THE NATIONAL REGISTRY OF EXONERATIONS

POLICE MISCONDUCT IN EXONERATION CASES IN LOS ANGELES COUNTY

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I. INTRODUCTION

Police misconduct represents a profound societal issue with far-reaching consequences. Its detrimental effects encompass the discriminatory application of laws, harassment, physical violence and murder, corruption, wrongful arrests and wrongful convictions.[1] These concerns are particularly pressing for underserved communities of color, where heightened levels of police contact and incarceration have effectively eroded the legitimacy of law enforcement.[2] While police misconduct has been a long-standing concern, it has garnered heightened attention in recent years, primarily fueled by extensive media coverage of egregious acts of police violence, such as the killings of Michael Brown, George Floyd, and Tyre Nichols.

An important recent concern about police violence has been the problem of "repeat offenders"—instances of police misconduct are not isolated events but rather involve particular officers who engage in misconduct repeatedly, with impunity. Discussion of this issue has focused on two key aspects: first, the existence of officers with extensive histories of misconduct that are often concealed from criminal defendants, judges, reporters, and the public; and second, the phenomenon of the "wandering officer" who commits misconduct in a particular department, is fired or leaves that police force, and then is hired by another police department in a different jurisdiction, where stakeholders are unaware of that officer's history.[3]

The first issue came to light when it was revealed that in certain jurisdictions, including Los Angeles County and Baltimore, prosecutors maintained undisclosed "do not call" lists of police officers who should not be presented as witnesses in criminal trials due to their known histories of misconduct, perjury, or both.[4] The second problem came to light through the exposure of several infamous cases in which police officers effectively erased records of serious misconduct, secured

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[1]   Katherine Beckett, Kris Nyrop, & Lori Pfingst, *Race, Drugs, and Policing: Understanding disparities in drug delivery arrests*, 44 Criminology, 1 (2006); Devon Carbado, *From Stop and Frisk to Shoot and Kill*, 64 UCLA Law Review 6 (2017); Lallen Johnson & Evelyn Patterson, *The Policing of Subway Fare Evasion in Postindustrial Los Angeles*, 24 Punishment & Society 3 (2021); Amanda Geller, et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 American Journal of Public Health 12 (2014); Ana Muñiz, *Maintaining Racial Boundaries: Criminalization, Neighborhood Context, and the Origins of Gang Injunctions*, 61 Social Problems 2 (2014); Patrick J. Carr, Laura Napolitano, & Jessica Keating, *We never call the cops and here is where: A qualitative examination of legal cynicism in three Philadelphia neighborhoods*, 45 Criminology 2 (2007).

[2]   Lorraine Mazerolle, et al., *Shaping Citizen Perceptions of Police Legitimacy: A randomized field trial of procedural justice,* 51 Criminology, 1 (2013); Ronald Weitzer, *Citizens' Perceptions of Police Misconduct: Race and Neighborhood Context*, 16 Justice Quarterly 4 (1999); Amanda Geller & Jeffrey Fagan, *Pot as Pretext: Marijuana, Race, and the New Disorder in New York City Street Policing*, 7 Journal of Empirical Legal Studies, 4 (2010); Ta Lisa Carter & Lallen Johnson, *'Blacks Can't Jump': The Racialization of Transit Police Responses to Fare Evasion*, 13 Race and Justice 4 (2021); Rob Brunson, *'Police Don't Like Black People': African-American Young Men's Accumulated Police Experiences*, 6 Criminology & Public Policy, 6 (2007).

[3]   Ben Grunwald & John Rappaport, *The Wandering Officer,* 129 Yale L. J. 1676 (2019).

[4]   Barry Scheck, The Integrity of Our Convictions: Holding Stakeholders Accountable in an Era of Criminal Justice Reform, 48 Geo. L.J. Ann. Rev. Crim. Proc. iii, xix (2019); Julie Ciccolini, Dismantling the Blue Wall of Silence: Why Every Defender Should Track Law Enforcement Misconduct, National Association of Criminal Defense Lawyers, 14 (2023), NACDL.org/DismantleTheBlueWall.

new employment in different jurisdictions, and then repeated their misbehavior at their new agencies.[5]

These concerns have prompted renewed efforts at making information about police misconduct more widely accessible to stakeholders. This type of information has historically enjoyed legal protection, making it challenging for the public to access in numerous states.[6] Notable disclosure efforts include the Invisible Institute's publication of Chicago police misconduct data on a dedicated website,[7] and the New York Legal Aid Society's creation of a mobile device "app" designed for recording and accessing public information about individual police officers, which subsequently gained national traction through the National Association of Criminal Defense Lawyers.[8] Finally, there have been persistent lobbying efforts aimed at persuading legislators to increase the transparency of information related to police misconduct for the general public.

