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CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

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11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14

15 99-02603 GHK

16 DONNA J. WARREN AND BERLINA M.  
DOSS.

Case No. \_\_\_\_\_

17 Plaintiffs,

COMPLAINT FOR DAMAGES,  
INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF

(RCx)

18 v.

DEMAND FOR JURY TRIAL

19 CENTRAL INTELLIGENCE AGENCY,  
20 UNITED STATES DEPARTMENT OF  
JUSTICE, ESTATE OF WILLIAM CASEY,  
21 ROBERT GATES, JOHN DEUTCH,  
GEORGE TENET, ESTATE OF WILLIAM  
22 FRENCH SMITH, EDWIN MEESE,  
RICHARD THORNBURGH, JANET RENO,  
23 AND DOES I - XXX,

24 Defendants.  
25

26 PLAINTIFFS DONNA J. WARREN AND BERLINA M. DOSS complain against the Central  
27 Intelligence Agency, the United States Department of Justice, Estate of William Casey, Robert  
28

COMPLAINT FOR DAMAGES, INJUNCTIVE  
RELIEF AND DECLARATORY RELIEF

1 Gates, John Deutch, George Tenet, Estate of William French Smith, Edwin Meese, Richard  
2 Thornburgh, Janet Reno, and Does I - XXX.

### 4 JURISDICTION

5 This court has jurisdiction pursuant to 28 USC 1331 (federal question involving  
6 interpretation of federal statute), 28 USC 1343 (deprivation of civil rights), and 28 USC 1361  
7 (mandamus to compel an officer or employee of the United States or any agency thereof to perform  
8 a duty owed to the plaintiffs).

### 10 INTRADISTRICT ASSIGNMENT

11 This matter is properly assigned to the Central District of California, Los Angeles Division,  
12 because this is a civil action that arose predominantly in the County of Los Angeles.

### 14 PARTIES

15 1 PLAINTIFFS DONNA J. WARREN and BERLINA M. DOSS are citizens of the United  
16 States, and reside in the State of California. Ms. Warren resides in the City of Los Angeles and Ms.  
17 Doss resides in the City of Hesperia.

18 2. DEFENDANTS CENTRAL INTELLIGENCE AGENCY and UNITED STATES  
19 DEPARTMENT OF JUSTICE are federal agencies. In 1982, the heads of these agencies entered  
20 into a recently revealed agreement, giving rise to a policy under which the CIA had no duty to report  
21 drug crimes to the Department of Justice.

22 3. DEFENDANT ESTATE OF WILLIAM FRENCH SMITH represents the interests of the  
23 estate of the United States Attorney General at the time of the CIA/DoJ secret agreement that is the  
24 basis of this action. The estate is sued in its official and individual capacities.

25 4 DEFENDANT ESTATE OF WILLIAM CASEY represents the interests of the estate of the  
26 Director of the CIA at the time of the CIA/DoJ secret agreement that is the basis of this action. The  
27 estate is sued in its official and individual capacities.

5. DEFENDANTS ROBERT GATES, JOHN DEUTCH, and GEORGE TENET are the successive directors of the Central Intelligence Agency following William Casey. These defendants are sued in their individual and official capacities.

6. DEFENDANTS EDWIN MEESE, RICHARD THORNBURGH, and JANE I RENO are the successive United States Attorneys General following William French Smith. These defendants are sued in their individual and official capacities.

7. PLAINTIFFS are unaware of the identities and capacities of DEFENDANTS DOES I-XXX at this time, and request leave to amend this complaint when that information is ascertained.

8. PLAINTIFF DONNA J. WARREN is currently 52 years old and resided in South Central Los Angeles from 1982 until the present. Donna's son became addicted to crack cocaine, and was subsequently shot to death in Donna's living room, before her eyes. Donna is a representative of Class A, having experienced particular economic, physical and/or emotional injuries arising from the neighborhoods hardest hit by the crack cocaine epidemic, such as: addiction to crack cocaine, death or absence of loved ones due to drug-related crime, reduction of income, and increase in number of dependents.

