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SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

<p>20 REVEREND DR. JAMES M. LAWSON,)</p> <p>21 REVEREND DR. WILLIAM S. EPPS, ACLU))</p> <p>22 OF SOUTHERN CALIFORNIA, KAROL)</p> <p>23 HEPPE, in her individual capacity,))</p> <p>24 and MISAEL GARCIA-MENENDEZ, in his))</p> <p>25 individual capacity, in their)</p> <p>26 capacities as taxpayers, CLARA MAE))</p> <p>27 PIERCE, JAY DALE, ALFRED GENE)</p> <p>28 DOSS, JR., MICHAEL THOMPSON,)</p> <p>29 CURTIS LAVELL KING, JOHN)</p> <p>30 HERNANDEZ, DRAMECO KINDLE, and)</p> <p>31 ROBERT DOUGLAS individually and as))</p> <p>32 class representatives,)</p> <p>33)</p> <p>34 Plaintiffs,)</p> <p>35)</p> <p>36 vs.)</p>	<p>Case No.: BC 031232</p> <p>CLASS ACTION</p> <p>THIRD AMENDED COMPLAINT FOR DAMAGES AND DECLARATORY AND INJUNCTIVE RELIEF</p> <p>1. Excessive Force (4th & 14th Amendments to U.S. Constitution)</p> <p>2. Racial Discrimination (4th & 14th Amendment to U.S. Constitution)</p>
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1 FORMER POLICE CHIEF DARYL GATES,)
individually and in his official)
2 capacity, POLICE CHIEF WILLIE L.)
WILLIAMS, in his official)
3 capacity, CITY OF LOS ANGELES,)
DEPUTY CHIEF RONALD FRANKLE,)
4 DEPUTY CHIEF BERNARD PARKS,)
CAPTAIN PATRICK MCKINLEY, CAPTAIN)
5 RICHARD L. BONNEAU, LIEUTENANT)
PETER DURHAM, SERGEANT JERRY)
6 THOMAS, SERGEANT DONN YARNALL, and)
SERGEANT MARK MOORING,)
7 individually and in their official)
capacities, and DOES 1-100,)
8)
9 Defendants.)

- 3. Due Process Violation (14th Amendment to U.S. Constitution)
- 4. Racial Discrimination (14th Amendment to U.S. Constitution)
- 5. Conspiracy to Violate Civil Rights (42 U.S.C. § 1985)
- 6. Excessive Force, Denial of Equal Protection and Due Process of Law, Under California Constitution
- 7. Racial Violence and Intimidation in Violation of Civil Code § 51.7
- 8. Threats, Intimidation or Coercion in Violation of Civil Code § 52.1
- 9. Violation of Statutory Duty (Civil Code § 3342)
- 10. Taxpayer Action for Declaratory and Injunctive Relief

DEMAND FOR JURY TRIAL

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I. INTRODUCTION

1. This is a civil rights action brought by victims of a systematic custom, practice and/or policy of the Los Angeles Police Department ("LAPD") to use deadly or otherwise excessive or unreasonable 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 bitten and grievously injured by police dogs, without the police having probable cause or reasonable suspicion to believe such individuals pose an immediate or any threat of death or serious bodily injury, or otherwise posed a threat justifying the use of such 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 programs, responsible police departments train their handlers and dogs to only have their dogs search and find suspects, and rarely do their dogs bite suspects. Other police department canine units have significantly lower bite rates than the LAPD canine unit. Within the LAPD generally, officers use force in an arrest situation in only one to two percent of all arrests. However, the use of force rate is many times greater when the LAPD deploys a police dog. In addition, police dog inflicted injuries are often far more grave than injuries caused by other police uses of force.

3. The LAPD trains, conditions and/or deploys its canine

1 units to attack potential suspects and innocent bystanders; once
2 a police dog begins biting, the dogs are conditioned or trained
3 to bite a person until he or she becomes passive. Even if the
4 suspect or bystander is passive when the dog first encounters the
5 person, the dogs are trained to attack and do attack. The police
6 dogs attack anywhere on the body, the face, the neck, the chest,
7 the genitals, or any other part of the body that is available.
8 Because the dogs are large and are used to attack aggressively,
9 victims suffer deep puncture wounds, often with flesh and muscle
10 ripped and torn, frequently requiring medical attention and
11 hospitalization. Physical scarring, and even reconstructive
12 surgery, are common, not to mention the deep psychological trauma
13 that ferocious attacks of this type inevitably leave.

14 4. The LAPD has systematically failed to monitor or
15 evaluate the deployment of police dogs, ignoring overwhelming
16 evidence of the grossly excessive nature of the force used and
17 severity of the injuries inflicted.

18 5. The LAPD deploys its police dogs principally in
19 African-American and Latino and/or other minority communities,
20 although the crimes for which dogs are used occur at equal if not
21 greater rates in communities with substantially higher Caucasian
22 populations and/or more affluent areas. In addition, the LAPD
23 has a culture that condones racist behavior by a significant
24 number of officers and it fosters racial discrimination with
25 respect to police practices in the minority communities of Los
26 Angeles. Although Caucasians also suffer from unwarranted dog
27 attacks, all information presently available to the plaintiffs
28 indicates that the overwhelming majority of the victims of police

1 dog attacks are African-American or Latino. Two conclusions are
2 clear. Through its canine units, the LAPD unleashes unjustified
3 deadly or otherwise excessive or unreasonable force in violation
4 of the Fourth and Fourteenth Amendments to the United States
5 Constitution; of 42 U.S.C Section 1983; and of the California
6 Constitution, Article I, Sections 7 and 13. Moreover, this
7 unconstitutional force is disproportionately and discriminatorily
8 overdeployed in predominately minority communities, and not
9 deployed in other communities where similar circumstances (i.e.,
10 types and rates of crimes) warrant use of the dogs, in violation
11 of the Equal Protection and Due Process clauses of the Fourteenth
12 Amendment to the United States Constitution; of 42 U.S.C.
13 Sections 1983 and 1985; and of the California Constitution,
14 Article I, Sections 7 and 13.

15 6. Plaintiffs seek a determination by this Court that the
16 LAPD's ~~custom~~, practice and/or policy of using police dogs to
17 automatically and without warning attack and bite people
18 constitutes the unconstitutional use of deadly or otherwise
19 excessive or unreasonable force in circumstances where no threat
20 justifies the use of such force. Plaintiffs also seek a
21 determination that the custom, practice and/or policy of
22 concentrating the use of this unconstitutional use of force in
23 minority communities and against minority individuals deprives
24 African-American and Latino persons of the equal protection of
25 the law, and further deprives minority persons of due process of
26 law. Plaintiffs seek certification of a class of victims of
27 these unconstitutional policies and practices, and compensation
28 for all of the class members. Finally, plaintiffs seek an order

1 enjoining the continuation of these customs, policies and
2 practices, requiring that LAPD officers only use dogs to attack
3 and bite where the officers have probable cause to believe that
4 an individual poses an immediate threat of death or serious
5 physical injury to the officer or third parties or otherwise
6 poses a threat justifying the use of such force; that dogs be
7 adequately trained not to routinely bite anyone except upon
8 specific command of the handler; that handlers be screened
9 psychologically, and that handlers and their dogs be trained to
10 insure that the handlers properly control and direct their dogs,
11 that the dogs be trained to properly respond to commands; that
12 warnings to suspects include not only a warning of imminent use
13 of the dogs, but also instruction^{1/} to the suspect to remain
14 still in order not to be bitten; development of a deployment
15 policy which is based on objective criteria; that full record
16 keeping, including color photographs of all dog bite injuries, be
17 maintained; and that the Department monitor the use of dogs, and
18 the injuries the dogs inflict, to both assure that any use of
19 force via a police dog was appropriate, and that whatever force
20 via a dog is used, that the level of force used was appropriate.

21 II. PARTIES

22 A. The Taxpayer Plaintiffs.

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

27 _____
28 1/ All instructions and warnings should be given in
Spanish or other languages as needed.

1 8. The Reverend Dr. William S. Epps is the pastor of the
2 Second Baptist Church of Los Angeles. At all times relevant
3 herein Reverend Epps was and is a resident and taxpayer of the
4 City of Los Angeles.

5 9. The ACLU of Southern California, a non-profit
6 corporation dedicated to the protection and furtherance of civil
7 liberties, at all times relevant herein was and is a taxpayer of
8 the City of Los Angeles.

9 10. Karol Heppe is the Executive Director of the Police
10 Misconduct Lawyers Referral Service, and she is suing only in her
11 individual capacity as a taxpayer. At all times relevant herein
12 Ms. Heppe was and is a resident and taxpayer of the City of Los
13 Angeles.

14 11. Misael Garcia-Menendez is an indigent resident of the
15 City of Los Angeles and he is suing only in his individual
16 capacity as a taxpayer. At all times relevant herein Mr. Garcia-
17 Menendez was and is a taxpayer of the City of Los Angeles.

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

19 12. Plaintiff Clara Mae Pierce is a sixty-six year old
20 African-American female and a resident of the County of Los
21 Angeles. Plaintiff Pierce has been a taxpayer of the City of Los
22 Angeles during the year prior to the filing of this complaint.
23 On or about January 14, 1992, LAPD officers unleashed a police
24 dog upon plaintiff Pierce, although there was no probable cause
25 or reasonable suspicion to believe that plaintiff Pierce posed an
26 immediate or any threat of death or serious physical injury to
27 the officers or to third parties, or otherwise posed a threat
28 justifying the use of such force. Plaintiff Clara Mae Pierce, a

1 non-suspect, was attacked and severely bitten by the police dog
2 in her enclosed backyard, suffering physical injury, mental and
3 emotional harm, medical and other special damages. When
4 plaintiff Pierce attempted to protect herself from the dog's
5 continued attack, officers yelled at her not to interfere with
6 the dog. By reason of the acts of defendants, plaintiff Pierce
7 was put in great fear for her life and physical well being.

8 13. Plaintiff Jay Dale is a twenty-two year old Caucasian
9 male and former resident of the County of Los Angeles. Plaintiff
10 Dale had been a taxpayer of the City of Los Angeles during the
11 year prior to the filing of this complaint. On or about July 7,
12 1990, LAPD officers unleashed a police dog on plaintiff Dale,
13 although there was no probable cause or reasonable suspicion to
14 believe that plaintiff Dale posed an immediate or any threat of
15 death or serious physical injury to the officers or to third
16 parties, or otherwise posed a threat justifying the use of such
17 force. Plaintiff Jay Dale, a commercial burglary suspect, was
18 attacked and severely bitten by the police dog, suffering
19 physical injury, mental and emotional harm and suffering lost
20 income, medical and other special damages. Plaintiff Dale was
21 attacked by the dog again, after being handcuffed. During the
22 attack on Dale, officers present at the scene took no action to
23 call the dog off. By reason of the acts of defendants, plaintiff
24 Dale was put in great fear for his life and physical well being.

25 14. Plaintiff Alfred Gene Doss, Jr. (hereafter sometimes
26 referred to as "Doss"), is a thirty-seven year old African-
27 American male and resident of the County of Los Angeles.
28 Plaintiff Doss has been a taxpayer of the City of Los Angeles

1 during the year prior to the filing of this complaint. On or
2 about June 21, 1991, LAPD officers unleashed a police dog upon
3 plaintiff Doss, a non-suspect, although there was no probable
4 cause or reasonable suspicion to believe that plaintiff Doss
5 posed an immediate or any threat of death or serious physical
6 injury to the officers or to third parties, or otherwise posed a
7 threat justifying the use of such force. Plaintiff Alfred Gene
8 Doss was attacked and severely bitten by the police dog,
9 suffering physical injury, mental and emotional harm and
10 suffering lost income, medical and other special damages. While
11 plaintiff Doss was being attacked, officers present at the scene
12 took no action to call the dog off. By reason of the acts of
13 defendants, plaintiff Doss was put in great fear for his life and
14 physical well being.

15 15. Plaintiff Michael Thompson is a thirty-nine year old
16 African-American male and a former resident of the County of Los
17 Angeles. On or about November 13, 1990, LAPD officers unleashed
18 a police dog upon plaintiff Thompson, a vehicle burglary suspect,
19 although there was no probable cause or reasonable suspicion to
20 believe that plaintiff Thompson posed an immediate or any threat
21 of death or serious physical injury to the officers or to third
22 parties, or otherwise posed a threat justifying the use of such
23 force. Plaintiff Michael Thompson was attacked and severely
24 bitten by the police dog, suffering physical injury, mental and
25 emotional harm and suffering lost income, medical and other
26 special damages. While the dog attacked plaintiff Thompson,
27 officers present at the scene took no action to call the police
28 dog off. During the dog attack on plaintiff Thompson officers

1 struck plaintiff Thompson on the side of the head with a
2 flashlight, causing further serious injury. After the dog's
3 attack on plaintiff Thompson, police officers failed to provide
4 plaintiff Thompson with prompt treatment for his injuries. By
5 reason of the acts of defendants, plaintiff Thompson was put in
6 great fear for his life and physical well being.

7 16. Plaintiff Curtis Lavell King is a nineteen year old
8 African-American male resident of the County of Los Angeles. On
9 or about April 24, 1989, LAPD officers unleashed a police dog
10 upon plaintiff King, a grand theft auto suspect, although there
11 was no probable cause or reasonable suspicion to believe that
12 plaintiff King posed an immediate or any threat of death or
13 serious physical injury to the officers or to third parties, or
14 otherwise posed a threat justifying the use of such force.
15 Plaintiff Curtis Lavell King was attacked and severely bitten by
16 the police dog, suffering physical injury, mental and emotional
17 harm and suffering lost income, medical and other special
18 damages. Plaintiff King was attacked by the police dog after he
19 surrendered and lay on the ground as ordered by police officers.
20 While plaintiff King was being attacked by the dog, officers
21 present at the scene took no action to call the dog off. After
22 the dog attack police officers failed to provide plaintiff King
23 with prompt treatment for his injuries. At the time of the
24 police dog's attack on plaintiff King he was a minor (born
25 11/26/73). By reason of the acts of defendants, plaintiff King
26 was put in great fear for his life and physical well being.
27 Plaintiff King has a case pending against the LAPD, King v. City
28 of Los Angeles (Super. Ct. Los Angeles County, filed November 14,

1 1989, No. C 743 543), which is consolidated with this case. He
2 joins this case and seeks a stay of his individual case pending
3 resolution of the class certification motion.

4 17. Plaintiff John Hernandez is an eighteen year old male,
5 a member of a minority group and a resident of the County of Los
6 Angeles. Plaintiff Hernandez has been a taxpayer of the City of
7 Los Angeles during the year prior to the filing of this
8 complaint. On or about July 18, 1991, LAPD officers unleashed a
9 police dog upon plaintiff Hernandez, although there was no
10 probable cause or reasonable suspicion to believe that plaintiff
11 Hernandez posed an immediate or any threat of death or serious
12 physical injury to the officers or to third parties, or otherwise
13 posed a threat justifying the use of such force. Plaintiff John
14 Hernandez was attacked and severely bitten by the police dog,
15 suffering physical injury, mental and emotional harm and
16 suffering lost income, medical and other special damages. During
17 the dog's attack on plaintiff Hernandez, officers present at the
18 scene took no action to call the dog off. Police officers
19 "hogtied" plaintiff and repeatedly picked plaintiff up off the
20 ground and dropped him. A police officer or officers kicked
21 plaintiff in the head. Police officers failed to provide
22 plaintiff with prompt treatment for his injuries. By reason of
23 the acts of defendants, plaintiff Hernandez was put in great fear
24 for his life and physical well being.

25 18. Plaintiff Drameco Kindle is an eighteen year old
26 African-American male resident of the County of Los Angeles. On
27 or about March 8, 1989, LAPD officers unleashed a police dog upon
28 plaintiff Kindle, a grand theft auto suspect, although there was

1 no probable cause or reasonable suspicion to believe that
2 plaintiff Kindle posed an immediate or any threat of death or
3 serious physical injury to the officers or to third parties, or
4 otherwise posed a threat justifying the use of such force.
5 Plaintiff Drameco Kindle was attacked and severely bitten by the
6 police dog, suffering physical injury, mental and emotional harm
7 and suffering, medical and other special damages. During the
8 dog's attack on plaintiff Kindle, officers present at the scene
9 took no action to call the dog off. At the time of the police
10 dogs attack on plaintiff Kindle he was a minor (born 9/17/74). By
11 reason of the acts of defendants, plaintiff Kindle was put in
12 great fear for his life and physical well being.

