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USA

# How is this not murder?

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### **People across New York City and around the country erupted in shock and anger December 3 when another grand jury decided not to indict another killer cop for yet another murder of an unarmed African American man.**

In August, officer Daniel Pantaleo strangled Eric Garner to death, using a banned chokehold, in broad daylight on a sidewalk in Staten Island. As news of the latest travesty of justice spread on Wednesday, hundreds converged on Union Square in Manhattan – the same gathering point for the marches and protests just a week ago following the non-indictment of the Ferguson, Missouri, cop who gunned down Mike Brown. By 9 p.m., more than 1,000 protesters were gathered at Rockefeller Center in midtown, where the annual holiday tree-lighting ceremony was taking place. Other demonstrators held a die-in at Grand Central Terminal, and hundreds more took over the West Side Highway.

Even larger numbers of people are expected for a long-planned response rally set for the day after the Staten Island grand jury decision – they will gather at 5:30 p.m. at Foley Square on Thursday, December 4, before a planned march over the Brooklyn Bridge.

**THIS ONE is on video.** That's what Eric Garner's friends and family in Staten Island told themselves when they heard the terrible news that a grand jury in St. Louis County had failed to indict the Ferguson, Missouri, police officer who murdered Mike Brown.

Sure, Ferguson was a travesty of justice – but in the case of the strangling of Eric Garner by NYPD officer Daniel Pantaleo on July 17, the crime was captured from beginning to end on a video taken by Ramsey Orta, a bystander.

"You'd have to be blind or prejudiced to say there's no probable cause," Garner's mother Gwen Carr told Staten Island Live [\[1\]](#) after the Ferguson grand jury decision. Twan Scarlett, who lives in Garner's neighborhood of Tomkinsville, agreed, adding: "I will go crazy [if Pantaleo isn't indicted]. The video is the key in this situation." [\[2\]](#)

But the video wasn't the key. As in Ferguson, the real key was the unspoken rule of the criminal injustice system: Killer cops are above the law – and they can get away with murder.

There is no other conclusion to draw about the announcement on Wednesday that another grand jury let another killer cop go free. Richmond County District Attorney Daniel Donovan declared that he couldn't get Daniel Pantaleo indicted on a single charge.

It's hard to imagine a more open-and-shut case of a police officer illegally using deadly force. The coroner's office ruled Garner's death a homicide, caused by Pantaleo's use of a chokehold that is banned under the official guidelines of the NYPD.

There were no claims that Eric Garner was acting violent or had committed any crime other than selling loose cigarettes on the street. Pantaleo only encountered Garner because he was responding to a police call about a fight – which Garner himself had intervened in to break up by the time Pantaleo arrived on the scene.

But above all, there was the video, which showed that police initiated the confrontation with Garner and almost immediately resorted to a chokehold against him. The video captured the words Garner gasped, which soon

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resonated across New York City: "I can't breathe."

With the video, there could be no claims that Eric Garner posed a threat to the cops, no Ferguson-style testimony from the Pantaleo or anyone else that he "looked like a demon" or started a "bull rush" toward a crowd of heavily armed cops.

Earlier this week, President Barack Obama announced that his response to the outrage in Ferguson would be a plan to outfit 50,000 police officers across the country with body cameras. [3] This is supposed to ensure that allegations of police violence will be resolved impartially.

But within a few days, we learned that it doesn't mean a thing if deadly and totally unwarranted police violence is captured in its entirety on video because Daniel Pantaleo walked free anyway.

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Some people hoped for a different outcome to the grand jury deliberations in Staten Island because of the contrast between New York City and Ferguson.

Last year, Bill de Blasio was elected mayor of New York, in part because his campaign criticized the racial bias of the "stop and frisk" police policy promoted by his predecessor Michael Bloomberg.

But one of de Blasio's first moves as mayor was to make William Bratton his new police commissioner. Bratton was commissioner in the 1990s under Mayor Rudolph Giuliani, when he introduced New York City to the "broken windows" strategy which calls for aggressive policing and arrests for minor crimes and "quality of life" violations.

When Daniel Pantaleo and his fellow cops began the harassment of Eric Garner on a street corner in Tompkinsville on July 17, they were following the "broken windows" playbook of de Blasio's handpicked commissioner.

Meanwhile, the prosecutor in Staten Island, Daniel Donovan played the same waiting game as his counterpart in Ferguson, dragging out the grand jury process for months in the hope that the initial anger over Garner's death might calm down.

But Donovan can move pretty quick when he wants to as we know from the case of Ramsey Orta.

Orta is the reason the world has seen the image of Eric Garner being strangled to death he took the video of the murder. And during the months that New Yorkers were waiting to hear whether Daniel Pantaleo would be indicted for Garner's murder, Orta was arrested, indicted, prosecuted and put in prison on a gun possession charge even though his fingerprints weren't found on the gun he was convicted of possessing.

Orta and his supporters say he was targeted for prosecution by police because of the video. "They're bringing up his past," said Orta's wife Chrissie Ortiz. "They should be bringing up the officer's past." [4]

Ortiz is absolutely right.

Before killing Eric Garner, Officer Pantaleo had been brought up on civil rights charges for two separate incidents. In

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the first, which the city settled for \$30,000, Pantaleo was accused of strip-searching two men in broad daylight. In the second, which is still pending, he is accused of arresting someone for no good reason. In both cases, Pantaleo is accused of lying in his reports. [5]

Yet despite this record of dishonesty and the video evidence showing Pantaleo strangling a defenseless man, prosecutor Daniel Donovan couldn't come up with an indictment.

"People thought we were being extreme," said Rev. Al Sharpton told the New York Times, referring to his call for a federal prosecutor to handle the Garner case, instead of Donovan. "But now, I think you can see [why] we have no confidence in the state grand juries, whether in Ferguson or in New York, because there is an intrinsic relationship between state prosecutors and the police. They depend on the police for their evidence, they run for office and depend on the unions for endorsements." [6]

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Sharpton is right about the cozy relationship between prosecutors and police, but the problem runs much deeper than that. It goes all the way to the racist foundations that the U.S. was built upon—“with an entire "justice" system, from beat cops to Supreme Court justices, that upholds the idea that police have a right to use whatever force they deem necessary to protect themselves against anyone they deem threatening.

Ramsey Orta's video provided proof positive that Daniel Pantaleo murdered Eric Garner. But for Daniel Donovan and the criminal injustice system, it isn't a matter of proof, but perspective. Eric Garner was a large Black man, angry at being repeatedly hassled by police. That made him a threat in the eyes of the cops—and so maximum violence is justified.

It will take a far-reaching movement to challenge the racism and injustice that runs so deeply in the U.S. government. The protests that erupted after the deaths of Mike Brown and Eric Garner — and that revived with even greater numbers after the grand jury system failed to produce the slightest evidence of justice — are a start.

As in Ferguson, the media and politicians will focus on the tone of protesters in New York City, and how many windows they break—not on their cries of pain and demands for justice.

"I'm not with the riots," Eric Garner's mother Gwen Carr told a reporter after the Ferguson grand jury failed to indict the cop who killed Michael Brown. "But I feel like I'm exploding inside." [7]

Anger is boiling up against the racist injustice of the criminal justice system. The question is when it will boil over, and what will happen then.

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[1] [Staten Island Live](#).

[2] [Staten Island Live](#).

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[3] [Washington Post](#), 3 December 2014.

[4] [Staten island Live](#).

[5] [Staten island Live](#).

[6] [Huffington Post](#).

[7] [Staten Island Live](#).