9. PLAINTIFF BERLINA M. DOSS is currently 53 years old and resided in South Central Los Angeles between 1982 and 1987. Berlina is a representative of Class B, having experienced injuries suffered by the community as a whole, such as: overburdened social services, loss of local businesses, and damage to the tax base.

### STATEMENT OF FACTS

10. On March 16, 1998, CIA Inspector General Frederick Hitz appeared before the House Intelligence Committee to report on his investigation of the CIA, the Contras and crack cocaine. Hitz testified that beginning in 1982, the CIA entered into an undisclosed agreement with the Department of Justice, allowing CIA officers to refrain from reporting drug trafficking by its "agents, assets, and non-staff employees." Hitz admitted that "there are instances where the CIA did not in an expeditious or consistent fashion, cut off relationships with individuals supporting the

1 Contra program who were alleged to have engaged in drug trafficking activity, or take action to  
2 resolve the allegation."

3 11. When asked by Congressman Norman Dicks of Washington, "Did any of these allegations  
4 involve trafficking in the United States?", Hitz's answer was "yes." Hitz acknowledged that the CIA  
5 knew of drug trafficking allegations "regarding dozens of individuals and a number of companies  
6 connected in some fashion to the Contra program or the Contra movement."

7 12. Hitz recounts in Volume II of the Inspector General's Report, dated 10/8/98, that through the  
8 secret agreement, the CIA and DoJ attempted to exempt the CIA from reporting about the drug  
9 trafficking of persons "employed by, assigned to, or acting for an agency within the intelligence  
10 community." Plaintiffs claim that the CIA/DoJ agreement violated a federal statute, 28 USC 535,  
11 which "imposes a duty on every department and agency in the Executive Branch to report promptly  
12 to the Attorney General any information, allegations or complaints relating to possible violations of  
13 [criminal law] by officers and employees of the government." The private CIA/DoJ agreement  
14 attempted to get around this federal law by redefining the term "employee" to mean only full-time  
15 career officials - as opposed to persons "employed by, assigned to, or acting for an agency within  
16 the intelligence community." In addition, the secret agreement violated Executive Order 12333,  
17 issued in 1981, which required the reporting of drug crimes.

18 13. Also in Volume II, Hitz relates that there was a list of crimes by "non-employees" which the  
19 CIA was supposed to report to the Attorney General. While 28 USC 535 applied only to  
20 "employees," Executive Order 12333 mandated that CIA officials report to the Attorney General  
21 evidence of possible violations by any other person of those federal criminal laws enumerated in  
22 guidelines adopted by the Attorney General. Hitz found that the CIA/DoJ agreement "did not  
23 include any type of narcotics violation among the lists of reportable crimes by non-employees."

24 14. Hitz also found that even after Attorney General William French Smith was "advised that  
25 a question arose regarding the need to add narcotics violations to the list of reportable non-employee  
26 crimes," Smith wrote CIA Director William Casey a letter on 2/11/82, stating that "no formal  
27 requirement regarding the reporting of narcotics violations has been included in these procedures."  
28

1 15. The 1989 Kerry Report ("Drugs, Law Enforcement and Foreign Policy," issued by the  
2 Senate Committee on Foreign Relations, Subcommittee on Terrorism, Narcotics and International  
3 Operations) denounced the widespread practice of "ticket punching," in which notorious drug  
4 traffickers buy immunity under the cloak of national security by allying themselves with U.S. covert  
5 operations. From 1982 to 1995, Smith and Casey's secret agreement - that the CIA had no duty to  
6 report drug crimes to the Department of Justice - was the principal rationale for this practice of  
7 ticket punching.

8 16. The Kerry Report made specific findings:

- 9 • That drug trafficking had pervaded the entire Contra war effort;
- 10 • That "one or another agency of the U.S. government had information regarding the  
11 involvement either while it was occurring, or immediately thereafter";
- 12 • That "senior policy makers were not immune to the idea that drug money was a  
13 perfect solution to the Contras' funding problems."