13 19. Plaintiff Robert Douglas is an adult African-American
14 male and resident of the County of Los Angeles. On or about
15 November 11, 1991, LAPD officers unleashed a police dog upon
16 plaintiff Douglas, although there was no probable cause or
17 reasonable suspicion to believe that plaintiff Douglas posed an
18 immediate or any threat of death or serious physical injury to
19 the officers or to third parties, or otherwise posed a threat
20 justifying the use of such force. Plaintiff Douglas was attacked
21 and severely bitten by the police dog, suffering physical injury,
22 mental and emotional harm and suffering lost income, medical and
23 other special damages. Plaintiff Douglas was attacked by the
24 police dog without any warning or opportunity to surrender. The
25 dog that attacked plaintiff Douglas was initially not accompanied
26 by its handler. During the attack on plaintiff Douglas, officers
27 present at the scene took no action to call the dog off. By
28 reason of the acts of defendants, plaintiff Douglas was put in

1 great fear for his life and physical well being.

2 20. Plaintiffs Pierce, Doss, Hernandez and Douglas filed
3 claims against defendants under Government Code Section 910 as
4 individuals and as class representatives. All of these claims
5 were rejected.

6 1. The Classes

7 21. Plaintiffs Clara Mae Pierce, Alfred Gene Doss, Jr.,
8 John Hernandez and Robert Douglas (hereafter the "state claims
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 custom, practice and/or policy, has unleashed
13 a police dog to attack and bite without probable cause or
14 reasonable suspicion to believe that the individuals posed an
15 immediate or any threat of death or serious physical injury to
16 anyone, or otherwise posed a threat justifying the use of such
17 force, in violation of California law. Plaintiffs Pierce, Doss,
18 Hernandez, Douglas, Jay Dale, Michael Thompson, Curtis Lavell
19 King, and Drameco Kindle, (hereafter the "federal claims class
20 representatives") also bring this action for damages on their own
21 behalf and on behalf of a class comprised of all individuals in
22 the City of Los Angeles against whom the Los Angeles Police
23 Department, pursuant custom, practice and/or policy, has
24 unleashed a police dog to attack and bite without probable cause
25 or reasonable suspicion to believe that the individuals posed an
26 immediate or any threat of death or serious physical injury to
27 anyone, or otherwise posed a threat justifying the use of such
28 force, in violation of federal law.

1 22. Members of the classes on whose behalf the class
2 representatives sue are readily ascertainable. The LAPD
3 maintains records which reflect the names of individuals attacked
4 by LAPD dogs and the credible information, or information at all,
5 on which the officer relied when deciding to order a dog to find
6 and attack the individual. These records will not only establish
7 the identities of class members, but will constitute admissions
8 establishing liability since the records facially demonstrate
9 that the officers lacked probable cause or reasonable suspicion
10 to believe that the suspect posed an immediate or any threat of
11 serious physical injury or death to officers or to third parties,
12 or otherwise posed a threat justifying the use of such force, and
13 yet used deadly or otherwise excessive or unreasonable force by
14 letting loose a dog trained to attack in the manner described
15 above.

16 23. Members of the classes are so numerous that joinder is
17 impracticable. Plaintiffs are informed and believe and thereupon
18 allege that there were over 900 suspects who were bitten by LAPD
19 police dogs in the last three years and that in most, if not all,
20 of these police dog attacks, the officers lacked probable cause
21 or reasonable suspicion to believe the individual attacked posed
22 an immediate or any threat of death or serious physical injury to
23 anyone, or otherwise posed a threat justifying the use of such
24 force.

25 24. Predominant common questions of law and fact affect the
26 rights of all class members. The central issues of law to be
27 decided -- whether the Los Angeles Police Department's use of
28 police dogs constitutes deadly or otherwise excessive or

1 unreasonable force, and whether the Department may use such
2 deadly or otherwise excessive or unreasonable force without
3 probable cause or reasonable suspicion to believe that an
4 individual poses an immediate or any threat of death or serious
5 physical injury, or otherwise posed a threat justifying the use
6 of such force -- are common to all class members. Furthermore,
7 as set forth below, plaintiffs' allegations as to the customs,
8 practices or policies of the LAPD as to when officers will
9 unleash dogs on individuals, how the LAPD has trained its
10 handlers to use dogs to find and bite suspects rather than having
11 the handlers take suspects into custody through other means, the
12 amount of training and supervision given to the dog handlers and
13 police dogs, the hiring practices for the canine unit, the lack
14 of monitoring and review of police dog attacks, and the failure
15 to investigate whether the handlers and their dogs used deadly or
16 otherwise excessive or unreasonable force are questions that are
17 common to all of the class members.

18 25. The claims of the class representatives are typical of
19 those of the class members with respect to the constitutionality
20 and legality of defendants' customs, practices and/or policies.
21 All class members seek to challenge the same overall customs,
22 practices and/or policies of the LAPD with respect to its use of
23 police dogs, and training, supervision and monitoring of canine
24 units. The prosecution of separate actions against defendants by
25 individual class members would create a risk of inconsistent or
26 varying adjudications which would establish incompatible
27 standards of conduct for defendants. The class representatives
28 will fairly and adequately protect the interests of the class

1 because they and their counsel possess the requisite resources
2 and ability to prosecute this case as a class action.

3 2. The Minority Subclasses

4 26. Plaintiffs Clara Mae Pierce, Alfred Gene Doss, Jr.,
5 John Hernandez and Robert Douglas (hereafter "state claims
6 minority subclass representatives") also seek to represent
7 themselves and a subclass comprised of all individuals in the
8 City of Los Angeles belonging to racial minorities against whom
9 the Los Angeles Police Department, pursuant to custom, practice
10 and/or policy, has unleashed police dogs to attack without
11 probable cause or reasonable suspicion to believe that the
12 individuals posed an immediate or any threat of death or serious
13 physical injury to anyone, or otherwise posed a threat justifying
14 the use of such force, in violation of California law.

15 Plaintiffs Pierce, Doss, Hernandez, Douglas, Michael Thompson,
16 Curtis Lavell King, and Drameco Kindle (hereafter the "federal
17 claims minority class representatives") also seek to represent
18 themselves and a subclass comprised of all individuals in the
19 City of Los Angeles belonging to racial minorities against whom
20 the Los Angeles Police Department, pursuant to custom, practice
21 and/or policy, has unleashed police dogs to attack without
22 probable cause or reasonable suspicion to believe that the
23 individuals posed an immediate or any threat of death or serious
24 physical injury to anyone, or otherwise posed a threat justifying
25 the use of such force, in violation of federal law.

26 27. Members of the classes on whose behalf the minority
27 class representatives sue are readily ascertainable. The LAPD
28 records the race of all bite victims in its reports, permitting

1 easy identification of all minority individuals against whom the
2 police unleashed police dogs without probable cause or reasonable
3 suspicion to believe that the individuals posed an immediate or
4 any threat of death or serious physical injury to anyone, or
5 otherwise posed a threat justifying the use of such force.

6 28. Plaintiffs are informed and believe and thereupon
7 allege that the vast majority of suspects and non-suspects bitten
8 by LAPD police dogs are members of racial minority groups. Given
9 that there are hundreds of police dog attacks every year, the
10 members of this subclass are so numerous that joinder is
11 impractical.

12 29. Predominant common questions of law and fact affect the
13 rights of all minority subclass members. The central issues to
14 be decided -- whether the LAPD has purposefully deployed dogs to
15 attack minority individuals on account of their race and/or
16 ethnicity and/or purposefully deployed dogs in communities with
17 large minority populations -- are common to all subclass members.

18 30. The claims of the minority class representatives are
19 typical of those of all subclass members with respect to the
20 constitutionality of defendants' customs, practices or policies.
21 The prosecution of separate actions against defendants by
22 individual subclass members would create a risk of inconsistent
23 or varying adjudications which would establish incompatible
24 standards of conduct for defendants. The minority class
25 representatives will fairly and adequately protect the interests
26 of the minority subclass because they and their counsel possess
27 the requisite resources and ability to prosecute this case as a
28 class action.

1 C. Defendants.

2 31. Defendant Daryl Gates is the former Police Chief of the
3 LAPD, an agency of the City of Los Angeles. Plaintiffs are
4 informed and believe and thereupon allege that at all times
5 relevant herein defendant Daryl Gates was responsible for the
6 development, establishment and/or implementation of the
7 procedures, policies, regulations, practices and/or customs of
8 the LAPD with respect to its deployment and use of police dogs.
9 Upon information and belief, plaintiffs further allege that at
10 all times relevant herein, defendant Gates participated in,
11 approved of, and/or ratified the unconstitutional or illegal acts
12 complained of herein. Additionally, upon information and belief,
13 defendant Gates failed adequately to train, supervise and monitor
14 dog handlers and LAPD police dogs, or to promulgate adequate
15 policies and regulations to prevent the unlawful acts complained
16 of. Plaintiffs sue defendant Daryl Gates in both his former
17 official capacity, and his personal capacity.

18 32. Defendant Willie L. Williams, is the current Police
19 Chief of the LAPD, and is sued only in his official capacity.
20 Defendant Williams became Police Chief after this lawsuit was
21 filed, and is sued in his official capacity with respect to the
22 injunctive and declaratory relief plaintiffs seek regarding the
23 LAPD's illegal canine customs, practices and/or policies.

24 33. Defendant City of Los Angeles is a municipal
25 corporation duly organized and existing under the laws of the
26 State of California. The LAPD is an agency of defendant City of
27 Los Angeles, and all actions of the LAPD are the legal
28 responsibility of the City. Defendant City of Los Angeles is

1 sued both in its own right and on the basis of respondeat
2 superior, for the acts of its employees or agents even if not
3 named herein on all claims except those under 42 U.S.C. Sections
4 1983 and 1985.

5 34. Plaintiffs are informed and believe and thereupon
6 allege that defendants former Police Chief Daryl Gates, Deputy
7 Chief Ronald Frankle, Deputy Chief Bernard Parks, Captain Patrick
8 McKinley, Captain Richard L. Bonneau, Lieutenant Peter Durham,
9 Sergeant Jerry Thomas, Sergeant Donn Yarnall and Sergeant Mark
10 Mooring (hereafter "supervisory defendants"), are individuals
11 who at all times relevant herein were responsible for the
12 development, establishment and/or implementation of the
13 procedures, policies, regulations, practices, and/or customs of
14 the LAPD with respect to its deployment and use of police dogs.
15 Alternatively, upon information and belief, plaintiffs allege
16 that policy making authority was delegated to supervisory
17 defendants who thereafter developed, established, and/or
18 implemented procedures, policies, regulations, practices, and/or
19 customs of the LAPD with respect to the LAPD's deployment of and
20 use of police dogs. Upon information and belief, plaintiffs
21 further allege that at all times relevant herein, these
22 defendants participated in, approved and/or ratified the unlawful
23 conduct complained of herein. Additionally, upon information and
24 belief, these defendants failed adequately to train, supervise
25 and monitor dog handlers and LAPD police dogs, or to promulgate
26 adequate policies or regulations to prevent the unlawful acts
27 complained of herein. Plaintiffs sue these defendants in both
28 their official and personal capacities.

1 35. Plaintiffs are ignorant of the true names and
2 capacities of defendants sued herein as DOES 1 through 100,
3 inclusive, and therefore sue these defendants by such fictitious
4 names. Plaintiffs will amend this complaint to allege their true
5 names and capacities when ascertained. Plaintiffs are informed
6 and believe and based thereon allege that defendants DOES 1
7 through 100 are responsible in some manner for the damages and
8 injuries hereinafter complained of.

9 36. Plaintiffs are informed and believe and thereupon
10 allege that at all times relevant herein defendant Gates, and the
11 supervisory defendants, and each of them, were the agents,
12 servants and employees of defendant City of Los Angeles, and were
13 acting at all times within the scope of their agency and
14 employment and with the knowledge and consent of their principal
15 and employer, the City of Los Angeles. At all times herein,
16 defendants, and each of them, were acting under the color of
17 state law.

18 37. Plaintiffs are informed and believe and thereupon
19 allege that at all times relevant herein each of the defendants,
20 including the DOE defendants, was the agent, employee and/or
21 joint venturer of his/her co-defendants and was acting within the
22 course and scope of such agency, employment and/or joint venture.

23 **III. COMMON ALLEGATIONS**

24 **A. LAPD's Custom, Practice and/or Policy of Using Deadly**
25 **or Otherwise Excessive or Unreasonable Force Through**
26 **Police Dogs.**

27 38. Pursuant to the Los Angeles Police Department's own
28 Manual, Vol. I., Section 556.40:

1 An officer is authorized in the use of deadly
2 force [by discharging a firearm]
3 when it reasonably appears
4 necessary:

5 A. To protect himself or others from an
6 immediate threat of death or serious bodily
7 injury, or

8 B. To prevent a crime where the suspect's
9 actions place persons in jeopardy of death or
10 serious bodily injury, or

11 C. To apprehend a fleeing felon for a crime
12 involving serious bodily injury or the use of
13 deadly force where there is a substantial
14 risk that the person whose arrest is sought
15 will cause death or serious bodily injury to
16 others if apprehension is delayed.

17 39. The Los Angeles Police Department's policy with respect
18 to the use of deadly force reflects the permissible use of all
19 forms of deadly force under both the federal and California
20 constitutions, which prohibit the use of any deadly force unless
21 the officer has probable cause to believe that a suspect poses an
22 immediate threat of death or serious physical injury to officers
23 or other persons.

24 40. Pursuant to the written policy of the Los Angeles
25 Police Department, the use of police dogs is not treated as the
26 use of deadly force or indeed as the use of force at all. The
27 LAPD fails to rank dogs on the ladder of the scale of escalating
28 force despite overwhelming evidence of the serious injuries that

1 the dogs inflict. The LAPD Manual, Vol. I, Section 571, states
2 that police dogs may be used "in the detection, control, and
3 apprehension of a suspect when there is a reasonable suspicion of
4 the suspect's involvement in criminal activity; [and] in the
5 search of buildings and large areas for suspects."

6 41. Plaintiffs are informed and believe and thereupon
7 allege that the LAPD acknowledges in training that the dogs are
8 to be used for the purpose of locating the suspect, at which
9 point the dog is to be withdrawn and individual officers are to
10 apprehend the suspect. Nonetheless, the custom, practice and/or
11 policy of the LAPD is to train and condition its dogs to locate a
12 suspect, and to then seek to bite the suspect, and thereby
13 inflict serious bodily injury. Thus, the custom, practice and/or
14 policy of the LAPD is to use the dogs to not only locate a person
15 but to routinely attack and inflict serious bodily injury on the
16 person located. This includes use of the dog to physically drag
17 people from hiding places; although such individuals often have
18 not come forward in affirmative surrender, they usually pose no
19 threat to the officer or the dog, and could be readily
20 apprehended without the use of any force. Pursuant to this "find
21 and bite" custom, practice and/or policy, the LAPD trains dogs to
22 bite any part of the person's body within reach. If the person
23 struggles or moves in any fashion, the dog is trained and
24 conditioned to attack, and does bite repeatedly. It is the
25 custom, practice and/or policy of the LAPD to use the dogs to
26 physically apprehend suspects by biting, after the suspects have
27 been located, and for dog handlers not to stop the dog's attack
28 until the person ceases all movement. During a dog attack if the

1 person under attack reasonably attempts to defend him or herself
2 from the dog, or to make the dog stop biting, it is the LAPD's
3 custom, practice and/or policy for officers present at the scene
4 to order the person to stop defending him or herself and/or for
5 officers to otherwise actively interfere with the person's
6 efforts to protect him or herself from the dog's continued
7 attack. Although the natural and instinctive reaction is for a
8 person to try and prevent the continuation of a dog's bite,
9 pursuant to LAPD custom, practice and/or policy, police officer
10 efforts to interfere with a dog attack victim's self-defense
11 efforts include striking the victim with objects and/or kicking
12 the victim of the dog attack.

13 42. Plaintiffs are informed and believe and thereupon
14 allege that in addition to training the police dogs to
15 automatically bite until a victim is passive resulting in an
16 outrageously high rate of use of force, the LAPD has tolerated,
17 encouraged, sanctioned, and/or ratified the custom, policy and/or
18 practice of the use of LAPD dogs in a sadistic, and
19 unconstitutional fashion with the purpose to hurt, maim, or
20 punish those whom the LAPD considered to be resistant to its
21 authority, or in need of being taught a lesson not to flee, or in
22 need of summary curbside punishment for certain offenses.

