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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BC031232

	REVEREND DR. JAMES M. LAWSON,	)	Case No.:
20	REVEREND DR. WILLIAM S. EPPS, and	)	
	ACLU OF SOUTHERN CALIFORNIA,	)	CLASS ACTION
21	KAROL HEPPE, in their capacities	)	
	as taxpayers, Rena BROWN, and JAY	)	COMPLAINT FOR DAMAGES AND
22	DALE, individually and as a	)	DECLARATORY AND INJUNCTIVE
	taxpayers and class	)	RELIEF.
23	representatives;	)	
		)	B-399
24	Plaintiffs,	)	Excessive Force (4th &
		)	14th Amendments to U.S.
		)	(Constitution)
25	vs.	)	8/11/82
		)	10-7
26	POLICE CHIEF DARYL GATES,	)	Racial Discrimination
	individually and in his official	)	14th Amendment to U.S.
27	capacity, CITY OF LOS ANGELES,	)	(Constitution)
	DEPUTY CHIEF RONALD FRANKLE,	)	3. Conspiracy to Violate
28	DEPUTY CHIEF BERNARD PARKS,	)	Civil Rights (42 U.S.C. §
	CAPTAIN PATRICK MCKINLEY, CAPTAIN	)	1985)

Case No.:

CLASS ACTION

COMPLAINT FOR DAMAGES AND
DECLARATORY AND INJUNCTIVE
RELIEF

Excessive Force (4th &
14th Amendments to U.S.
Constitution)

7. Racial Discrimination
(14th Amendment to U.S.
Constitution)

3. ^{6/24} Conspiracy to Violate
Civil Rights (42 U.S.C. §
1985)

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1	RICHARD L. BONNEAU, LIEUTENANT	)	4. Excessive Force and
	PETER DURHAM, SERGEANT JERRY	)	Denial of Equal Protection
2	THOMAS, SERGEANT DONN YARNALL,	)	Under California
	DOUGLAS ROLLER, JAY MOBERLY,	)	Constitution
3	SALVADOR APODACA, KERY ANDERSON,	}	
	KERELL BROUSSARD, DANIEL BUNCH,	)	5. Racial Violence and
4	MARTIN COON, PAUL STROPKAI, LARRY	)	Intimidation in Violation
	MAILLET, JOE VITA, JOHN HALL,	)	of Civil Code § 51.7
5	BRIAN O'HARA, BLANE BLACKSTONE,	)	
	ADAM BERCOVICI, AND RAYMOND	)	6. Assault
6	SENECAL, individually and in their)	)	
	official capacities, and DOES 1-	)	7. Battery
7	100,	)	
		)	8. Negligence
8		)	
	Defendants.	)	9. Violation of Statutory
9			Duty (Civil Code § 3342)
10			10. Intentional Infliction
			of Emotional Distress
11			
12			11. Taxpayer Action for
			Declaratory and Injunctive
13			Relief
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I.

INTRODUCTION

1. This is a civil rights action brought by victims of a systematic policy and practice of the Los Angeles Police Department ("LAPD") to use excessive, deadly force in the form of attack dogs against persons who pose no threat to the police or the community justifying such force. As a result, hundreds of people, particularly African-Americans and Latinos, have been viciously mauled and grievously injured by police dogs, without the police having probable cause to believe such individuals pose an immediate threat of death or serious bodily injury, the constitutional standard for all other uses of deadly force. Plaintiffs seek to enjoin the illegal use of public funds to promote and implement these unconstitutional policies and practices, as well as damages on behalf of the class of victims.

2. While many major metropolitan police departments nationwide use canine units as part of their law enforcement program, responsible police departments train their handlers and dogs only rarely to have the dogs bite suspects. This is not true of the LAPD. While the LAPD generally uses force in an arrest situation in only one to two percent of all arrests, the figure is many times greater when LAPD deploys a police dog. In addition, when police dogs are used the injury is often far more grave.

3. The LAPD trains, conditions and deploys its canine units indiscriminately to attack potential suspects and innocent bystanders by mauling them until they become passive. The police dogs attack anywhere on the body, the face, the neck, the chest,

1 the genitals, or any other part of the body that is available.
2 Because the dogs are large and are used to attack aggressively,
3 victims suffer deep puncture wounds, often with flesh and muscle
4 ripped and torn, requiring medical attention and frequently
5 hospitalization. Physical scarring, and even reconstructive
6 surgery, are common, not to mention the deep psychological trauma
7 that ferocious attacks of this type inevitably leave.

8 4. The LAPD has systematically failed to monitor or
9 evaluate the deployment of police dogs, ignoring overwhelming
10 evidence of the grossly excessive nature of the force used and
11 severity of the injuries inflicted.

12 5. The LAPD deploys its police dogs principally in African
13 American and Latino minority communities, although the level of
14 the crimes for which dogs are utilized are equal if not greater
15 in white communities. Although whites also suffer from
16 unwarranted dog attacks, the information presently available to
17 the plaintiffs indicates that the overwhelming majority of the
18 victims of police dog attacks are African-American or Latino.
19 The conclusion is clear. Through its canine units, the LAPD
20 unleashes unjustified deadly force on a disproportionate basis
21 against non-white communities which it would not and does not use
22 against white communities.

23 6. Plaintiffs seek a determination by this Court that the
24 LAPD's policy and practice of using police dogs to attack and
25 maul people constitutes the unconstitutional use of excessive
26 deadly force in circumstances where no threat justifies the use
27 of such force. Plaintiffs also seek a determination that the
28 policy and practice of concentrating the use of this

1 unconstitutional use of force in minority communities and against
2 minority individuals deprives African-American and Latino persons
3 of the equal protection of the law. Plaintiffs seek
4 certification of a class of victims of these unconstitutional
5 policies and practices, and compensation for all of the class
6 members. Finally, plaintiffs seek an order enjoining the
7 continuation of these policies and practices, requiring that LAPD
8 officers only use dogs to attack and bite where they have
9 probable cause to believe that an individual poses an immediate
10 threat of death or serious physical injury to the officer or
11 third parties; that dogs be adequately trained not to routinely
12 bite anyone except upon specific command of the handler; that
13 handlers be trained to insure that they properly monitor and
14 direct their dogs, and that full record keeping be maintained and
15 reviewed of the use of dogs and the injuries they inflict to
16 assure the appropriate use of force.

