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The Outcome of the Rampart Scandal Investigations

by Rick Young

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Young was the co-producer of "L.A.P.D. Blues."

In June 2008 a federal appeals court upheld a lower court's award of \$15 million (\$5 million each) to three officers initially convicted in the Ramparts scandal. Two of the officers, Brian Liddy and Edward Ortiz, are mentioned in this FRONTLINE report (broadcast May 2001) and on this companion Web site. Back then, FRONTLINE had noted that their convictions had been thrown out by a judge. The officers later sued in civil proceedings and now, seven years later, the 9th Circuit Federal Appeals Court has upheld a lower court's ruling in their favor.

Background: Perez's Allegations

Facing eight years in prison for stealing a million dollars worth of cocaine from the L.A.P.D. property room, L.A. police officer **Rafael Perez**, the man who triggered the Rampart scandal, reached a plea agreement with prosecutors in late 1999. In the deal, Perez would help uncover what he claimed was widespread police misconduct in exchange for a five-year prison term and immunity from prosecution for all charges short of murder.

Over nine months, investigators interviewed Perez on 35 occasions, generating more than 4,000 pages of transcripts. In these interviews, Perez implicated 70 individuals in misconduct ranging from bad shootings and improper arrests to drinking on the job.

Here is a summary (as of December 2001) of what has resulted from the various criminal and civil investigations into Perez's allegations:

Listen to excerpts from Perez's confessions. (audio)

Writs of Habeas Corpus and Civil Settlements

Upon learning of Perez's shooting and frame up of Javier Ovando, Dep. DA Rosenthal took the unprecedented step of preparing a writ of habeas corpus, a petition normally filed by defense attorneys, seeking to overturn Ovando's conviction and secure his release from prison. Within a week, Ovando was freed. But Perez's continuing testimony kept the DA's office busy. "You had somebody who now is saying I did all these things wrong. I lied, I planted evidence, I did this, I did that," explained **Judge Larry Fidler** of the Superior Court. "The prosecution then said we've lost confidence in the conviction."

Nearly 100 convictions have been overturned as a result of Perez's testimony. Most of these cases involve arrests made by Perez; some involve wrongful convictions identified by Perez and corroborated by investigators. The District Attorney's office has filed 64 writs and attorneys representing defendants have filed 22 others that, unopposed by the DA's office, have been granted by the Court.^[1] Another 13 writs that have been granted involve juveniles. **Meanwhile, defense attorneys continue to review as many as 15,000 cases that may have involved misconduct by police officers, particularly those implicated in wrongdoing by Perez. The Public Defenders Office alone is examining more than 8000 cases.**

With criminal convictions being overturned, civil suits against the L.A.P.D. and the City of Los Angeles have followed. In its largest police misconduct settlement ever, the City awarded \$15 million to Javier Ovando last November. Twenty-nine other defendants, represented by Gregory Yates, were awarded nearly \$11 million in a bulk-settlement. As of April, 2001, 142 Rampart cases had been filed against the City. Two had been dismissed and 42 had been settled.^[2] The L.A. City Attorney's office has estimated that total Rampart-related settlement costs will be \$125 million.

L.A.P.D. Boards of Rights

Within the L.A.P.D., the Internal Affairs Division is responsible for investigating and disciplining officer misconduct. Much like a military-style court martial, evidentiary hearings, or Boards of Rights (BOR), are called to determine allegations of officer wrongdoing. Officers are entitled to legal representation and cases are brought by the Advocate's Office within IA. A panel of three judges (two police captains and one civilian) determine guilt or innocence based on "the preponderance of evidence" and penalties can range from termination to official reprimand. Of the approximately 70 officers implicated by Rafael Perez, 58 have become subject to BOR's proceedings. An officer may face multiple boards; Perez's partner, Nino Durden, for example, faced 32 Boards before resigning from the department. And some Boards may involve multiple officers involved in a specific incident. To date, of the 52 Boards that have been held, 36, or 69% have resulted in findings of not guilty; 16, or 31%, have resulted in findings of guilt. Twelve officers have received suspensions, ranging from 7 to 30 days in length. Seven officers have resigned and 5 have been terminated.

Rampart Criminal Cases

In addition to internal disciplinary proceedings, officers engaged in criminal misconduct face the prospect of prosecution by the state (L.A. County District Attorney's Office) and/or the federal government (U.S. Attorney's Office). Thus far, the state has brought indictments against 8 officers implicated by Perez. Four of the officers have been to trial, three officers have reached plea agreements and one is awaiting trial.