23 43. Police dogs can and should be trained to strictly
24 adhere to all verbal commands by handlers. Similarly, police
25 dogs can, and should be, primarily trained to use their
26 heightened sense of smell to locate suspects, after which police
27 officers should physically apprehend the suspect. Unless the
28 foregoing practices are implemented at both the training and

1 actual implementation levels, an unreasonably high level of dog
2 bites will occur. The LAPD does not follow such practices and
3 accordingly has an unreasonably high level of dog bites.

4 44. The police dogs used by the LAPD are male dogs chosen
5 for their aggressive behavior. The force of their jaws when they
6 bite a person may equal or exceed 900 pounds per square inch.
7 Police dog attacks frequently cause injuries as severe or worse
8 than injuries caused by gunshot or knives. Bite wounds are often
9 gaping, with massive tissue and muscle damage, and the
10 possibility of serious infection.

11 45. Individuals who are attacked and bitten by LAPD
12 police dogs deployed in the above-described manner suffer serious
13 bodily harm, as well as permanent and severe mental and physical
14 injuries, including permanent disfigurement. For the period of
15 June, 1990, to June, 1992, 44% of all suspects located were
16 bitten. (See Charts # 1 and 7, attached). Of the persons bitten
17 by LAPD dogs for this period, 37% had to be hospitalized, and an
18 additional 56% required medical treatment.^{2/} (See Charts #3 and
19 4, attached). Thus, over 90% of all individuals subjected to the
20 use of force by a police dog required medical treatment, and
21 almost 40% of persons bitten by police dogs suffered the most
22 serious level of injury possible (short of the death of a
23
24

25 2/ All data are taken from the LAPD records and databases
26 produced by defendants in this lawsuit, some of which was
27 only provided in a usable form within the last month. The
28 data analyses that are reflected are preliminary only, and
further analysis is ongoing; according to plaintiffs'
experts, the analyses are reliable even though they are
preliminary.

1 suspect), which is injury requiring hospitalization.^{2/} (See
2 Chart #3, attached). In stark contrast, hospitalization where
3 the use of force is by police officers without using dogs is only
4 2%, i.e., only 2 out of 100 persons involved in non-canine uses
5 of force required hospitalization. (See Charts #2, 3, and 4,
6 attached). Thus, the need for hospitalization where police dogs
7 are involved in the use of force is 18.5 times as great as when
8 police dogs are not used. On information and belief, unlike when
9 a police dog injures someone, many of the injuries caused during
10 other arrests are not the result of police use of force at all,
11 but of other factors, such as citizens injuring suspects or
12 suspects being injured in car crashes. The use of police dogs in
13 this manner constitutes the use of deadly force, and in any event
14 constitutes the use of excessive and unreasonable force.

15 46. Deadly force is that force which the actor uses with
16 the purpose of causing, or which the actor knows, or should know,
17 creates a substantial risk of causing death or serious physical
18 injury. Excessive or unreasonable force is that degree of force
19 which is not reasonably necessary under the circumstances. The
20 use of police dogs to attack persons for whom there is no
21 credible information, or information at all, that the person is
22

23 3/ A 90% rate of injury is extraordinarily high and
24 moreover, is not explained by the type of crime for which a
25 suspect was arrested. Hospitalization rates for police dog
26 injuries vary according to the type of crime, but the
27 variance is not based on the severity of the crime.
28 According to our preliminary information, a person suspected
of a violent crime was not more likely to be seriously
injured than a person suspected of a non-violent crime. For
example, hospitalizations occurred in 45% of bites of auto
theft suspects while they occurred in 28% of armed robbery
suspects. (See Chart #3, attached).

1 armed or poses any threat of violence or otherwise poses a threat
2 justifying the use of such force constitutes excessive and
3 unreasonable force.

4 47. According to LAPD Police Chief Willie Williams, the
5 force inflicted by a police dog should be placed only below a
6 firearm on the ladder of police force, as the second most lethal
7 use of force by officers. Plaintiffs are informed and believe
8 and thereupon allege that police departments, including the LAPD,
9 consider deadly force to be that force which is reasonably
10 capable of causing death or serious injury. Plaintiffs are
11 informed and believe and thereupon allege that the LAPD uses and
12 used "reasonably capable of causing" deadly force definition
13 during all times relevant to this lawsuit. Moreover, the above
14 statement by Police Chief Williams is a further indication that
15 the LAPD is fully aware that police dogs are reasonably capable
16 of causing death or serious injury. Based on the foregoing,
17 plaintiffs allege, in the alternative, that deadly force is that
18 force which is reasonably capable of causing death or serious
19 injury, and that the LAPD's custom, practice and/or policy of
20 using police dogs to attack persons for whom there is no
21 information that the person is armed or poses any threat of
22 violence or otherwise poses a threat justifying the use of such
23 force is the use of deadly force, and in any event constitutes
24 excessive and unreasonable force.

25 48. The LAPD's custom, practice and/or policy of using
26 police dogs to inflict unreasonable excessive, or deadly force
27 resulted in a use of force in an extraordinarily high percentage
28 of arrests where police dogs were used, ranging in a use of force

1 rate as high as 82%, and an overall use of force rate of 44%.
2 For all arrests involving the use of police dogs from June, 1990,
3 through June, 1992, divided into four time periods, the use of
4 force rate was as follows (See Charts #1 and #7, attached):

5	6/1/90-12/31/90:	82%
6	1/1/91-6/30/91:	42%
7	7/1/91-12/31/91:	39%
8	1/1/92-6/30/92:	23%

9 On information and belief, based upon statements made by
10 Chief Willie Williams, the use of force rate with police dogs (or
11 the bite rate) has dropped to about 10% at the present time.
12 This continued downward trajectory demonstrates that the prior
13 use of force rate was both excessive and was the direct product
14 of the LAPD's custom, practice and/or policy of unjustifiably
15 inflicting deadly or unreasonable force when using canines. On
16 information and belief, the LAPD has changed its customs,
17 practices or policies as a result of this litigation and
18 increased public pressure challenging the LAPD custom, practice
19 and/or policy. This change in custom, practice and/or policy has
20 in particular entailed increased internal scrutiny to determine
21 whether the canine use of force was justified and the increased
22 use of warnings to suspects. On information and belief warnings
23 fail to currently instruct suspects to remain absolutely still in
24 order to avoid being bitten, nor are warnings delivered in
25 languages other than English, when needed. All of these changes
26 were readily available to the LAPD, which could and should have
27 implemented them long ago.

28 49. From June, 1990, through June, 1992, while force was

1 used in approximately only 1% of all arrests when police dogs
2 were not involved, force was used in 44% of all arrests when
3 police dogs were involved. (See Charts # 1 and 7, attached).
4 Thus, the rate of force used by the LAPD for all arrest
5 situations is 44 times as great when police dogs are used as when
6 they are not. (See Charts # 1 and 7, attached) Nor is the use of
7 force by police dogs explainable by the types of crime for which
8 the dogs were used. For example, of all assault and battery on a
9 citizen arrests, only 2% involved the use of force when dogs were
10 not used whereas 77% of all such assault and battery arrests with
11 police dogs resulted in the use of force against a suspect, i.e.,
12 meaning the suspect was bitten (See Charts #5 and 8). Similarly,
13 of all armed robbery arrests, only 2% involved the use of force
14 when dogs were not used whereas 55% of all armed robbery arrests
15 with police dogs resulted in the use of force against a suspect
16 (see Charts # 5 and 10, attached). Again, of all burglary
17 arrests, only 1% involved the use of force, whereas 36% of all
18 burglary arrests with police dogs resulted in the use of force
19 against a suspect (see Charts # 5 and 11, attached). And of all
20 auto crime suspects, only 1% involved the use of force, whereas
21 37% of all auto crime arrests with police dogs resulted in the
22 use of force against suspects (see Chart # 12, attached). The
23 appropriate level of force when a police dog is deployed should
24 not be higher than when a police dog is not used, yet it is 44
25 times as great.

26 50. Even within the category of arrests which involve
27 direct confrontations between suspects and police officers (i.e.,
28 assault or battery on an officer or interference with an

1 officer), the police dog use of force for such arrests is higher
2 than where police dogs are not involved. For such arrests
3 without police dogs, only 26% resulted in the use of force
4 whereas 50 % of confrontations between police officers and
5 suspects where dogs are involved resulted in the use of force
6 against a suspect. (See Chart #9, attached).

7 51. Plaintiffs are informed and believe and thereupon
8 allege that the LAPD's custom, practice and/or policy of using
9 police dogs results in far more bites and serious injuries than
10 some other major metropolitan police departments' use of police
11 dogs.

12 52. Plaintiffs are informed and believe and thereupon allege
13 that LAPD officers, pursuant to LAPD custom, practice and/or
14 policy, have ordered dogs to attack and bite individuals who have
15 committed only misdemeanors or for whom the police lack probable
16 cause or reasonable suspicion to believe are armed or otherwise
17 dangerous, or otherwise posed a threat justifying the use of such
18 force.

19 53. Plaintiffs are informed and believe and thereupon
20 allege that, pursuant to LAPD's custom, practice and/or policy,
21 LAPD officers have without legal justification ordered dogs to
22 attack and bite juveniles as young as 14 years of age, resulting
23 in massive injuries and emotional trauma to these juveniles.

24 54. Plaintiffs are informed and believe and thereupon
25 allege, that pursuant to LAPD's "find and bite" custom, practice
26 and/or policy, LAPD police dogs have attacked and severely bitten
27 many innocent and defenseless people when the dogs were used to
28 search large areas. Pursuant to this "find and bite" custom,

1 practice and/or policy, the police dogs automatically bite when
2 such force is not reasonably required and/or legally justified.
3 The persons who have been bitten include children and women in
4 their own homes, and homeless people sleeping in vacant
5 buildings.

6 55. Plaintiffs are informed and believe and thereupon
7 allege, that pursuant to LAPD's "find and bite" custom, practice
8 and/or policy, LAPD dog handlers do not announce a warning prior
9 to releasing dogs on searches, increasing the likelihood that the
10 police dogs will in fact find someone, and thereafter bite and
11 attack whomever the dogs find. This custom, practice and/or
12 policy is used when the officers lack probable cause or
13 reasonable suspicion to believe the suspects they are purportedly
14 searching for pose an immediate or any threat of death or serious
15 physical injury to the officers or to third parties, or otherwise
16 posed a threat justifying the use of such force.

17 56. Plaintiffs are informed and believe and thereupon
18 allege, that LAPD's canine units, pursuant to LAPD's custom,
19 practice and/or policy, order police dogs to attack and bite
20 individuals after they have surrendered or have been handcuffed.

21 57. Plaintiffs are informed and believe and thereupon
22 allege, that pursuant to LAPD's custom, practice and/or policy,
23 police officers present at the scene of a dog bite attack fail to
24 aid the victim of a police dog attack, unnecessarily extending
25 the duration of the dog's attack on the victim, a custom,
26 practice, or policy which clearly results in excessive and/or
27 unreasonable force.

28 58. The LAPD's use of dogs in the above-described manner to

1 inflict serious physical injury on individuals without probable
2 cause or reasonable suspicion to believe that the individuals
3 pose an immediate or any threat of serious physical injury or
4 death to the officers or third parties, or otherwise posed a
5 threat justifying the use of such force, constitutes a custom,
6 practice and/or policy of the Department to use deadly or
7 excessive or unreasonable force that violates the Fourth and
8 Fourteenth Amendments to the United States Constitution, Article
9 I, Section 13 of the California Constitution, the Department's
10 own deadly or excessive or unreasonable force policy, and
11 California state law.

12 B. LAPD's Racially Discriminatory Deployment and Use Of
13 Police Dogs.

14 59. It is the custom, practice and/or policy of the Los
15 Angeles Police Department to use police dogs primarily against
16 racial minorities, and in particular, against African-Americans
17 and Latinos. Pursuant to this custom, practice and/or policy,
18 police dogs are used primarily against persons who are members of
19 minority groups and in areas with a high proportion of
20 minorities, despite the fact that the types of crimes for which
21 dogs are used are even more likely to occur in predominantly
22 Caucasian areas than they are in minority communities. Of the
23 persons bitten by LAPD police dogs from June 30, 1990 through
24 June 30, 1992, 55% were African-American, 31% were Latino, 6%
25 were Caucasian, 1% were Asian, and 7% were unknown. (See Chart #
26 15, attached). Thus, over 90% of the racially identified dog
27 bite victims were African-American or Latino, and nearly 60% were
28 African-American. (See Charts # 14 and 15, attached.

1 60. The numbers of African-Americans and Latinos who were
2 bitten is not explainable by crime information. After adjustment
3 for crimes and population, the LAPD data indicates that police
4 dogs are deployed disproportionately in areas of the City of Los
5 Angeles that have an African-American population that exceeds 50%
6 in contrast to areas with populations that are more than 75%
7 Caucasian. (See Chart # 13, attached). Areas of the City of Los
8 Angeles with over a 50% African-American population average about
9 46 dog deployments after adjusting for crime and population,
10 while areas of the City of Los Angeles with over a 75% Caucasian
11 population average about 17 deployments after adjusting for crime
12 and population. (See Chart # 13, attached). Thus, there are
13 nearly 3 times more deployments of LAPD dogs, after adjusting for
14 crime and population, in predominately African-American areas of
15 the City of Los Angeles, as in predominately Caucasian areas of
16 the City of Los Angeles. (See Chart # 13, attached). For
17 example, the 77th Precinct, which is predominately African-
18 American, had more than 4.5 times the rate of deployments as it
19 should have had based on crimes committed in that precinct. (See
20 Chart #16, attached).

21 61. Plaintiffs are informed and believe and thereupon
22 allege that the LAPD does not have a written deployment policy,
23 but rather has intentionally developed a racially discriminatory
24 custom, practice and/or policy of concentrating the use of the
25 dogs in predominately racial minority areas. Based on racial
26 stereotyping, the LAPD disproportionately concentrates its dogs
27 in the divisions in the City of Los Angeles that are
28 predominately African-American. (See Chart #13, attached).

1 62. Pursuant to the customary deployment of the police dogs
2 in the predominately African-American communities, the Department
3 unleashes potential deadly and/or excessive force against
4 residents of minority communities or suspects in minority
5 communities, while not subjecting predominately Caucasian
6 community members to the same type of potential danger, and also
7 not inflicting dog bite injuries on criminal suspects apprehended
8 in Caucasian communities with the same degree of force used via
9 the police dogs in the predominately minority communities.

10 63. This disproportionate race-based deployment is
11 intentionally discriminatory, and results in an overwhelming
12 disparity of who is victimized by the use of LAPD police dogs,
13 which are trained to, and in fact do, bite under circumstances
14 where an officer not using the dog could not, and would not,
15 inflict any force. The race-based deployment of the dogs in
16 predominately minority communities is based on intentional
17 decisions to concentrate the dogs in that area, and is not done
18 based on any legitimate rationale, such as crime rates. (See
19 Chart #13, attached). The LAPD was deliberately indifferent to
20 this racial disparity, which had been asserted and called to its
21 attention on many occasions and was otherwise known to it.

22 64. The LAPD's use of dogs in the above-described manner to
23 inflict serious physical injury on minority individuals on the
24 basis of the minority individual's race and/or ethnicity, without
25 probable cause or reasonable suspicion to believe that the
26 individuals pose an immediate or any threat of serious physical
27 injury or death to the officers or third parties, or otherwise
28 posed a threat justifying the use of such force, constitutes a

1 custom, practice and/or policy of the Department to use deadly or
2 excessive or unreasonable force that violates the Fourth and
3 Fourteenth Amendments to the United States Constitution, 42
4 U.S.C. Sections 1983 and 1985, as well as Article I, Sections 7
5 and 13 of the California Constitution, the Department's own
6 deadly or excessive or unreasonable force policy, and California
7 state law.

