook's *Bivens* section at **page III-8** for more information on the relationship between *Bivens* and 42 U.S.C. § 1983 claims.
- ❖ **IT IS ADVISABLE THAT DETAINEES OBTAIN A LAWYER TO ASSIST WITH THEIR CASES AS THIS HANDBOOK DOES NOT SUBSTITUTE FOR ACTUAL LEGAL ADVICE OR REPRESENTATION.**

APPENDIX A: ADDRESSES OF
ALL U.S. DISTRICT COURTS

Addresses of all U.S. District Courts
(Clerks' Offices)

Alabama

Northern District of Alabama

140 U.S. Courthouse
1729 5th Ave. North
Birmingham, AL 35203
205-278-1700

Middle District of Alabama

206 U.S. Courthouse
15 Lee St.
P.O. Box 711 (36101-0711)
Montgomery, AL 36104
334-954-3600

Southern District of Alabama

U.S. Courthouse
113 St. Joseph St.
Mobile, AL 36602-3621
251-690-2371

Alaska

District of Alaska

Fed Bldg. & U.S. Courthouse
222 W. 7th Ave., Rm. 229
Anchorage, AK 99513-7564
907-677-6100

Arizona

District of Arizona

130 O'Connor U.S. Courthouse
401 W. Washington St.
Phoenix, AZ 85003-2118
602-322-7200

405 W. Congress St.
Suite 1500
Tucson, AZ 85701-5010
520-205-4200

Arkansas

Eastern District of Arkansas

402 U.S. Courthouse
600 W. Capitol Ave.
Little Rock, AR 72201-3325
501-604-5351

Western District of Arkansas

S. 6th & Rogers Ave. (72901)
P.O. Box 1547
Ft. Smith, AR 72902-1547
501-783-6833

500 Stateline Ave. (71854)
P.O. Box 2746
Texarkana, AR 75504-2746
870-773-3381

100 Reserve St. (71901)
P.O. Drawer 6406
Hot Springs, AR 71902
501-623-6411

101 S. Jackson (71730)
P.O. Box 1566
El Dorado, AR 71731-1566
870-862-1202

510 Federal Bldg.
35 E. Mountain (72701)
P.O. Box 6420
Fayetteville, AR 72702-6420
501-521-6980

California

Northern District of California

Burton U.S. Courthouse
P.O. Box 36060
450 Golden Gate Ave.
San Francisco, CA 94102-3489
415-522-2000

2112 U.S. Courthouse
280 S. First St.
San Jose, CA 95113
408-535-5364

Federal Building and U.S. Courthouse
1301 Clay St., Ste. 400 South
Oakland, CA 94612-5212
510-637-3530

Eastern District of CA
U.S. Courthouse
501 I St., Suite 4-200
Sacramento, CA 95814-2322
916-930-4000

5000 U.S. Courthouse
1130 "O" St.
Fresno, CA 93721
559-498-7483

Central District of CA
G-8 U.S. Courthouse
312 N. Spring St.
Los Angeles, CA 90012
213-894-1565

Reagan Fed. Bldg. & Courthouse
411 W. Fourth St.
Santa Ana, CA 92701
714-338-4570

3470 Twelfth St.
Riverside, CA 92501
909-328-4450

Southern District of CA
4290 U.S. Courthouse
880 Front St.
San Diego, CA 92101-8900
619-557-5600

Colorado
District of Colorado
C-226 U.S. Courthouse
1929 Stout St.
Denver, CO 80294
303-844-3433

Connecticut
District of Connecticut
450 Main St.
Hartford, CT 06103
860-240-3200

141 Church St.
New Haven, CT 06510
203-773-2140

915 Lafayette Blvd.
Bridgeport, CT 06604
203-579-5861

Delaware
District of Delaware
U.S. Courthouse (Lockbox 18)
844 King St.
Wilmington, DE 19801-3570
302-573-6170

District of Columbia
E. Barrett Prettyman U.S. Courthouse
333 Constitution Ave., NW
Washington, DC. 20001-2802
202-354-3050

Florida
Northern District of FL
U.S. Courthouse
1 N. Palafox St.
Pensacola, FL 32501
850-435-8440

U.S. District Court
111 N. Adams St.
Tallahassee, FL 32301-7717
850-521-3501

243 Federal Bldg.
401 SE First Ave.
Gainesville, FL 32601-6805
352-380-2400

Middle District of FL
Sam M. Gibbons U.S. Courthouse
801 N. Florida Ave. #223
Tampa, FL 33602-3800
813-301-5400

U.S. Courthouse
311 W. Monroe St. #110
Jacksonville, FL 32202
904-549-1900

Young U.S. Courthouse & Fed. Bldg.
80 N. Hughey Ave. #300
Orlando, FL 32801-2278
407-835-4200

U.S. Courthouse & Fed. Bldg.
2110 First St., #2-194
Ft. Myers, FL 33901
941-461-2000