17
18 II.

19 PARTIES

20 A. The Taxpayer Plaintiffs.

21 7. The Reverend Dr. James M. Lawson is the pastor of the
22 Holman United Methodist Church in Los Angeles. At all times
23 relevant herein Reverend Lawson was and is a resident and
24 taxpayer of the City of Los Angeles.

25 8. The Reverend Dr. William S. Epps is the pastor of the
26 Second Baptist Church of Los Angeles. At all times relevant
27 herein Reverend Epps was and is a resident and taxpayer of the
28 City of Los Angeles.

1 9. The ACLU of Southern California, a non-profit
2 organization dedicated to the protection and furtherance of civil
3 liberties, at all times relevant herein was and is a taxpayer of
4 the City of Los Angeles.

5 10. Karol Heppe is the Executive Director of the Police
6 Misconduct Lawyers Referral Service. At all times relevant
7 herein Ms. Heppe was and is a resident and taxpayer of the City
8 of Los Angeles.

9 **B. The Class Representatives and Plaintiff Classes**

10 11. Plaintiff Rena Brown is a thirty-one year old African-
11 American male and resident of the County of Los Angeles.
12 Plaintiff Brown has been a taxpayer of the City of Los Angeles
13 during the year prior to the filing of this complaint. On or
14 about November 5, 1990, LAPD officers unleashed a police dog upon
15 plaintiff Brown, although there was no probable cause to believe
16 that plaintiff Brown posed an immediate threat of death or
17 serious physical injury to the officers or to third parties.
18 Plaintiff Brown was attacked and severely mauled by the police
19 dog, suffering physical injury, mental and emotional harm and
20 suffering lost income, medical and other special damages.

21 12. Plaintiff Jay Dale is a twenty-two year old white male
22 and resident of the County of Los Angeles. Plaintiff Dale has
23 been a taxpayer of the City of Los Angeles during the year prior
24 to the filing of this complaint. On or about July 7, 1990, LAPD
25 officers unleashed a police dog on plaintiff Dale, although there
26 was no probable cause to believe that plaintiff Dale posed an
27 immediate threat of death or serious physical injury to the
28 officers or to third parties. Plaintiff Jay Dale was attacked

1 and severely mauled by the police dog, suffering physical injury,
2 mental and emotional harm and suffering lost income, medical and
3 other special damages.

4 13. Plaintiffs Brown and Dale each filed a claim against
5 defendants under Government Code Section 910, and these claims
6 were rejected.

7 1. The Class

8 14. Plaintiffs Rena Brown and Jay Dale (hereafter the
9 "class representatives") bring this action for damages on their
10 own behalf and on behalf of a class comprised of all individuals
11 in the City of Los Angeles against whom the Los Angeles Police
12 Department, pursuant to policy, practice or custom, has unleashed
13 a police dog to attack and bite without probable cause to believe
14 that the individuals posed an immediate threat of death or
15 serious physical injury to anyone.

16 15. Members of the class on whose behalf the class
17 representatives sue are readily ascertainable. The LAPD
18 maintains records which reflect the names of individuals attacked
19 by LAPD dogs and the information on which the officer relied when
20 deciding to order a dog to find and attack the individual. These
21 records will not only establish the identities of class members,
22 but will constitute admissions establishing liability since the
23 records facially demonstrate that the officers lacked probable
24 cause to believe that the suspect posed an immediate threat of
25 serious physical injury or death and yet used deadly force by
26 letting loose a dog trained to attack in the manner described
27 above.

28 16. Members of the class are so numerous that joinder is

1 impracticable. Plaintiffs are informed and believe and thereupon
2 allege that there were over 900 suspects who were mauled by LAPD
3 police dogs in the last three years and that in most of these
4 police dog attacks, the officers lacked probable cause to believe
5 the individual attacked posed an immediate threat of death or
6 serious physical injury to anyone.

7 17. Predominant common questions of law and fact affect the
8 rights of all class members. The central issues of law to be
9 decided -- whether the Los Angeles Police Department's use of
10 police dogs constitutes deadly force and whether the Department
11 may use such deadly force without probable cause to believe that
12 an individual poses an immediate threat of death or serious
13 physical injury -- are common to all class members. Furthermore,
14 as set forth below in paragraphs 32-37 and 42-53, plaintiffs'
15 allegations as to the policies, practices or customs of the LAPD
16 as to when officers will unleash dogs on individuals, how the
17 LAPD has trained its dogs to attack and maul rather than to find
18 and hold through barking or other means, the amount of training
19 and supervision given to the dog handlers and police dogs, the
20 hiring practices for the canine unit, the lack of monitoring and
21 review of police dog attacks, and the failure to investigate
22 whether the handler and his dog used excessive force are
23 questions that are common to all of the class members.

24 18. The claims of the class representatives are typical of
25 those of the class members with respect to the constitutionality
26 and legality of defendants' policies and practices. All class
27 members seek to challenge the same overall policies, practices or
28 customs of the LAPD with respect to its use of police dogs, and

1 training, supervision and monitoring of canine units. The
2 prosecution of separate actions against defendants by individual
3 class members would create a risk of inconsistent or varying
4 adjudications which would establish incompatible standards of
5 conduct for defendants. The class representatives will fairly
6 and adequately protect the interests of the class because they
7 and their counsel possess the requisite resources and ability to
8 prosecute this case as a class action.

9 2. The Minority Subclass

10 19. Plaintiff Rena Brown (hereafter the "minority class
11 representative") also seeks to represent himself and a subclass
12 comprised of all individuals in the City of Los Angeles belonging
13 to racial minorities against whom the Los Angeles Police
14 Department, pursuant to policy, practice or custom, has unleashed
15 police dogs to attack without probable cause to believe that the
16 individuals posed an immediate threat of death or serious
17 physical injury to anyone.