8 65. On information and belief, the crimes for which police
9 dogs are most often deployed are the same or greater in
10 predominantly Caucasian police divisions than in predominantly
11 minority divisions. Nevertheless, LAPD police dogs are used more
12 in predominantly minority communities, and, in particular, in
13 predominately African-American communities. (See Chart #13,
14 attached).^{4/}

15 66. The supervisors and/or policy makers within the LAPD
16 knew or should have known that there had developed within the
17 LAPD an intentional, discriminatory custom, practice and/or
18 policy of unjustifiably and disproportionately concentrating the
19 LAPD dogs in the African-American communities in Los Angeles.
20 The supervisors and/or policy makers knew or should have known of
21 the Department's history of documented racial discrimination
22 problems. The supervisors and/or policy makers knew or should
23 have known of the rates of injury caused by the dogs, and in
24 particular, rates of injury and rates of serious injury caused to
25 African-Americans and Latinos. The LAPD's failure to require and
26 implement a non-discriminatory deployment policy, and to

27
28 4/ As noted above, the analysis is ongoing and data
regarding this will be available later.

1 effectively monitor the use of police dogs whose use was
2 overwhelmingly aimed at African-American and Latinos, constitutes
3 deliberate indifference on the part of the Department and the
4 City to the constitutional rights of minorities.

5 67. Plaintiffs are informed and believe and thereupon
6 allege that supervisors and/or policy makers within the LAPD knew
7 that the LAPD custom, practice and/or policy was to deploy the
8 police dogs within predominately African-American communities,
9 and these supervisors and/or policy makers within the LAPD knew
10 that the dogs were being used to inflict injury upon
11 predominately minority suspects for whom there was no probable
12 cause or reasonable suspicion to believe that the individuals
13 posed an immediate or any threat of death or serious bodily
14 injury to anyone, or otherwise posed a threat justifying the use
15 of such force. The supervisory defendants knew or should have
16 known of the grossly excessive use of force via the police dogs
17 and failed to take any steps to stop or correct the improper uses
18 of the police dogs.

19 68. The supervisory and/or policy making defendants, by
20 failing to correct or stop the unconstitutional conduct against
21 members of racial minority groups, conduct that is revealed by
22 the Department's own records, ratified, condoned or acquiesced in
23 the wrongful conduct.

24 69. In using police dogs primarily in minority communities
25 and against persons who are members of racial minority groups,
26 defendants intended, and, in fact, did purposefully discriminate
27 against the minority class representatives and members of the
28 minority sub-class on account of their race or ethnicity.

1 C. LAPD's Failure Adequately to Train Or Control Police
2 Dogs And Their Handlers.

3 70. Plaintiffs are informed and believe and thereupon
4 allege, that the LAPD uses inadequate procedures to hire and
5 select dog handlers, and do not adequately screen for persons who
6 are prone to the use of deadly or otherwise excessive or
7 unreasonable force. As a result, defendant City of Los Angeles
8 employs dog handlers who are prone to use and do use deadly or
9 otherwise grossly excessive or unreasonable force.

10 71. Plaintiffs are informed and believe and thereupon
11 allege, that the LAPD inadequately trains its dog handlers and
12 police dogs. Police dogs are not adequately trained to remain
13 responsive to their handlers, or in the circumstances in which
14 they should bite. Dog handlers are not adequately trained to
15 limit the amount of deadly or otherwise excessive or unreasonable
16 canine force used to take a person into custody to the amount of
17 force which is reasonably necessary. Dog handlers are taught to
18 use deadly or otherwise excessive or unreasonable force even to
19 apprehend individuals who are not suspects, or who are suspected
20 of only minor misdemeanor offenses, or against whom deadly or
21 otherwise excessive or unreasonable force is not justified.

22 72. Plaintiffs are informed and believe and thereupon
23 allege, that the LAPD does not adequately supervise or monitor
24 the use of police dogs or the severity of bitings which occur
25 during arrests. Plaintiffs are informed and believe and
26 thereupon allege that the LAPD in the past has not characterized
27 injuries inflicted by police dogs to be a use of force, in spite
28 of the well-known fact that large and disproportionate numbers of

1 victims of police dog bitings require hospitalization for their
2 injuries. (See Chart # 2, attached).

3 73. Plaintiffs are informed and believe, and thereupon
4 allege, that the LAPD was aware that police dogs were not
5 intended to bite suspects, but only to assist officers to find
6 suspects. However, in practice, the Department's failure to
7 properly monitor, adequately train and properly supervise the
8 police dogs and their handlers, has permitted the police dog
9 handlers to use the police dogs to attack and bite suspects when
10 there is no legal justification for the use of any force against
11 a suspect. The LAPD's failure to have proper oversight of the
12 use of its dogs has permitted and encouraged the use of the
13 police dogs to inflict, serious bodily injury on suspects for no
14 constitutionally sustainable reason.

15 74. Plaintiffs are informed and believe, and thereupon
16 allege, that the LAPD fails to or refuses to investigate or
17 discipline handlers who use their police dogs to inflict deadly
18 or otherwise excessive or unreasonable force. Plaintiffs are
19 informed and believe, and thereupon allege, that the LAPD has
20 failed to properly screen handler candidates to ensure that
21 officers who have a history of using excessive force are not
22 allowed to become handlers.

23 75. Plaintiffs are informed and believe and thereupon
24 allege that the LAPD knew, or should have known, that dog
25 handlers were using the dogs to inflict unnecessary and
26 unwarranted injury upon persons who were suspected of criminal
27 actions, although the officers did not have probable cause or
28 reasonable suspicion to believe they were armed or dangerous.

1 Only 3% of suspects bitten by police dogs were armed with any
2 type of weapon at the time of their arrest.^{5/} Of the 7 suspects
3 who were armed at the time the suspect was arrested, only 2
4 suspects had handguns. Thus, the fact that suspects were armed
5 in no way explains the force used.

6 76. Plaintiffs are informed and believe and thereupon
7 allege, that the LAPD condones or encourages a conspiracy of
8 silence among its employees for the purpose of concealing and
9 furthering conduct by its employees, including but not limited to
10 the use of unnecessary and unreasonable force and discriminatory
11 deployment of police dogs, in violation of the United States
12 Constitution and the Constitution and laws of the State of
13 California.

14 77. Plaintiffs are informed and believe and thereupon
15 allege, that former Chief of Police Daryl Gates and other
16 official policy makers for the LAPD knew or reasonably should
17 have known that police dogs were being used as deadly or
18 otherwise excessive or unreasonable force against individuals for
19 whom the police did not have probable cause or reasonable
20 suspicion to believe they posed an immediate or any threat of
21 death or serious physical injury, or otherwise posed a threat
22 justifying the use of such force, and that this use of police
23 dogs severely and permanently injured hundreds of individuals.
24 On information and belief, plaintiffs further allege that
25 Defendant Gates and other official policy makers for the LAPD

27 5/ Analysis of the data on this issue is currently
28 ongoing, and plaintiffs will submit this information at a
later time.

1 knew or reasonably should have known that LAPD officers were
2 using dogs to attack and bite primarily African-American and
3 Latino individuals. Despite this knowledge, Chief Gates and
4 other official policy makers failed to take any steps to remedy
5 these violations of constitutional and statutory authority, as
6 well as of the LAPD's own written policies, through adequate
7 hiring, training, supervision and/or monitoring. In so doing,
8 defendants Gates and other official policy makers exhibited
9 deliberate indifference and/or reckless disregard and/or gross
10 negligence to the constitutional rights of all plaintiffs,
11 including the classes of individuals the class representatives
12 seek to represent.

13 D. LAPD's Failure to Render Prompt Medical Treatment to
14 Victims of Police Dog Bites.

15 78. Plaintiffs are informed and believe and thereupon
16 allege that pursuant to LAPD custom, practice and/or policy
17 following a dog attack, police officers present at the scene
18 fail to provide prompt first aid to the victim or to promptly
19 summon first aid. Plaintiffs are informed and believe and
20 thereupon allege that pursuant to LAPD custom, practice and/or
21 policy victims' of dog attacks who are arrested by police
22 officers have gone without medical treatment for their injuries
23 for periods ranging up to several hours; pursuant to LAPD custom,
24 practice and/or policy no efforts are made by officers on the
25 scene to render any initial first aid to dog bite victims.

26 79. As explained in Section III B supra, it is the custom,
27 practice and/or policy of the Los Angeles Police Department to
28 use police dogs primarily against racial minorities, and in

1 particular, against African-Americans and Latinos. Pursuant to
2 this custom, practice and/or policy, an African-American or
3 Latino individual is far more likely to be attacked and bitten by
4 police dogs than a Caucasian person. Pursuant to this custom,
5 practice and/or policy, the majority of persons bitten by police
6 dogs, to whom the police then fail to provide prompt medical
7 treatment, are disproportionately African-American or Latino.

8 80. By failing to provide or insure prompt medical
9 treatment to persons who are members of racial minority groups
10 who have been injured by police dogs or by police officers,
11 defendants intended to, and in fact did purposely, discriminate
12 against the minority class representatives and members of the
13 minority sub-class on account of their race or ethnicity. The
14 failure to provide or insure prompt medical treatment to persons
15 injured by police dogs or by police officers, and the
16 Department's use of this custom, practice and/or policy primarily
17 against members of racial minority groups, constitutes a custom,
18 practice and/or policy of the Department that violates the
19 Fourteenth Amendment Due Process Clause of the United States
20 Constitution and Article I, Section 7 of the California
21 Constitution.

22 **FIRST CAUSE OF ACTION -- EXCESSIVE FORCE**

23 **(4th and 14th Amendments, 42 U.S.C. Section 1983)**

24 **(The federal claims class representatives, individually and on**
25 **behalf of the class against all defendants)**

26 81. 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 1-80.

1 82. The conduct of each defendant violated the right of
2 plaintiffs to be secure in home, person, and effects against
3 unreasonable searches and seizures and not to be subjected to the
4 use of deadly or otherwise excessive or unreasonable force, as
5 guaranteed by the Fourth and Fourteenth Amendments to the United
6 States Constitution, and entitles plaintiffs to bring suit and
7 recover damages pursuant to 42 U.S.C. Section 1983.

8 83. The conduct complained of herein was undertaken
9 pursuant to the custom, practice and/or policy of the Los Angeles
10 Police Department, an agency of the City of Los Angeles.

11 Alternatively, plaintiffs allege that defendant City of Los
12 Angeles, through its official policy makers, Chief of Police
13 Daryl Gates and others, knew that the canine units have operated
14 and continue to operate in such a way as to deprive numerous
15 individuals of their constitutional rights to be free from
16 unreasonable seizures resulting from the use of deadly or
17 otherwise excessive or unreasonable force. Despite this
18 knowledge, Chief of Police Gates and other official policy makers
19 have failed to take any remedial or corrective actions. In
20 failing to take corrective measures in the areas of hiring,
21 training, supervision, and monitoring, the City of Los Angeles
22 has exhibited and continues to exhibit deliberate indifference
23 and/or reckless disregard and/or gross negligence to the
24 constitutional rights of plaintiffs. Defendant Willie L.
25 Williams has a duty to correct the deliberate indifference and/or
26 reckless disregard and/or gross negligence to the constitutional
27 rights of plaintiffs.

28 84. As a direct and proximate cause of the aforementioned

1 acts of defendants, plaintiffs were deprived of their
2 constitutional rights to be free from unreasonable seizures.

3 85. As a proximate result of the wrongful, malicious and
4 violent acts of defendants, and the fright caused plaintiffs,
5 plaintiffs and each of them, suffered physical injuries and
6 experienced shock and injury to the nervous system and were
7 injured in their health, strength and activity, suffering extreme
8 and severe mental anguish and physical pain, anxiety, humiliation
9 and emotional distress, in an amount according to proof, but in
10 excess of the jurisdictional limits of this court.

11 86. By reason of the aforementioned acts and omissions of
12 defendants and the City of Los Angeles, plaintiffs, and each of
13 them, have incurred and will incur in the future medical and
14 related expenses, past and future lost earnings, and other
15 special and general damages, in an amount according to proof, but
16 in excess of the jurisdictional limits of this court.

17 87. All acts or omissions alleged to have been engaged in
18 by any defendant herein are alleged to have been engaged in with
19 intent to injure plaintiffs or with a willful and conscious
20 disregard for the rights and safety of plaintiffs, and were
21 fraudulent, malicious or oppressive, entitling plaintiffs to
22 recover punitive damages from defendants other than the City of
23 Los Angeles.

24 **SECOND CAUSE OF ACTION -- RACIAL DISCRIMINATION**

25 **(4th and 14th Amendments, 42 U.S.C. Section 1983)**

26 **(The federal claims minority subclass representatives,**
27 **individually and on behalf of the classes against all defendants)**

28 88. Plaintiffs and each of them hereby reallege and

1 incorporate by reference as if fully set forth herein the
2 allegations set forth in paragraphs 1-80 and paragraphs 84-87.

3 89. Defendants' actions as alleged herein deprived the
4 minority class representatives and the subclass they seek to
5 represent of the right to be secure in home, person, and effects
6 against unreasonable searches and seizures and not to be
7 subjected to the use of deadly or otherwise excessive or
8 unreasonable force, on account of their race and/or ethnic origin
9 in violation of the Fourth Amendment and the equal protection of
10 the laws as guaranteed by the Fourteenth Amendment of the United
11 States Constitution, and entitles them to bring suit and recover
12 damages pursuant to 42 U.S.C. Section 1983.

13 90. The conduct complained of herein was undertaken
14 pursuant to the custom, practice and/or policy of the Los Angeles
15 Police Department, an agency of the City of Los Angeles.
16 Alternatively, plaintiffs allege that defendant City of Los
17 Angeles, through its official policy makers, former Chief of
18 Police Daryl Gates and others, knew or should have known, that
19 LAPD officers were intentionally and discriminatorily deploying
20 the police dogs in predominately minority communities in order to
21 have the police dogs attack and bite primarily African-American
22 and Latino individuals. Defendant Gates and other supervisory
23 defendants knew or should have known of the gross disparity in
24 deployment of the dogs in predominately minority communities, and
25 additionally knew or should have known of the gross disparity in
26 the use of the dogs to attack predominately African-Americans and
27 Latinos. Despite this knowledge, Chief Gates and other official
28 policy makers failed to take any remedial or corrective actions.

1 In failing to take corrective measures in the areas of hiring,
2 training, supervision, and monitoring, the City of Los Angeles
3 has exhibited, and continues to exhibit, deliberate indifference
4 and/or reckless disregard and/or gross negligence to the
5 constitutional rights of the minority class plaintiffs. Defendant
6 Willie L. Williams has a duty to correct the deliberate
7 indifference and/or reckless disregard and/or gross negligence to
8 the constitutional rights of plaintiffs.

9 91. As a direct and proximate cause of the aforementioned
10 acts of defendants, plaintiffs were deprived of their
11 constitutional rights to be free from unreasonable seizures and
12 to receive equal protection of the laws. As a further direct and
13 proximate cause of the aforementioned actions of defendants,
14 plaintiffs were injured as set forth in paragraphs 84-87 above.

15 **THIRD CAUSE OF ACTION --**

16 **VIOLATION OF DUE PROCESS**

17 **(14th Amendment, 42 U.S.C. Section 1983)**

18 **(The federal claims class representatives, individually and on**
19 **behalf of the class against all defendants)**

20 92. 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 1-80 and paragraphs 85-87.

23 93. The failure of each defendant to render prompt first
24 aid to dog bite victims and/or insure they receive prompt medical
25 treatment violated the plaintiffs' rights to be secure from
26 deprivations of life, liberty or property without due process of
27 law, as guaranteed by the Fourteenth Amendment to the United
28 States Constitution, and entitles plaintiffs to bring suit and

1 recover damages pursuant to 42 U.S.C. Section 1983.

2 94. The failure of each defendant to prevent the LAPD's
3 custom, policy and/or practice of the use of LAPD dogs in a
4 sadistic and unconstitutional fashion with the purpose to hurt,
5 maim, or punish those whom the LAPD consider to be resistant to
6 its authority, and/or in need of being taught a lesson not to
7 flee, and/or in need of summary curbside punishment for certain
8 offenses, is in violation of the plaintiffs' rights to be secure
9 from deprivations of life, liberty or property without due
10 process of law, as guaranteed by the Fourteenth Amendment to the
11 United States Constitution, and entitles plaintiffs to bring suit
12 and recover damages pursuant to 42 U.S.C. Section 1983..

13 95. The conduct complained of herein was undertaken
14 pursuant to the custom, practice and/or policy of the Los Angeles
15 Police Department, an agency of the City of Los Angeles.
16 Alternatively, plaintiffs allege that defendant City of Los
17 Angeles, through its official policy makers, former Chief of
18 Police Daryl Gates and others, knew that police officers were
19 failing to give necessary first aid to victims' of police dog
20 bitings promptly and/or were not promptly making available to
21 victims' of dog bitings treatment by medical professionals.
22 Despite this knowledge, Chief Gates and other official policy
23 makers failed to take any remedial or corrective actions. In
24 failing to take corrective measures in the areas of hiring,
25 training, supervision, and monitoring, the City of Los Angeles
26 has exhibited and continues to exhibit deliberate indifference
27 and/or reckless disregard and/or gross negligence to the
28 constitutional rights of plaintiffs. Defendant Willie L.