Golden-Collum Memorial
Federal Bldg. & Courthouse
207 N.W. Second Ave.
Ocala, FL 34475
352-369-4860

Southern District of FL
Federal Courthouse Square
301 N. Miami Ave., Ste. 150
Miami, FL 33128
305-523-5100

299 E. Broward Blvd. Rm. 108
Ft. Lauderdale, FL 33301
954-769-5400

Rogers Fed. Bldg. & U.S. Courthouse
701 Clematis St., Rm. 402
W. Palm Beach, FL 33401
561-803-3400

Georgia

Northern District of GA
2211 Russell Federal Building
U.S. Courthouse
75 Spring St., SW
Atlanta, GA 30303-3361
404-215-1660

Federal Building
121 Spring St., S.E
Room 201
Gainesville, GA 30501
678-450-2760

18 Greenville St.
Newnan, GA 30264
678-423-3060

U.S. Courthouse
P.O. Box 1186
Rome, GA 30161-1186
706-291-5629

Middle District of GA
U.S. Courthouse
475 Mulberry St., Suite 216

P.O. Box 128 (31202)
Macon, GA 31201
478-752-3497

U.S. Post Office Bldg.
345 Broad Ave., Suite 106
Albany, GA 31701
229-430-8432

115 E. Hancock Avenue
P.O. Box 1106
Athens, GA 30601
706-227-1094

120 12th Street
P.O. Box 124
Columbus, GA 31902
706-649-7816

404 N. Broad Street
Thomasville, GA 31792
229-226-3651

401 N. Patterson Street, Suite 212
P.O. Box 68
Valdosta, GA 31601
229-242-3616

Southern District of GA
P.O. Box 8286 (31412-8286)
125 Bull St., Rm. 306
Savannah, GA 31401
912-650-4020

500 E. Ford St.
P.O. Box 1130 (30903)
Augusta, GA 30901
706-849-4400

801 Gloucester St. (31520)
P.O. Box 1636
Brunswick, GA 31521
912-280-1330

125 Bull Street, Room 237
Savannah, Georgia 31401
912-650-4020

501 East Ford Street , Third Floor
Augusta, Georgia 30901
706-849-4400

801 Gloucester Street, Third Floor
Brunswick, Georgia 31520
912-280-1330

Guam

District of Guam

4th Fl., U.S. Courthouse
520 West Soledad Ave.
Hagatna, Guam 96910
671-473-9100

Hawaii

District of Hawaii

C-338 U.S. Courthouse
300 Ala Moana Blvd.
Honolulu, HI 96850-0338
808-541-1300

Idaho

District of Idaho

U.S. Courthouse
550 W. Fort St., MSC 039
Boise, ID 83724
208-334-1361

U.S. Courthouse
801 E. Sherman St.
Pocatello, ID 83201
(208) 478-4123

U.S. Courthouse
220 E. 5th St. - Rm 304
Moscow, ID 83843
(208) 882-7612

U.S. Courthouse
205 N 4th - Rm 202
Couer d'Alene, ID 83814
(208) 664-4925

Illinois

Northern District of Illinois

Dirksen Building
219 S. Dearborn St.
Chicago, IL 60604
312-435-5670

252 Federal Building
211 S. Court St.

Rockford, IL 61101
815-987-4354

Central District of IL

151 Federal Bldg.
600 East Monroe St.
Springfield, IL 62701
217-492-4020

309 Federal Bldg.
100 N.E. Monroe St.
Peoria, IL 61602
309-671-7117

218 U.S. Courthouse
201 S. Vine St.
Urbana, IL 61802
217-373-5830

Southern District of IL

Federal Courthouse
750 Missouri Ave.
P.O. Box 249 (62202)
East St. Louis, IL 62201
618-482-9371

U.S. Courthouse
301 W. Main St.
Benton, IL 62812
618-439-7760

Indiana

Northern District of IN

1108 E. Ross Adair Courthouse
1300 S. Harrison, St.
Fort Wayne, IN 46802
574-424-7360

102 Robert A. Grand Federal Building
204 S. Main St.
South Bend, IN 46601-2194
574-246-8000

214 Charles Halleck Fed. Bldg.
230 N. 4th St.
P.O. Box 1498
Lafayette, IN 47902
765-420-6250

101 Federal Bldg.
507 State St.
Hammond, IN 46320
574-937-5235

Southern District of IN

105 U.S. Courthouse
46 East Ohio St.
Indianapolis, IN 46204
317-229-3700

304 U.S. Courthouse
101 N.W. MLK Blvd.
Evansville, IN 47708
812-465-6426

Iowa

Northern District of IA

301 U.S. Courthouse
320 Sixth St., Rm. 300
Sioux City, IA 51101-1214
712-233-3900

P.O. Box 74710 (52407-4710)
Federal Building
101 First St. SE, Suite 313
Cedar Rapids, IA 52401-1231
319-286-2300