18 20. Members of the class on whose behalf the minority class
19 representative sues are readily ascertainable. The LAPD records
20 the race of all bite victims in its reports, permitting easy
21 identification of all minority individuals against whom the
22 police unleashed police dogs without probable cause to believe
23 that the individuals posed an immediate threat of death or
24 serious physical injury to anyone.

25 21. Plaintiffs are informed and believe and thereupon
26 allege that the vast majority of suspects and non-suspects bitten
27 by LAPD police dogs are members of racial minority groups. Given
28 that there are hundreds of police dog attacks every year, the

1 members of this subclass are so numerous that joinder is
2 impractical.

3 22. Predominant common questions of law and fact affect the
4 rights of all minority subclass members. The central issues to
5 be decided -- whether the LAPD has purposefully deployed dogs to
6 attack minority individuals on account of their race or ethnicity
7 or purposefully deployed dogs in communities with large minority
8 communities -- are common to all class members.

9 23. The claims of the minority class representative are
10 typical of those of all subclass members with respect to the
11 constitutionality of defendants' policies, practices or customs.
12 The prosecution of separate actions against defendants by
13 individual subclass members would create a risk of inconsistent
14 or varying adjudications which would establish incompatible
15 standards of conduct for defendants. The class representative
16 will fairly and adequately protect the interests of the minority
17 subclass because he and his counsel possess the requisite
18 resources and ability to prosecute this case as a class action.

19 **C. Defendants.**

20 24. Defendant Daryl Gates is the Chief of the Los Angeles
21 Police Department ("LAPD"), an agency of the City of Los Angeles.
22 Plaintiffs are informed and believe and thereupon allege that at
23 all times relevant herein defendant Daryl Gates was responsible
24 for the development, establishment and/or implementation of the
25 procedures, policies, regulations, practices and/or customs of
26 the LAPD with respect to its deployment and use of police dogs.
27 Upon information and belief, plaintiffs further allege that at
28 all times relevant herein, defendant Gates participated in,

1 approved, and/or ratified the unconstitutional or illegal acts
2 complained of herein. Additionally, upon information and belief,
3 defendant Gates failed adequately to train, supervise and monitor
4 dog handlers and LAPD police dogs, or to promulgate adequate
5 policies and regulations to prevent the unlawful acts complained
6 of. Plaintiffs sue defendant Daryl Gates in both his official
7 and personal capacity.

8 25. Defendant City of Los Angeles is a municipal
9 corporation duly organized and existing under the laws of the
10 State of California. The LAPD is an agency of defendant City of
11 Los Angeles, and all actions of the LAPD are the legal
12 responsibility of the City. Defendant City of Los Angeles is
13 sued both in its own right and on the basis of respondeat
14 superior.

15 26. Plaintiffs are informed and believe and thereupon
16 allege that defendants Deputy Chief Ronald Frankle, Deputy Chief
17 Bernard Parks, Captain Patrick McKinley, Captain Richard L.
18 Bonneau, Lieutenant Peter Durham, Sergeant Jerry Thomas, and
19 Sergeant Donn Yarnall, (hereafter "supervisory defendants"),
20 are individuals who at all times relevant herein were responsible
21 for the development, establishment and/or implementation of the
22 procedures, policies, regulations, practices, and/or customs of
23 the LAPD with respect to its deployment and use of police dogs.
24 Upon information and belief, plaintiffs further allege that at
25 all times relevant herein, these defendants participated in,
26 approved and/or ratified the unlawful conduct complained of
27 herein. Additionally, upon information and belief, these
28 defendants failed adequately to train, supervise and monitor dog

1 handlers and LAPD police dogs, or to promulgate adequate policies
2 or regulations to prevent the unlawful acts complained of herein.
3 Plaintiffs sue these defendants in both their official and
4 personal capacities.

5 27. Plaintiffs are informed and believe and thereupon
6 allege that defendants Douglas Roller, Jay Moberly, Salvador
7 Apodaca, Kery Anderson, Kerell Broussard, Daniel Bunch, Martin
8 Coon, Paul Stropkai, Larry Maillet, Joe Vita, John Hall, Brian
9 O'Hara, Blane Blackstone, Adam Bercovici, and Raymond Senecal are
10 individuals who at all times relevant herein were employed by the
11 City of Los Angeles as police officers responsible for handling
12 dogs in the department's canine unit. At all times relevant
13 herein these defendants acted within the course and scope of
14 their employment. They are sued in both their official and
15 personal capacities.

16 28. Plaintiffs are ignorant of the true names and
17 capacities of defendants sued herein as DOES 1 through 100,
18 inclusive, and therefore sue these defendants by such fictitious
19 names. Plaintiffs will amend this complaint to allege their true
20 names and capacities when ascertained. Plaintiffs are informed
21 and believe and based thereon allege that defendants DOES 1
22 through 100 are responsible in some manner for the damages and
23 injuries hereinafter complained of.

24 29. Plaintiffs are informed and believe and thereupon
25 allege that at all times relevant herein defendant Gates, the
26 supervisory defendants and the police officer defendants, and
27 each of them, were the agents, servants and employees of
28 defendant City of Los Angeles, and were acting at all times

1 within the scope of their agency and employment and with the
2 knowledge and consent of their principal and employer, the City
3 of Los Angeles. At all times herein, defendants, and each of
4 them, were acting under the color of state law.

5 III.

6 COMMON ALLEGATIONS

7 A. LAPD's Policy On Use Of Police Dogs.

8 30. Pursuant to the Los Angeles Police Department's own
9 Manual, Vol. I., Section 556.40:

10 An officer is authorized the use of deadly
11 force [by discharging a firearm]
12 when it reasonably appears
13 necessary:

14 A. To protect himself or others from an
15 immediate threat of death or serious bodily
16 injury, or

17 B. To prevent a crime where the suspect's
18 actions place persons in jeopardy of death or
19 serious bodily injury, or

20 C. To apprehend a fleeing felon for a crime
21 involving serious bodily injury or the use of
22 deadly force where there is a substantial
23 risk that the person whose arrest is sought
24 will cause death or serious bodily injury to
25 others if apprehension is delayed.