In California, these lobbying efforts have succeeded. In 2019, the legislature enacted new laws transforming the state from one that "without question, had the worst laws governing the disclosure of adjudicated findings of police misconduct" to one with "some of the strongest transparency laws" in the U.S.[9] A consortium of stakeholders, including academic institutions, civil rights organizations, journalists, public defenders, and innocence organizations (including the National Registry of Exonerations), has formed the California Law Enforcement Accountability Network (CLEAN) to coordinate efforts of gathering, archiving, analyzing, and making public this newly accessible data.[10]

This report seeks to support these initiatives by exploring possible uses of information from the National Registry of Exonerations. This online publicly accessible archive contains data and narratives about all known exoneration cases in United States history. Police misconduct is important to the Registry because it is widely recognized as one of the key contributors to wrongful convictions in the United States. Police misconduct contributed to 43% of the wrongful convictions that resulted in exonerations since 1989.[11] In addition, the Registry tracks clusters of exonerations through its Groups Registry. This includes exonerations centered around notorious rogue officers, such as former sheriff's deputy Tom Coleman in Tulia, Texas, former Sergeant Ronald Watts in Chicago, and Rafael Perez, the former Los Angeles Police detective at the heart of the Rampart scandal.

This study is modeled on a recently published study by Laurie Roberts, of the Innocence Project, that focused on New York City. Using the Registry's data, Roberts analyzed all 223 known

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[5]   Grunwald & Rappaport, *The Wandering Officer*.

[6]   Scheck, The Integrity of Our Convictions, xiii.

[7]   Id., xvii.

[8]   Id., xiv. Ciccolini, Dismantling the Blue Wall of Silence.

[9]   Scheck, The Integrity of Our Convictions, xviii; Ciccolini, Dismantling the Blue Wall of Silence, 9; Laurie Roberts, "Where Were You When the Lights Went Out in New York City?" Police Disciplinary Histories and Wrongful Convictions in the Big Apple, 44 Amicus Journal 29, 36 (n.d.) https://www.bassberry.com/wp-content/uploads/lethal-injection-protocol-tennessee.pdf#page=34.

[10]   Ciccolini, Dismantling the Blue Wall of Silence, 9.

[11]   Also see Samuel R. Gross et al., Government Misconduct and Convicting the Innocent: The Role of Prosecutors, Police and Other Law Enforcement National Registry of Exonerations, 12 (Sept. 1, 2020), https://www.law.umich.edu/special/exoneration/Documents/Government_Misconduct_and_Convicting_the_Innocent.pdf (https://n2t.net/ark:/88112/x2ns56).

exonerations since 1989 from convictions in New York City. She then narrowed her sample to focus on the 156 cases where official misconduct, a broader concept encompassing misconduct by prosecutors and other state actors, played a role in a wrongful conviction. She further narrowed the sample to 99 cases in which she was able to identify the name of an officer who engaged in misconduct, using a variety of sources, including the Registry. She then was able to search these names in a public database containing the disciplinary files of the New York City Police Department's Civilian Complaint Review Board. Roberts found that wrongful conviction cases involved officers with a disproportionately high frequency of complaints against them. More than 40% of these 99 exonerations involved an officer with complaints against them in at least 6 separate incidents.[12]

Our study seeks to apply Roberts's methods in the newly open legal environment in California. We selected Los Angeles County as an appropriate comparison to New York City. Following New York, it is the second largest city in the U.S. Moreover, it is the largest jurisdiction in California, and it boasts the highest number of exoneration cases among all California counties, 125. No other county comes close.

Our study had two principal objectives, one methodological and one substantive:

1. Methodological: We wanted to determine how useful the information held by the Registry could be for identifying officers involved in misconduct. The Registry does not systematically record or publish names of police officers involved in cases, even if they engaged in misconduct. The Registry collects source documents for each case, but the nature and comprehensiveness of these documents varies greatly across cases. For both of these reasons, it was not clear to us at the outset, how many exoneration cases would contain police officer names.

2. Substantive: We also wanted to see what we could learn about the nature of police misconduct in Los Angeles County wrongful convictions. Is it the work of a few rogue officers, or is it more widespread? And did officers who engaged in misconduct in particular wrongful convictions repeat that behavior in other cases?

