

Daily Breeze

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Trial opens for Torrance, 9 policemen

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The city of Torrance, Police Chief Donald Nash and eight officers went on trial this week in a massive civil suit that accuses them of whitewashing a 1984 fatal traffic accident report to protect a fellow officer from blame.

The plaintiffs' attorney told jurors that he also intends to show a "pattern and practice" of cover-up in alcohol-related incidents and misconduct involving Torrance police officers.

But in opening statements to a Los Angeles Superior Court jury Thursday, defense attorneys scarcely addressed the far-reaching allegations that could

turn the trial into an exhaustive review of the city's Police Department and internal investigative files.

They instead focused on the Aug. 30, 1984 accident that triggered the lawsuit: Off-duty Torrance police Sgt. Rollo Green collided with a motorcycle driven by Kelly Rastello at the intersection of Rolling Hills Road and Whiffletree Lane. The 19-year-old motorcyclist was killed.

"I think the facts will show that Mr. Rollo Green made a safe left turn and the motorcyclist was the cause of the accident," said Will Pirkey, Green's attorney. "After that, you can decide very easily the rest of this case. ...

Everything else will fall into place."

But the Rastello family contends that Green caused the accident by making a sudden premature left turn in front of Rastello without using turn signals. Green admitted he had been drinking that night, but he was never arrested and his blood-alcohol level never tested. The Rastellos claim it was a cover-up.

Defense attorneys, however, deny that Green's driving was impaired. They pin the blame on Kelly Rastello based on witness reports that he sped into the intersection at "freeway" speeds. And they contend that a cocaine by-product found in Rastello's

body could indicate that he was under the influence of drugs.

Since the Rastello family filed suit five years ago, the court file has grown to more than 70 feet long. More than 100 depositions have been taken. City officials have released over 400,000 pages of police department records by court order and have paid more than \$45,000 in court sanctions.

Named in the suit are the city of Torrance, Green, Nash, Lt. James Papst, Lt. Noel Cobbs, Sgt. Michael Paolozzi, Officers Richard Silagy, Steven Burke, Daniel Metzger and Wendell Robbins.

When jurors filed into court this

Trial

week, all nine Torrance police officers sat on one side of the courtroom. Rastello's father and his seven brothers and sisters sat on the other.

Among the 50 witnesses expected to testify during the trial are the Torrance mayor, city officials, well-known criminal law attorney Johnny Cochran, and a former Los Angeles assistant police chief who now evaluates police internal affairs divisions nationwide.

Former Torrance police Officer Tim Thornton, who allegedly revealed the actual facts surrounding an officer-involved shooting that led to criminal charges against two fellow officers,

may also take the stand.

The trial opened with two different interpretations of the events surrounding the fatal accident. The Rastellos' attorneys give this account:

Consumed two drinks

Green was returning home on Rolling Hills Road shortly before midnight. The off-duty sergeant had consumed two drinks, two large beers and two ham sandwiches in eight hours. As he neared the intersection at Whiffletree Lane, he spotted three vehicles approaching from the opposite direction and began turning left. Rastello's motorcycle slammed into his truck seconds later.

Witnesses told police that they did not see Green's turn signal and that he was nowhere to be found immediately following the accident. One witness detected a strong smell of alcohol on his breath.

The plaintiffs' attorneys contend subsequent police reports did not include those witness observations. The field notes were destroyed. And investigators moved the point of impact five feet closer to the intersection "to make it look more legal," said Browne Greene, one of Rastello's attorneys.

Only one field sobriety test was conducted 1½ hours later, the attorney told jurors in opening statements. Then the off-duty sergeant was re-

leased without further tests even though the department knew that he had a serious drinking problem. One month before the accident, Green had attended an Alcohol Anonymous meeting with a Torrance police lieutenant.

"Rollo Green doesn't need to be arrested. That's the conclusion," Greene said. "They know he has been drinking. . . . What do they cite as a primary collision factor? They say Kelly."

"From this time on, (the Rastello) family has been trying to get the truth and they have been stonewalled," he told jurors. "You have to set an example that this department has to follow the law."

Four months after the accident, Green turned up at a local gas station in such a drunken state that employees called police and let the air out of the off-duty sergeant's tires. He failed field sobriety tests and was later sent to a hospital rehabilitation program. But no charges were filed, Greene said.

