



## LAW & ORDER

February 9, 2000

The LAPD deals with another scandal. Jeffery Kaye of KCET, Los Angeles, reports.

**JEFFREY KAYE:** In one court hearing after another, prosecutors have made a series of stunning admissions about corruption in the Los Angeles Police Department.

**SPOKESPERSON:** We have reason to believe that Officer Nino Durden testified falsely about the alleged narcotics transactions that he witnessed and may have planted rock cocaine on this defendant.

**SPOKESMAN:** Based upon our review, we are no longer convinced in the legitimacy of the conviction...

**JEFFREY KAYE:** Prosecutors are filing motions to free prisoners and overturn convictions, telling judges that in the mid- to late- 90's, an unknown number of LA officers lied, planted evidence, and framed suspects.

**SPOKESMAN:** The allegation here is that the gun that was located or allegedly on Mr. Richard was, in fact, a plant. And based on that information, obviously, the people are moving to dismiss the case.

**JUDGE:** Without objection, the writ of habeas corpus is granted. The conviction is set aside.

**JEFFREY KAYE:** So far, 32 cases have been thrown out. 11 officers have been relieved of duty. More are under investigation in a scandal that LA County District Attorney Gil Garcetti says is the most important case his office has handled in the 31 years he's been a prosecutor.

**GIL GARCETTI, District Attorney, LA County:** A lying police officer goes to the very heart, the core of the criminal justice system. 99% of your cases-- maybe that's an exaggeration-- 90%, at least, of your cases rely on the veracity of your police officer. If you cannot trust your police officer, you don't have a case. You don't have a criminal justice system.

**JEFFREY KAYE:** The scandal now tearing at the criminal justice system was launched by the confessions of a former cop, Rafael Perez. Charged with stealing and selling eight pounds of cocaine in 1998, Perez has implicated himself and other officers in order to reduce a possible 14-year sentence, according to LA Police Chief Bernard Parks.

**BERNARD PARKS, Chief, Los Angeles Police Department:** On the criminal side, he has acknowledged that 57 cases, involving 99 suspects, are tainted either by perjured testimony, falsification of evidence, or probable cause.

JEFFREY KAYE: Perez and the other officers implicated in the unfolding scandal, were part of an anti-gang unit attached to the LAPD's Rampart Division, just West of downtown. The area has a high crime rate, with a dense population of mostly low-income immigrants from Central and South America. The anti-gang unit known as CRASH, Community Resources Against Street Hoodlums, had a reputation as hard-charging and aggressive. But to civil rights lawyers, CRASH officers acted like another gang. Gregory Moreno represents several clients arrested by Perez and his colleagues.

GREGORY MORENO, Lawyer: They were conducting themselves in a way that they were very much like a vigilante group, very much like the group of people, young people, that they were after.

SPOKESMAN: We're going to go out there and we're going to basically serve these people with notice of something they can't do anymore.

JEFFREY KAYE: In August 1997, CRASH officers and prosecutors delivered injunctions to presumed gang leaders, prohibiting them from associating with each other. The court orders were backed up by sworn statements from police officers, including Rafael Perez. Those injunctions are now on hold.

OFFICER: If we have an injunction that we use perjured testimony or misinformation, then that injunction is no good, it's of no value, because that injunction basically reduces the civil rights of other individuals. And we don't want to do that.

BAILIFF: Come to order. Court's in session.

JEFFREY KAYE: Judge Larry Fidler is the supervising judge in LA's criminal courts. He's been a judge for 17 years.

JUDGE LARRY FIDLER, LA Criminal Courts: I have never seen anything like this. It's beginning to have a major impact on cases in Los Angeles. We're starting to see acquittals in cases where no one could have predicted that, based upon the facts presented to the jury. This comes from my talking to judges, where there is no defense except an argument that the police planted evidence without any underlying facts to support it, that there are acquittals in those cases, where in the past that would have been highly unlikely.

JEFFREY KAYE: The Los Angeles Public Defenders Office is reviewing 4,400 cases involving officers believed to have committed misconduct. Assistant public defender Robert Kalunian says he has no idea yet how many cases should be reopened.

ROBERT KALUNIAN, Assistant Public Defender, LA County: We are in the process of reexamining those cases to determine if the officer in question's involvement was material to a contested issue in the case.

JEFFREY KAYE: What does that mean, material to a contested issue?

ROBERT KALUNIAN: What it means is, was the officer's involvement in the case necessary for the prosecution to make their case? We are in the process of reviewing our case files in all those cases to determine the officer's involvement, and basically whether the... our client indicated at the

time that the officer was untruthful or planted evidence.

JEFFREY KAYE: In addition, some 46 police officers and seven prosecutors have been assigned full-time to investigate the scandal.

JEFFREY KAYE: How high does this go, do you believe?

GIL GARCETTI: Can't answer that, yet. We will take it wherever the evidence leads us.

JEFFREY KAYE: How many police officers involved?

GIL GARCETTI: I won't answer that yet, because we're still digging. I don't want to say it's five when it may be 40 or 50 or a 100.

JEFFREY KAYE: The most dramatic case to come to light is that of Javier Francisco Ovando. He spent nearly three years in prison before prosecutors discovered he'd been framed. In 1996, while inside this apartment building, Rafael Perez and his partner shot Ovando in the head and chest. At the time, the officers said Ovando came at them with a gun. Perez has since admitted Ovando was unarmed, and that he and his partner, Nino Durden, planted a gun on Ovando after they shot him.