II.   MATERIALS & METHODS

On January 9, 2023, we created a data set of all known exoneration cases, in which the date of exoneration was 1989 or later, that occurred in Los Angeles County, California, and were coded Yes for Police Officer Misconduct.[13] This generated a total of 89 exoneration cases. More than half (48) of these 89 cases were related to the notorious Rampart police misconduct scandal.[14]

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[12]   Roberts, Where Were You When the Lights Went Out?, 30.

[13]   These cases may be found by filtering the Registry's State ("ST") column for California ("CA"), County for "Los Angeles," and Official Misconduct ("OM") tags for Police Officer Misconduct ("OF"). See https://perma.cc/3XGC-6ZSJ.

[14]   Although we are aware of 171 Rampart defendants, only 48 meet the qualifying criteria for inclusion in the "individual" Registry. The reason for disqualification in most cases is unexplained physical evidence of guilt (in almost all cases, drugs).

We searched for names of officers in these 89 cases in the following sources:
- The Registry's published online Narrative of the case
- The Registry's Source Documents on the case
- New News Searches conducted for this project
- New Court Document searches
- In one case (Timothy Atkins), we consulted with the exoneree's post-conviction attorneys.

III. RESULTS

A. CASE ANALYSIS

We found at least one officer name in all (100%) of the 89 cases. This surprised us, given the limitations of the Registry's information and the fact that Roberts was only able to find officer names in around two-thirds of her New York City cases.[15] As it turns out, the Registry's data from Los Angeles contain more officer names than we anticipated. Figure 1 shows our sources of information for the officer names in the 89 cases. The Registry's narrative summaries of each case were the best source for officer names: the narratives alone supplied names in 39 cases. The Registry's source documents alone provided names in 18 cases, and in 27 cases names were found in both narratives and source documents. In four cases, the source documents were supplemented by newly discovered news stories that had not been included in the Registry's source documents, and in one case (Timothy Atkins) we consulted with attorneys involved in the case. The results are roughly similar to Roberts's results for New York City. In both sets, the narratives alone provided officers' names in roughly two-thirds of cases. The Registry's source documents proved instrumental in this study, making a significant difference by enabling us to discover names that were absent from the narratives.

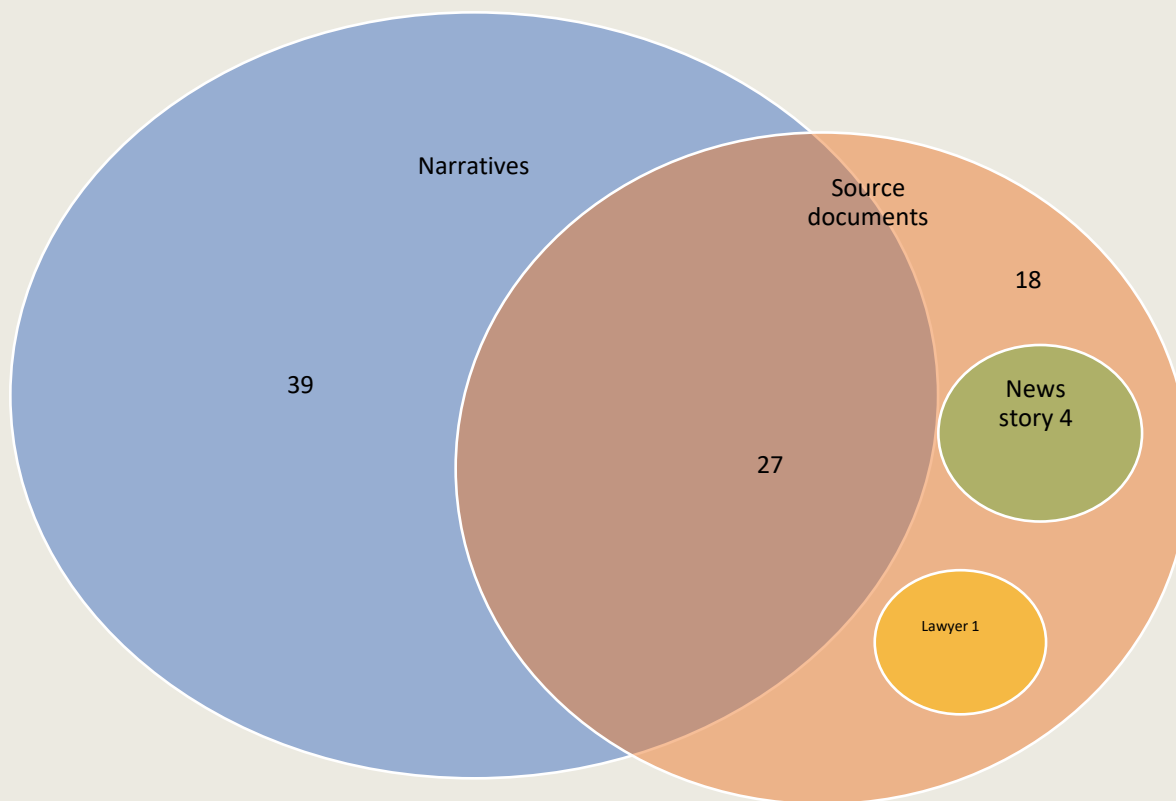[15] Roberts, Where Were You When the Lights Went Out?, 30.