Southern District of Iowa

U.S. Courthouse, Rm. 200
123 E. Walnut St.
P.O. Box 9344 (50306-9344)
Des Moines, IA 50309
515-284-6248

Kansas

District of Kansas

259 Robert J. Dole U.S. Courthouse
500 State Ave.
Kansas City, KS 66101
913-551-6719

204 U.S. Courthouse
401 North Market
Wichita, KS 67202
316-269-6491

490 U.S. Courthouse
444 S.E. Quincy
Topeka, KS 66683
785-295-2610

Kentucky

Eastern District of KY

P.O. Box 3074
206 U.S. Courthouse
101 Barr St. (40507)
Lexington, KY 40588-3074
859-233-2503

313 Watts Federal Bldg.
330 W. Broadway
Frankfort, KY 40601-1993
502-223-5225

124 Federal Courthouse
300 S. Main St.
P.O. Box 5121
London, KY 40745-5121
606-864-5137

P.O. Box 1073
35 W. Fifth St.
Covington, KY 41012-1073
859-392-7925

336 Federal Bldg.
1405 Greenup Ave.
Ashland, KY 41101-2187
606-329-2465

Western District of KY

106 Snyder U.S. Courthouse
601 W. Broadway
Louisville, KY 40202
502-625-3500

127 Federal Bldg.
501 Broadway
Paducah, KY 42001
270-443-1337

126 Federal Bldg.
423 Frederica St.
Owensboro, KY 42301-3013
270-683-0221

Louisiana

Eastern District of LA
C-151 U.S. Courthouse
500 Camp St.
New Orleans, LA 70130-3367
504-589-7600

Middle District of LA
Russell B. Long Fed. Bldg.
777 Florida St., Suite 139
Baton Rouge, LA 70801-1712
225-389-3500

Western District of LA
1167 U.S. Courthouse
300 Fannin St.
Shreveport, LA 71101
318-676-9274

2100 U.S. Courthouse
800 Lafayette St.
Lafayette, LA 70501
337-593-5000

188 Courthouse and Fed. Bldg.
611 Broad St.
Lake Charles, LA 70601
337-437-3870

215 Federal Bldg.
201 Jackson St. (71201)
P.O. Drawer 3087
Monroe, LA 71210
318-322-6740

P.O. Box 1269
Alexandria, LA 71309-1269
318-473-7415

Maine

District of Maine
U.S. District Court
156 Federal St.
Portland, ME 04101
207-780-3356

Smith Federal Bldg.
P.O. Box 1007 (04402-1007)
202 Harlow St.
Bangor, ME 04401
207-945-0575

Maryland

District of Maryland
101 W. Lombard St., Rm. 4415
Baltimore, MD 21201-2691
410-962-2600

U.S. Courthouse, 2nd Fl.
6500 Cherrywood Lane
Greenbelt, MD 20770
301-344-0660

Massachusetts

District of MA
Moakley U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210
617-748-9152

Donohue Federal Bldg.
595 Main St., Rm. 502
Worcester, MA 01608-2076
508-929-9900

Federal Bldg. & Courthouse
1550 Main St.
Springfield, MA 01103-1422
413-785-0015

Michigan

Eastern District of Michigan
Theodore Levin U.S. Courthouse
Fifth Floor
231 W. Lafayette Blvd.
Detroit, MI 48226
313-234-5000

P.O. Box 8199 (48107)
200 E. Liberty St., Rm. 120
Ann Arbor, MI 48104
734-741-2380

P.O. Box 913 (48707)
304 Post Office Bldg.
1000 Washington Ave.
Bay City, MI 48708
989-894-8800

600 Church St., Rm. 140
Flint, MI 48502
810-341-7840

Western District of Michigan

399 Federal Bldg.
110 Michigan St., NW
Grand Rapids, MI 49503-2363
616-456-2381

B-35 U.S. Courthouse & Fed. Bldg.
410 W. Michigan Ave.
Kalamazoo, MI 49007
616-337-5706

113 Federal Building
315 W. Allegan St.
Lansing, MI 48933
517-377-1559

Minnesota

District of Minnesota

708 Burger Federal Bldg.
316 N. Robert St.
St. Paul, MN 55101
651-848-1100

202 U.S. Courthouse
300 S. 4th St.
Minneapolis, MN 55415
612-664-5000

Mississippi

Northern District of Mississippi

369 Federal Bldg.
911 Jackson Ave.
Oxford, MS 38655
662-234-1971

P.O. Box 704
301 W. Commerce St., #308
Aberdeen, MS 39730
662-369-4952

P.O. Box 190 (38702-0190)
329 Post Office Bldg.
305 Main St.
Greenville, MS 38701
662-335-1651

