



Marion County Prosecutor's Office  
251 E Ohio St. 160, Indianapolis, IN 46204

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## McHale Rose Use of Deadly Force Review

*On May 7, 2020, McHale Rose was shot and killed by Indianapolis Metropolitan Police Department (IMPD) officers. The Marion County Prosecutor's Office (Prosecutor's Office) thoroughly reviewed the facts of the shooting as well as the applicable law and now releases this report of its findings.*

## Events of May 7, 2020, and Subsequent Investigation

McHale Rose was a 19-year-old black male who was shot and killed shortly after 1:30 a.m. on May 7, 2020, on Woodglen Drive on Indianapolis's north side. The following factual summary includes 911 records, police dispatch records, bystander cell phone video, witness statements, a live Instagram broadcast by Rose, the autopsy report prepared by the Marion County Coroner's Office, and DNA and firearms analysis conducted by the Indianapolis-Marion County Forensic Services Agency.

### 911 Call and Report of Burglary

At 1:29 a.m. on May 7, 2020, a 911 call was placed from telephone number (317) 612-1213 reporting a burglary at 2208 Woodglen Drive. Detectives later learned from a member of Rose's family that Rose was using that telephone number around the time of his death. Rose was serving an executed sentence through Marion County Community Corrections (MCCC) Home Detention and had provided that telephone number to his case manager. In a live Instagram broadcast, which will be discussed in greater detail below, Rose states that he called police to the area himself. The following is a transcript of the conversation between Rose and the 911 operator:

**911:** Okay, what is the address of your emergency?

**Rose:** It's 2208 Woodglen Drive.

**911:** Will you say that again?

**Rose:** 2208 Woodglen Drive.

**911:** Woodglen?

**Rose:** Yes.

**911:** And what's going on there, sir?

**Rose:** I think it's a possible break in. I think somebody's trying to break in somebody's house.

**911:** Okay, is the, where they're trying to break in, is that at 2208 or is it somewhere else?

**Rose:** It's the 2208. (Inaudible) door, I can hear 'em.

**911:** And what makes you think they're trying to break in?

**Rose:** 'Cause I hear 'em, like, trying to hit the (inaudible) window and the door.

**911:** Do you, so, you see them doing this?

**Rose:** Yeah.

An Apple iPhone was later recovered from the area where Rose was shot. Investigators executed a search warrant for the phone, which was found to have the same (317) 612-1213 number that called 911. The phone was also associated with the email address mchalerose38@gmail.com.



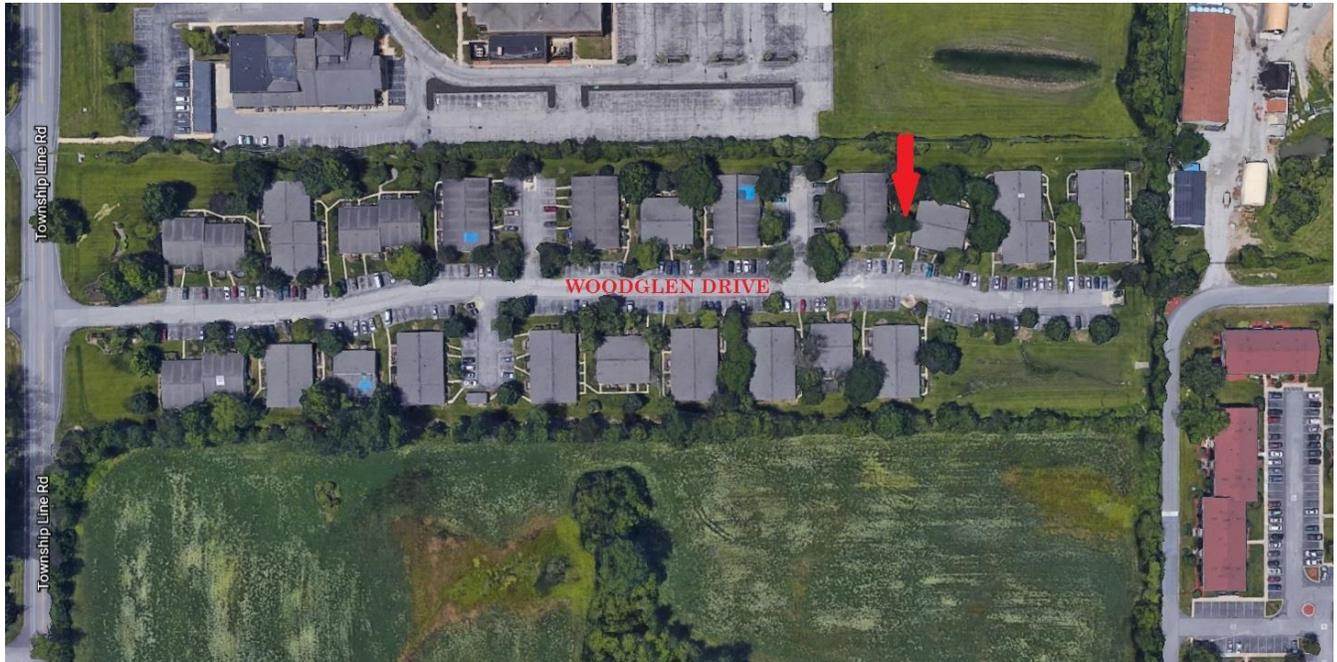
*McHale Rose's cell phone, recovered from the area where Rose was shot.*