26 31. The Los Angeles Police Department's policy with respect
27 to the use of deadly force codifies the permissible use of all
28 forms of deadly force under both the federal and California

1 constitutions, which prohibit the use of any deadly force unless
2 the officer has probable cause to believe that a suspect poses an
3 immediate threat of death or serious physical injury to officers
4 or other persons.

5 32. Pursuant to the official written policy of the Los
6 Angeles Police Department, police dogs are not treated as the use
7 of deadly force. The Manual, Vol. I, Section 571, states that
8 police dogs may be used "in the detection, control, and
9 apprehension of a suspect when there is a reasonable suspicion of
10 the suspect's involvement in criminal activity; [and] in the
11 search of buildings and large areas for suspects."

12 33. The LAPD trains and conditions its police dogs to find
13 a person, attack him or her and inflict seriously bodily injury
14 by biting. Pursuant to this "find and bite" policy, the LAPD and
15 its dog handlers train dogs to bite any part of the person's body
16 within reach. If the person struggles, the dog is trained and
17 conditioned to attack the person again and continue biting. It
18 is the policy, practice or custom of LAPD dog handlers not to
19 stop the dog attack until the person ceases all resistance.

20 34. The police dogs used by the LAPD are male dogs chosen
21 for their aggressive behavior. The force of their jaws when they
22 bite a person is equal to nearly 900 pounds per inch. Bite
23 wounds from police dog attacks are often indistinguishable from
24 gun shot wounds, leaving gaping wounds, massive tissue and muscle
25 damage and the possibility of serious infection.

26 35. Individuals who are attacked and bitten by LAPD police
27 dogs deployed in the above-described manner suffer serious bodily
28 harm, as well as permanent and severe mental and physical

1 injuries. The use of police dogs in this manner constitutes the
2 use of deadly force.

3 36. Deadly force is that force which the actor uses with
4 the purpose of causing, or which he knows, or should know,
5 creates a substantial risk of causing death or serious physical
6 injury.

7 37. The LAPD's use of dogs in the above-described manner to
8 inflict serious physical injury on individuals without probable
9 cause to believe that the individuals pose an immediate threat of
10 serious physical injury or death to the officers or others
11 constitutes a policy, practice or custom of the Department that
12 violates the Fourth and Fourteenth Amendments to the United
13 States Constitution, Article I, Section 13 of the California
14 Constitution, as well as the Department's own deadly force
15 policy.

16 B. LAPD's Racially Discriminatory Deployment Of Police
17 Dogs.

18 38. It is the policy, practice or custom of the Los Angeles
19 Police Department to use police dogs primarily against racial
20 minorities, and in particular, against African-Americans and
21 Latinos. Pursuant to this policy, practice or custom, police
22 dogs are used primarily against persons who are members of
23 minority groups and in divisions with a high proportion of
24 minorities, despite the fact that the types of crimes for which
25 dogs are used are even more likely to occur in predominantly
26 white areas than they are in minority communities.

27 39. As a result of this policy, practice or custom, an
28 African American or Latino individual is far more likely to be

1 attacked and mauled by police dogs than a white person.

2 Plaintiffs are informed and believe that only a very small
3 percentage of all bite victims are white and that the vast
4 majority are African American, Latino, or members of other racial
5 minorities.

6 40. According to the LAPD's own statistics, the crimes for
7 which police dogs are most often deployed is greater in
8 predominantly white police divisions than in predominantly
9 minority divisions. Nevertheless, canine units are more likely
10 to be used in predominantly minority communities.

11 41. In using police dogs primarily in minority communities
12 and against persons who are members of racial minority groups,
13 defendants intended, and, in fact, did purposefully discriminate
14 against the minority class representative and members of the
15 minority sub-class on account of their race or ethnicity.

16 **C. The LAPD's Use Of Excessive Force Through Police Dogs**

17 42. The LAPD's own statistics demonstrate that, for the
18 period 1988 through 1990, in arrest situations where a canine
19 unit was not used, LAPD officers reported a use of force in less
20 than two percent of all arrests. For the same time period, LAPD
21 reported a use of force many times greater when police dogs were
22 used in arrest situations. Plaintiffs are informed and believe
23 and thereupon allege that the use of deadly force by canine units
24 continues to the present time to grossly exceed use of force by
25 non-canine units making arrests.

26 43. Plaintiffs are informed and believe and thereupon
27 allege that the LAPD's policy, practice or custom of using police
28 dogs results in far more bites and serious injuries than other

1 major metropolitan police departments' use of police dogs.

2 44. Plaintiffs are informed and believe and thereupon allege
3 that LAPD officers, pursuant to LAPD police, practice or custom,
4 have ordered dogs to attack and bite individuals who have
5 committed only minor misdemeanors or who the police lack probable
6 cause to believe are armed or otherwise dangerous.

7 45. Plaintiffs are informed and believe and thereupon
8 allege that pursuant to LAPD's policy, practice or custom, LAPD
9 officers have ordered dogs to attack and bite juveniles as young
10 as 14 years of age, resulting in massive injuries and emotional
11 trauma to these juveniles.

12 46. Plaintiffs are informed and believe and thereupon
13 allege that pursuant to LAPD's policy, practice or custom, LAPD
14 police dogs have attacked and severely mauled many innocent and
15 defenseless people when the dogs were used to search large areas.
16 These persons include children and women in their own homes, and
17 homeless people sleeping in vacant buildings.

18 47. Plaintiffs are informed and believe and thereupon
19 allege that LAPD's canine units, pursuant to LAPD's policy,
20 practice or custom, direct police dogs to attack and bite
21 individuals even after they have surrendered or have been
22 handcuffed.