Southern District of Mississippi

316 Eastland Courthouse
245 E. Capitol St.
Jackson, MS 39201
601-965-4439

243 Federal Bldg.
725 M.L.K. Blvd.
Biloxi, MS 39530
228-432-8623

200 U.S. Courthouse & Fed. Bldg.
701 Main Street
Hattiesburg, MS 39401
601-583-2433

Missouri

Eastern District of Missouri

Eagleton U.S. Courthouse
111 South 10th St., 3rd Fl.
St. Louis, MO 63102
314-244-7900

Western District of Missouri

1510 U.S. Courthouse
400 E. Ninth St.
Kansas City, MO 64106
816-512-5000

Montana

District of Montana

Rm. 5405, Federal Bldg.
316 N. 26th St.
Billings, MT 59101
406-247-7000

301 S. Park St., Rm. 542
Drawer 10015
Helena, MT 59626-0015
406-441-1355

Post Office Bldg.
P.O. Box 8537 (59807-8537)
Missoula, MT 59801
406-542-7260

Nebraska

District of Nebraska

Hruska U.S. Courthouse
111 S. 18th Plaza, Ste. 1152
Omaha, NE 68102-1322
402-661-7350

P.O. Box 83468 (68501-3468)
593 Federal Bldg.
Lincoln, NE 68508
402-437-5225

Nevada

District of Nevada

Lloyd D. George U.S. Courthouse
333 Law Vegas Blvd. South
Las Vegas, NV 89101
702-464-5400

New Hampshire

District of New Hampshire

Rudman U.S. Courthouse
55 Pleasant St., Rm. 110
Concord, NH 03301
603-225-1423

New Jersey

District of New Jersey

M.L.K. Fed. Bldg. & U.S. Courthouse
50 Walnut St., Rm. 4015
P.O. Box 419
Newark, NJ 07101-0419
973-645-3730/4566

Fisher Fed. Bldg. & U.S. Courthouse
402 E. State St., Rm. 2020
Trenton, NJ 08608
609-989-2065

M.H. Cohen U.S. Courthouse
1 John F. Gerry Plaza, Rm. 1050
400 Cooper St.
P.O. Box 2797
Camden, NJ 08101-2797
856-757-5021

New Mexico

District of New Mexico

333 Lomas Blvd. NW, Ste. 270
Albuquerque, NM 87102
505-348-2000

P.O. Box 2384
224 U.S. Courthouse
So. Federal Plaza (87501)
Santa Fe, NM 87504-2384
505-988-6481

E202 Federal Bldg.
200 East Griggs St.
Las Cruces, NM 88001
505-527-6800

New York

Northern District of New York

James F. Hanley Fed. Bldg.
100 S. Clinton St.
P.O. Box 7367
Syracuse, NY 13261-7367
315-234-8500 / 800-962-5514

222 James T. Foley Courthouse
445 Broadway
Post Office & Courthouse Bldg.
Albany, NY 12207-2924
518-257-1800 / 800-827-9023

Alexander Pirnie Fed. Bldg.
10 Broad St.
Utica, NY 13501-1233
315-793-8151 / 800-827-9025

Federal Bldg. & U.S. Courthouse
15 Henry St.
Binghamton, NY 13902-2723
607-773-2893 / 800-827-9024

Eastern District of NY

U.S. Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201
718-260-2600

Long Island Fed. Courthouse
100 Federal Plaza
Central Islip, NY 11722-4438
631-712-6000

Southern District of NY

U.S. District Court
500 Pearl St.
New York, NY 10007-1312
212-805-0136

U.S. Courthouse
300 Quarropas St., 1st Fl.
White Plains, NY 10601-4150
914-390-4100

Western District of NY

304 U.S. Courthouse
68 Court St.
Buffalo, NY 14202-3498
716-551-4211

2120 U.S. Courthouse
100 State St.
Rochester, NY 14614-1368
716-263-6263

North Carolina

Eastern District of NC
Terry Sanford Fed. Bldg.
310 New Bern Ave.
P.O. Box 25670 (27611)
Raleigh, NC 27601
919-645-1700

209 Fed. Bldg. & U.S. CtHse
201 South Evans St.
Greenville, NC 27835
252-830-6009

Water & Princess Streets
P.O. Box 338 (28402)
Wilmington, NC 28401
910-815-4663

Middle District of NC

P.O. Box 2708 (27402-2708)
U.S. Courthouse
324 W. Market St., Rm. 311
Greensboro, NC 27401
336-332-6000

Federal Bldg.
251 N. Main St.
Winston-Salem, NC 27101-3984
336-631-5007

Western District of NC

Charles Jonas Federal Bldg.
401 W. Trade St., Rm. 210
Charlotte, NC 28202
704-350-7400

309 U.S. Courthouse
100 Otis St.
Asheville, NC 28801-2611
828-771-7200

North Dakota

District of North Dakota
220 E. Rosser Ave., Rm. 476
P.O. Box 1193
Bismarck, ND 58502-1193
701-530-2300

