



6<sup>TH</sup> JUDICIAL DISTRICT • KNOX COUNTY, TENNESSEE

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**No Charges for Agents Involved in Arrest of Roy McGrath**

District Attorney General Charme Allen has determined there will be no criminal charges filed against any of the agents involved in the arrest of Roy C. McGrath. McGrath sustained a self-inflicted gunshot wound when he shot himself in the head as FBI agents were attempting to take him into custody on an outstanding warrant. Simultaneously, an FBI agent fired one round striking McGrath when the agent realized he was within the trajectory of McGrath's firearm. That agent acted in self-defense because he had a reasonable belief that McGrath posed a threat of imminent death or serious bodily injury. Following the completion of an autopsy, the Medical Examiner's Office was unable to determine which of the two gunshot wounds caused McGrath's death. Based upon the conclusions of the investigation and the findings of the Medical Examiner, Gen. Allen has determined that no criminal charges will be filed.

An investigation conducted by the FBI Inspection Division revealed that McGrath was located in Knoxville approximately three weeks after failing to appear for a trial in Maryland. FBI Baltimore asked if Knoxville agents could arrest McGrath on an outstanding federal warrant. They provided a copy of the warrant, a description of McGrath's vehicle, and information that McGrath was at the Costco on Kingston Pike. When agents responded to that location, they found McGrath's vehicle and attempted to conduct a traffic stop when the vehicle left the parking lot. Despite the lights and sirens of the agents' vehicles, McGrath continued to drive until he was boxed in between the Advanced Auto Parts and Sonic Drive Thru near 10702 Kingston Pike.

Agents approached the vehicle and repeatedly announced, "FBI," and ordered McGrath to put his hands out the open driver's side window. McGrath replied, "No," and, "I have a gun, and it's loaded." Agents saw McGrath with a handgun raised to his right temple. The way McGrath held the handgun placed agents within the trajectory of McGrath's gun causing one agent to believe McGrath posed a threat of imminent death or serious bodily injury to himself and other agents. Simultaneously, McGrath fired his gun striking his right temple, and the agent fired one round striking McGrath's left cheek. Agents immediately called for an ambulance. EMTs arrived and transported McGrath to the University of Tennessee Medical Center where he was pronounced dead thirty minutes later.

Pursuant to the duties of the District Attorney General, this law enforcement file was reviewed to determine whether criminal charges were warranted in this matter. Applicable criminal statutes were reviewed to determine if charges were supported by probable cause and ultimately proof beyond a reasonable doubt to a unanimous jury. The file was not

reviewed to determine whether violations of civil law or violations of departmental policies and procedures occurred as those determinations would be outside the purview of this Office.

In this case, it is clear that agents had probable cause and a reasonable belief that McGrath posed a threat of imminent death or serious bodily injury. Based upon the investigation in this case and viewed from the perception of the agents under the circumstances, that belief is reasonable and supported by probable cause, justifying the use of deadly force in self-defense. Disproving self-defense beyond a reasonable doubt to a unanimous jury is not supported by the evidence. There is also an additional proof problem in this case in that the Medical Examiner, the State's expert witness necessary to prove a case at trial, cannot testify to a reasonable degree of medical certainty as to either manner or cause of death. Without this necessary proof to establish an element of an offense, any prosecution would fail. In short, the actions of the agents are justified as self-defense, and criminal charges are not supported in this matter.

Because this investigation is still under review by Department of Justice officials, the names of the agents involved have not been included in this statement, and this Office will not make further comment on this matter. Additional questions and requests for information should be directed to the Department of Justice.

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