23 **D. LAPD's Failure Adequately to Train Or Control Police**
24 **Dogs And Their Handlers.**

25 48. Plaintiffs are informed and believe and thereupon
26 allege that the LAPD uses inadequate procedures to hire and
27 select dog handlers, which do not adequately screen for persons
28 who are prone to the use of excessive force. As a result,

1 defendant City of Los Angeles employs dog handlers who are prone
2 to use and do use grossly excessive force.

3 49. Plaintiffs are informed and believe and thereupon
4 allege that the LAPD inadequately trains its dog handlers and
5 police dogs. Police dogs are not adequately trained to remain
6 responsive to their handlers, or in the circumstances in which
7 they should bite. Dog handlers are not adequately trained to
8 limit the amount of deadly canine force used to take a person
9 into custody to the amount of force which is reasonably
10 necessary. Dog handlers are taught to use excessive force even
11 to apprehend individuals who are not suspects, or who are
12 suspected of only minor misdemeanor offenses, or against whom
13 deadly force is not justified.

14 50. Plaintiffs are informed and believe and thereupon
15 allege that the LAPD does not adequately supervise or monitor the
16 use of police dogs or the severity of bitings or maulings which
17 occur during arrests.

18 51. Plaintiffs are informed and believe and thereupon
19 allege that the LAPD fails to or refuses to investigate or
20 discipline handlers who use their police dogs to inflict
21 excessive force.

22 52. Plaintiffs are informed and believe and thereupon
23 allege that the LAPD condones or encourages a conspiracy of
24 silence among its employees for the purpose of concealing and
25 furthering conduct by its employees, including but not limited to
26 the use of unnecessary and unreasonable force and discriminatory
27 deployment of police dogs, in violation of the United States
28 Constitution and the Constitution and laws of the State of

1 California.

2 53. Plaintiffs are informed and believe and thereupon
3 allege that Chief of Police Daryl Gates and other official policy
4 makers for the LAPD knew or reasonably should have known that
5 police dogs were being used as deadly force against individuals
6 for whom the police did not have probable cause to believe posed
7 an immediate threat of death or serious physical injury, and that
8 this use of police dogs severely and permanently injured hundreds
9 of individuals. On information and belief, plaintiffs further
10 allege that Defendant Gates and other official policy makers for
11 the LAPD knew or reasonably should have known that LAPD officers
12 were using dogs to attack and bite primarily African-American and
13 Latino individuals. Despite this knowledge, Chief Gates and
14 other official policy makers failed to take any steps to remedy
15 these violations of constitutional and statutory authority, as
16 well as of the LAPD's own written policies, through adequate
17 hiring, training, supervision and/or monitoring. In so doing,
18 defendants Gates and other official policy makers exhibited
19 deliberate indifference to the constitutional rights of all
20 plaintiffs and the classes of individuals they seek to represent.

21 **E. Individual Allegations.**

22 1. Rena Brown

23 54. On or about November 5, 1990, LAPD officers requested a
24 K-9 unit to respond to a search for a grand theft auto suspect.
25 The officers set up a perimeter around the area in which they
26 believed the suspect was hiding. The police officers had no
27 information that the suspect for whom they were searching was
28 armed, nor did they have probable cause to believe that the

1 suspect posed an immediate threat of death or serious bodily
2 injury to the police or to others. Nonetheless, the police
3 officers deployed a police dog to search for the suspect. The
4 suspect was found by the police dog as he scrambled out from
5 under the back of house where he had apparently hidden.

6 55. The police dog attacked Brown and viciously mauled his
7 leg, inflicting serious puncture and bite wounds.

8 56. While this attack was going on, the police officers at
9 the scene took no action to call the police dog off.

10 57. While plaintiff Brown was being attacked and bitten by
11 the dog, police officers hit Brown on the head with an unknown
12 object.

13 58. By reason of the acts of defendants, plaintiff Brown
14 was placed in great fear for his life and physical well being.

15 2. Jay Dale

16 59. On or about July 7, 1990, a police canine unit was
17 called to respond to a suspected commercial burglary of a
18 building located in the Hollywood area. Two individuals came
19 forward voluntarily, telling the police that they had been on the
20 roof of the building drinking beer. None of the police officers,
21 or the dog handler who arrived at the scene, had any information
22 that any of the individuals were armed, nor did they have
23 probable cause existed to believe that the individuals posed an
24 immediate threat of death or serious physical injury to the
25 officers or to third parties. Nonetheless, the dog handler
26 unleashed a police dog to search and bite a third individual who
27 had not come forward.

28 60. The police dog found plaintiff Jay Dale hiding near a

1 trash dumpster and immediately attacked him and began biting his
2 arms, torso, and legs.

3 61. While this attack was going on, police officers at the
4 scene took no action to call the police dog off.

5 62. After plaintiff Dale was handcuffed, LAPD officers
6 ordered the police dog to attack him again, which it did by
7 biting him on the legs and body. At the same time, police
8 officers struck Dale repeatedly with their batons, beating him in
9 the stomach, ribs and other parts of his body.

10 63. By reason of the acts of defendants, plaintiff Dale was
11 placed in great fear for his life and physical well being.

12 64. All acts or omissions alleged to have been engaged in
13 by any defendant herein are alleged to have been engaged in with
14 intent to injure plaintiffs or with a willful and conscious
15 disregard for the rights and safety of plaintiffs, and were
16 malicious and oppressive, entitling plaintiffs to recover
17 punitive damages from defendants.

18
19 **FIRST CAUSE OF ACTION -- EXCESSIVE FORCE**

20 **(4th and 14th Amendments, 42 U.S.C. Section 1983)**

21 **(All the class representatives, individually and**
22 **on behalf of the class they seek to represent,**
23 **against all defendants)**

24 65. Plaintiffs and each of them hereby reallege and
25 incorporate by reference as if fully set forth herein the
26 allegations set forth in paragraphs 1-64.