Quentin Burdick U.S. CtHse
655 1st Ave., N., Ste. 130
Fargo, ND 58102-4932
701-297-7000

Minot Federal Building
100 1st Street SW
Minot, ND 58701
701-839-6251

Ronald N. Davies Federal Building
102 North 4th Street
Grand Forks, ND 58201
701-772-0511

Northern Mariana Islands

District of N. Mariana Islands
Horiguchi Bldg., 2nd Fl.
Beach Rd., Garapan
P.O. Box 500687
Saipan, MP 96950-0687
670-236-2902

Ohio

Northern District of Ohio
102 U.S. Courthouse
201 Superior Ave.
Cleveland, OH 44114-1201
216-522-4355

114 U.S. Courthouse
1716 Spielbusch Ave.
Toledo, OH 43624-1363
419-259-6412

337 Fed. Bldg. & U.S. CtHse
125 Market St.
Youngstown, OH 44503-1780
330-746-1906

568 U.S. Courthouse
Two South Main St.
Akron, OH 44308-1813
330-375-5705

Southern District of Ohio
324 Potter Stewart U.S. CtHse
100 E. Fifth St.
Cincinnati, OH 45202
513-564-7500

Joseph P. Kinneary U.S. Courthouse
65 Marconi Blvd., Rm. 260
Columbus, OH 43215
614-719-3000

Federal Bldg.
200 W. Second St., Rm. 712
Dayton, OH 45402
937-512-1400

Oklahoma

Northern District of OK
411 U.S. Courthouse
333 West Fourth St.
Tulsa, OK 74103-3819
918-699-4700

Eastern District of OK
P.O. Box 607 (74402-0607)
U.S. Courthouse
101 N. 5th St.
Muskogee, OK 74401
918-687-2471

Western District of OK
1210 U.S. Courthouse
200 N.W. 4th St.
Oklahoma City, OK 73102-3092
405-609-5000

Oregon

District of Oregon
740 U.S. Courthouse

1000 SW Third Ave.
Portland, OR 97204-2902
503-326-8008

100 Federal Bldg.
211 E. Seventh Ave.
Eugene, OR 97401
541-465-6423

Pennsylvania

Eastern District of PA
2609 U.S. Courthouse
Independence Mall, West
601 Market St.
Philadelphia, PA 19106-1797
215-597-7704

Middle District of PA
Nealon Fed. Bldg. & U.S. CtHse
235 N. Washington Ave.
P.O. Box 1148
Scranton, PA 18501
570-207-5600

U.S. CtHse & Fed. Bldg.
228 Walnut St.
P.O. Box 983
Harrisburg, PA 17108-0983
717-221-3920

P.O. & Fed. Bldg.
Third Street
P.O. Box 608
Williamsport, PA 17701-0608
570-323-6380

Western District of PA
829 U.S. Post Office and Courthouse
7th Ave. & Grant St.
Pittsburgh, PA 15219
412-208-7500

P.O. Box 1820 (16507-0820)
102 U.S. Courthouse
617 State St.
Erie, PA 16501
814-453-4829

208 Penn Traffic Bldg.
319 Washington St.
Johnstown, PA 15901
814-533-4504

Puerto Rico

District of Puerto Rico
150 Degetau Fed. Bldg.
Carlos Chardon Ave.
Hato Rey, PR 00918-1767
787-772-3011

Rhode Island

District of Rhode Island
Pastore Federal Bldg.
Two Exchange Terrace #356
Providence, RI 02903
401-752-7220

South Carolina

District of South Carolina
Strom Thurmond Fed. Courthouse
1845 Assembly St.
Columbia, SC 29201-2431
803-765-5816

Hollings Judicial Center
85 Broad St.
P.O. Box 835 (29402)
Charleston, SC 29401
843-579-1401

Haynsworth Federal Bldg.
300 E. Washington St.
Room 239
P.O. Box 10768 (29603)
Greenville, SC 29601
864-241-2700

McMillan Federal Bldg.
400 W. Evans St.
P.O. Box 2317 (29503)
Florence, SC 29501
843-676-3820

South Dakota

District of South Dakota
128 U.S. Courthouse
400 South Phillips Ave.
Sioux Falls, SD 57104-6851
605-330-4447

302 Fed. Bldg. & U.S. Courthouse
515 9th St.
Rapid City, SD 57701
605-342-3066

Tennessee

Eastern District of Tennessee
Baker U.S. Courthouse
800 Market St., Ste. 130
Knoxville, TN 37902
865-545-4228

309 Federal Bldg.
900 Georgia Ave.
P.O. Box 591 (37401)
Chattanooga, TN 37402
423-752-5200

211 U.S. Courthouse
101 Summer St. West
Greeneville, TN 37743
423-639-3105

200 South Jefferson Street
Room 201, U.S. Courthouse
Winchester, TN 37398
Phone: (931) 967-1444

Middle District of Tennessee
800 U.S. Courthouse
801 Broadway
Nashville, TN 37203-3869
615-736-2364

