

PRESS RELEASE

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Eric Garner's Family and Police Accountability Advocates Slam Mayor de Blasio for Cover-Up and Failures in Eric Garner case

Gwen Carr, Elisha Flagg Garner, Communities United for Police Reform & Justice Committee Announce Legal Action Challenging de Blasio & NYPD Violations of Duty Related to Eric Garner, and Announce Filing of First Amendment Demand for Transparency and Related FOIL

More than 5 Years Since Eric Garner Was Killed, Multiple Officers Who Engaged In Misconduct, including False Official Statements, Have Faced No Discipline Or Even Charges from the de Blasio Administration

New York, NY – Eric Garner's family and advocates are demanding justice and transparency after Mayor Bill de Blasio and the NYPD's outrageous attempts to skirt accountability.

On Tuesday, August 27, 2019, **Gwen Carr, mother of Eric Garner, and Elisha Flagg Garner, sister of Eric Garner, along with Communities United for Police Reform (CPR), Justice Committee, the Legal Aid Society, the New York Law School Racial Justice Project, Gideon Oliver** and others announced the filing of a petition to New York Supreme Court demanding a judicial inquiry into the violation and neglect of duty by Mayor Bill de Blasio, NYPD Commissioner O'Neill and others related to the unjust killing of Eric Garner, the cover-up that continues to this day, and the related failure to discipline officers for misconduct in a meaningful or timely manner.

Additionally, **Gwen Carr, Communities United for Police Reform, Justice Committee, Legal Aid Society, Gideon Oliver and the New York Law School Racial Justice Project** announced filing of a demand letter to the NYPD and Civilian Complaint Review Board demanding public access to exhibits, court transcript and materials related to the Pantaleo disciplinary trial and a FOIL request seeking information related to Garner's unjust killing and the events that followed, which have been obstructed from Garner's family and from the public.

These actions follow the disgraceful attempt by de Blasio and the NYPD to let officers who facilitated the killing of Garner, smeared him after his death and covered up misconduct off the hook. The NYPD only recently fired Daniel Pantaleo, the former officer who killed Garner with a chokehold that had been prohibited by the NYPD for over twenty years, after continuing to pay him a taxpayer-funded salary for five years. They also announced a deal with Sgt. Kizzy Adonis, who was charged with failure to properly supervise the scene of Garner's killing, reportedly docking her just twenty vacation days without a guilty plea and allowing her to avoid a disciplinary trial that had been delayed for over three years. Every other NYPD officer who engaged in misconduct – including those who provided false statements and illegally leaked sealed information – has appeared to be protected from disciplinary action by de Blasio and the NYPD.

"After more than 5 years, we know the de Blasio administration's investigations of officer misconduct related to Eric's murder have not been timely or transparent. After all of the games they have played for more than half a decade, we have no faith that they have really been diligent in investigating officer misconduct like the false statements and lying of Officer Justin Damico. We are taking legal action with Communities United for Police Reform and Justice Committee to demand answers, to demand the firing of Officer Justin Damico and others who did wrong and to hold the de Blasio administration and NYPD accountable for their failures to be accountable to all New Yorkers. This is not just for Eric; we're doing this for all New Yorkers whose loved ones have been killed or brutalized by the NYPD and whose names are not as well known as Eric's because if the City gets away with sweeping this under the rug, what chance do others have to hold officers accountable for wrongdoing?," said **Gwen Carr , Eric Garner's mother and Elisha Flagg Garner, Eric Garner's sister.**

Parties to the petition include Gwen Carr, Elisha Flagg Garner, Constance Malcolm, mother of Ramarley Graham, Loyda Colon of Justice Committee, Joo-Hyun Kang of Communities United for Police Reform, Monifa Bandele of MomsRising, Kesi Foster of Make the Road, and Mark Winston Griffith of Brooklyn Movement Center. They are demanding a judicial inquiry into:

- Violations and neglect of duties in connection with the stop and arrest of Mr. Garner and the force used by officers on Mr. Garner;
- Violations and neglect of duties concerning the failure, subsequent to Mr. Garner's death, to train NYPD officers adequately on appropriate guidelines on the use of force and the prohibition on the use of chokeholds;
- Violations and neglect of duties in connection with filing false official NYPD documents concerning Mr. Garner's arrest and making false statements in connection with the NYPD's internal investigation of Mr. Garner's death;
- Violations and neglect of duties concerning the unlawful leaking of Mr. Garner's alleged arrest history and the unlawful leaking of Mr. Garner's alleged medical history;
- Violations and neglect of duties in connection with incomplete and inaccurate statements to the media by the City concerning the July 17, 2014 stop and arrest of Mr. Garner;
- Violations and neglect of duties in connection with the medical care provided to Mr. Garner; and
- Violations and neglect of duties concerning the City's investigation and adjudication of, and imposition of discipline for, the aforementioned violations and neglect of duties, including (for example) false statements by NYPD officers concerning Mr. Garner's arrest.

The demand and FOIL request for access to records related to disciplinary investigations related to the killing of Eric Garner is being filed on behalf of Gwen Carr, James Flagg, uncle of Eric Garner, Communities United for Police Reform, Justice Committee and any member of the public who wanted to but could not gain access to the trial room at One Police Plaza during the Pantaleo trial.