27 66. The conduct of each defendant violated the right of
28 plaintiffs to be secure in home, person, and effects against

1 unreasonable searches and seizures and not to be subjected to the
2 use of excessive force, as guaranteed by the Fourth and
3 Fourteenth Amendments to the United States Constitution, and
4 entitles plaintiffs to bring suit and recover damages pursuant to
5 42 U.S.C. Section 1983.

6 67. The conduct complained of herein was undertaken
7 pursuant to the policy, practice or custom of the Los Angeles
8 Police Department, an agency of the City of Los Angeles.
9 Alternatively, plaintiffs allege that defendant City of Los
10 Angeles, through its official policy makers, Chief of Police
11 Daryl Gates and others, knew that the canine units have operated
12 and continue to operate in such a way as to deprive numerous
13 individuals of their constitutional rights to be free from
14 unreasonable seizures resulting from the use of excessive force..
15 Despite this knowledge, Chief of Police Gates and other official
16 policy makers have failed to take any remedial or corrective
17 actions. In failing to take corrective measures in the areas of
18 hiring, training, supervision, and monitoring, the City of Los
19 Angeles has exhibited and continues to exhibit deliberate
20 indifference to the constitutional rights of plaintiffs.

21 68. As a direct and proximate cause of the aforementioned
22 acts of defendants, plaintiffs were deprived of their
23 constitutional rights to be free from unreasonable seizures.

24 69. As a proximate result of the wrongful, malicious and
25 violent acts of defendants, and the fright caused plaintiffs,
26 plaintiffs and each of them, suffered physical injuries and
27 experienced shock and injury to the nervous system and were
28 injured in their health, strength and activity, suffering extreme

1 and severe mental anguish and physical pain, anxiety, humiliation
2 and emotional distress.

3 70. By reason of the aforementioned acts and omissions of
4 defendants and the City of Los Angeles, plaintiffs, and each of
5 them, have incurred and will incur in the future medical and
6 related expenses, past and future lost earnings, and other
7 special and general damages, in an amount according to proof, but
8 in excess of the jurisdictional limits of this court.

9
10 **SECOND CAUSE OF ACTION -- RACIAL DISCRIMINATION**

11 **(Fourteenth Amendment, 42 U.S.C. Section 1983)**

12 **(The minority class representative, individually and on behalf of**
13 **the class he seeks to represent, against all defendants)**

14 71. Plaintiffs and each of them hereby reallege and
15 incorporate by reference as if fully set forth herein the
16 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

17 72. Defendants' actions as alleged herein deprived the
18 minority class representative and the subclass he seeks to
19 represent of the equal protection of the laws on account of their
20 race and/or ethnic origin in violation of the Fourteenth
21 Amendment of the United States Constitution, and entitles him to
22 bring suit and recover damages pursuant to 42 U.S.C. Section
23 1983.

24 73. The conduct complained of herein was undertaken
25 pursuant to the policy, practice or custom of the Los Angeles
26 Police Department, an agency of the City of Los Angeles.
27 Alternatively, plaintiffs allege that defendant City of Los
28 Angeles, through its official policy makers, Chief of Police

1 Daryl Gates and others, knew that LAPD officers were using dogs
2 to attack and bite primarily African-American and Latino
3 individuals. Despite this knowledge, chief Gates and other
4 official policy makers failed to take any remedial or corrective
5 actions. In failing to take corrective measures in the areas of
6 hiring, training, supervision, and monitoring, the City of Los
7 Angeles has exhibited, and continues to exhibit, deliberate
8 indifference to the constitutional rights of the minority class
9 plaintiffs.

10 74. As a direct and proximate cause of the aforementioned
11 acts of defendants, plaintiffs were deprived of their
12 constitutional rights to receive equal protection of the laws.
13 As a further direct and proximate cause of the aforementioned
14 actions of defendants, plaintiffs were injured as set forth in
15 paragraphs 69-70 above.

16 **THIRD CAUSE OF ACTION -- CONSPIRACY TO VIOLATE CIVIL RIGHTS**

17 **(42 U.S.C. Section 1985(3))**

18 **(The minority class representative, individually and on behalf of**
19 **the class he seeks to represent, against all defendants)**

20 75. Plaintiffs and each of them hereby reallege and
21 incorporate by reference as if fully set forth herein the
22 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

23 76. Defendants, and two or more them, conspired for the
24 purposes of depriving the minority class representative and the
25 class he seeks to represent of equal protection of the laws on
26 account of their race and/or ethnic origin. Defendant City of
27 Los Angeles, Daryl Gates and the supervisorial defendants who had
28 the power to but who did not prevent the violations of Section

1 1985, are liable to plaintiffs pursuant to 42 U.S.C. Section
2 1985.

3 77. As a direct and proximate cause of the aforementioned
4 acts of defendants, plaintiffs were deprived of their
5 constitutional rights to be free from unreasonable seizures and
6 to receive equal protection of the laws. As a further proximate
7 result of defendants' acts, plaintiffs were injured as alleged in
8 paragraphs 68 through 69 above.

9
10 **FOURTH CAUSE OF ACTION -- EXCESSIVE FORCE**

11 **AND DENIAL OF EQUAL PROTECTION UNDER STATE CONSTITUTION**

12 **(California Constitution, Article I, Sections 7 and 13)**

13 **(All class representatives, individually and on behalf of the**
14 **classes they seek to represent, against all defendants)**

15 78. Plaintiffs and each of them hereby reallege and
16 incorporate by reference as if fully set forth herein the
17 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

18 79. The conduct of each defendant violated the right of
19 plaintiffs to be secure in home, person, and effects against
20 unreasonable searches and seizures and not be subjected to the
21 use of excessive force, as guaranteed by Article I, Section 13 of
22 the California Constitution.

23 80. The conduct of each defendant violated the right of the
24 minority class representative and the class he seeks to represent
25 of the equal protection of the law in violation of Article I,
26 Section 7 of the California Constitution.