Different version

Defense attorneys for Green and the city of Torrance offered a different picture of what happened before and after the accident:

They noted that Green readily admitted that he had been drinking on the day of the accident and that he had made an early turn. But they pointed to witness statements that

Green had already begun turning left when the motorcyclist changed lanes and sped by two cars into the intersection.

"If that's true, how is my client responsible?" Pirkey said. "There was no attempt to cover up anything. Why did he admit drinking? He's policeman. He knows these kinds of things. He could figure out something to say, but he said what happened."

An officer from a special drunken-driving unit was called to conduct a sobriety test on Green. One test was all that was necessary, defense attorneys insist. To counter other allegations, defense attorneys pointed to the statements of witnesses who did not think Green was drunk and to a witness who saw Green return to the accident scene. And, one defense attorney noted, police routinely discard field notes after formal reports have been written.

Decision made

"The police made a decision not to arrest (Green). I think they believed the witnesses. In some respects, I wish they had, so there would be a blood test," Pirkey said. "He's a victim as much as anyone else. . . . This is a situation where he's caught in the middle."

In last-minute pre-trial motions this week, defense attorneys argued that the trial should be divided into three

parts: First to determine whether Green was responsible for Rastello's death, then whether Green's fellow officers had covered for him and, finally, whether Torrance police routinely cover up alleged misconduct.

Defense attorneys insisted that the jury will be faced with too many different issues in judging the liability claims against Green and those against the city of Torrance.

Past drinking problems

Pirkey said that it would be unfair to allow jurors to hear evidence of his client's past drinking problems in determining whether he was drunk at the accident scene. But while Superior Court Judge Abby Soven agreed to suppress evidence about Green's history of alcohol abuse for Green's part in the lawsuit, she is allowing the jury to hear the same evidence to determine whether a police cover-up took place.

"How in the heck can you split those up? If the history comes in, the jury may put those together. . . . It creates a severe prejudice to our client," said Pirkey, before all attorneys were ordered not to discuss the case.

Attorneys representing the city of Torrance and the other eight officers named in the suit also argued that it would be unfair to stigmatize citizen complaints of totally unrelated officer-involved incidents during the trial.

"If there are no limits to this, this trial is going to take forever," said B. Casey Yim, an attorney representing the city of Torrance. "There are literally hundreds of files."

But the judge refused to narrow the scope of the citizen complaints to be examined. The judge then ruled that the plaintiff may use up to 40 cases to try to prove their claims that the department conducts inadequate investigations and writes inaccurate reports about officer-involved incidents.

"This case is not about a failure to arrest," Judge Soven said. "This case is about an alleged cover-up."

No special treatment

Yim, the city's attorney, said that police personnel do not get special treatment. He pointed to one of the first witnesses, a Torrance police dispatcher, who testified Thursday that her son had been arrested and charged in a Torrance case.

Last September, retired Court of Appeals Justice John K. Trotter Jr ordered the city of Torrance to release hundreds of internal investigation files and citizen and employee complaints against police dating back to 1979. The state Supreme Court upheld the ruling by refusing to review the judge's ruling.

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Torrance police officers have said they observed Green's behavior, performed an eye-gaze test and decided that he was not under the influence and should not be arrested. The Police Department never sampled Green's breath, blood or urine to determine the sergeant's blood-alcohol level. Green admitted in the accident report that he had been drinking but said he was not drunk.

Testimony is expected to center on the accident for the first portion of the trial. Later witnesses are expected to review more than two dozen citizens complaints against police that drunkenness, sexual assault and other abuses allegedly were covered up, said Rastello's lawyers.

Judge Abby Soven estimated the

case will go to the jury in about five weeks.

The trial is being widely watched for the unprecedented view it is expected to offer of the Police Department in Torrance.

The 500,000 pages of documents describe Torrance Police Department procedures and previous instances of misconduct. The plaintiffs have promised to use them in questioning top city and police officials.

The list of potential witnesses includes Police Chief Donald Nash, Mayor Katy Geissert, City Manager LeRoy Jackson and several current and former members of the City Council.

A civil trial involving allegations of Torrance police misconduct has not reached a jury in at least a decade, said Brian Panish, who is representing Rastello along with attorney Browne Greene.