1 Williams has a duty to correct the deliberate indifference and/or
2 reckless disregard and/or gross negligence to the constitutional
3 rights of plaintiffs.

4 96. The conduct complained of herein was undertaken
5 pursuant to the custom, practice and/or policy of the Los Angeles
6 Police Department, an agency of the City of Los Angeles.

7 Alternatively, plaintiffs allege that defendant City of Los
8 Angeles, through its official policy makers, former Chief of
9 Police Daryl Gates and others, knew that LAPD dogs, pursuant to
10 custom, practice and/or policy, were being used in a sadistic and
11 unconstitutional fashion with the purpose to hurt, maim, or
12 punish those whom the LAPD considers to be resistant to its
13 authority, and/or in need of being taught a lesson not to flee,
14 and/or in need of summary curbside punishment for certain
15 offenses. Despite this knowledge, Chief Gates and other official
16 policy makers failed to take any remedial or corrective actions.
17 In failing to take corrective measures in the areas of hiring,
18 training, supervision, and monitoring, the City of Los Angeles
19 has exhibited and continues to exhibit deliberate indifference
20 and/or reckless disregard and/or gross negligence to the
21 constitutional rights of plaintiffs. Defendant Willie L.

22 Williams has a duty to correct the deliberate indifference and/or
23 reckless disregard and/or gross negligence to the constitutional
24 rights of plaintiffs.

25 97. As a direct and proximate cause of the aforementioned
26 acts of defendants, plaintiffs were deprived of their
27 constitutional rights to not be deprived of life, liberty or
28 property without due process of law. As a further direct and

1 proximate cause of the aforementioned actions of defendants,
2 plaintiffs were injured as set forth in paragraphs 85-87 above.

3 **FOURTH CAUSE OF ACTION -- RACIAL DISCRIMINATION**

4 **(The federal minority subclass representatives, individually and**
5 **on behalf of the class against all defendants)**

6 98. Plaintiffs and each of them hereby reallege and
7 incorporate by reference as if fully set forth herein the
8 allegations set forth in paragraphs 1-80 and paragraphs 85-87.

9 99. Defendants' actions as alleged herein deprived the
10 minority class representatives and the subclass they seek to
11 represent of their rights to be secure from deprivations of life,
12 liberty or property, without due process of law, on account of
13 their race and/or ethnic origin in violation of the Fourteenth
14 Amendment of the United States Constitution, and entitles them to
15 bring suit and recover damages pursuant to 42 U.S.C. Section
16 1983.

17 100. The conduct complained of herein was undertaken
18 pursuant to the custom, practice and/or policy of the Los Angeles
19 Police Department, an agency of the City of Los Angeles.
20 Alternatively, plaintiffs allege that defendant City of Los
21 Angeles, through its official policy makers, Chief of Police
22 Daryl Gates and others, knew that police officers were failing to
23 promptly give necessary first aid primarily to African-American
24 and Latino victims' of police dog bitings and/or were failing to
25 promptly make treatment by medical professionals available to
26 African-American and Latino victims of dog bitings, who were over
27 90% of the racially identified victims bitten by LAPD dogs from
28 June 1, 1990 through June 30, 1992. The official policy makers

1 of the Los Angeles Police Department knew that this failure to
2 render timely first aid deprived and continues to deprive
3 numerous individuals of their constitutional rights to not be
4 deprived of life, liberty or property without due process of law,
5 on account of their race and/or ethnic origin. Despite this
6 knowledge, Chief Gates and other official policy makers failed to
7 take any remedial or corrective actions. In failing to take
8 corrective measures in the areas of hiring, training,
9 supervision, and monitoring, the City of Los Angeles has
10 exhibited and continues to exhibit deliberate indifference and/or
11 reckless disregard and/or gross negligence to the constitutional
12 rights of the minority class plaintiffs. Defendant Willie L.
13 Williams has a duty to correct the deliberate indifference and/or
14 reckless disregard and/or gross negligence to the constitutional
15 rights of plaintiffs.

16 101. The conduct complained of herein was undertaken
17 pursuant to the custom, practice and/or policy of the Los Angeles
18 Police Department, an agency of the City of Los Angeles.
19 Alternatively, plaintiffs allege that defendant City of Los
20 Angeles, through its official policy makers, Chief of Police
21 Daryl Gates and others, knew that LAPD dogs, pursuant to custom,
22 practice and/or policy, were being used in a sadistic and
23 unconstitutional fashion with the purpose to hurt, maim, or
24 punish those whom the LAPD considers to be resistant to its
25 authority, and/or in need of being taught a lesson not to flee,
26 and/or in need of summary curbside punishment for certain
27 offenses; of the persons victimized by the above custom, practice
28 and/or policy, the LAPD knew, or should have known that African-

1 Americans and Latinos were the primary victims, who were over 90%
2 of the racially identified victims bitten by LAPD dogs from June
3 1, 1990 through June 30, 1992. The official policy makers of the
4 Los Angeles Police Department knew that this failure to stop the
5 above use of its police dogs deprived and continues to deprive
6 numerous individuals of their constitutional rights to not be
7 deprived of life, liberty or property without due process of law,
8 on account of their race and/or ethnic origin. Despite this
9 knowledge, Chief Gates and other official policy makers failed to
10 take any remedial or corrective actions. In failing to take
11 corrective measures in the areas of hiring, training,
12 supervision, and monitoring, the City of Los Angeles has
13 exhibited and continues to exhibit deliberate indifference and/or
14 reckless disregard and/or gross negligence to the constitutional
15 rights of the minority class plaintiffs. Defendant Willie L.
16 Williams has a duty to correct the deliberate indifference and/or
17 reckless disregard and/or gross negligence to the constitutional
18 rights of plaintiffs.

19 102. As a direct and proximate cause of the aforementioned
20 acts of defendants, plaintiffs were deprived of their
21 constitutional rights to be secure from deprivations of life,
22 liberty or property without due process of law, on account of
23 their race and/or ethnic origin. As a further direct and
24 proximate cause of the aforementioned actions of defendants,
25 plaintiffs were injured as set forth in paragraphs 85-87 above.

1 **FIFTH CAUSE OF ACTION -- CONSPIRACY TO VIOLATE CIVIL RIGHTS**

2 **(42 U.S.C. Section 1985(3))**

3 **(The federal minority subclass representatives, individually and**
4 **on behalf of the class against all defendants)**

5 103. Plaintiffs and each of them hereby reallege and
6 incorporate by reference as if fully set forth herein the
7 allegations set forth in paragraphs 1-80 and paragraphs 84-87.

8 104. Defendants, and two or more of them, conspired for the
9 purposes of depriving the minority class representatives and the
10 class they seek to represent of equal protection of the laws on
11 account of their race and/or ethnic origin. Defendants and two
12 or more of them, also conspired through a code of silence within
13 the Department, for purposes of continuing the conspiracy of
14 depriving the minority class representatives and the class they
15 seek to represent of equal protection of the laws on account of
16 their ~~race~~ and/or ethnic origin. Defendant City of Los Angeles,
17 former Chief Daryl Gates and the supervisorial defendants who had
18 the power to but who did not prevent the violations of Section
19 1985, are liable to plaintiffs pursuant to 42 U.S.C. Section
20 1985.

21 105. Defendants, and two or more of them, conspired for the
22 purposes of depriving the minority class representatives and the
23 class they seek to represent of due process of the laws on
24 account of their race and/or ethnic origin. Defendants and two
25 or more of them, also conspired through a code of silence within
26 the Department, for purposes of continuing the conspiracy of
27 depriving the minority class representatives and the class they
28 seek to represent of due process of the law on account of their

1 race and/or ethnic origin. Defendant City of Los Angeles, Chief
2 Daryl Gates and the supervisory defendants who had the power to
3 but who did not prevent the violations of Section 1985, are
4 liable to plaintiffs pursuant to 42 U.S.C. Section 1985.

5 106. Defendant City of Los Angeles, Chief Daryl Gates and
6 the supervisory defendants knew or should have known of the
7 custom, practice and/or policy of racially discriminatory
8 deployment, and of the conspiracy to racially discriminate in the
9 deployment of the police dogs, and knew or should have known of
10 the gross disparity in the use of the dogs in predominately
11 minority communities and the use of the dogs to bite
12 predominately minority persons. The deliberate indifference of
13 the defendants to the custom, practice and/or policy of using the
14 dogs in a racially discriminatory manner in minority communities
15 subjects these defendants to liability under 42 U.S.C. Section
16 1985.

17 107. As a direct and proximate cause of the aforementioned
18 acts of defendants, plaintiffs were deprived of their
19 constitutional rights to be free from unreasonable seizures, to
20 receive equal protection of the laws, and to receive due process
21 of the laws. As a further proximate result of defendants' acts,
22 plaintiffs were injured as alleged in paragraphs 84-87 above.

23 **SIXTH CAUSE OF ACTION -- EXCESSIVE FORCE**

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

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

26 **(The state claims representatives, individually and on behalf of**
27 **the classes against all defendants)**

28 108. Plaintiffs and each of them hereby reallege and

1 incorporate by reference as if fully set forth herein the
2 allegations set forth in paragraphs 1-80 and 84-87.

3 109. The conduct of each defendant violated the right of
4 plaintiffs to be secure in home, person, and effects against
5 unreasonable searches and seizures and not be subjected to the
6 use of deadly and or otherwise excessive or unreasonable force,
7 as guaranteed by Article I, Section 13 of the California
8 Constitution.

9 110. The conduct of each defendant violated the right of the
10 plaintiffs to be secure from deprivations of life, liberty or
11 property without due process of law, and not to be deprived of
12 necessary medical care as guaranteed by Article I, Section 7 of
13 the California Constitution.

14 111. The conduct of each defendant violated the right of the
15 minority class representatives and the class they seek to
16 represent of the equal protection of the law in violation of
17 Article I, Section 7 of the California Constitution.

18 112. As a direct and proximate cause of the aforementioned
19 acts of defendants, plaintiffs were deprived of their California
20 constitutional rights to be free from unreasonable seizures, to
21 receive equal protection of the laws, and to not be deprived of
22 due process of the laws. As a further direct and proximate cause
23 of the aforementioned actions of defendants, plaintiffs were
24 injured as set forth in paragraphs 84-87 above.

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1 **SEVENTH CAUSE OF ACTION -- RACIAL VIOLENCE AND INTIMIDATION**

2 **(Civil Code Section 51.7)**

3 **(The state claims minority subclass representatives, individually**
4 **and on behalf of the class against all defendants)**

5 113. Plaintiffs and each of them hereby reallege and
6 incorporate by reference as if fully set forth herein the
7 allegations set forth in paragraphs 1-80 and paragraphs 84-87.

8 114. Defendants' use of police dogs to inflict deadly or
9 otherwise excessive or unreasonable force against the minority
10 class representatives and the class they seek to represent was
11 based upon plaintiffs' race and/or ethnic origin and constituted
12 violence directed against plaintiffs on account of their race
13 and/or ethnic origin, thereby entitling them to damages under
14 Civil Code Section 52.

15 115. As a direct and proximate cause of the aforementioned
16 acts of defendants, plaintiffs were injured as set forth in
17 paragraphs 84-87 above.

18 **EIGHTH CAUSE OF ACTION -- THREATS, INTIMIDATION OR COERCION**

19 **(Civil Code Section 52.1)**

20 **(The state claims representatives, individually and on**
21 **behalf of the class against all defendants)**

22 116. Plaintiffs and each of them hereby reallege and
23 incorporate by reference as if fully set forth herein the
24 allegations set forth in paragraphs 1-80 and paragraphs 84-87.

25 117. The defendants by their conduct interfered by threats,
26 intimidation, or coercion, or attempted to interfere by threats,
27 intimidation, or coercion, with the exercise or enjoyment of
28 plaintiffs rights as secured by the Constitution or laws of the

1 United States, or of the rights secured by the Constitution or
2 laws of the state of California.

3 118. As a direct and proximate cause of the aforementioned
4 acts of defendants, plaintiffs were injured as set forth in
5 paragraphs 84-87 above.

6 NINTH CAUSE OF ACTION -- VIOLATION OF STATUTORY DUTY

7 (Civil Code Section 3342)

8 (The state claims representatives, individually and on behalf of
9 the class against defendant City of Los Angeles only)

10 119. 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 1-80 and paragraphs 84-86.

13 120. Defendant City of Los Angeles' use of dogs as alleged
14 above subjects City of Los Angeles to strict liability under Cal.
15 Civil Code Section 3342, for all damages proximately caused
16 plaintiffs as a result of the dogs' biting plaintiffs.

17 121. Subdivision (b) of Cal. Civil Code Section 3342.5 does
18 not apply to shield the City of Los Angeles from liability
19 because the written policy adopted by the city as to the use of
20 police dogs to apprehend individuals is unconstitutional under
21 the United States and California constitutions.

22 122. As a direct and proximate cause of the aforementioned
23 acts of defendants, plaintiffs were injured as set forth in
24 paragraphs 84-86 above.

1 **TENTH CAUSE OF ACTION -- TAXPAYER ACTION**

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

3 **(All taxpayer plaintiffs against the**

4 **City of Los Angeles and Chief of Police Willie L. Williams)**

5 123. Plaintiffs and each of them hereby reallege and
6 incorporate by reference as if fully set forth herein the
7 allegations set forth in paragraphs 1-80 and paragraphs 84-86.

8 124. Defendants' expenditure of taxpayer funds for the
9 implementation of the unconstitutional policies and practices
10 complained of herein is wasteful, illegal and unlawful.
11 Plaintiffs Lawson, Epps, ACLU, Heppe, and Garcia-Menendez as
12 taxpayers of the City of Los Angeles have an interest in
13 enjoining the unlawful expenditure of tax funds and the proposed
14 unlawful expenditure of such funds.

15 125. Pursuant to Code of Civil Procedure Sections 526 and
16 526(a), the taxpayer plaintiffs seek declaratory and injunctive
17 relief to prevent continued harm and to protect themselves and
18 the public from the defendants' unlawful policies and practices.

19 126. The people of Los Angeles are threatened with great
20 and irreparable injury in that defendants' use and deployment of
21 police dogs frequently results in severe injuries to persons
22 residing in the City of Los Angeles and deprives racial and
23 ethnic minorities of the equal protection of the law.

24 127. Plaintiff taxpayers have no other speedy or adequate
25 remedy at law.

26 Wherefore, plaintiff taxpayers request the following
27 declaratory relief and injunctive relief against defendants Chief
28 Daryl Gates and City of Los Angeles:

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- A. A declaration that defendants Chief Daryl Gates and City of Los Angeles' deployment and use of dogs violates constitutional guarantees under the Fourth and Fourteenth Amendments to the United States Constitution, and Article I, Sections 7 and 13 of the Constitution and laws of the State of California;
- B. A preliminary and permanent injunction barring Los Angeles police officers from using or deploying dogs to apprehend persons by attacking and biting them except where the officers have probable cause to believe the person poses an immediate threat of serious physical injury of death to the officer or third persons;
- C. A preliminary and permanent injunction barring the Los Angeles Police Department from using dogs to assist in finding persons, taking persons into custody or for protection against attack until dog handlers and dogs are adequately selected, trained, supervised, and disciplined. Such selection, training, supervision and discipline shall include, at a minimum, the following:
 - i. Training dogs not to attack or bite anyone except upon the special command of the handler;
 - ii. Training and requiring handlers to give appropriate warnings, including warnings in languages other than English when necessary,

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prior to the release of a police dog;
further, the warnings should include not only
a warning of imminent use of the dogs, but
also instruction to the suspect to remain
still in order not to be bitten;

- iii. Using psychological tests to screen dog handlers before they are selected to be dog handlers; periodically monitoring dog handlers, including monitoring the types of and severity of injuries inflicted by the dogs in order to determine if a dog bite was appropriate, and in order to determine if the level of force each time a dog bites a suspect, is appropriate;
- iv. Photographing all dog bite injuries in color with high quality cameras such as are routinely used to photograph and record evidence by the Department, in such a manner as to depict the exact nature and extent of the injuries inflicted;
- v. Preparing written reports which detail exactly what injuries are inflicted;
- vi. Immediately transporting all dog bite victims to doctors for medical treatment;
- vii. Collecting and retaining medical records showing the nature of the injuries; and
- viii. Video taping interviews of all persons bitten by a dog immediately after an attack by a

1 monitor appointed by the court regarding the
2 manner in which the injuries occurred; such
3 tape recorded interviews to be transcribed
4 and the tapes preserved under seal of the
5 Court and not to be released to any party
6 except the dog bite victim without order of
7 the court.