Figure 1. Sources for officer names in Los Angeles County exoneration cases (n=89 cases).

We found a total of 332 officer mentions across the 89 cases. The number of officer names we located in any one case ranged from 1 to 11. The median number of officer names we found per case was 3, and the mean was 3.7 (Table 1).

Total Number of Officer mentions	Number of cases
1	5
2	28
3	21
4	7
5	10
6	8
7	4
8	2
9	3
11	1
Grand Total	89

Table 1. Officer mentions per exoneration case (n=89 cases).

In some instances, the Registry Narrative and/or Source Documents made clear that a specific officer had engaged in misconduct. One hundred eighty-three (55%) of the 332 officer mentions highlighted officer misconduct. At least one officer was associated with misconduct in 100% of the 89 cases. The number of officers associated with misconduct per case ranged from 1 to 5 (Figure 2). The median was 2 officers, and the mean was 2.1.
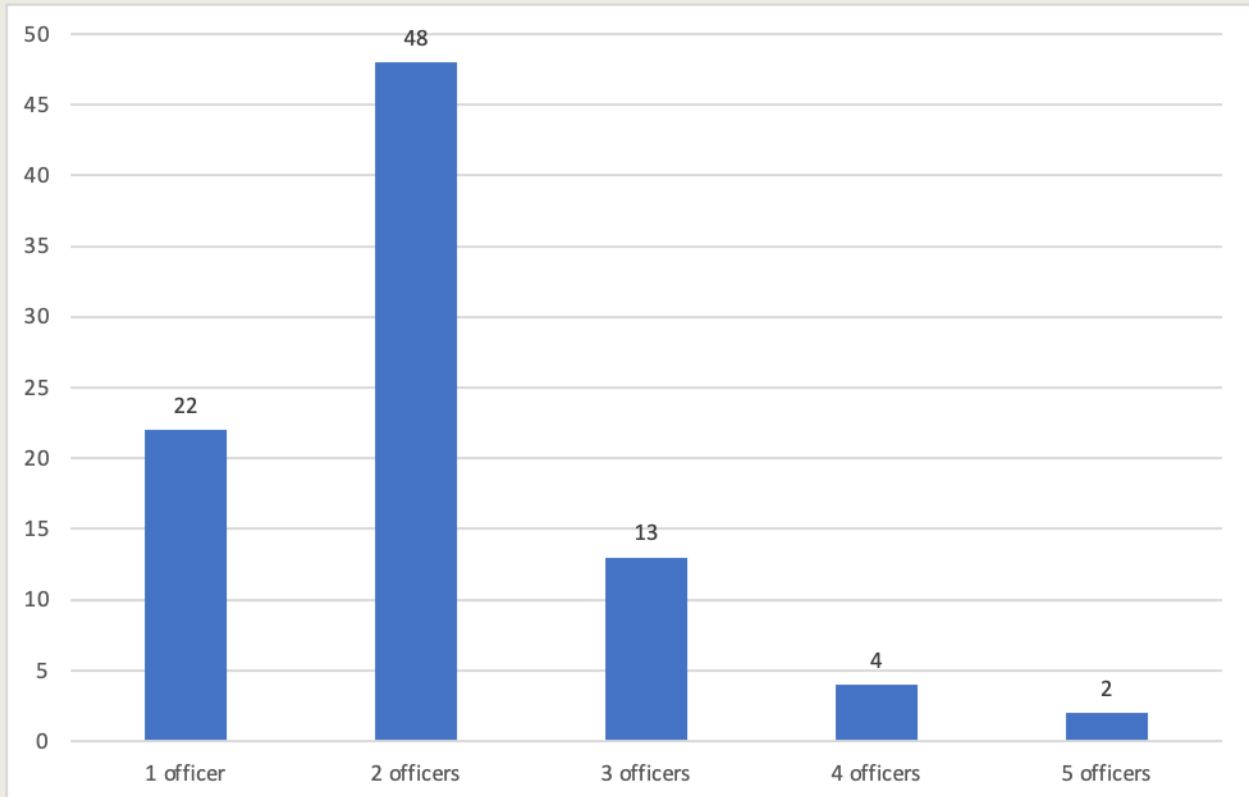