911 operators received subsequent calls reporting shots fired, though none of these callers indicated they observed any part of the shooting. The 1:29 a.m. call was the only 911 call placed from Rose's phone and the only call that related to a burglary on Woodglen Drive. Subsequent investigation revealed no evidence that a burglary took place.

Rose's family indicated that Rose was familiar with that address because a friend of his had been killed there in an unsolved homicide. IMPD records show that on November 29, 2018, 17-year-old Elijah Gordon was found shot to death inside a residence in the 2200 block of Woodglen Drive. During Rose's live Instagram broadcast, he repeatedly refers to one of the buildings on Woodglen Drive as "Gordo's house."

Woodglen Drive is located between 79<sup>th</sup> and 86<sup>th</sup> Streets on the north side of Indianapolis. It is a dead-end running west-to-east featuring over a dozen single-story, multi-unit apartment buildings. 2208 Woodglen

Drive is located toward the east end of the street. Rose’s listed address with MCCC was in the 7900 block of Blue Jay Lane in an apartment complex that is on the other side of a fence from the east end of Woodglen Drive. Cell phone records from Rose’s cell phone carrier indicate that the 1:29 a.m. 911 call was placed from this approximate area.



*An aerial view of Woodglen Drive, with the red arrow marking the location of where Rose was shot. The red-roofed buildings in the bottom-right of the frame are at the north end of the apartment complex where Rose was on Community Corrections.*

### [Instagram Video](#)

After placing the 911 call, Rose began streaming a live broadcast through his Instagram account. The video depicts Rose holding an AK-47-style rifle that was later found to be a 7.62mm caliber FEG model SA2000M semiautomatic rifle. The video is six minutes and twenty-nine seconds long, and the following timeline highlights relevant portions.

**0:23:** Rose responds to comments in the chat urging him to put the gun down and go home by saying, “I can’t. They already coming.”

**0:43:** Rose says, “I’m sorry y’all.”

**0:49:** In response to a comment in chat asking, “Who’s comin?” Mr. Rose states, “The police is.”

**1:00:** Rose states, “This shit ain’t right bro. Motherfuckers gotta do something about this. I ain’t going out like no ho, bro. And this ain’t for no clout or none of that, bro. Fuck that.”

**1:24:** Rose states, “Tell everybody I love ‘em and I’m sorry. I gotta go. I gotta go. I called the boys.”

**1:39:** In response to a comment in the chat asking, “Who called the boys on u?” Rose states, “I called the boys.” In response to comments urging him to go home, Rose repeatedly states it is “too late” and “I can’t bro. The police is coming bro. I gotta do this.”

**3:40:** Rose can be seen standing near an outside light, loading an AK-47-style rifle that appears to be the same weapon later recovered by Crime Scene Specialists. He can be seen and heard loading a magazine into the rifle.

**3:56:** Rose says to the camera, “Just know I love y’all, bro.”

**4:15:** Rose states, “Stop calling me, bro.” Here viewers are typing in the chat, telling Rose to “CHILL” and “PUT THE GUN DOWN.” The video then contains a sound similar to a round of ammunition being chambered, and around the 4:35 mark, the broadcast is seen to be buffering. The buffering lasts until around the 5:15 mark.

**5:16:** Rose yells, “Help!” “Fuck y’all man!” “Y’all n\*\*\*\*\* shot me, man!” “I love y’all.”

**5:25:** Rose’s face can be seen in the camera again, as he addresses the viewers and states, “They trying to kill me, man! They trying to kill me, y’all.” The video then begins buffering again.