Western District of Tennessee
242 Federal Bldg.
167 N. Main St.
Memphis, TN 38103
901-495-1200

Federal Bldg.
111 S. Highland Ave.
Jackson, TN 38301
901-421-9200

Texas

Northern District of Texas
14A20 Cabell Federal Bldg.
1100 Commerce St.
Dallas, TX 75242-1003
214-753-2201

P.O. Box F-13240 (79189-3240)
205 E. Fifth St., #210
Amarillo, TX 79101-1556
806-324-2352

501 W. 10th St., Rm. 310
Fort Worth, TX 76102-3643
817-978-3132

C-221 Fed. Bldg. & U.S. Courthouse
1205 Texas Ave.
Lubbock, TX 79401-4002
806-472-7624

Eastern District of Texas

106 Federal Bldg.
211 W. Ferguson
Tyler, TX 75702
903-590-1000

216 Federal Bldg.
101 E. Pecan St.
Sherman, TX 75090
903-892-2921

301 U.S. Courthouse & P.O. Bldg.
500 N. State Line Ave.
Texarkana, TX 75501
903-794-8561

104 Brooks Federal Bldg.
300 Willow St.
Beaumont, TX 77701
409-654-7000

Federal Courthouse
104 N. Third St.
Lufkin, TX 75901
936-632-2739

Southern District of Texas

P.O. Box 61010 (77208-1010)
1217 U.S. Courthouse
515 Rusk Ave.
Houston, TX 77002
713-250-5500

600 E. Harrison St., #101
Brownsville, TX 78520
956-548-2500

1133 N. Shoreline Blvd., Rm. 208
Corpus Christi, TX 78401-2349
361-888-3483

P.O. Box 2300 (77553-2300)
411 Post Office Bldg.
Galveston, TX 77550-5507
409-766-3530

P.O. Box 597 (78040-0597)
319 Federal Bldg.
1300 Matamoros St.
Laredo, TX 78040-5066
956-723-3542

P.O. Box 5059 (78502-5059)
1011 TX Commerce Bank Twr.
1701 W. Business Hwy. 83
McAllen, TX 78501-5178
956-618-8065

Western District of Texas

G-56 U.S. Courthouse
655 E. Durango Blvd.
San Antonio, TX 78206-1198
210-472-6550

130 U.S. Courthouse
200 W. Eighth St.
Austin, TX 78701
512-916-5896

350 U.S. Courthouse
511 E. San Antonio St.
El Paso, TX 79901-2401
915-534-6725

U.S. Courthouse
800 Franklin St.
Waco, TX 76703
254-750-1501

107 U.S. Courthouse
200 East Wall St.
Midland, TX 79701
915-686-4001

Utah**District of Utah**

150 U.S. Courthouse
350 South Main St.
Salt Lake City, UT 84101-2180
801-524-6100

Vermont**District of Vermont**

506 Federal Bldg.
11 Elmwood Ave.
P.O. Box 945
Burlington, VT 05402
802-951-6301

P.O. Box 998
206 Federal Bldg.
204 Main St.
Brattleboro, VT 05302
802-254-0250

Virgin Islands**District of the Virgin Islands**

310 Federal Bldg.
5500 Veterans Dr.
Charlotte Amalie
St. Thomas, VI 00802-6424
340-774-0640

219 Almeric L. Christian Fed. Bldg.
& U.S. Courthouse
3013 Est. Golden Rock
C'sted, St. Croix 00820-4355
340-773-1130

Virginia**Eastern District of Virginia**

401 Courthouse Sq.
Alexandria, VA 22314-5798
703-299-2100

193 U.S. Courthouse
600 Granby St.
Norfolk, VA 23510-1811
757-222-7204

307 Powell U.S. Courthouse
1000 E. Main St., Suite 307
Richmond, VA 23219-3525
804-916-2200

Western District of Virginia

P.O. Box 1234 (24006-1234)
Poff Federal Bldg.
210 Franklin Rd., SW
Roanoke, VA 24011
540-857-5100

U.S. Courthouse & P.O. Bldg.
180 W. Main St.
P.O. Box 398 (24210-0398)
Abingdon, VA 24212
276-628-5116

