

REPORT ON THE OFFICER-INVOLVED SHOOTING
CONCERNING DEMOND ROGERS



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INDEPENDENT INVESTIGATIONS BUREAU

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The Independent Investigations Bureau (IIB) of the San Francisco District Attorney's Office has completed its review of the officer-involved shooting by San Francisco Police Department (SFPD) Officer Sean Padilla, Star #4177, concerning Demond Rogers (also spelled "Rodgers") on January 4, 2015. After reviewing the available evidence, we have concluded that we cannot prove beyond a reasonable doubt criminal misconduct on the part of Officer Padilla. Accordingly, we decline to file any criminal charges in this matter.

IIB focused exclusively on determining whether criminal charges relating to any law enforcement officer's conduct are warranted. This review did not examine collateral issues such as any officer's compliance with his or her agency's policies and procedures, training or tactics, or any issues related to civil liability. The decision not to pursue criminal charges should not be interpreted as expressing any opinion on such non-criminal matters.

The investigation revealed that on January 4, 2015, at about 8:40 a.m., a burglar alarm sounded at the Ruby Skye, a nightclub and lounge on Mason Street in the Tenderloin neighborhood. Arriving first, Officer Padilla responded around 8:54 a.m., followed by several other officers, including Sean Cody (Star # 1375) and Scott Korte (Star # 4031). Together, Padilla, Cody and Korte went to Ruby Skye's second floor, where Ruby Skye's "Cigar Room" was located and where an interior motion sensor had triggered the alarm.

The three officers approached the Cigar Room together, with Padilla entering first and turning left and Cody and Korte trailing Padilla. All three had their service weapons drawn because they were responding to a burglary call. The lighting was dim and the loud burglar alarm continued to sound. Within seconds of entering the room, Padilla fired a single shot. An individual, later identified as Rogers, was found in the room—completely naked—and taken into custody by 9:24 a.m. No one was injured or struck as a result of the discharge.

The available evidence is scant. Only Officer Padilla can attest to what he saw and why he fired. Even Rogers, during his interview later that day, could not render a credible account of what occurred that morning; his account was largely incoherent. Rogers admitted to being under the influence of "crystal" prior to entering the Ruby Skye. (Evidence of alcohol and drug consumption were located near Rogers and Rogers' belongings in the Cigar Room.) Rogers stated that he only realized the police were present when he heard a loud pop. Neither Cody nor Korte saw Rogers prior to the shot. Cody, followed closely by Korte, was just entering the room when Padilla shot. Surveillance video depicted Rogers clothed and moving about the room within half an hour before the officers entered, but Rogers was not in the camera's field of view when the officers entered and at the time Padilla fired his weapon.

SFPD Homicide Detail, along with the District Attorney's Office, interviewed Padilla about eight hours after the shooting. Padilla related that after entering the Cigar Room, he moved left and swung in a leftward direction to search that side of the room with his flashlight and gun drawn. He claims that as he panned back rightward, he saw "something" that he did not see before and described "it" as "rising slowly, almost in like a sneaking up pattern." He explained, "I thought something was sneaking up on me and threatening me and I shot." He then moved to get a look at the "object" and saw Rogers, fully naked, alone on a couch. Citing his experience

and training, including with SWAT, Padilla claimed Rogers' slow "rising" indicated an intent to sneak up "to gain an advantage" on Padilla.

Padilla's account raises some questions. First, Padilla's description of Rogers' conduct does not articulate an imminent threat of serious bodily injury. Although Padilla stated that he felt "threatened" and that his life was in danger, he did not specify any action by Rogers (or any indication a weapon was present) that suggested a basis for believing an attack was imminent. In fact, Padilla referred to what he saw rising slowly as "it", "something", a "dark mass", or "object" and did not appear to identify Rogers as a person until after he shot.

Additionally, the fact that Rogers was not only unarmed, but completely naked, should have been apparent to Padilla and raises further concern about how well he actually assessed the situation before using deadly force. Finally, other evidence may be inconsistent with Padilla's description of observing something slowly rising. One of Padilla's colleagues on scene related that Padilla said Rogers had jumped off the couch and scared him. Another colleague related that Padilla said, "This guy was laying on the couch. He jumped up. Startled. . . [Padilla] said he fired one round." Padilla echoes this in his recorded radio broadcast minutes after the shooting: "The guy popped out and I let off a round." The surveillance video does not definitively support or undermine Padilla's account. The shooting appears to occur with a second or two after Padilla entered the room, but the quality of the video and camera angle makes it difficult to see when Padilla actually entered the room and what actions he took. Most notably, Rogers is not visible in the video. Padilla did not respond to IIB's request for a follow-up interview.

Notwithstanding concerns regarding Padilla's account, insufficient evidence exists to establish what occurred—much less prove beyond a reasonable doubt that any crime was committed—in the Cigar Room that morning. Basic questions, such as Rogers' position relative to Padilla's, are unanswered because Rogers cannot credibly relate an account of the incident and no other witnesses or evidence exist to do so. Coupled with the mitigating circumstance that no one was injured in this incident, the dearth of evidence requires declination here.