

SOUTH BAY

2 Officers Say Fatal Crash Thoroughly Investigated

By JAMES RAINEY, Times Staff Writer

Two senior Torrance Police Department officials testified Thursday that a police sergeant was investigated like any other citizen, perhaps even more thoroughly, after a fatal 1984 traffic accident. The crash is the focal point of a lawsuit accusing the Police Department of covering up misconduct by its officers.

Lt. Noel Cobbs and Lt. James Papst told a Los Angeles Superior Court jury that they are still satisfied that Sgt. Rollo Green received no special treatment after his pickup truck collided with the motorcycle driven by Kelly Rastello, 19, of San Pedro.

Rastello died in the crash and his father, John, filed suit 12 days later against the city of Torrance and nine of its police officers. The lawsuit charges that Green was drunk and made an illegal left turn that caused the crash, that other officers covered up for him and that Torrance police regularly conceal misconduct by officers.

Memos Cited

John Rastello's lawyers argued this week that the Police Department's position that there was nothing wrong with the investigation is contradicted in a series of memos exchanged within the department after the accident. The memos, submitted into evidence Wednesday, show that police officials considered changing procedures for investigating traffic collisions involving officers.

On the night of Aug. 30, 1984, Cobbs served as watch commander, the senior officer on duty in the Police Department. Rastello and Green collided just before midnight.

Cobbs testified that when he reviewed the reports toward the end of his shift he was convinced that Rastello caused the crash by speeding into

intersection of Rolling Hills Road and Whiffletree Lane.

"It looked to me like that was the cause of the accident," said Cobbs, one of the nine police defendants. "I still believe that was the cause of the crash."

A member of the department's anti-drunk driving team was dispatched to the accident to make sure that Green was not under the influence, Cobbs testified. "That was more than we would have done with most citizens," Cobbs said, since officers on the scene did not think Green was drunk.

When DUI specialist Officer Daniel Metzger arrived at the accident scene, he performed an eye-gaze test and concluded Green was not drunk, Cobbs said. "If he had failed the gaze nystagmus [test], he would have been arrested," Cobbs responded during intense questioning by Brian Panish, an attorney for the plaintiff. "There is no doubt in my mind."

CRASH: Senior Officers Testify

Cobbs also denied Panish's contention that a phone call from a sergeant at the crash scene was intentionally switched to one of the few Police Department telephone lines that is not tape-recorded. Cobbs testified that he simply picked up the line that rang and did not realize that the conversation would not be on tape.

Testimony Supported

Papst, the former head of the department's Traffic Division, took the stand next. He supported Cobbs' testimony, saying that investigators did a thorough job, despite the fact that they did not ask Green to take a blood-alcohol test.

The final report listed Green's illegal turn as the secondary cause of the accident, proving that the department was not trying to cover up his partial responsibility, Papst testified.

Papst said the department had an unwritten policy at the time to investigate collisions involving police officers the same way they investigated other accidents.

But Panish argued that the internal memos entered into evidence Wednesday prove that the Police Department did not have an adequate policy for investigating officer-involved collisions.

According to one handwritten note, whose author has not been identified, a new policy would assure that officers would be "treated in exactly the same manner as any citizen without any connection to the department. No special

considerations are extended to any off-duty department employee involved in a traffic collision resulting in serious or fatal injuries."

Capt. Mel Hone, the head of the department's administrative bureau, suggested a new policy in a draft memo written less than three weeks after the accident. The memo, addressed to department commanders, raised the possibility of mandatory blood-alcohol testing after accidents involving officers. Another memo suggested independent investigations by the California Highway Patrol.

An Oct. 31, 1984, report to Hone from Lt. Don Feil said that mandatory blood-alcohol tests were not a good idea because the results of the tests gained by coercion would not be admissible in criminal cases. Such samples "can only be used in administrative hearings and in a civil case (if there is one)," the report stated. "The department itself might suffer civil repercussions from this type of wording in our manual. . . ."

The proposals for mandatory blood tests and independent investigations by the Highway Patrol were never adopted.

Papst, also a defendant in the trial, said the memos are insignificant. He said that many procedures that have been followed informally for years are reassessed following a significant incident.

Plan Rejected

Lead defense attorney Casey Yim argued Wednesday that the memos should not be admitted into evidence because they were never adopted as Police Department policies.

Yim said the idea of independent

CHP investigations was abandoned when the state agency said it would not perform such a service. Police Department officials rejected the idea of mandatory blood tests because they would have infringed on the rights of police officers and would not have been admissible as evidence in criminal cases, Yim argued.

But Judge Abby Soven ruled that the jury will be able to read the memos.

In several other significant rulings this week, Soven set the scope for the remainder of the trial, which will turn to the defense Tuesday.

Soven told jurors last Tuesday that Green could have been arrested on the night of the crash and taken to the police station for a blood-alcohol test. Soven also told the jury that her ruling does not prove Green was drunk or that the city acted in bad faith by not arresting him.

But the ruling removes a key defense, because attorneys for the city had argued that there was ample evidence that Green should not have been arrested.

Soven on Tuesday also rejected a defense motion to prohibit Panish and Browne Greene, Rastello's lead attorneys, from reviewing details about alleged acts of misconduct by the police.

Yim had argued that that testimony is irrelevant because the jury is only being asked to judge whether the police officers were properly held accountable for their actions.

But Soven disagreed, saying: "That, to me, seems to be an important part of the plaintiff's case."