Figure 2. Number of officers with misconduct per case (n=89 cases)

The remaining 149 (45%) of the 332 officer mentions did not highlight officer misconduct. The number of officers without misconduct per case ranged from 0 to 8 officers (Figure 3). The median number of officers mentioned without misconduct was 1 per case, and the mean was 1.7.

Figure 3. Number of officers without misconduct per case (n=89 cases).

B.   OFFICER ANALYSIS

We found a total of 160 unique officer names across the 89 cases. Unsurprisingly, most officers worked for the Los Angeles Police Department (Figure 4).
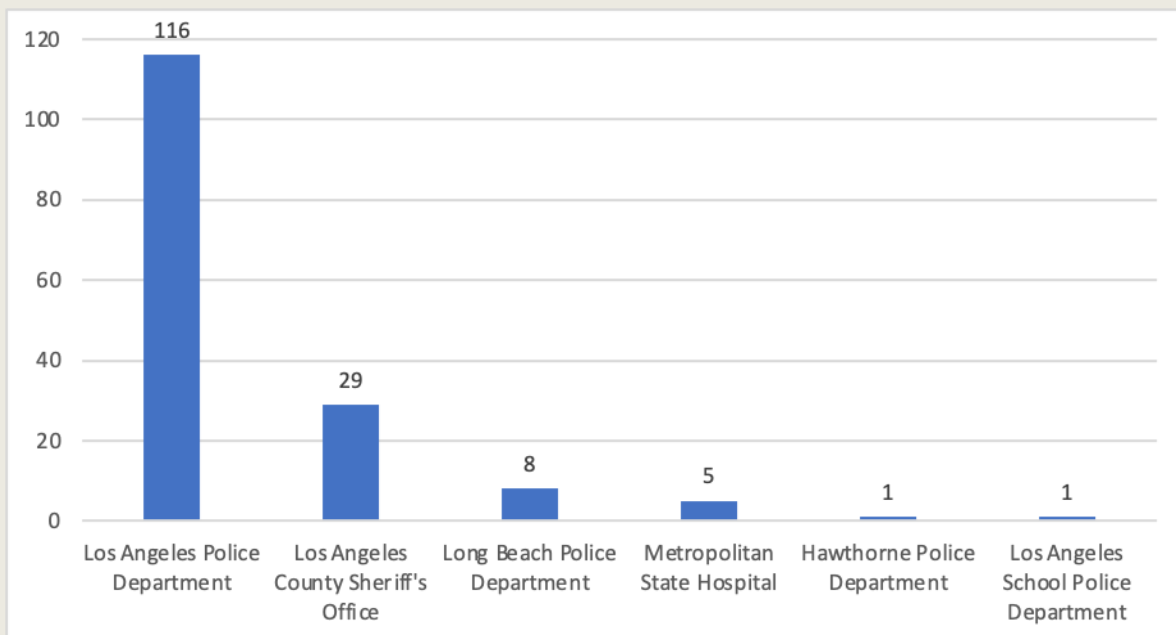

Figure 4. Agency of officers named in exoneration cases (n=160 officers).