304 U.S. Courthouse
255 W. Main St.
Charlottesville, VA 22902
434-296-9284

202 U.S. Courthouse & P.O. Bldg.
P.O. Box 52 (24543-0053)
700 Main St.
Danville, VA 24541
434-793-7147

212 U.S. Courthouse & P.O. Bldg.
1100 Main St. (24504)
P.O. Box 744
Lynchburg, VA 24505-0744
434-847-5722

Washington**Eastern District of WA**

840 Foley U.S. Courthouse
W. 920 Riverside Ave.
P.O. Box 1493 (99210-1493)
Spokane, WA 99201
509-353-2150

P.O. Box 2706 (98907-2706)
25 S. Third St.
Yakima, WA 98901
509-575-5838

P.O. Box 1386
825 Jadwin Ave., Rm. 187
Richland, WA 99352-1386
509-376-7261

Western District of WA

215 U.S. Courthouse
1010 Fifth Ave.
Seattle, WA 98104-1125
206-553-5598

3100 Union Station Bldg.
1717 Pacific Ave.
Tacoma, WA 98402-3226
253-593-6313

West Virginia

Northern District of WV

300 Third St.
P.O. Box 1518
Elkins, WV 26241-1518
304-636-5198

500 West Pike St.
P.O. Box 2857
Clarksburg, WV 26301
304-622-8513

217 W. King St., Rm. 207
Martinsburg, WV 25401
304-267-8225

207 Federal Bldg.
12th & Chapline Streets
P.O. Box 471
Wheeling, WV 26003
304-232-0011

Southern District of WV

2400 Robert Byrd U.S. CtHse
300 Virginia St., East
P.O. Box 2546 (25329-2546)
Charleston, WV 25301
304-347-3000

U.S. Courthouse & IRS Complex
P.O. Box 5009
110 N. Heber St.
Beckley, WV 25801
304-253-7481

101 Federal Bldg.
845 Fifth Ave.
P.O. Box 1570 (25716)
Huntington, WV 25701
304-529-5588

Wisconsin

Eastern District of Wisconsin

362 U.S. Courthouse
517 East Wisconsin Ave.
Milwaukee, WI 53202
414-297-3372

Western District of Wisconsin

120 N. Henry St.
P.O. Box 432
Madison, WI 53701-0432
608-264-5156

Wyoming

District of Wyoming

2120 Capitol Ave., #2131
P.O. Box 727 (82003-0727)
Cheyenne, WY 82001
307-772-2145

121 U.S. Courthouse
111 S. Wolcott
Casper, WY 82601
307-261-5440

APPENDIX B: *IN FORMA*
***PAUPERIS* APPLICATION**
FORMS

**UNITED STATES DISTRICT COURT
FOR THE _____
DISTRICT OF _____**

Plaintiff

v.

Case No. _____
(to be filled in by Clerk)

Defendant.

**MOTION AND DECLARATION UNDER
PENALTY OF PERJURY IN SUPPORT
OF MOTION TO PROCEED IN FORMA
PAUPERIS**

I, _____, declare, depose, and say that I am the Plaintiff in this case. In support of my motion to proceed without being required to prepay fees, costs or give security under 28 U.S.C. § 1915, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefore. I believe I am entitled to redress.

I declare that the responses that I have made below are true.

1. If you are presently employed, state the amount of your salary wage per month, and give the name and address of your last employer.

2. If you are NOT PRESENTLY EMPLOYED, state the date of last employment and amount of the salary per month which you received and how long the employment lasted.

3. Have you received, within the past twelve months, any money from any of the following sources?

- | | | |
|---|------------------------------|-----------------------------|
| a. Business, profession or form of self-employment? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| b. Rent payments, interest or dividends? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| c. Pensions, annuities or life insurance payments? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| d. Gifts or inheritances? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| e. Family or friends? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| f. Any other sources? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

If you answered yes to any of the questions above, describe each source of money and the amount received from each during the past 12 months.

4. Do you own any cash, or do you have money in a checking or savings account, including any funds in prison accounts? Yes No

If the answer is yes, state the total value owned. _____

5. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (including ordinary household furnishings and clothing)? Yes No

If the answer is yes, describe the property and state its approximate value. _____

6. List the person(s) who are dependent upon you for support, state your relationship to those person(s), and indicate how much you contribute toward their support at the present time.

7. List any other debts (current obligations, indicating amounts owed and to whom they are payable).

8. State any special financial circumstances that the court should consider in this application.

I understand that a false statement or answer to any questions in this declaration will subject me to the penalties for perjury.

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

Signed this _____ day of _____, _____.

day

month

year

Signature

**ATTACH PRISON CERTIFICATE, TRUST ACCOUNT WITHDRAWAL
AUTHORIZATION TO THIS MOTION**

PRISON CERTIFICATE

(To be completed by an officer of the institution of incarceration.)

I certify that the applicant _____
(Name of Detainee)

_____ has the sum of \$ _____ on account to
(Detainee's A Number)

his/her credit at _____. I further certify that the
(Name of Institution)

applicant has the following securities _____

to his/her credit according to the records of the aforementioned institution. I further certify

that during the past six months the applicant's average monthly balance was

\$ _____ and the average monthly deposits to the applicant's account was

\$ _____.

Date

Signature of Authorized Officer of Institution

Officer's Full Name (Printed)

Officer's Title / Rank

TRUST ACCOUNT WITHDRAWAL AUTHORIZATION

(This form **MUST** be completed by the detainee to proceed in forma pauperis.)