JEFFREY KAYE: Why do you think the police shot you?

JAVIER FRANCISCO OVANDO: I don't know.

JEFFREY KAYE: Had you seen Perez, Durden before?

JAVIER FRANCISCO OVANDO: One day before.

JEFFREY KAYE: And what happened?

JAVIER FRANCISCO OVANDO: The next day they shot me.

JEFFREY KAYE: Cases like Ovando's are prompting second thoughts about the common practice of plea bargaining in which defendants plead guilty in exchange for lighter sentences. In the Rampart scandal, many defendants, like Joseph Jones, pleaded guilty to crimes they had not committed. Jones was charged with selling cocaine to undercover cops inside this hotel. Jones cut a deal. In 1998 he pleaded guilty and took an eight-year prison term instead of the much longer sentence he might have received had he lost at trial. Jones said his private attorney made a strong argument.

JOSEPH JONES: If you fight Rampart you will lose, you will lose big time. You will never win. No matter what, you will not win against Rampart. So if eight years is what I had, eight years is what I was going to take. And I considered myself just extremely lucky that it wasn't 32-to-life, which is what they were going after.

JEFFREY KAYE: It was a similar story for Samuel Bailey. In 1996 he pleaded guilty to a gun charge. Former Officer Perez has since admitted the gun was planted.

What did your lawyer tell you?

SAMUEL BAILEY: My lawyer told me, you don't have a chance.

JEFFREY KAYE: It was your word against his?

SAMUEL BAILEY: Yes.

JEFFREY KAYE: Judge Fidler says in the past, he often persuaded defendants to accept plea bargains or dispositions. He is now less inclined to do so.

JUDGE LARRY FIDLER, LA Criminal Courts: In light of what's happened, if someone protests their innocence and says, I don't want it. I didn't do anything, as a judge now, I don't think I'll ever talk to a defendant again when requested to try to get them to take a disposition. I would not feel comfortable doing that at this point.

JEFFREY KAYE: Prosecutors, defense lawyers, and police say because of the scandal, they, too, are changing the way they handle criminal cases. The public defender's office wants more investigators to check out police statements.

ROBERT KALUNIAN, Assistant Public Defender, LA County: We recently have seen an increase in the number of cases that our lawyers have requested investigation in. And we recently have seen an increase in the number of hours that each case is being investigated. And I think that is a direct result of the Rampart situation.

JEFFREY KAYE: As for prosecutors, they, too, are more careful about police witnesses.

GIL GARCETTI: I think by nature everyone is a bit more cautious. And certainly every deputy district attorney is reminded that his or her obligation is to make sure any witness you put on the stand that you have faith and trust.

JEFFREY KAYE: The LA police chief also promises more scrutiny of street cops and their reports.

BERNARD PARKS: Number one, those reports have to be reviewed by supervisors. We cannot allow individual officers to write the reports, approve them, and put them in the system.

JEFFREY KAYE: Is that what happened before?

BERNARD PARKS: That's just one of the common failings that happened at rampart.

JEFFREY KAYE: Parks, who has been chief just over two years, says because of the department's high turnover rate, street cops tend to be young and relatively inexperienced. He has proposed a \$9 million reform plan for more staff to investigate police officers and recruits. Parks concedes more checks and balances are essential.

BERNARD PARKS: It looks like over a period of years that we have allowed and accepted mediocre work products. And then over time you have people who are now in supervisor's

positions that are allowing it. And then, as time goes on the next thing you know, you get less and less of a product. And it's not nearly at the standard that we would like it to be.

JEFFREY KAYE: But critics also suggest that a public fear of crime may have sent the wrong message to overzealous officers. David Dotson retired from the LAPD assistant chief in 1992.

DAVID DOTSON, Retired Assistant Chief, LAPD: I think it was accepted by the public that we needed to conduct a war, so to speak, on narcotics and a war on gangs and that there was general acceptance of the police using tactics that may not have been textbook perfect, but nevertheless seemed to accomplish certain objectives that people believed were needed to be accomplished.

JEFFREY KAYE: Chief Parks agrees that attitude has to change.

BERNARD PARKS: You can create an atmosphere in which officers believe the ends justify the means. I think it's important from management perspective, that you keep things in balance. And that's why we don't have such terms as war on crime and war on the community. We don't create war with our community. We talk about dealing with crime and the substantive issues. We get away from labeling in the sense of saying, if a person's a gang member is a crime. It's not a crime to be a gang member. Their acts or their criminal behavior is what's a crime.

JEFFREY KAYE: As investigators sort out what happened, people whose convictions have been overturned are trying to reassemble their lives. Jones spent two years, two months, and 28 days in prison. The drugs he was convicted of selling weren't his.

JOSEPH JONES: When you go to prison, everyday that you're in prison you took your family with you. And every member of your family serves prison time just like you did. And you can't fix that.

JEFFREY KAYE: Jones is one of a growing number of victims now suing the city for civil rights violations. Officials are bracing for judgments that could total more than \$125 million. And the DA is weighing criminal charges against police officers.



---

[home](#) [newshour index](#) [search](#) [forum](#) [shields&gigot](#) [letters](#) [essays&dialogues](#) [off camera](#)

[home](#) | [newshour index](#) | [search](#) | [forum](#) | [shields & gigot](#) | [letters](#) | [essays & dialogues](#) | [off camera](#) | [pbs online](#)

Copyright © 2000 MacNeil-Lehrer Productions. All Rights Reserved.