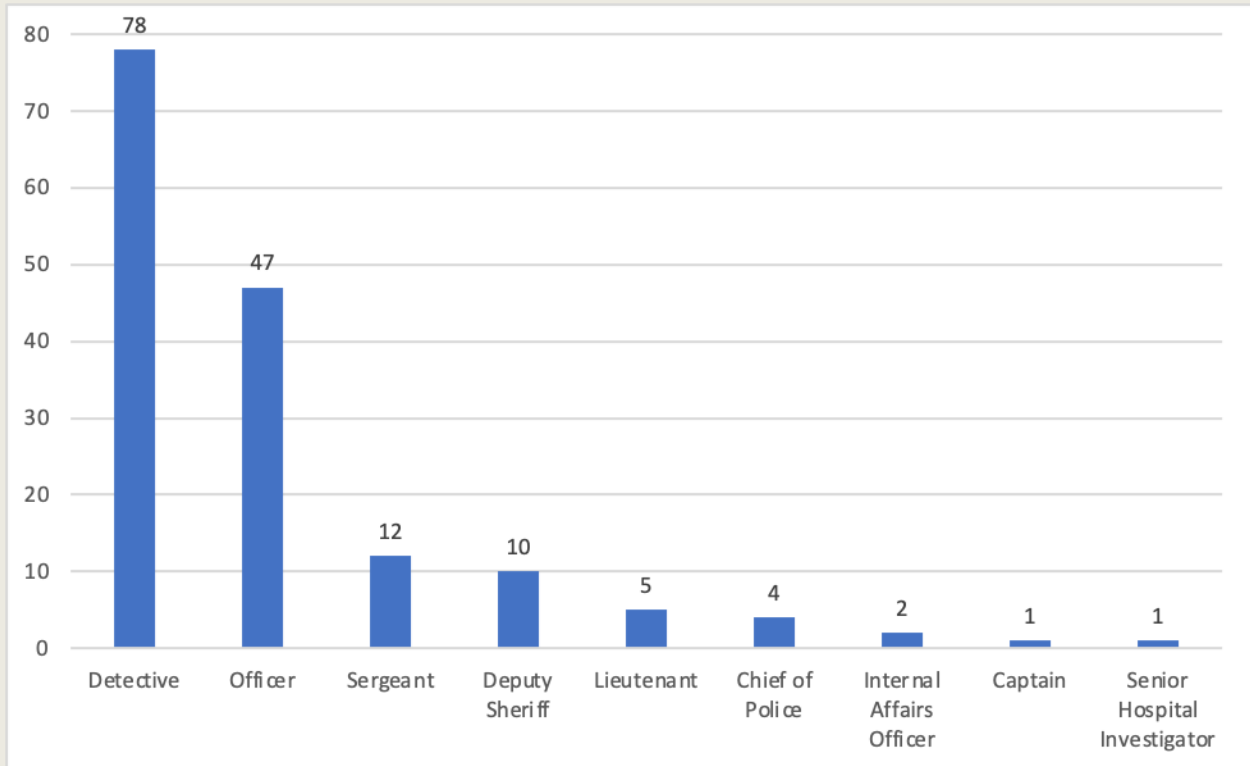Most officers held the rank of Detective, followed by Officer (which usually means a patrol officer) (Figure 5).

Figure 5. Rank of officers identified in exoneration cases (n=160 officers).

Of those 160 officers, the Registry's information indicates that 91 committed misconduct in at least one exoneration case (Figure 6).
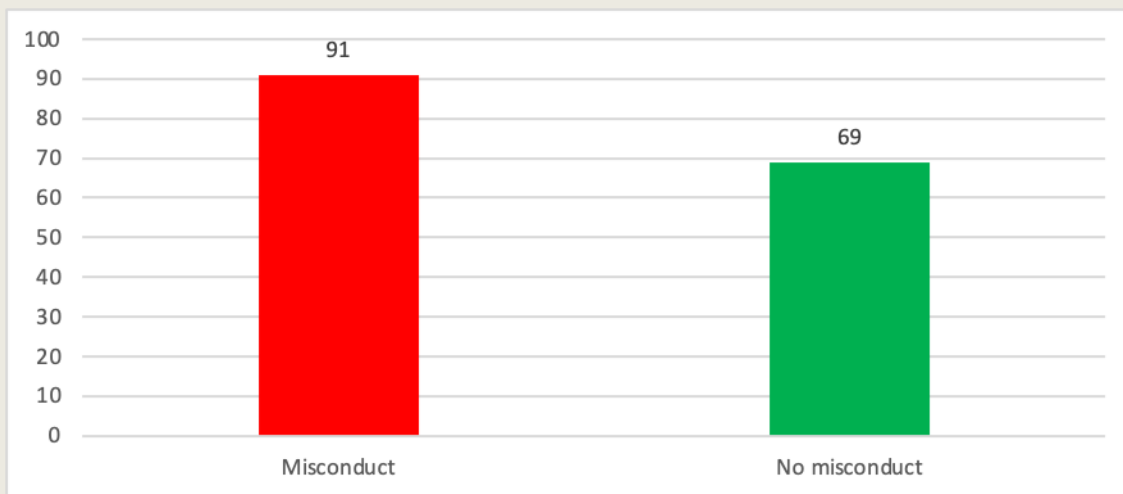

Figure 6. Known misconduct among officers named in exoneration cases (n=160 officers).

