

Police officer says top brass knew of rogue training exercise in which trainee was shot

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When a police academy instructor accidentally shot a trainee in 2013 at an abandoned state mental health facility, Baltimore police officials said top commanders didn't know about the exercise.

But in a sworn deposition recently made public, a training supervisor said he personally informed then-Police Commissioner Anthony W. Batts and his chief of staff that training would take place at the Rosewood Center in Owings Mills.

The deposition by Officer Efren E. Edwards, along with others taken as part of a civil lawsuit filed over the incident, shed new light on a tragic mishap in which instructor William S. Kern pulled a live weapon and shot trainee Raymond Gray in the head during an exercise that was supposed to involve paintball-like guns.

Kern was criminally charged, convicted and sent to jail. Gray lost an eye and remains in a rehabilitation facility, unable to work, according to attorney Allan B. Rabineau.

The depositions not only detail the communication breakdown at the highest levels but reveal other missteps, including how a police officer obtained keys to the facility without authorization from the state health department. They also show that Kern thought the building wasn't suitable for training and that others had concerns about his temperament.

Gray has sued the Police Department, Batts, Edwards, Kern and Eric Russell, who was the head of training at the time. The department helps to train smaller police forces in the area; Gray was training to be a University of Maryland campus police officer.

Police pledged a thorough review of the incident but have not made public the results of any investigation, and Batts' then-chief of staff, Judy Pal, maintains that top brass were kept in the dark about the training exercise.

Rabineau said no police review was provided to attorneys as part of the civil litigation. But he said the depositions show more high-ranking officials may have known about plans for the exercise than previously acknowledged.

"The city would have you believe that the higher-ups in the Police Department had no knowledge of this, but there's direct evidence through the deposition that they knew exactly what was happening."

Edwards contends that Batts and Pal were among the few people who knew about the training exercise. Edwards also served on Batts' security detail.

"I advised the police commissioner of the dates, times and location where we were going to be training at Rosewood," Edwards said in a January 2015 deposition, made public in the court file of the lawsuit. "He said, 'That's fine.' Ms. Pal said, 'That's good work. Continue to do what you're doing; it shows that we're multitasking and it shows that the police commissioner is doing a good job.'"

Pal, who now works with a law enforcement nonprofit, denied the claim. "I can't imagine why he'd say that, it doesn't make sense, and it's just not true," Pal said in an email.

Batts, who was fired earlier this month in the wake of unrest over Freddie Gray's death in police custody and a marked increase in violent crime, could not be reached for comment. The Police Department declined to comment on the deposition because it's part of pending litigation.

Kern was found guilty of reckless endangerment in December 2013 and sentenced to 60 days in jail. He was fired and took a job with FedEx, according to his own deposition.

The events that led to the shooting began in February 2013 when Edwards said he was told to find an available site for so-called "bunker training." Training sites used previously by the department were unavailable, he said.

In his deposition, Edwards said officers from Baltimore and Howard counties and the state police recommended Rosewood. "I said, 'Well, let me call around and I'll talk to some SWAT friends and see if we can borrow one of their training sites,'" Edwards said.

Rosewood Center was established as an asylum in the late 1800s and most recently housed as many as 3,000 patients with developmental disabilities. Then-Gov. Martin O'Malley ordered its closure in 2010.

At the time of the shooting, officials with the state Department of Health and Mental Hygiene said that while Baltimore County police had requested and received access to the Rosewood facility for police training, city police were not authorized to be on the property.

Edwards said in his deposition that he had received approval and the keys from a property manager, 2916 Protective Services.

Christopher Garrett, a spokesman for the state agency known as DHMH, said this week that the property manager did not have the authority to grant access to the building, and that it lost the contract for the property in a subsequent bidding process.

"These days, access to Rosewood has to be granted by DHMH," Garrett said.

Charles Tyree, whose wife is listed as the resident agent for the property management company, said they "had nothing to do with" what happened at the site. The company is not a defendant in the civil suit.

Edwards said he informed Kern, the training supervisor, and Angela Choi, who scheduled training exercises. He said he then notified Batts and his circle. Pal, who oversaw the training at that time, wanted to know where such exercises would take place, according to Edwards.

"She was adamant about us letting her know where we were at all times," he said. "She said because of the position that we held, it's high profile, if you're working but you're not in with the police commissioner, it is imperative that he knows where you are at all times."

Batts said in 2013 that he had developed "a good feel for the procedural breakdown," but he declined to go into detail about the events surrounding the shooting, citing the ongoing investigations.

"Our Professional Standards & Accountability Bureau is conducting an over-arching assessment of the incident. They have two goals: determine why this happened, and how we can prevent this type of tragic incident from ever happening again," Batts wrote in a department-wide email at the time.

The head of training, Maj. Eric Russell, was suspended and removed from his position following the shooting.

Both Russell and Edwards said in their depositions that Russell was never informed of the exercise. He was away at training of his own when the preparation and exercise took place.

Edwards said there was nothing about the facility that he felt was dangerous for the officers or that affected instructors' ability to adhere to safety rules.

"I wouldn't have used it if I thought it was unsafe," Edwards said.

But Kern was adamant in his deposition that the training exercise was poorly conducted. When asked if he was told not to carry a live weapon along with his training weapon, Kern retorted, "We were also told ... to have the recommended number of personnel on duty so that we wouldn't have that happen."

Kern said the building "wasn't secure in any manner. Anybody would walk through the whole complex."

The doors to the buildings "locked behind you and you could not get out."

"If you didn't leave the door open or somebody on the other side didn't have a key, you would be locked inside them. So you literally had to leave the doors open to the facilities we were training at."

Edwards said in his deposition that Kern was "the type of instructor who refused to follow directions." He said Kern was reprimanded on several occasions when he was an instructor in the education and training section.

"There were several occasions where individuals had approached me and other instructors and had voiced their opinion about the abusive manner that Officer Kern treated them," Edwards said.

In his own deposition, Kern said he could not recall ever being disciplined or charged with misconduct.

Kern's attorney, Chaz Ball, said: "Mr. Kern served in education and training for over 15 of his 19 1/2-year career, during which time he trained over 3,300 recruits. To my knowledge, in that time he never had a formal complaint from either a trainee or supervisor."

On Tuesday, U.S. District Judge William Nickerson ordered the Police Department to turn over any records of reprimands or complaints about Kern.

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