8 v.

9 PRAYER FOR RELIEF

10 Wherefore, plaintiffs seek judgment as follows:

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12 First, Second, Third, Fourth and Fifth Causes of Action

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

18 Sixth Cause of Action

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

22 Seventh Cause of Action

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

1 **Eighth Cause of Action**

2 Actual damages in an amount according to proof; exemplary
3 damages for each act or attempt of threat, intimidation or
4 coercion against plaintiffs' exercise or enjoyment of secured
5 rights; and such attorneys fees as the court may determine;

6 **Ninth Cause of Action**

7 Compensatory general and special damages in an amount in
8 accordance with proof;

9 **Tenth Cause of Action**

10 Declaratory and injunctive relief as set forth above at
11 paragraphs 1-125; attorneys fees and costs under C.C.P. Section
12 1021.5;

13 and;

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

3 Respectfully Submitted,

4 LITT, MARQUEZ & FAJARDO
5 A LAW CORPORATION

6 DATED: August 17, 1993

7 By *Barrett S. Litt*
8 Barrett S. Litt

9
10 Robert Mann
11 Donald W. Cook

12 DATED: August 17, 1993

13 By *Donald W. Cook (BLL)*
14 Donald W. Cook

15 ACLU FOUNDATION OF SOUTHERN
16 CALIFORNIA

17 DATED: August 17, 1993

18 By *Robin Toma (BLL)*
19 Robin Toma

20 NAACP LEGAL DEFENSE AND EDUCATIONAL
21 FUND, INC.

22
23 DATED: August 17, 1993

24 By *Constance L. Rice (BLL)*
25 Constance L. Rice
26
27
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Chart 1: Total Number of Suspects, Number of Suspects Found and Number of Suspects Bitten for Six Month Intervals.

Time Period	Suspects	Suspects Found (% of All Suspects)	Suspects Bitten (% Bitten if Found)
6/1/90 - 12/31/90	210	110 (52)	90 (82)
1/1/91 - 6/30/91	175	143 (82)	60 (42)
7/1/91 - 12/31/91	167	116 (69)	45 (39)
1/1/92 - 6/31/92	161	160 (99)	37 (23)
TOTAL	713	529 (74)	232 (44)

Chart 2: Comparison of Hospitalizations Rates by K9 and Non K-9 LAPD Officers

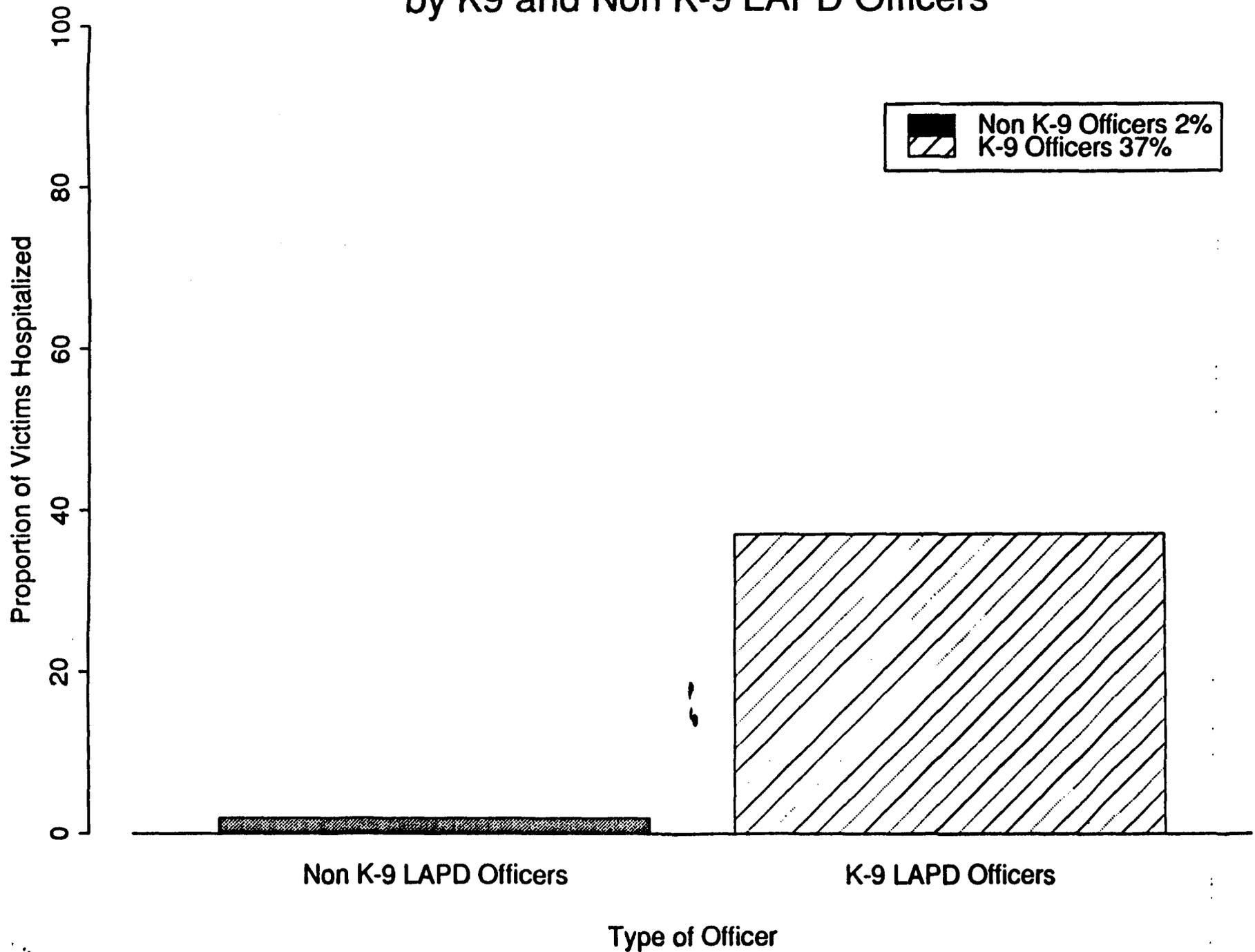


Chart 3: Level of Injury by K9 Use of Force for selected crimes.

		Minor	Treated and Released	Hospitalized	Unknown
Assault on Cit.	24	0%	42%	46%	12%
Assault on P.O.	7	0%	28%	57%	14%
Armed Robbery	53	0%	66%	28%	6%
Burglary	49	4%	59%	35%	2%
Breaking into Auto	13	0%	69%	31%	0%
Stealing Auto	53	4%	47%	45%	4%
Other	36	3%	58%	31%	8%
TOTAL	235	2%	56%	37%	6%

Chart 4: Level of Injury by Non K-9 Use of Force for selected Crimes.

	Total Number	Hospitalized	Cuts, Bruises, Abrasions	Complaining of Pain	No Injuries
Foot Pursuit	1019	2%	51%	13%	34%
Vehicle Pursuit	255	5%	54%	11%	30%
Other Traffic	257	2%	30%	16%	53%
Assault on P.O.	346	1%	36%	12%	51%
Assault on Cit.	100	3%	24%	16%	57%
TOTAL	10125	2%	39%	10%	49%

NOTE: An individual can fall into more than one category. For example a single incident can involve alcohol (not shown) and a foot pursuit. Thus the TOTAL category is not the sum of all of the individual incidents.

Chart 5: Proportion of Times Force is Used by K9 Officer for Selected Crimes.

Crime	Total	Number of Uses of Force	% Use of Force
Assault on Cit.	31	24	77%
Assault on P.O.	14	7	50%
Armed Robbery	97	53	55%
Burglary	135	49	38%
Breaking into Auto	27	13	48%
Stealing Auto	151	53	35%
TOTAL	539	235	44%

Chart 6: Proportion of types of crimes for which K9 Force is used.

Crime	Number of Uses of Force	% of all K-9 Uses of Force
Assault on Cit.	24	10%
Assault on P.O.	7	3%
Armed Robbery	53	23%
Burglary	49	21%
Breaking into Auto	13	6%
Stealing Auto	53	23%
Other	36	15%
TOTAL	235	100%

Chart 7: Use of force by K9 and Non K-9 LAPD Officers for All Crimes

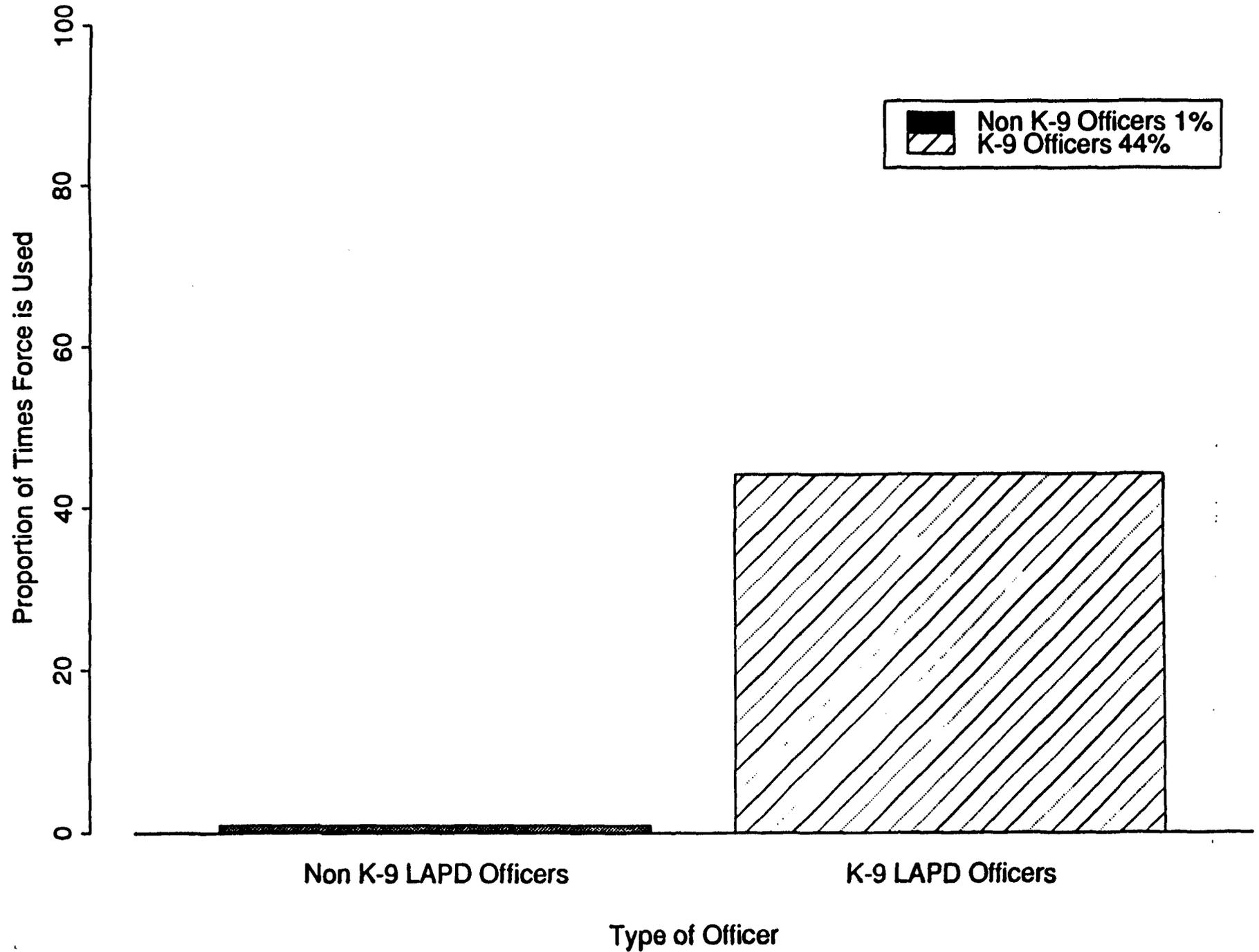


Chart 8: Use of Force by K-9 and Non K-9 LAPD Officers in Assaults or Batteries on Citizens

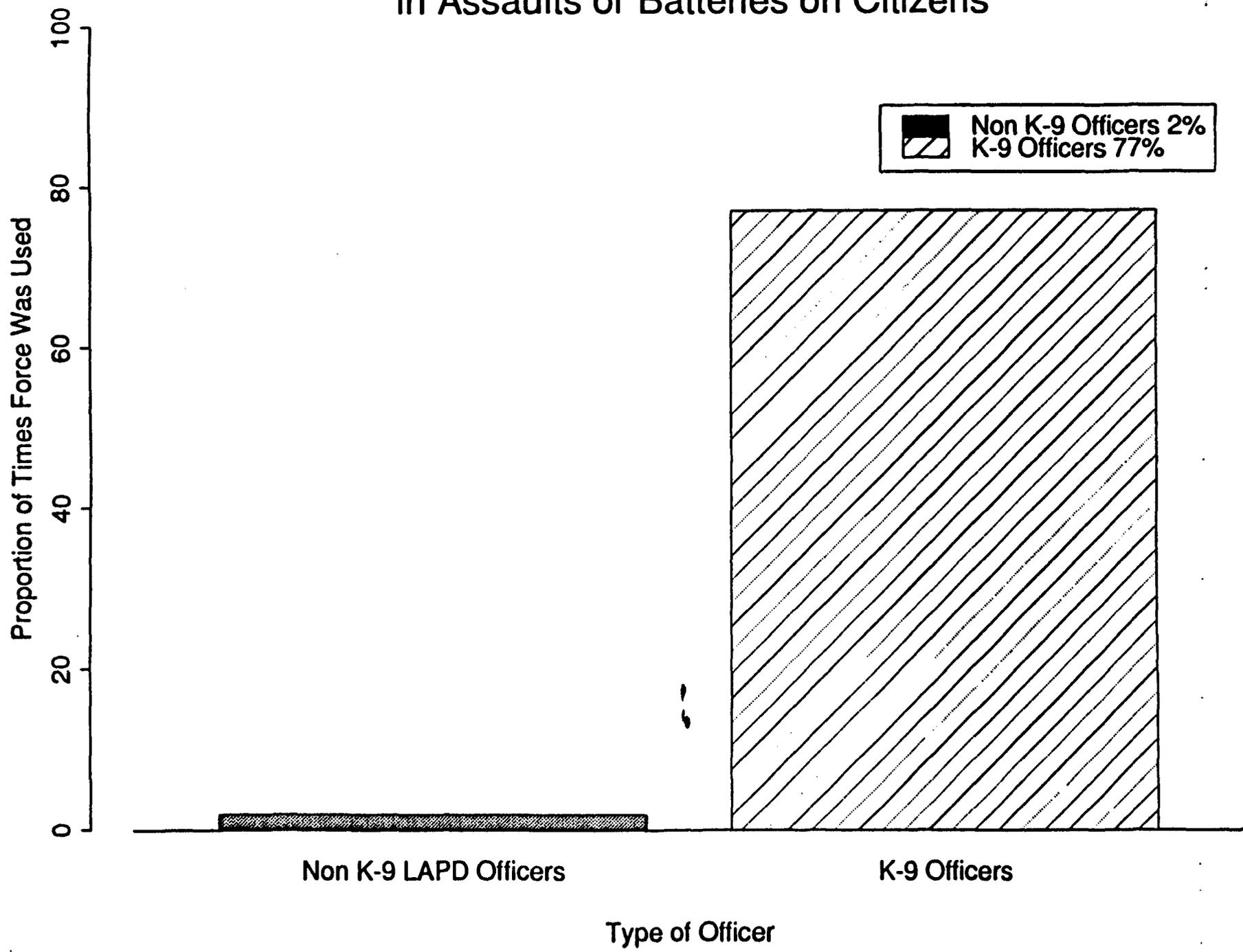


Chart 9: Use of Force by K-9 and Non K-9 LAPD Officers
for Crimes Against Police Officers

