

# National Guard fired the shot that killed David McAtee in Louisville during protest against police violence

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Forensic testing has revealed that David McAtee, a popular Louisville, Kentucky restaurant owner known as the “BBQ Man,” was shot and killed outside of his establishment by a member of the Kentucky National Guard during a protest against police violence on June 1.

On Tuesday, during Democratic Governor Andy Beshear’s press conference, Kentucky State Cabinet Secretary J. Michael Brown reported, “David McAtee appears to have succumbed to a single gunshot wound to the chest, and that remains our conclusion.”

Brown went on, “Our crime lab was not able to match up the particular bullet fragments with a particular rifle, but we do know the caliber and type of ammunition and we know that night those rounds were only fired by one agency, and that was the Kentucky National Guard, responding to the fire that they had received.”

Brown also reported that two guardsmen and two officers of the Louisville Metropolitan Police Department (LMPD) fired at least 18 shots in McAtee’s direction that night. The investigation into McAtee’s death was conducted by the Kentucky State Police and the Federal Bureau of Investigation and the forensic evidence showed that gunshot residue on McAtee and on two shell casings found nearby came from the same weapon.

On the fourth night of protests in Louisville—ignited by both the brutal LMPD shooting death of Breonna Taylor in her apartment on March 13 and the police murder of George Floyd in Minneapolis on May 25—police in riot gear accompanied by the Kentucky National Guard were sweeping through the streets of West Louisville and used their weapons to break up a gathering of protesters in front of Dino’s Food Market

when McAtee was shot and killed.

The National Guard was requested by Governor Beshear and Louisville Mayor Greg Fischer on May 29, following a night of attacks by police on protesters in which seven people were shot.

Although government officials say the investigation into exactly which one of the guardsmen fired the round that killed McAtee is still ongoing 10 days later, they have been quick to claim that the BBQ cook fired two shots from a 9mm pistol first before he was fatally struck in the chest. In the press conference, Brown said “I believe, Mr. McAtee fired the first shot, paused, and came back up and fired again.”

While both forensic and video evidence show that McAtee did fire his weapon, the question of who fired first has not yet been established. With multiple surveillance video cameras along with eyewitness smartphone video recording the sequence of events leading up to the exchange, the truth of what happened will eventually come out.

An analysis of synchronized video streams from multiple angles published by the *New York Times* on June 4, shows that an LMPD officer fired two pepper balls first in the direction of McAtee’s restaurant, YaYa’s BBQ Shack, one of which nearly struck McAtee’s niece in the head before it struck a door frame in the building. McAtee is then seen stepping outside the back door twice and appears to fire back before he is hit.

The two members of the LMPD who fired their weapons have been identified as Austin Allen and Katie Crews and both have been placed on administrative leave while the investigation continues. The members of the National Guard have yet to be named.

Although the governor has called for the officers' body camera footage to be released for public viewing, LMPD said that neither officer activated their recording devices, a violation of police department policy. In response to the lack of body camera recordings, Mayor Fischer fired Police Chief Steve Conrad.

On Wednesday, the Kentucky National Guard released a statement in response to the evidence presented by Cabinet Secretary Brown saying that they were conducting their own investigation and repeating the claim that McAtee fired first. Brig. Gen. Hal Lamberton, Kentucky's adjutant general defended the actions of the guard, saying, "This civil unrest mission is one of the most difficult homeland missions we are asked to support. The Soldiers and Airmen we called upon are of the highest caliber, and we believe the investigation will conclude that it was a measured response from the National Guard that night."

Steve Romines, attorney for McAtee's family, told WHAS11 the whole story has not been told yet. He said LMPD is responsible for McAtee's death because they violated their own policies before any shots were fired by shooting pepper balls at a crowd and not announcing their presence. "There are no police sirens, no one announcing themselves as cops. [McAtee's] inside the residence, people are flooding in saying they're shooting. He has no reason to believe they're cops," Romines said.

Romines also questioned the statement of Secretary Brown that the guardsmen who fired the shots are going to be interviewed, asking, "There's a man dead and you haven't interviewed the people that fired shots? How does that happen?"

Also on Wednesday, LMPD released the incident report filed by officers involved in killing Breonna Taylor, nearly three months after she was brutally shot eight times during the execution of a "no-knock" search warrant on March 13. The four-page perfunctory report lists the charges as "DEATH INVESTIGATION," the weapon as "Handgun," with the victim "Taylor, Breonna Shaquille" and injuries as "None."

According to news reports and lawyers for Breonna's family, she died on the floor in the hallway of her apartment after plainclothes LMPD officers broke down the door of her apartment—while she and her boyfriend Kenneth Walker were asleep—and fired at

least 20 rounds into the dwelling. Not knowing who the intruders were, Walker, a licensed gun owner, fired a warning shot that hit one of the officers in the leg.

Initially, Walker was arrested and charged with attempted murder and assault. However, indicating the flimsy attempt to frame Walker for the police violence, Kentucky Commonwealth's Attorney Tom Wine dismissed those charges on May 22, following protests demanding justice for Taylor and her family.

The three LMPD officers, Sgt. Jonathan Mattingly and officers Brett Hankison and Myles Cosgrove, have still not been charged for the death of Taylor. Det. Joshua Jaynes, who applied for the "no-knock" warrant used to justify breaking into Taylor's apartment—and was approved by Jefferson Circuit Judge Mary Shaw signed on March 12—has been "reassigned" by the city's new Police Chief Rob Schroeder and the matter has been referred to the FBI for further investigation.



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