ADDITIONAL QUOTES:

“Eric Garner's mother and family have been fighting for a half a decade to get answers, yet they still do not even have the names of all of the officers involved in Garner's death and other details about what occurred on July 17, 2014. From day one, the NYPD and Mayor de Blasio have done everything in their power to hide the facts of the case and shield the officers responsible for Garner's death. It's outrageous that – in a city whose Mayor consistently attempts to brag about his "successes" in strengthening police-community relations – Mrs. Carr has to resort to legal filings in order to gain transparency about her son's murder,” said **Loyda Colon, Petitioner and Co-Director of the Justice Committee.**

“It’s disappointing but not surprising that Mayor de Blasio is trying to close the chapter on this grave injustice without a full accounting and accountability for the police misconduct connected to Eric Garner’s murder and attempted cover up. Mr. Garner’s family and community organizations across the City have fought for five years for transparency and accountability for all officers involved and we will not simply turn the page now because the Mayor isn’t willing to take the time to address police misconduct,” said **Kesi Foster, Petitioner and Make the Road New York Lead Organizer.**

“Justice requires transparency. There is no legitimate law enforcement reason why — five years later — Mr. Garner’s family, criminal justice advocates and the public do not have the fundamentally important information we seek today,” said **Alvin Bragg, Co-Director of the New York Law School Racial Justice Project, Visiting Professor of Law at New York Law School, and former Chief Deputy New York State Attorney General.**

“Eric Garner’s family and their supporters deserve access to every shred of evidence about his death and the NYPD misconduct that caused and followed it,” said **police misconduct lawyer Gideon Oliver.** “We will push the NYPD and CCRB to give up every relevant record the law will allow.”

“In a public trial room, a judge decided that a man committed a crime, put very plainly. A crime is not just a work violation, Pantaleo and the other officers didn’t iron their uniform wrong or forget some paperwork; a crime is something that offends not just the employer but the public,” said **Legal Aid Society attorney Cynthia Conti-Cook.** “Pantaleo committed an assault on Eric Garner and on us all. Yet unlike any other man or woman who commits a crime, the public, the family and the press were deprived of meaningful public access. Unlike any other trial of a crime, we can’t get the transcript, the decisions made in the course of the trial, the exhibits that were used in trial, most importantly Pantaleo’s GO-15 statement. So we’re here today to demand access to the trial transcript, the exhibits and many other materials used in the investigation and trial of Pantaleo because justice must be seen to be done. It is not enough to get the right result, the public has a right to watch its public servants make decisions on our behalf.”

“For the last five years, Mayor Bill de Blasio and the NYPD have avoided any true measure of transparency relative to the investigation into Eric Garner’s killing, and most recently, Officer Daniel Pantaleo’s administrative trial,” said **Tina Luongo, Attorney-In-Charge of Legal Aid Society’s Criminal Defense Practice.** “It sincerely unfortunate that we have to litigate for basic transparency and answers but we are ready to do so on behalf of the Garner family and those communities historically plagued by police brutality.”

BACKGROUND:

In July 2014, Officer Daniel Pantaleo killed Eric Garner using a chokehold banned by the NYPD for more than two decades. While the NYPD claimed that Garner was selling cigarettes, multiple witnesses have testified under oath that Garner had just broken up a fight before the false arrest. The killing was captured on video, which showed a number of officers using force for the illegal arrest and many who failed to intervene or provide aid while Garner said "I can't breathe" eleven times. NYPD officials and officers also attempted to cover-up the killing, first claiming that Garner died of a heart attack, illegally leaking sealed medical and other records to criminalize Garner and lying on official reports.

It has been five years since Garner was killed and only Officer Daniel Pantaleo and Sgt. Kizzy Adonis have faced disciplinary action. Gwen Carr has called for the firing of all officers who engaged in misconduct – and for Mayor de Blasio to ensure the discipline processes for other officers beyond Pantaleo move forward.

- **NYPD should bring disciplinary charges and fire Officer Justin Damico** – During the Pantaleo trial, it was revealed that Damico had filed false felony charges against Eric Garner, after he knew that Garner was already dead. In addition, there are real questions about Damico's overall credibility: He testified that Pantaleo only had his arm around Garner's body, not his neck – and he was the only person who has ever claimed to have "seen" Garner allegedly selling cigarettes. Multiple witnesses have given statements over the past five years that Garner had just broken up a fight and was not selling cigarettes when he was approached by Damico and Pantaleo. At the trial, CCRB demonstrated that Damico's claim that Garner was selling cigarettes lacked credibility since he was roughly a football field's length away from what he claimed to see. DCT Maldonado's report stated that Damico falsely claimed there was no use of force in his report on the killing.
- **NYPD should bring disciplinary charges and fire Lt. Christopher Bannon** – Lt. Bannon was the supervisor who texted "Not a big deal" to Sgt. Dhanan Saminath after learning that Eric Garner had no pulse and might be dead on arrival. In response to this news, Mayor de Blasio stated "It's unacceptable" but he and the NYPD have not indicated that they will take any disciplinary action.
- **NYPD should bring disciplinary charges and fire Officers Mark Ramos & Craig Furlani** – Both officers testified during the Pantaleo trial that they heard Eric Garner say "I can't breathe" multiple times but did not provide aid or intervene on Pantaleo's use of the prohibited chokehold.
- **NYPD should bring disciplinary charges against NYPD officials and/or officers who participated in illegally leaking Eric Garner's sealed records related to his medical history and past contact with law enforcement, and those who provided false statements or engaged in other misconduct related to the incident**—Their identities should be publicly disclosed and they should be disciplined. The NYPD routinely illegally leaks sealed information to media, in spite of clear laws against such conduct that seeks to criminalize and blame victims for their own deaths or brutality against them. Allowing these practices to continue without disciplinary consequences and while hiding the identities of those responsible sends the message that cover-up related misconduct will be protected by the City and NYPD.

Mayor de Blasio has allowed the NYPD to withhold the names of other officers involved in Garner's killing who may have failed to intervene, tried to cover it up or engaged in related misconduct.