The first criminal case brought against Rampart CRASH cops came to trial in October, 2000. The charges against four officers, from perjury and false arrest to conspiracy to obstruct justice, involved three separate arrests identified by Perez as "bad." In two of the alleged incidents, the charges were either dismissed or the officers were found not guilty. In the third arrest, the "Alley incident," three officers were found guilty.

The "Alley Incident" took place on July 19, 1996. Members of the Temple Street gang had gathered in an alley and among them was a murder suspect named Anthony Adams, known on the street as "Stymie." Based on an informant's tip, Rafael Perez called the Rampart CRASH unit together to assist in sweeping the alley and apprehending "Stymie." As the officers arrived at the scene, the gang members dispersed, and two, Raul Munoz and Cesar Natividad, sped down the alley in a pickup truck, passing several officers, including Perez, before running the pickup into a curb. According to police accounts at the time, the pickup struck two officers, Michael Buchanan and **Brian Liddy**, as it traveled down the alley. Munoz and Natividad were charged with "ADW on PO w/ GBI." In police parlance, that translates into Assault with a Deadly Weapon (the pickup) on a Peace Officer with Great Bodily Injury. Both defendants plead guilty. Munoz, who was driving the car and carrying a gun, was sent to prison and then deported to El Salvador.

But later, while reviewing the Rampart CRASH arrest reports, Perez told Task Force investigators that neither Buchanan nor Liddy were ever struck by the pickup. "None of that actually occurred," Perez alleged. "That's what we decided to come up with after they were all taken into custody, in order to arrest them."^[3] The convictions of Munoz and Natividad were overturned. Both have sued the City of Los Angeles.

Though Perez did not testify when the case came to trial, the jury found three of the defendants, Buchanan, Liddy and Sgt. Edward Ortiz, the supervising officer at the scene, guilty of perjury, filing a false report and obstructing justice. The verdicts, however, did not represent a consensus among jurors as to whether the officers had fabricated the arrest, as originally alleged by Perez. In fact, the jurors were divided on the question of whether or not Buchanan and Liddy had been struck by the pickup. The jurors reached consensus, and ultimately findings of guilt, based on their belief that the officers had exaggerated the extent of harm caused by the pickup by filing an arrest report which included the phrase "GBI", or "Great Bodily Injury."^[4]

The jury verdict surprised many, including apparently the trial judge. On December 22, 2000, Judge Jacqueline Connor overturned the jury verdict, arguing that the

evidence presented at trial did not sufficiently support a verdict of guilt based solely on the "GBI" issue. The District Attorney's Office has appealed the judge's decision. As of November 2001, a decision on that appeal is pending.

Since then, the District Attorney has also filed criminal charges against three other officers for allegedly assaulting gang members and filing false police reports. Two of the charged officers have negotiated plea agreements, including cooperation with the prosecutors. The third officer, Ethan Cohan, who previously had been terminated by the department for a separate assault incident, has plead not guilty and is awaiting trial.

Rafael Perez's partner, Nino Durden, has also reached a plea agreement with prosecutors. Charged with the most serious offense, attempted murder for the shooting of Javier Ovando, Durden has cut his deal with both the District Attorney's Office and the U.S. Attorney's Office - a deal that will likely send Durden to prison for 4-5 years and may extend the prison sentence of his former partner, Rafael Perez. In a series of eight interviews, Durden has provided Federal prosecutors with a story markedly different than that portrayed by Ray Perez. While Durden confirms that he and Perez did indeed plant guns, fabricate evidence and provide false testimony, sources close to the investigation say that Durden does not corroborate Perez's larger claims of similar unit-wide misconduct. As for the shooting of Javier Ovando, Durden says that it was Perez, not himself, that planted the gun on Ovando and masterminded the coverup.[5]

After serving three years of his five-year sentence, Rafael Perez was released from prison and placed on parole on June 24, 2001. In December 2001, he pled guilty to federal civil rights and firearms violations resulting from the shooting of Javier Ovando. He admitted to one count of conspiracy to violate Ovando's civil rights, and one count of possessing a firearm with an obliterated serial number. He is scheduled for sentencing on these counts in March 2002.

[1]

Internal Memorandum, "Attorneys Representing Defendants on Writ Cases," L.A. County District Attorney's Office, December 28, 2000 (latest information available).

[2] "Rampart Current Status Chart," L.A. City Attorney's Office, April 24, 2001.

[3] Perez Transcripts, Vol. 9, November 17, 1999.

[4] Transcript of Interview with Juror, December 6, 2000.

[5] Plea Agreement for Defendant Nino Floyd Durden, U.S. District Court for Central District of California, March 29, 2001.

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