14 17. The Kerry Report condemned the refusal of intelligence agencies to cooperate with law  
15 enforcement in bringing to justice individuals associated with the Contra cause. The Report warned:  
16 "the credibility of government institutions" had been jeopardized by the administration's decision  
17 to turn "a blind eye to domestic and foreign corruption associated with the international narcotics  
18 trade."

19 18. In the opening phase of the crack cocaine epidemic, between 1982 and 1986, CIA officers  
20 and other intelligence agencies received reports regarding Bay Area cocaine importers Norwin  
21 Meneses and Danilo Blandon. Both of these men were among the primary importers in the United  
22 States, and dominated the market on the West Coast. Because of the secret CIA/DoJ agreement  
23 which purported to exempt the CIA from having to report drug crimes, cocaine suppliers connected  
24 with the Contras or other U.S. covert operations were able to import their "unregulated product"  
25 under the cloak of national security.

26 19. Meneses and Blandon funneled vast quantities of cocaine, at a price far lower than other  
27 suppliers, to "Freeway Rick" Ross, who proceeded to flood South Central Los Angeles with a new.  
28

low-cost product, dubbed "crack." By 1984, Ross was selling 150 kilograms of cocaine every week enough to put 3,000,000 doses of crack on L.A.'s streets every seven days.

20. The crack cocaine epidemic enveloped Los Angeles between 1982 and 1986. Government documents show that the CIA and DoJ knew or should have known of the massive importation by Meneses, Blandon and other cocaine supplying operations. Common sense and a review of the news coverage for that period indicate that these agencies knew or should have known that their ongoing policy of deliberate silence allowed the crack epidemic to rage unchecked. The CIA turned its back while shipment after shipment of this new, intensely addictive form of cocaine was delivered to one of Ross' five cookhouses and then put up for sale throughout South Central Los Angeles and Compton. The result was the death of men, women and children, the collapse of businesses, and the destruction of whole neighborhoods.

21. Once the initial Southern California market was glutted, crack moved north. Mid-level dealers diverted the flow to other African American communities in California, such as East Palo Alto, San Francisco, Oakland and Richmond. The consequences to those communities, in terms of loss of life, family structure and economic power continue to this day.

22. At this time, we do not allege that CIA agents themselves engaged in drug smuggling or specifically targeted the African American community.

## **CLASS ACTION ALLEGATIONS**

**Statement Describing The Class or Classes on Behalf of Which the Action is Sought to be Maintained.**

There are two classes on behalf of which this action is sought to be maintained:

A. The inner city residents of the Cities of Los Angeles and Compton and all other similarly situated California residents who are properly within the jurisdiction and venue rules of this Court. These class members, largely African American, experienced particular economic, physical and/or emotional injuries, arising from the neighborhoods hardest hit by the crack cocaine

1 epidemic, such as: addiction to crack cocaine, death or absence of loved ones due to drug-related  
2 crime, reduction of income, and increase in the number of dependents.

3 B. The residents of the cities listed above who experienced injuries suffered by the  
4 community as a whole, such as: lack of safety, overburdened social services, loss of local businesses,  
5 and damage to the tax base.

6  
7 **Statement of Facts Showing That the Parties are Entitled to Maintain the Action Under**  
8 **Paragraphs (a) and (b) of FRCP 23.**

9 With potential classes of millions of people, joinder is impracticable pursuant to 23(a)(1).

10 Under 23(a)(2), questions of law and fact are common to the class.

11 As set forth in Rule 23(a)(3 and 4), the claims of the plaintiffs are typical of the claims of the  
12 class, and the plaintiffs fairly and adequately protect the interests of the class members.

13 Under Rule 23(b)(1)(A), class action is appropriate because multiple suits would create a risk  
14 of adjudications establishing inconsistent or incompatible standards of conduct for the party  
15 opposing the class.