27 81. As a direct and proximate cause of the aforementioned
28 acts of defendants, plaintiffs were deprived of their California

1 constitutional rights to be free from unreasonable seizures and
2 to receive equal protection of the laws. As a further direct and
3 proximate cause of the aforementioned actions of defendants,
4 plaintiffs were injured as set forth in paragraphs 69-70 above.

5
6 **FIFTH CAUSE OF ACTION -- RACIAL VIOLENCE AND INTIMIDATION**

7 **(Civil Code Section 51.7)**

8 **(The minority class representative, individually and on behalf**
9 **of the class he seeks to represent, against all defendants)**

10 82. Plaintiffs and each of them hereby reallege and
11 incorporate by reference as if fully set forth herein the
12 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

13 83. Defendants' use of police dogs to inflict deadly force
14 against the minority class representative and the class he seeks
15 to represent was based upon plaintiffs' race and/or ethnic origin
16 and constituted violence directed against plaintiffs on account
17 of their race and/or ethnic origin, thereby entitling them to
18 damages under Civil Code Section 52.

19 84. As a direct and proximate cause of the aforementioned
20 acts of defendants, plaintiffs were injured as set forth in
21 paragraphs 69-70 above.

22
23 **SIXTH CAUSE OF ACTION -- ASSAULT**

24 **(All class representatives, individually and on behalf of the**
25 **class they seek to represent, against all defendants)**

26 85. Plaintiffs and each of them hereby reallege and
27 incorporate by reference as if fully set forth herein the
28 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

1 86. Defendant police officers willfully and unlawfully
2 attempted to commit a violent injury upon plaintiffs, thereby
3 causing them damages according to proof. Defendant Daryl Gates
4 and supervisorial defendants ratified and condoned these assaults
5 making them liable for injuries as a result thereof. Defendant
6 City of Los Angeles is liable pursuant to Government Code Section
7 815.2.

8 87. As a direct and proximate cause of the aforementioned
9 acts of defendants, plaintiffs were injured as set forth in
10 paragraphs 69-70 above.

11
12 **SEVENTH CAUSE OF ACTION -- BATTERY**

13 (All class representatives, individually and on behalf
14 of the class they seek to represent, against all defendants)

15 88. Plaintiffs and each of them hereby reallege and
16 incorporate by reference as if fully set forth herein the
17 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

18 89. Defendant police officers willfully and unlawfully used
19 force or violence upon plaintiffs, thereby causing them damages
20 according to proof. Defendant Daryl Gates and the supervisorial
21 defendants ratified and condoned these assaults, making them
22 liable for injuries as a result thereof. Defendant City of Los
23 Angeles is liable pursuant to Government Code Section 815.2.

24 90. As a direct and proximate cause of the aforementioned
25 acts of defendants, plaintiffs were injured as set forth in
26 paragraphs 69-70 above.

EIGHTH CAUSE OF ACTION -- NEGLIGENCE

**(All class representatives, individually and on behalf of the
class they seek to represent, against all defendants)**

91. Plaintiffs and each of them hereby reallege and incorporate by reference as if fully set forth herein the allegations set forth in paragraphs 1-64 and paragraphs 69-70.

92. Defendants negligently permitted dogs to attack and maul plaintiffs when they knew or should have known, in the exercise of ordinary care, that the use of such dogs was unnecessary, and that the use of the dogs created a substantial probability of causing serious injury to plaintiffs.

93. Defendants City of Los Angeles, Daryl Gates and the supervisory defendants had a duty to adequately train, supervise and monitor the dog handlers and dogs in the Department's canine units. Despite their duty to do so, these defendants negligently trained, supervised and monitored the dog handlers and dogs in the Department's Canine Units.

94. As a direct and proximate cause of the aforementioned acts of defendants, plaintiffs were injured as set forth in paragraphs 69-70 above.

NINTH CAUSE OF ACTION -- VIOLATION OF STATUTORY DUTY

(Civil Code Section 3342)

**(All class representatives, individually and on behalf
of the class they see to represent, against
defendant City of Los Angeles only)**

95. Plaintiffs and each of them hereby reallege and incorporate by reference as if fully set forth herein the

1 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

2 96. Defendant City of Los Angeles's use of a dog as alleged
3 above subjects City of Los Angeles to strict liability under Cal.
4 Civil Code Section 3342, for all damages proximately caused
5 plaintiffs as a result of the dogs' biting plaintiffs.

6 97. Subdivision (b) of Cal. Civil Code Section 3342.5 does
7 not apply to shield the City of Los Angeles from liability
8 because the written policy adopted by the city as to the use of
9 police dogs to apprehend individuals is unconstitutional under
10 the United States and California constitutions.

11 98. As a direct and proximate cause of the aforementioned
12 acts of defendants, plaintiffs were injured as set forth in
13 paragraphs 69-70 above.

14
15 **TENTH CAUSE OF ACTION --**

16 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

17 **(All class representatives, individually and on behalf of the**
18 **class they seek to represent, against all defendants)**

19 99. Plaintiffs and each of them hereby reallege and
20 incorporate by reference as if fully set forth herein the
21 allegations set forth in paragraphs 1-64 and paragraphs 69-70.

22 100. In committing the acts and omissions described more
23 fully in paragraphs 1 through 64, inclusive, defendants knew or
24 should have known that their conduct would result in plaintiffs
25 suffering severe emotional distress and that defendants' acts and
26 omissions were perpetrated with the intent to inflict or with
27 reckless disregard for the probability of inflicting humiliation,
28 mental anguish and severe emotional distress on plaintiffs.

1 101. As a direct and proximate result of the defendants'
2 conduct as described herein, plaintiffs have suffered and/or
3 continue to suffer humiliation, mental anguish, nervous shock
4 severe emotional distress, attendant physical injuries and
5 conditions, and other special and general damages in amounts
6 according to proof. Further, plaintiffs were injured as alleged
7 in paragraphs 69-70 above.

