LIABILITY FOR DOG BITES

Where humans and dogs live together, dog bites are bound to happen. Bites can result in injuries ranging from minor to severe. The most common injuries are skin puncture, bleeding, and sometimes scarring. In certain cases, dog bites or dog attacks can also lead to psychological injuries including nightmares, increased stress, or emotional trauma. If an individual is bitten by a dog he or she may seek legal action against the owner.

WHAT FORM OF COMPENSATION IS AVAILABLE?
A victim can receive money for all of the following things:

1. Medical treatment such as first aid, emergency room, hospital and ambulance;
2. Future medical treatment for scar reduction;
3. Psychological counseling to overcome the emotional trauma of the attack; fear of dogs, fear of being outdoors, and dealing with disfigurement;
4. Loss of earnings from work or the victim's business;
5. Torn clothing, broken glasses, and other property damage; and
7. Reimbursement of vet bills if a pet was bitten.

Many times compensation is covered by a form of insurance. If the victim can speak to the dog owner, the victim should ask whether the owner has any of the available insurance policies. The owner’s homeowner’s or renter’s insurance policy may cover both bite and non-bite damages even if the injury or damage occurs away from the owner’s property. Always check your policy to be sure if you are covered. People frequently do not know whether their insurance covers a particular type of loss, including a dog bite. Furthermore, some people deny they have insurance when in fact they do have it.

WHY DO DOGS BITE?
A dog may attack humans, or other animals, for a number of reasons including feeling threatened, scared, irritated, or over-excited. Dogs may bite while trying to protect their territory or while trying to assert dominance as part of their leader-of-the-pack mentality. While all dogs are capable of biting, and some breeds are more apt to bite than others, proper training can significantly reduce the risk of dog bites.

Children are often the victims of dog bites. Some dogs will try to assert their dominance over children more than over adults because of the smaller size of children. Dogs consider children more vulnerable and can sense apprehension or fear. Parents of children bite victims can seek legal action on behalf of their child.

WHAT ARE THE LEGAL CONSEQUENCES OF A DOG BITE?
Dog owners, and potential bite victims, should be aware of the legal consequences of a dog’s harmful behavior. The California dog bite law (Cal. Civ. Code §3342) specifically establishes a dog owner’s strict liability for injuries inflicted by the owner’s dog. The law makes owners liable for bites and non-bite injuries including scratching and knocking over. Under strict liability for owners there is no requirement to prove the owner did something wrong. Whether a bite, or other injury, occurs in a public or private place, and whether the dog has a history of good behavior,
does not matter. A judge will not allow evidence of a dog’s docile nature in the courtroom, it will be considered irrelevant.

The dog owner has strict liability under California Law (no one free bite rule) but liability for the property owner (lease situation) is notice based. The property owner must know that: (1) The dog was there; and (2) the dog had dangerous propensities. The landowner must have also had the ability or power to correct the situation. Furthermore, any other person may be liable if he or she was negligent or maintained custody or control of the dog with knowledge that the dog was dangerous. In a city with a "leash law," violation of the leash law constitutes a form of negligence.

Many options are available to the parties involved in a dog bite, or injury, incident. Parties may, of course, decide to not pursue legal action or to settle on damages out of court. However, if a fair settlement is not an option, the victim has one year to bring a lawsuit. Suits may seek compensation for medical and ambulance expenses, pain and suffering, and time lost from work. Victims may seek representation of an attorney or may file the suit without an attorney in small claims court. Claims are limited to no more than $7,500 in small claims court. If the claim is for more than $7,500 the victim should file in Superior Court.

DEFENSES TO BITES
Dog owners do have limited defenses and under the following circumstances the owner of the dog may escape liability:

1. The victim was a trespasser;
2. The victim was a veterinarian who was treating the dog at the time of the incident;
3. The victim was committing a felony;
4. The victim provoked the dog;
5. The dog was assisting the police or the military at the time of the incident.
6. If another animal was bitten, that animal provoked the dog, was off-leash and/or “trespassing” on the dog owner’s property.

These defenses will be less successful if the victim is a minor, particularly a young child. Again, a judge will not allow evidence of a dog’s docile nature in the courtroom, it will be considered irrelevant.

WHAT IF A DOG HAS A HISTORY OF BITING?
Aside from civil liability other serious consequences may arise if a particular dog has a tendency to bite. California law requires the owner of a dog which has bitten someone to take steps to prevent it from happening again. (Cal. Civ. Code §3342.5) An example of sufficient notice of bad behavior occurs when postal carriers report incidents to their supervisors of dog bites or of vicious dogs. The supervisor will then sometimes notify the property owner as well as the tenant and threaten the disruption of mail service to the home.

The intent of these laws is to protect the public, especially children, from dogs known to pose a danger to people and to crack down on irresponsible dog owners. If the dog does bite again, any person (accept for a trespasser) may sue to force the owner to remove the danger to other persons
presented by the animal. The dog may be declared “potentially dangerous” or “vicious,” the
court can have the animal removed from the area or put down, and the owner may be fined.
POM Reg. 40-3 mirrors California law and directs that the owner of a dog which has bitten or
scratched a person must comply with quarantine procedures including presenting the dog to the
Veterinary Treatment Facility (Bldg. 4380 Parker Flats Road). Furthermore, an animal involved
in one unprovoked, vicious bite or two provoked bite incidents must be removed from the
installation. Violations of animal control procedures may result in prosecution before a US
Magistrate, military disciplinary action, and eviction from housing.

WHAT WILL HAPPEN TO THE DOG?
In most cases, nothing happens to the dog except that it might be quarantined for a few days
(frequently at the dog owner’s home). If the attack is brutal or other conditions are met, however,
the local animal control authority or court may issue orders requiring that the dog be confined or
destroyed.

WHAT DO I DO IF A DOG BITE OCCURS?
If a dog bites someone, promptly report it to the POM police at (831) 242-7851. Information on
dog bite prevention is available from the Ord Military Community Veterinary Clinic at (831)
242-7718, Monterey County SPCA (831) 373-2631, animal control, and other law enforcement
offices.

Both dog bite victims and dog owners are eligible for legal advice at the Legal Assistance Office,
although each party must see different attorneys. Appointments can be made at the legal office
located at building 275, Presidio of Monterey or by calling (831) 242-5084.