

NY Police Officers Won't Be Charged in Eric Garner's Controversial Death

None of the New York police officers whose attempted arrest of Eric Garner in 2014 led to the man's death and fueled the rise of the Black Lives Matter movement will face federal criminal charges, the top federal prosecutor in Brooklyn said on Tuesday.

Garner's death during an arrest for allegedly selling untaxed cigarettes and his gasped final words "I can't breathe," caught on bystander video, played a key role in the rise of the movement decrying excessive use of force by police officers against black men and teens in the United States.

Garner's family immediately blasted the decision in a news conference as a betrayal.

U.S. Attorney Richard Donoghue confirmed the decision at a news conference in New York's Brooklyn borough on Tuesday.

A lengthy Department of Justice review of the incident did not reach a conclusive determination of whether Officer Daniel Pantaleo willfully committed misconduct, an "essential element" necessary to bring federal charges," a senior department official told reporters at a briefing in Washington.

"We have to match up what we see" with all the elements of a crime required to be proven under the law, the DOJ official said. "It did not fit within the statute."

U.S. Attorney General Bill Barr made the ultimate call not to bring charges, siding with federal prosecutors in Brooklyn, who had not wanted to charge Pantaleo, over the department's

civil rights division, which had wanted to bring charges, the official said.

The official confirmed that no New York police officer – not just Pantaleo – will face any charges.

“The DOJ has failed us,” Garner’s mother, Gwen Carr, adding that she wanted to see Officer Daniel Pantaleo fired.

“Five years ago, my son said ‘I can’t breathe’ 11 times, and today we can’t breathe because they let us down.”

Wednesday will mark five years since the incident. A New York grand jury in 2014 declined to charge Pantaleo, who has been assigned to desk duty since Garner’s death and faced a disciplinary trial in May at New York City Police Department headquarters.

After meeting with federal prosecutors in Brooklyn, members of Garner’s family joined civil rights activist Reverend Al Sharpton, who decried the decision as “a moral disgrace and judicial malpractice.”

Federal prosecutors, who had been looking at possible civil rights violations, decided not to bring charges, according to a source familiar with the decision.

A spokesman for New York’s Police Benevolent Association union declined to immediately comment on the news.

The New York City Chief Medical Examiner’s office ruled that Garner’s death was a homicide induced by “compression of neck (choke hold), compression of chest and prone positioning during physical restraint by police.”

Pantaleo’s lawyers have argued he did not use a chokehold, but instead used an authorized “seatbelt” hold that slipped as Garner struggled, and that the officer did not cause Garner’s death.

Following Pantaleo's disciplinary trial, a departmental judge is due to make her recommendations to New York Police Commissioner James O'Neill, who will then ultimately decide whether to punish Pantaleo. He could lose vacation days or be fired.

The incident, and other high-profile police killings of black men and teens in cities including Ferguson, Missouri, and Baltimore, set off a wave of nationwide protests in 2014 and 2015.

Several Democratic contenders for the White House, including New York Mayor Bill de Blasio, condemned the decisions.

"Years ago, we put our faith in the federal government to act," de Blasio said in a statement. "We won't make that mistake again."

U.S. Senator Kamala Harris of California, a former prosecutor, wrote on Twitter, "This is a miscarriage of justice. ... My heart breaks for the Garner family." {eoa}

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