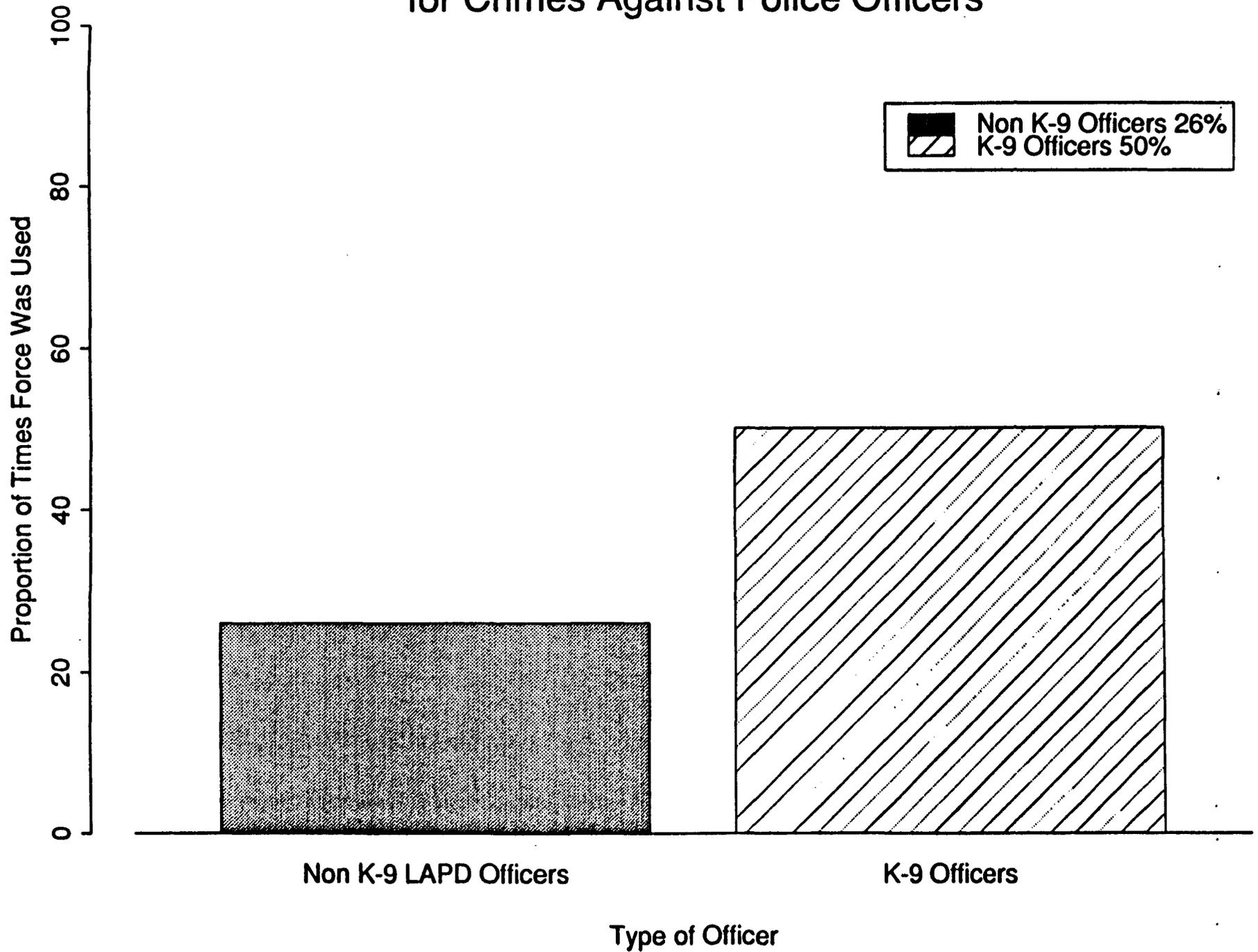


Chart 10: Use of Force by K-9 and Non K-9 LAPD Officers
in Armed Robberies

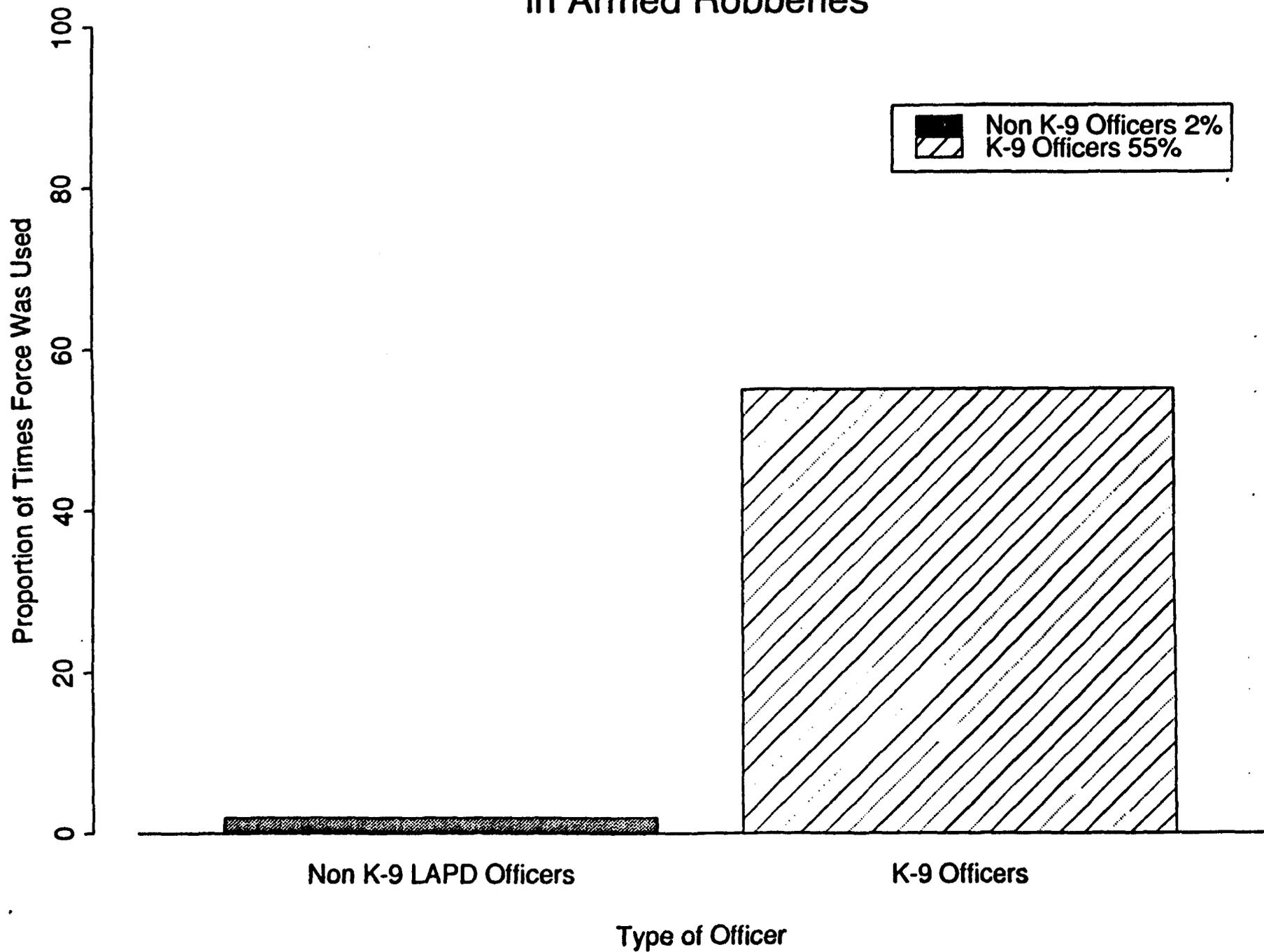


Chart 11: Use of Force by K-9 and Non K-9 LAPD Officers in Burglaries

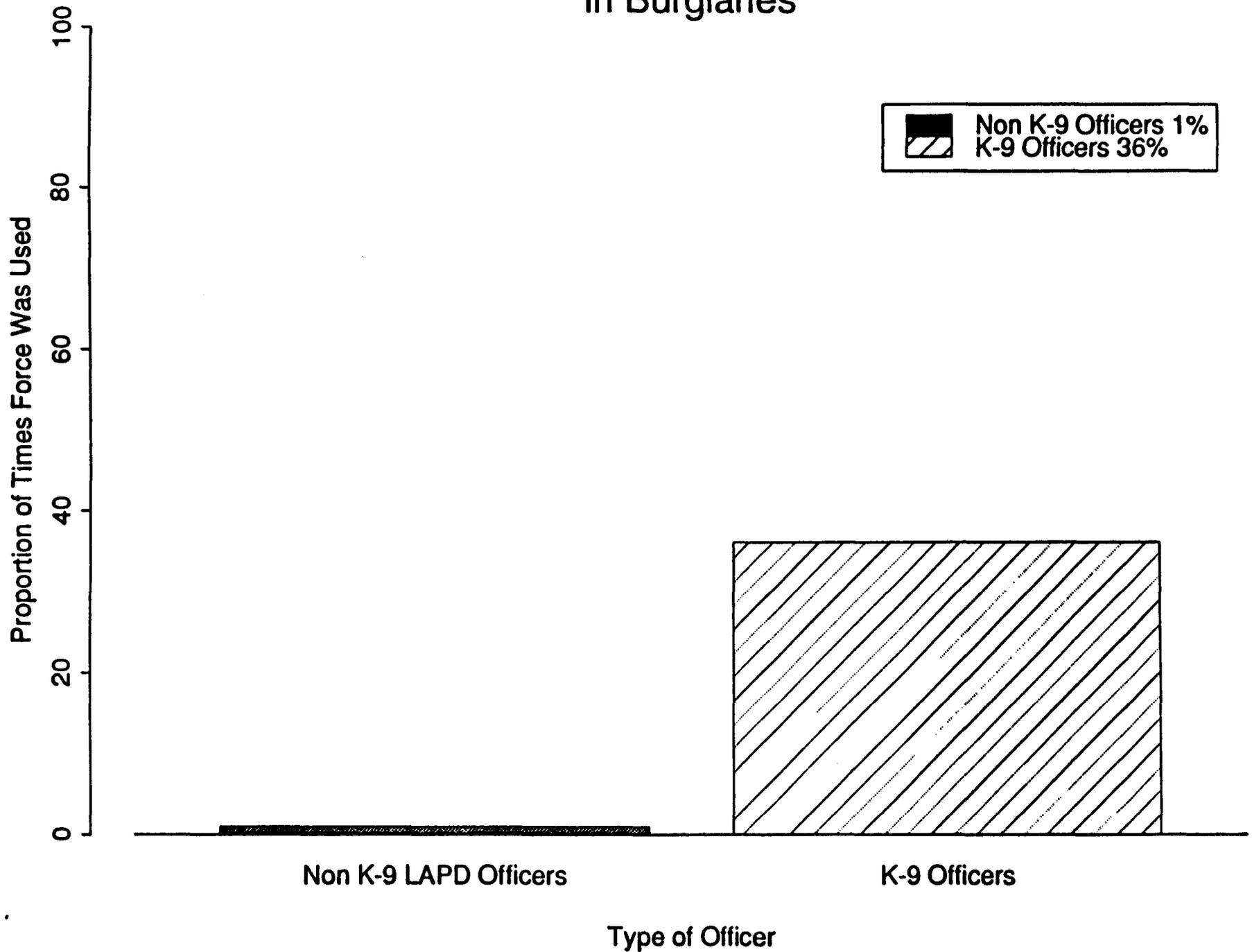


Chart 12: Use of Force by K-9 and Non K-9 LAPD Officers
in Auto Crimes

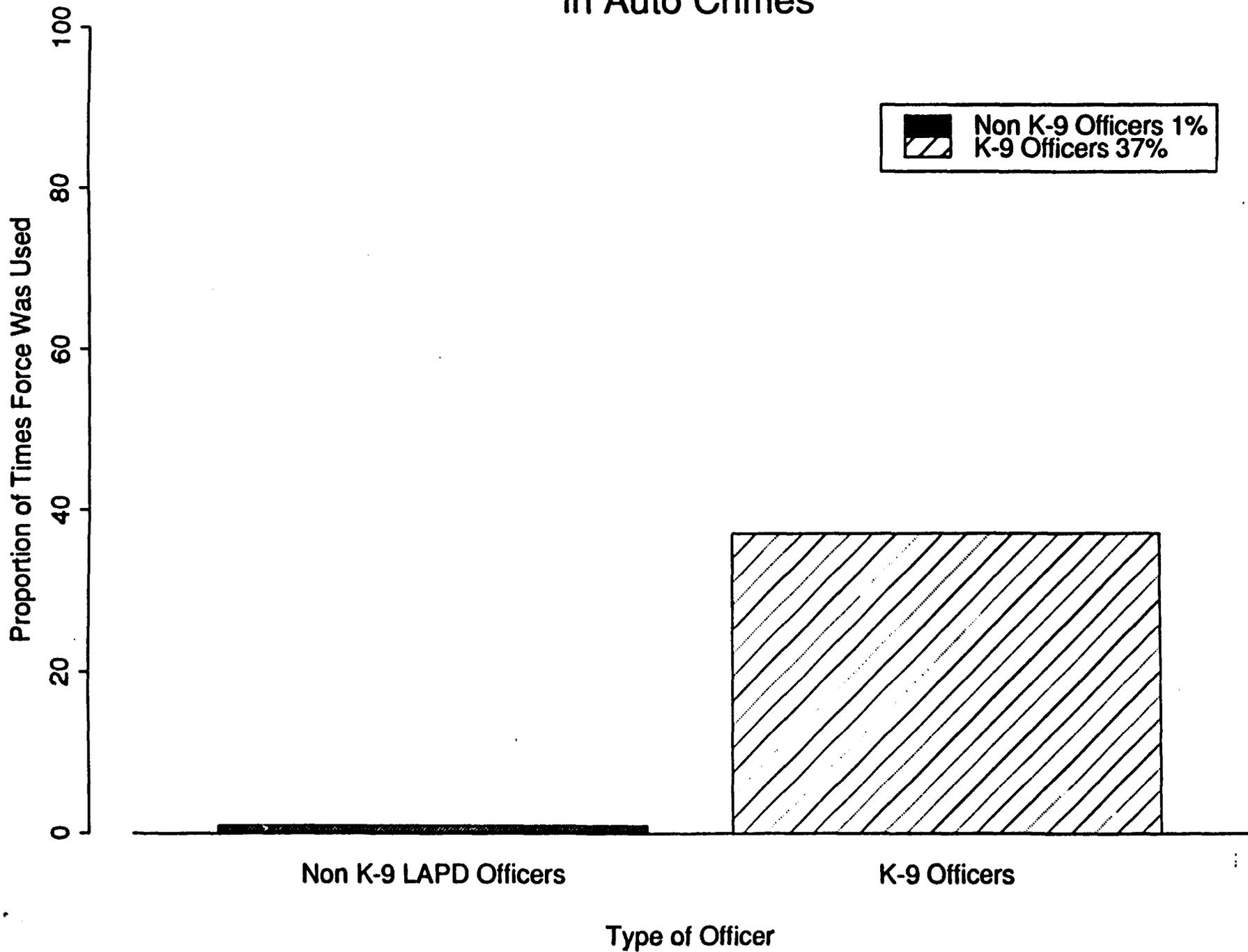


Chart 13: Average Number of Deployments by Racially
Categorized LAPD Divisions from 6/90 through 6/92
After Controlling for Crime and Population Size