**5:38:** The video feed reappears very briefly to show Rose’s face. A noise can be heard coming from Rose around the 5:38 mark.

**5:38 to END:** The video buffers until the conclusion of the recording.

### **IMPD Response and Shooting**

Due to the 911 call reporting a burglary, multiple officers were dispatched to Woodglen Drive. According to Computer Aided Dispatch (CAD) records obtained from the Marion County Sheriff’s Office, the initial run was created at 1:30:58 a.m. IMPD officers David Loyal, Pepper Eldridge, Andrew Guzman, and Joseph Maxey were the first to arrive on scene. IMPD had not yet implemented the department-wide use of body-worn cameras as of May 7, 2020, so none of the officers involved were equipped with one.

By 1:38:19 a.m., officers broadcast that shots had been fired and that the suspect was armed with a rifle. In a Public Safety Statement, all four of the officers involved in the shooting stated that Rose had fired shots at them and they had fired back at Rose in return. None of the officers saw any other suspects, though two officers thought they heard Rose talking or yelling to someone else. At the time officers provided these initial statements, they were unaware that Rose had been broadcasting on Instagram.

Investigators did not take formal statements from the four officers because they invoked their right against self-incrimination.

A witness on Woodglen Drive recorded a cell phone video of a portion of the altercation between Rose and police. The video, which was taken from inside a residence, begins after Rose had been shot. Rose's full body can be seen as he lays in the grass between two apartment buildings. Rose lays on his back and left flank with his feet pointed toward the camera. Rose is illuminated by lights from the officers, who are offscreen to the right of the frame. The officers can be heard instructing Rose to drop the weapon, put his hands above his head, and roll away from the weapon. At one point, Rose does roll away from the rifle. However, moments later he rolls back toward the rifle, picks it up with two hands, and points it in the apparent direction of the officers. Two gunshots coming from the officers can then be heard. The video cuts off as Rose begins to move again.



*A still frame from a cell phone video recorded by a witness shows Rose, illuminated by police officers' lights, gripping the rifle with two hands and pointing it toward police.*

Another witness described hearing gunshots and then observing Rose laying in the grass after police arrived. The witness stated that Rose appeared to be using his phone for a Facetime call<sup>1</sup> and that Rose repeatedly said, "I just got shot, they shot me." This witness then observed Rose fire one or two shots in

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<sup>1</sup> Presumably, this witness observed Rose filming his live Instagram broadcast and assumed that he was making a Facetime call.

the direction of the police before the police returned fire. The witness also heard Rose say, “just kill me,” and “You guys are going to have to kill me, I’m not giving up.”

Investigators obtained a second video from another resident of Woodglen Drive. This [second video](#) captures only the police vehicle lights and some of the same audio of the first video.

Once more police arrived on scene, several officers advanced toward Rose to move him to a safe area where Indianapolis Emergency Medical Services medics could begin rendering aid. As officers approached, they observed Rose laying in the grass with the rifle resting across the front of his body. After Rose was moved to a safe area closer to the street, medics were unable to detect any vital signs, and Rose was pronounced deceased at 2:02 a.m.

Officers then cleared the area surrounding 2208 Woodglen Drive and did not locate any additional suspects.

Photos taken by Crime Scene Specialists show that Rose was wearing a GPS electronic monitoring device on his ankle at the time of the shooting because he was serving a sentence on MCCC Home Detention for Armed Robbery, a Level 3 Felony, under cause number 49G06-1903-F3-012017. Rose appears to have wrapped the GPS device with aluminum foil, which is a common practice to interrupt the device’s signal and prevent the wearer from being monitored. Data from MCCC shows that Rose’s GPS device was unable to be tracked between approximately 1:15 a.m. and 1:45 a.m. on May 7, 2020.

### **Autopsy Report**

On June 23, 2020, the Marion County Coroner’s Office certified the official autopsy report of McHale Rose. The report identifies and describes 12 gunshot wounds, three of which are described as “grazing.” Five spent bullets were recovered from Rose’s body and a sixth was recovered at the scene from his clothing.

The cause of death was listed as multiple gunshot wounds and the manner of death was listed as homicide.

### **Firearms Evidence**

Crime Scene Specialists recovered a 7.62 caliber FEG model SA2000M semiautomatic rifle from the grass where Mr. Rose was initially confronted by officers. Nearby, Crime Scene Specialists located a 7.62mm caliber fired cartridge casing.