If we consider the 91 officers with known committed misconduct in these 89 cases, we find, again, that the overwhelming majority worked for the Los Angeles Police Department, with the remaining officers primarily associated with the Los Angeles County Sheriff's Department (Figure 7).
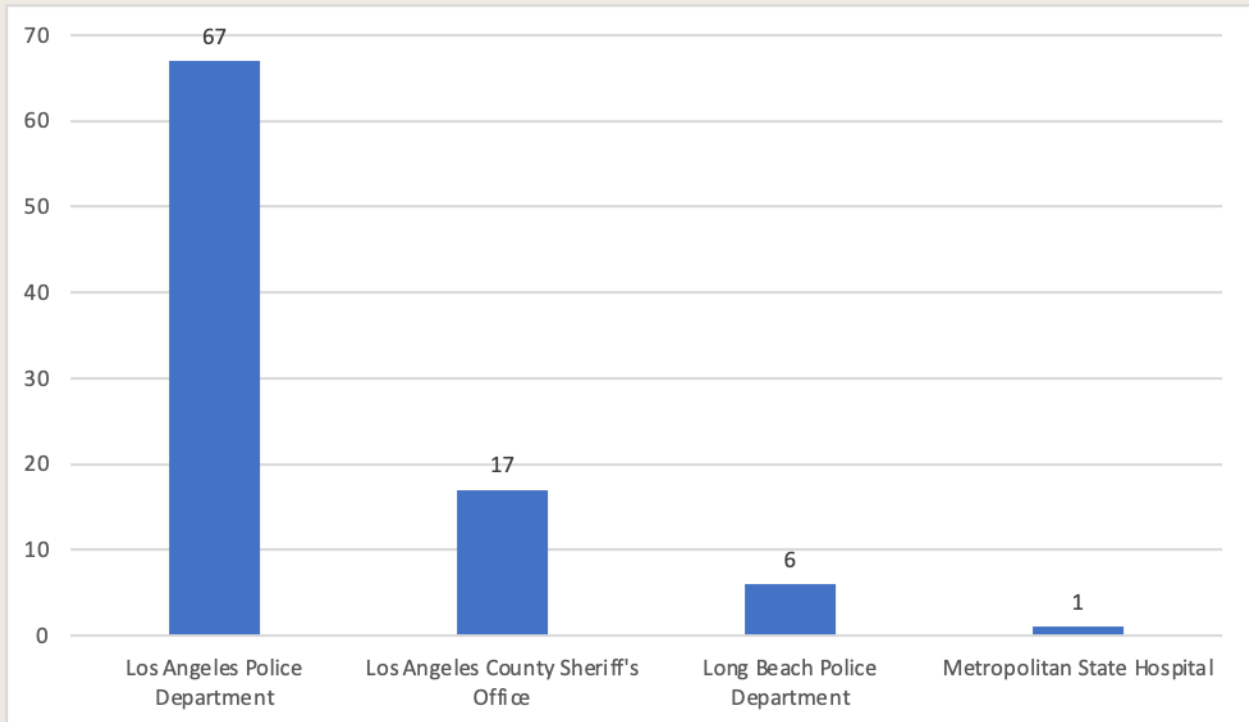
Figure 7. Agency of officers with known misconduct (n=91 officers).

Of the 91 officers known to have committed misconduct, the majority held the rank of Detective, followed by Officer (Figure 8).
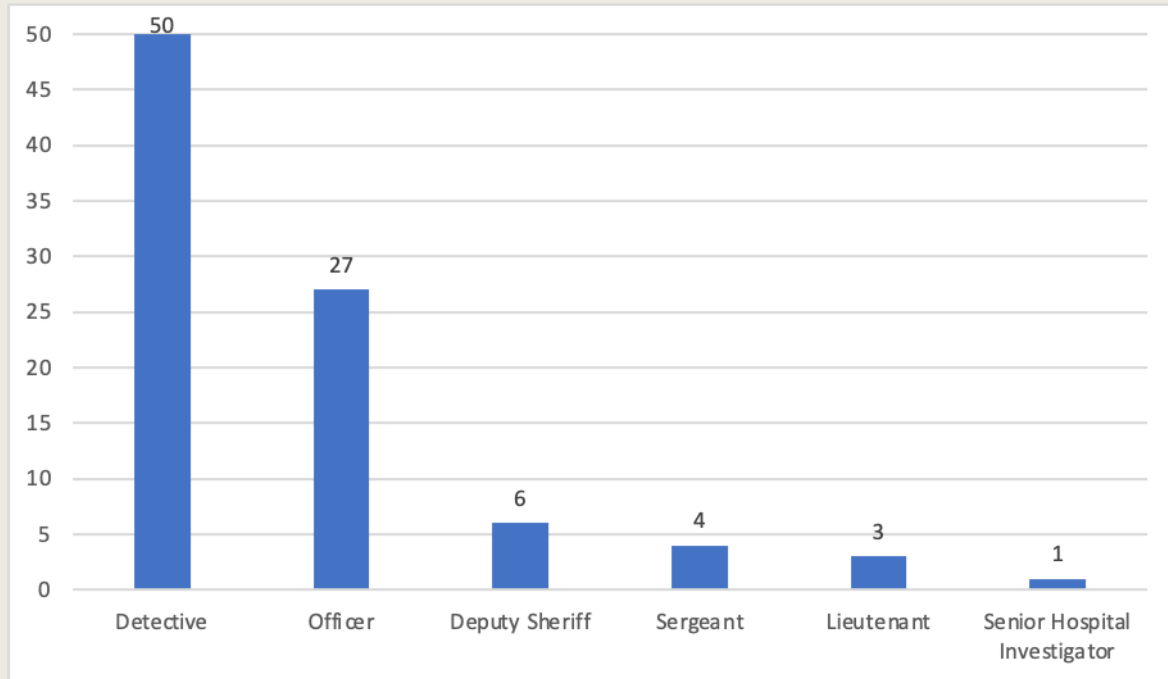