I, _____, request and authorize the agency holding me
Detainee Name and A number
in custody to prepare for the Clerk of the United States District Court for the
_____ District of _____, a certified copy of the
statement for the past six months of my trust fund account (or institutional
equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and
disburse funds from my trust fund account (or institutional equivalent) pursuant to
any future orders issued by the Court relating to this civil action pursuant to the
Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110
Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the _____
District of _____, and I understand that, pursuant to 28 U.S.C. §§
1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is \$____.
I also understand that this fee will be debited from my account regardless of the
outcome of this action. This authorization shall apply to any other agency into
whose custody I may be transferred.

Date

Signature of Detainee

APPENDIX C: MOTION FOR
THE APPOINTMENT OF
COUNSEL

UNITED STATES DISTRICT COURT
FOR THE _____
DISTRICT OF _____

Plaintiff

v.

Case No. _____
(to be filled in by Clerk)

Defendant.

MOTION FOR THE APPOINTMENT OF COUNSEL

I request that the Court appoint an attorney to represent me in the matter cited above. In support of this motion I have attached the following:

1. An affidavit relating to my ability to pay costs and fees.
2. Other material, if any.

I have made the following efforts to obtain counsel from legal aid or legal services organizations or individual attorneys without payment of a fee or on a contingent fee basis, and have been unable to obtain the services of counsel:

Date: _____

Signature

APPENDIX D: RESOURCES

Resource List 1: List of Addresses of all Federal Public Defenders Offices

Resource List 2: List of Addresses of Additional Organizations

Resource List 1: List of Addresses of all Federal Public Defenders Offices

A L A S K A (9th Circuit)

F. Richard Curtner, III
Federal Public Defender
550 West 7th Avenue, Room 1600
Anchorage, Alaska 99501
(907) 646-3400; FAX: (907) 646-3480

A R I Z O N A (9th Circuit)

Fredric F. Kay
Federal Public Defender
97 East Congress Street, Suite 130
Tucson, Arizona 85701-1716
(520) 879-7500; FAX: (520) 879-7600

Branch: Federal Public Defender
222 North Central Ave. - Suite 810
Phoenix, Arizona 85004
(602) 382-2700; FAX: (602) 382-2800

A R K A N S A S (Eastern and Western) (8th Circuit)

Jenniffer Morris Horan
Federal Public Defender
310 S. Louisiana Street
Little Rock, Arkansas 72201
(501) 324-6113; FAX: (501) 324-6128

Branch:

MAILING ADDRESS

Federal Public Defender
P.O. Box 3686
Fayetteville, Arkansas 72702

OFFICE LOCATION

38 Trenton Boulevard, Suite 101
Fayetteville, Arkansas 72701
(501) 442-2306; Fax: (501) 443-1904

CALIFORNIA (9thCircuit)

Northern

Barry J. Portman
Federal Public Defender
U.S. Courthouse
450 Golden Gate Avenue
P.O. Box 36106
San Francisco, California 94102-3567
(415) 436-7700; FAX: (415) 436-7706

Branches: Federal Public Defender
Suite 575
160 West Santa Clara Street
San Jose, California 95113
(408) 291-7753; FAX: (408) 291

Branches cont.: Federal Public Defender
1301 Clay Street, Room 2000
Oakland, California 94612
(510) 637-3500; FAX: (510) 637-3507

Eastern

Quin A. Denvir
Federal Public Defender
Renaissance Tower, 10th Floor
801 K Street
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San Francisco CLINIC

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San Francisco, CA 94104
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(415) 394-8696 (fax)

Los Angeles CLINIC

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Los Angeles, CA 90015
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(213) 487-0986 (fax)

Miami CLINIC

3900 NW 79th Ave., Ste. 564
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(305) 436-5863 (fax)

Newark CLINIC

Catholic Community Service
976 Broad St.
Newark, NJ 07102
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(973) 733-9631 (fax)

New Orleans CLINIC

Loyola University Law Center
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Newton Centre CLINIC

Boston College Law School
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United Nations High Commission for Refugees

Washington, D.C. Regional Office
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Washington, DC 20006

Midwest Immigrant and Human Rights Center

208 S. LaSalle, Suite 1818
Chicago, Illinois 60604
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(collect calls are accepted on
Tuesdays 11 a.m. – 2 p.m.)

Immigrant Defense Project

New York State Defenders Association
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**Catholic Charities of Orange
County**

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**Immigrant Law Center of
Minnesota**

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**Political Asylum/Immigration
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Vermont detainees only)

**American-Arab Anti-
Discrimination Committee
(ADC)**

Legal Department
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**Immigration Services
Catholic Social Services**

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(Georgia detainees only; advice, self-
help materials, and referrals only)

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**Liberty Center for Survivors
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