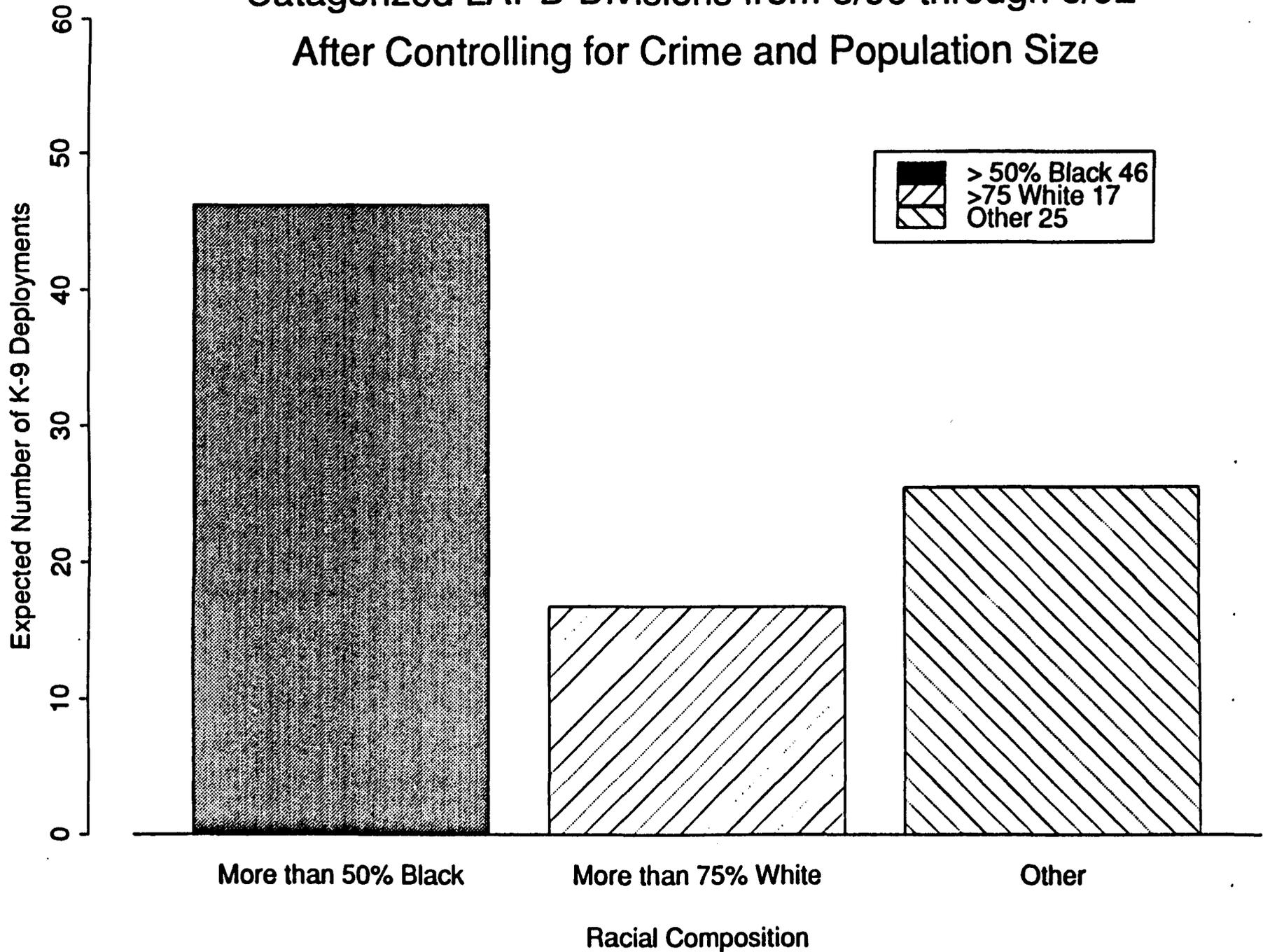


Chart 14: Racial Distribution for LAPD K-9 Uses of Force
(White/Non-White/Unknown)

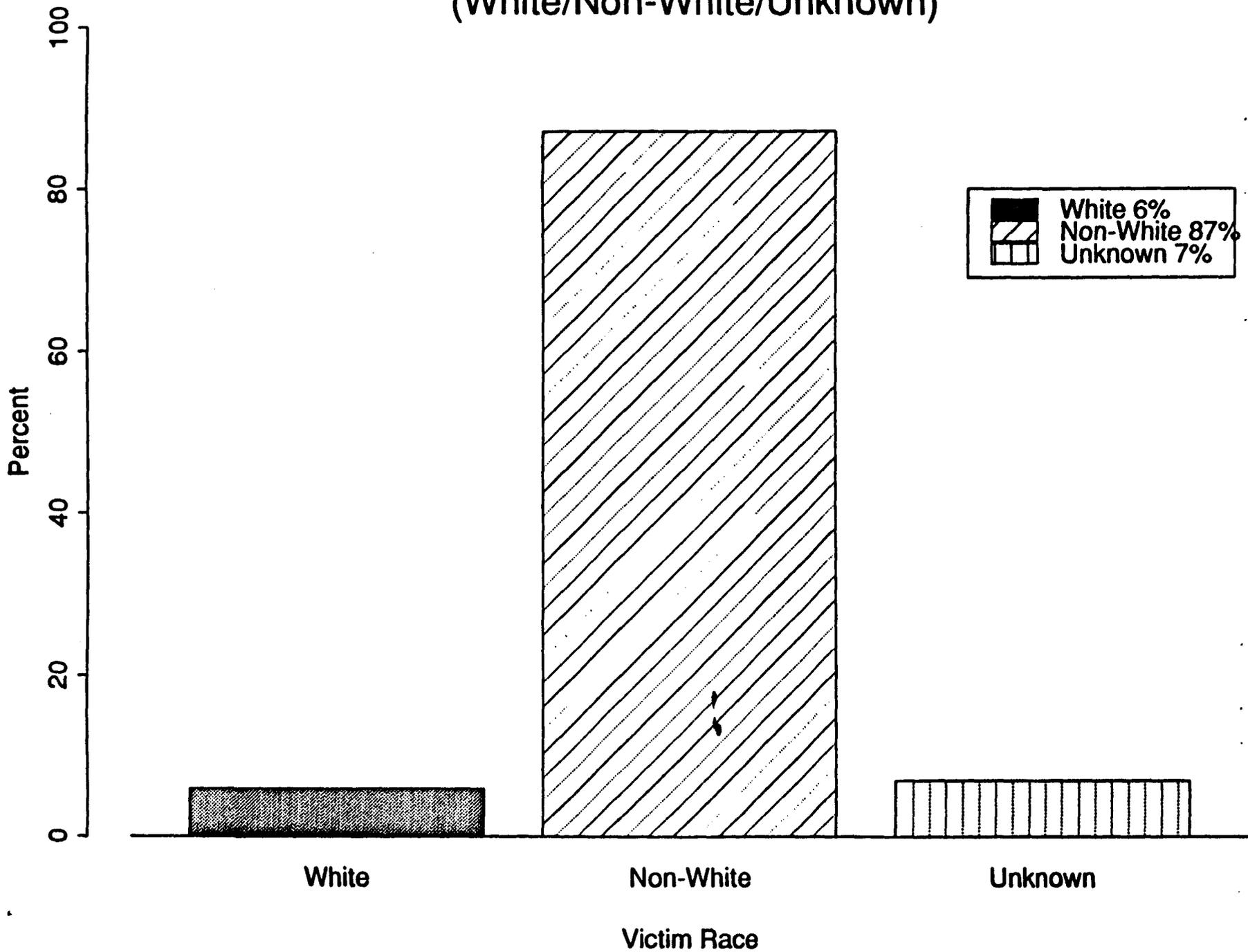
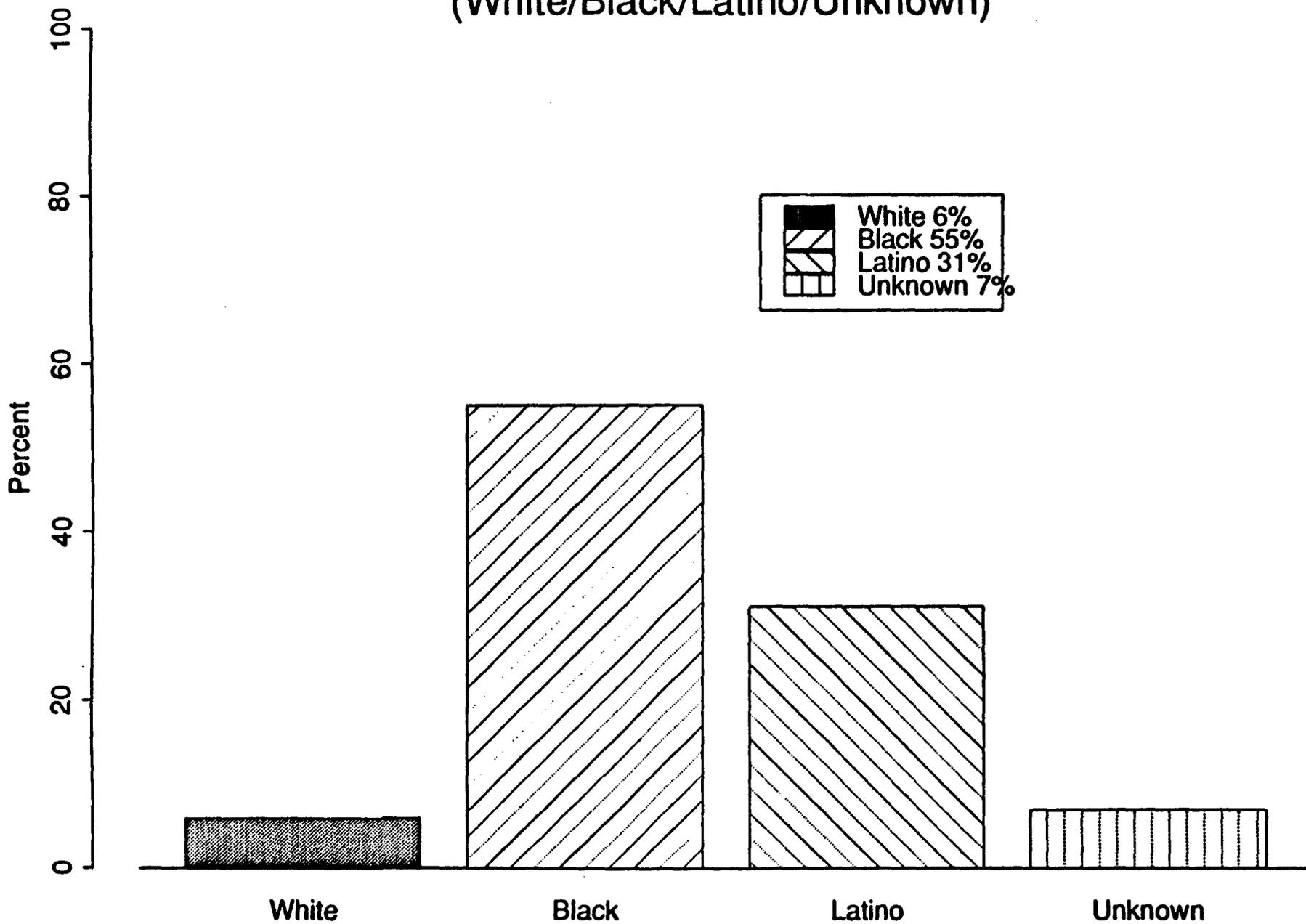


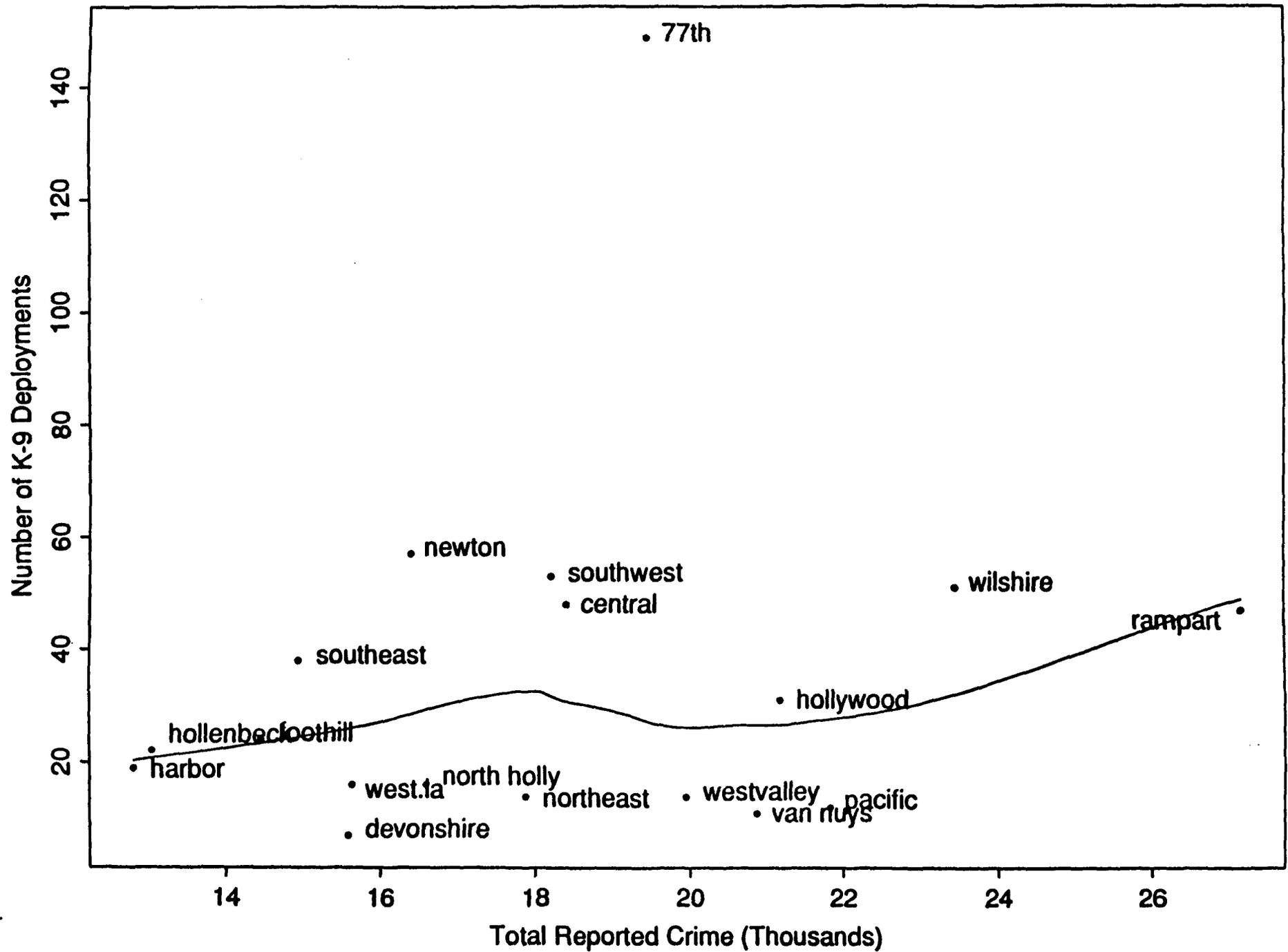
Chart 15: Racial Distribution for LAPD K-9 Uses of Force
(White/Black/Latino/Unknown)*



* Asians (1% of Total) are not Shown

Victim Race

Chart 16: Number of LAPD K-9 Deployments by Division



1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of
4 California. I am over the age of 18 and not a party to the
within action; my business address is 3550 Wilshire Boulevard,
Suite 1200, Los Angeles, California 90010.

5 On August 17, 1993, I served the foregoing document
6 described as THIRD AMENDED COMPLAINT FOR DAMAGES AND DECLARATORY
AND INJUNCTIVE RELIEF on the interested parties in this action by
7 placing the true copies thereof in sealed envelopes addressed as
stated below:

8
9 Mr. Robert Mann
3600 Wilshire Blvd., Suite 1710
10 Los Angeles, California 90010

11 Ms. Connie Rice
NAACP - LDF, Inc.
12 315 W. Ninth St., Suite 208
Los Angeles, California 90015

13 Mr. Paul L. Hoffman
14 ACLU
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15 Los Angeles, California 90026

16 Mary House
Assistant City Attorney
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18 Los Angeles, California 90012

19 Mr. Eugene P. Ramirez
Morris, Polich & Purdy
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16 Mr. Robert Clark, Jr.
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18 Mr. Norman Edell
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25 Ms. Debra Gonzalez
1650 City Hall East
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Los Angeles, California 90012
26

27 XX BY MAIL

28 XX I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully paid.

1 I am "readily familiar" with the firm's practice of
2 collection and processing correspondence for mailing. It is
3 deposited with the U.S. postal on that same day in the ordinary
4 course of business. I am aware that on motion of party served,
5 service is presumed invalid if postal cancellation date or
6 postage meter date is more than one day after the date of deposit
7 for mailing in affidavit.

8 Executed on August 17, 1993, at Los Angeles, California.

9 (State) I declare under penalty of perjury under the laws
10 of the State of California that the above is true and
11 correct.

12 (Federal) I declare that I am employed in the office of a
13 member of the bar of this court at whose direction the
14 service was made.

15 

16 Carlos I. Garcia

17 0840-5191062

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