8
9 **ELEVENTH CAUSE OF ACTION -- TAXPAYER ACTION**

10 **(Declaratory and Injunctive Relief Under C.C.P. § 526(a))**

11 **(All taxpayer plaintiffs against the**

12 **City of Los Angeles and Chief of Police Daryl Gates)**

13 102. Plaintiffs and each of them hereby reallege and
14 incorporate by reference as if fully set forth herein the
15 allegations set forth in paragraphs 1-64.

16 103. Defendants' expenditure of taxpayer funds for the
17 implementation of the unconstitutional policies and practices
18 complained of herein is wasteful, illegal and unlawful.
19 Plaintiffs Lawson, Epps, ACLU, Heppe, Brown and Dale as taxpayers
20 of the City of Los Angeles have an interest in enjoining the
21 unlawful expenditure of tax funds and the proposed unlawful
22 expenditure of such funds.

23 104. Pursuant to Code of Civil Procedure Sections 526 and
24 526(a), the taxpayer plaintiffs seek declaratory and injunctive
25 relief to prevent continued harm and to protect themselves and
26 the public from the defendants' unlawful policies and practices.

27 105. The people of Los Angeles are threatened with great
28 and irreparable injury in that defendants' use and deployment of

1 police dogs frequently results in severe injuries to persons
2 residing in the City of Los Angeles and deprives racial and
3 ethnic minorities of the equal protection of the law.

4 106. Plaintiff taxpayers have no other speedy or adequate
5 remedy at law.

6 Wherefore, plaintiff taxpayers request the following
7 declaratory relief and injunctive relief against defendants Chief
8 Daryl Gates and City of Los Angeles:

9 A. A declaration that defendants Chief Daryl Gates
10 and City of Los Angeles' deployment and use of
11 dogs violates constitutional guarantees under the
12 Fourth and Fourteenth Amendments to the United
13 States Constitution, and Article I, Sections 7 and
14 13 of the Constitution and laws of the State of
15 California;

16 B. A preliminary and permanent injunction barring Los
17 Angeles police officers from using or deploying
18 dogs to apprehend persons by attacking and biting
19 them except where the officers have probable cause
20 to believe the person poses an immediate threat of
21 serious physical injury of death to the officer or
22 third persons;

23 C. A preliminary and permanent injunction barring the
24 Los Angeles Police Department from using dogs to
25 assist in finding persons, taking persons into
26 custody or for protection against attack until dog
27 handlers and dogs are adequately selected,
28 trained, supervised, and disciplined. Such

1 selection, training, supervision and discipline
2 shall include, at a minimum, the following:
3 i. Training dogs not to attack or bite anyone
4 except upon the special command of the
5 handler;
6 ii. Training and requiring handlers to give
7 appropriate warnings prior to the release of
8 a police dog;
9 iii. Using psychological tests to screen dog
10 handlers before they are selected to be dog
11 handlers and to periodically monitor dog
12 handlers;
13 iv. Photographing all dog bite injuries in color
14 with high quality cameras such as are
15 routinely used to photograph and record
16 evidence by the Department, in such a manner
17 as to depict the exact nature and extent of
18 the injuries inflicted;
19 v. Preparing written reports which detail
20 exactly what injuries are inflicted;
21 vi. Immediately transporting all dog bite victims
22 to doctors for medical treatment;
23 vii. Collecting and retaining medical records
24 showing the nature of the injuries; and
25 viii. Video taping interviews of all persons bitten
26 by a dog immediately after an attack by a
27 monitor appointed by the court regarding the
28 manner in which the injuries occurred; such

1 tape recorded interviews to be transcribed
2 and the tapes preserved under seal of the
3 Court and not to be released to any party
4 except the dog bite victim without order of
5 the court.
6

7 V.

8 PRAYER FOR RELIEF

9 Wherefore, plaintiffs seek judgment as follows:
10

11 First, Second and Third Causes of Action

12 Compensatory general and special damages in an amount
13 according to proof; exemplary damages (against each of the
14 individual defendants) in an amount sufficient to deter and to
15 make an example of those defendants; reasonable attorneys fees
16 and costs of litigation pursuant to 42 U.S.C. Section 1988;

17 Fourth, Sixth, Seventh, and Tenth Causes of Action

18 Compensatory general and special damages in an amount in
19 accordance with proof; exemplary damages sufficient to deter and
20 to make an example of those defendants;

21 Fifth Cause of Action

22 Actual damages in an amount according to proof; exemplary
23 damages and/or statutory damages in the amount of \$10,000 for
24 each act of violence against plaintiffs on account of their race
25 and/or ethnic origin; treble actual damages; and such attorneys
26 fees as the court may determine;

27 Eighth and Ninth Causes of Action

28 Compensatory general and special damages in an amount in

1 accordance with proof;

2 Eleventh Cause of Action

3 Declaratory and injunctive relief as set forth above at
4 paragraphs 1-64; attorneys fees and costs under C.C.P. Section
5 1021.5;

6 and;

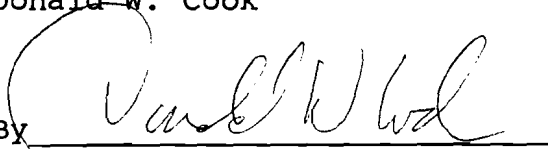
7 The costs of this suit and such other relief as the Court
8 finds just and proper.

9
10 Respectfully Submitted,

11 Robert Mann
12 Donald W. Cook

13 DATED: June 21, 1991

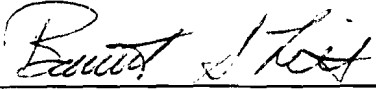
14 By


Donald W. Cook

15 LITT & STORMER
16 A LAW CORPORATION

17 DATED: June 21, 1991

18 By


Barrett S. Litt

19
20 ACLU FOUNDATION OF SOUTHERN
21 CALIFORNIA

22 DATED: June 21, 1991

23 By


Paul Hoffman

24 NAACP LEGAL DEFENSE AND EDUCATIONAL
25 FUND, INC.

26 DATED: June 21, 1991

27 By


Constance L. Rice

28 Attorneys for Plaintiffs
REVEREND DR. JAMES M. LAWSON, et al.