Figure 8. Rank of officers with known misconduct in exoneration cases (n=91 officers).

For those 91 officers known to have committed misconduct, the number of exoneration cases each officer was involved in ranged from 1 to 36. For most officers (64/91), their misconduct was exposed in only a single exoneration. However, one officer, Rafael Perez, the officer at the heart of the Rampart scandal, was involved in 36 exoneration cases, and another Rampart officer, Nino Durden, was involved in 18 exoneration cases (Table 2). These findings suggest that further investigation might reveal that police officer misconduct in Los Angeles County ran both broad and deep.

Number of exoneration cases involved	Number of officers
36	1
18	1
7	1
6	1
5	3
4	3
3	2
2	15
1	64
Grand Total	91

Table 2. Number of exoneration cases per officer with known misconduct (n=91 officers).

IV. CONCLUSION

Our initial plan involved submitting the list of 160 officers' names to two organizations dedicated to collecting records on California police misconduct: the California Reporting Project and the American Civil Liberties Union of Southern California.

Unfortunately, neither organization has a searchable database at this time. Further, the ACLU noted that the Los Angeles County Police Department and Los Angeles County Sheriff's Department had not finished responding to their requests for additional police officer misconduct information.

Consequently, we could not replicate the last step of the analysis that Roberts was able to complete in New York City, and determine the number of complaints filed against the 160 officers implicated in wrongful conviction cases in Los Angeles County. Our inability to perform this search speaks to the importance of developing funded public databases of the police misconduct information that is now available to the public in California.[16] As Ciccolini notes, "Transparency laws, however necessary as a first step towards accountability, are not self-executing and are largely meaningless without robust implementation."[17]

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[16] Ciccolini, Dismantling the Blue Wall of Silence, 10; Scheck, The Integrity of Our Convictions, xxi.
[17] Ciccolini, Dismantling the Blue Wall of Silence, 8.

We were pleasantly surprised by our ability to retrieve officer names from all cases in Los Angeles County. Importantly, the Registry's source documents were crucial to filling in the names not included in Registry narratives. This success, however, comes with some caveats.

First, exonerations are often related to one another. The exposure of one exoneration will often provoke investigations into an officer's work in other cases. We see this most clearly in the Rampart case. This limits our ability to draw conclusions from officers' appearances in multiple exoneration cases.

Second, exonerations are rare events. They represent only the tip of the proverbial iceberg of wrongful convictions, the mass of cases in which for a variety of reasons a wrongfully convicted person lacks the resources or proof to be legally exonerated. We are confident, moreover, that this "iceberg" includes many low-level felonies and misdemeanors—cases in which police misconduct may be expected to occur frequently. The Registry's cases, in contrast, are dramatically skewed toward homicides and other serious crimes (although the Rampart cases, involving mostly drugs and guns are an exception to that). Exoneration data, therefore, can provide us with a glimpse of the extent and human toll of the issue of recurring and systemic police misconduct. However, they represent only a fraction of what could be learned from the comprehensive government data on police misconduct. Those data must not only be made available to the public but also easily accessible and amenable to analysis.

V.   FUNDING

VI. ACKNOWLEDGEMENTS