16 Under Rule 23(b)(1)(B), a class suit is appropriate because individual actions would, as a  
17 practical matter, conclude the interests of other members of the class or impair their ability to protect  
18 their own interests.

19 Under Rule 23(b)(2), a class suit is appropriate because the opposing party has acted on  
20 grounds generally applicable to a group, thereby making injunctive or declaratory relief appropriate  
21 for the class.

22  
23 **THEORY OF CAUSATION**

24 The signatories of the CIA/DoJ secret agreement – Attorney General William French Smith  
25 and CIA Director William Casey – and their successors, agencies and agents are legally liable for  
26 the pipeline of crack cocaine which inundated California urban centers from 1982 to 1986, and for  
27 the after-effects which continue to the present day. Smith, Casey, their successors and their agents  
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1 knew or should have known that failing to report drug crimes would interfere with law enforcement  
2 agencies' efforts to halt the importation of cocaine, and that this would ultimately result in a "crack  
3 epidemic," involving addiction, death, increased crime, higher taxes, exhaustion of social services,  
4 and destruction of businesses. The outcome followed the well-known pattern of opium in China and  
5 heroin in the United States, which similarly devastated low-income urban communities.

6 The proof of the harm which ensued is based on official statistical evidence from city and  
7 county budgets, public health departments, hospitals, police departments, courts, and jails. In  
8 addition, individual plaintiffs and witnesses will testify concerning the injuries they sustained due  
9 to the crack epidemic.

### 11 CAUSES OF ACTION

12 1. The CIA's failure to report allegations of drug crimes, along with the DOJ's acquiescence to  
13 this non-reporting, interfered with law enforcement's efforts to thwart the importation of crack  
14 cocaine. This violated plaintiffs' right to due process, as guaranteed by the 5<sup>th</sup> Amendment of the  
15 United States Constitution. Plaintiffs were denied equal protection, because:

16 A. defendants violated federal law and executive orders requiring that drug crimes be  
17 reported, and this failure to report impacted the plaintiffs; and

18 B. as a result of defendants' conduct, plaintiffs did not receive adequate law  
19 enforcement protection in their communities.

20 For this violation of their civil rights, plaintiffs are entitled to relief pursuant to Bivens v. Six  
21 Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

22 2. CIA and DOJ agents failed to perform duties owed to the plaintiffs, particularly their duties  
23 to follow the law and report drug crimes. The district court has the power to compel federal officers  
24 or employees to perform their duties, pursuant to 28 United States Code section 1361.

25 3. The CIA's failure to report allegations of drug crimes, along with the DOJ's acquiescence to  
26 this non-reporting, interfered with law enforcement's efforts to thwart the importation of crack  
27 cocaine. Because the crack epidemic was not promptly addressed with reasonable efforts to halt the  
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1 importation of cocaine, plaintiffs' communities became dangerous, impoverished and inadequately  
2 supported by social services. These unlivable conditions, in which plaintiffs could not comfortably  
3 enjoy life and property, constitute the tort of "public nuisance," and plaintiffs who were particularly  
4 impacted by this public nuisance are entitled to relief. (Plaintiffs hereby give notice that the  
5 complaint will be amended to include this cause of action, pending the outcome of the  
6 simultaneously filed federal tort claim.)

### 8 DEMAND FOR JURY TRIAL

9 Plaintiffs demand a jury trial in this action.

### 11 RELIEF SOUGHT


12 Declaratory relief: Plaintiffs seek a declaration that the secret CIA/DoJ agreement and  
13 the consequent policy and practice of not reporting drug crimes, were  
14 illegal.

15 Injunctive relief: Plaintiffs seek an order requiring the CIA to report to the DoJ all  
16 possible drug crimes by all persons, as has been previously required  
17 by executive order.

18 Damages: Plaintiffs seek money to rebuild the community and to fund drug  
19 treatment.

20 Plaintiffs also request reasonable attorneys' fees, costs and any other relief which the Court  
21 deems proper.

24 Date: March 15, 1999

  
KATYA KOMISARUK  
Attorney for Plaintiffs