*Photograph showing beanie-style hat (left) and rifle (right) in area where Rose was lying, with camera facing toward Woodglen Drive where police were positioned.*



*FEG rifle (marker #2).*

When a semiautomatic weapon is fired, the bullet travels down the barrel and the cartridge casing is ejected through a port in the side of the weapon. Cartridge casings recovered from a crime scene can be microscopically compared to casings test-fired from a specific firearm to determine if that firearm also fired the casing from the crime scene. Analysis performed by the firearms section of the Indianapolis-Marion County Forensic Services Agency (Crime Lab) showed that the recovered casing was fired by the FEG rifle. Additional analysis by the Crime Lab detected Rose's DNA on the rifle.



*Red circle indicating where fired cartridge casing was recovered.*



*Close-up view of fired cartridge casing.*

The Crime Lab also conducted forensic analysis of the weapons fired by the officers against the cartridge casings and spent bullets recovered from the scene and the spent bullets recovered during the autopsy.

Officer Eldridge was armed with a 9mm caliber Glock model 17M semiautomatic pistol. Four fired cartridge casings were identified as having been fired by her weapon. Two of the recovered fired bullets from Rose's autopsy were identified as having been fired by Eldridge's weapon.

Officer Loyal was armed with a 223 REM/5.56mm caliber Bushmaster model XM15-E2S semiautomatic rifle. Two fired cartridge casings were identified as having been fired by Loyal's weapon. One of the recovered spent bullets from Rose's autopsy was also identified as having been fired by Loyal's weapon.

Officer Guzman was armed with a 9mm Luger caliber Glock model 17M semiautomatic pistol. Seven fired cartridge casings were identified as having been fired by Guzman's weapon. One recovered spent bullet from the scene and two of the recovered spent bullets from Rose's autopsy were also identified as having been fired by Guzman's weapon.

Officer Maxey was armed with a 223 REM caliber Colt Model Match HBAR semiautomatic rifle. Three fired cartridge casings were identified as having been fired by Maxey's weapon. None of the recovered spent bullets from Rose's autopsy were identified as having been fired by Maxey's weapon.

### **Legal Standard**

In determining if the officers' actions merited criminal charges, the Prosecutor's Office considered two statutory provisions covering self-defense as it relates to law enforcement.

#### **35-41-3-2. Use of force to protect person or property.**

(c) A person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However, a person:

- (1) is justified in using deadly force; and
- (2) does not have a duty to retreat;

if the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person, employer, or estate of a person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

#### **35-41-3-3. Use of force relating to arrest or escape.**

(b) A law enforcement officer is justified in using reasonable force if the officer reasonably believes that the force is necessary to effect a lawful arrest. However, an officer is justified in using deadly force only if the officer:

- (1) Has probable cause to believe that that deadly force is necessary:
  - (A) To prevent the commission of a forcible felony; or
  - (B) To effect an arrest of a person who the officer has probable cause to believe poses a threat of serious bodily injury to the officer or a third person; and
- (2) Has given a warning, if feasible, to the person against whom the deadly force is to be used.

## Conclusion

As in all cases, the Prosecutor's Office examines the available evidence to evaluate whether to file charges. In this case, the evidence shows that the officers were justified in using deadly force to defend themselves.

The evidence shows that McHale Rose called 911 to falsely report a burglary while armed with an AK-47-style rifle. Prior to the shooting, Mr. Rose recorded himself holding a rifle and telling those watching that he called the police and that: "The police is coming bro. I gotta do this." While still recording, Mr. Rose loaded the rifle. Shortly before the police arrived, Mr. Rose said: "Just know, I love y'all bro." When the police got to the apartment, Mr. Rose opened fire. The officers reported that Mr. Rose shot first and that they returned fire.

On scene, investigators found a spent 7.62 caliber cartridge casing near Mr. Rose's body. Subsequent forensic testing determined that the rifle near Mr. Rose's body fired the cartridge casing and that Mr. Rose's DNA was on the rifle. In addition to Mr. Rose's own statements and the forensic evidence indicating that he held and fired the rifle, an eyewitness's account provides further support that the officers acted in self-defense. The eyewitness reported hearing Mr. Rose say: "You guys are going to have to kill me, I'm not giving up."

The death of a young man is a loss to the entire community. That his death occurred during an interaction with police makes plain the need for transparency and accountability. That is why the Prosecutor's Office's decision is driven by impartial, objective evidence. Unfortunately, Mr. Rose's conduct necessitated that the police defend themselves. The unbiased evidence shows that Mr. Rose shot first and police returned fire in self-defense. Based on that information, the Prosecutor's Office will not file charges in this case.