



# Eric Garner: Chokehold his own doing, or 'death by economic regulation'?

*Eric Garner's enough-is-enough stand when police stopped him for illegally selling cigarettes points to political and economic policies that seem to protect the powerful at the expense of the marginalized.*

By Patrik Jonsson  
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Protesters have clung to Eric Garner's last words – “I can't breathe” – as they demonstrate against what they see as unequal application of justice after a grand jury this week refused to hand down homicide charges against [NYPD](#) Officer Dan Pantaleo, whose chokehold killed Garner.

But to understand protests and calls for reform, some commentators are drawing notice to what else Mr. Garner, growing miffed, said after police focused on him after he helped to break up a fight: “It stops today.”

To be sure, Garner's resistance to being arrested by six police officers for allegedly, and not for the first time, selling untaxed single cigarettes has been seen by many as his fatal and underlying mistake.

Accordingly, a 12-member grand jury this week cleared Mr. Pantaleo, who is white, after he was caught on video applying what appeared to be a department-banned chokehold on Garner, who is black. The case is under federal review.

“What we did not hear [in anti-police protests] is this: You cannot go out and break the law,” NYPD union chief Patrick Lynch said Friday, suggesting that Garner was responsible for his own death. “What we did not hear is that you cannot resist arrest. That's a crime.”

But in New York, the heart of global capitalism, as well as in tiny Ferguson, Mo., where an unarmed [Michael Brown](#) was killed after resisting an officer's demand to get on the sidewalk, Garner's enough-is-enough stand also points to the results of political and even economic policies that seem, critics argue, to protect the powerful at the expense of the marginalized.

Indeed, the roots of anger expressed in major urban areas over the police-caused deaths of Garner and Brown, and a litany of other similar cases from Ohio to Phoenix, is in large part about how populist and well-intentioned tactics and laws can, over time, wear the shine off the American promise, and, at its very extreme, cause what Rolling Stone's [Matt Taibbi](#) calls “death by economic regulation.”

“You can't send hundreds of thousands of people to court every year on broken-tailight-type misdemeanors and expect people to sit still while yet another coroner-declared homicide goes unindicted,” writes Mr. Taibbi, who lives in New York. “It just won't hold. If the law isn't the same everywhere, it's not legitimate. And in these neighborhoods, what we have doesn't come close to looking like one single set of laws anymore.”

Such disparities aren't borne just of economic circumstance and race, but of long-term unintended consequences of well-intentioned laws.

After all, if “broken windows” policing helps rid neighborhoods of hardened criminals, the political argument goes, that should be especially a benefit to those who live there.

But if the strategy also results in constant harassment and penny-ante citations for crimes like smoking in the wrong place, riding a bike the wrong way on a sidewalk, or “obstructing traffic” when there's no traffic to obstruct, then frustrations can grow. That's especially true, Mr. Taibbi writes, in places like New York, where “[a] ferry ride away from Staten Island, on Wall Street, the pure unmolested freedom to fleece whoever you want is considered the sacred birthright of every rake with a briefcase.”

Politicians take their cues from what people want and demand, and “broken windows” type policing has wide support among New Yorkers. Yet policy-makers, some argue, have a special responsibility to make sure new laws – including higher penalties for selling untaxed “loosies,” passed last year by a New York State legislature that also imposes some of the highest tobacco taxes in the US – don't create perverse incentives that can lead to tragedy.

“It's unlikely that the New York legislature, in creating the crime of selling untaxed cigarettes, imagined that anyone would die for violating it,” writes Stephen Carter, a Yale University law professor, in the Chicago Tribune. “But fewer laws would mean fewer opportunities for official violence to get out of hand.”

Demonstrators aren't the only ones questioning the impact of focusing on minor offenses in so-called crime “hot zones.” In the wake of Garner's death and protests on his behalf, some police officers are privately discussing whether to stop heeding the city's campaign to target minor “quality of life” offenses.

"Everyone is just demonizing the police," Maki Haberfeld, a professor of police studies at John Jay College of criminal justice, told the Associated Press. "But police follow orders and laws. Nobody talks about the responsibility of the politicians to explain to the community why quality-of-life enforcement is necessary."

The police killings in communities where tensions between residents and police run high comes at a time of increased scholarly interest in how justice gets twisted.

Alice Goffman's “On the Run: Fugitive Life in an American City” confronts how easily especially poorer Americans can become ensnared in a “web of warrants.” And Michelle

Alexander's "The New Jim Crow" has been described as "a devastating account of a legal system doing its job perfectly well."

"Racial antagonism between residents and law enforcement is bad no matter what, but it's worse when residents wind up interacting constantly with law enforcement because of a culture of petty fines," writes Walter Olson of the non-partisan, pro-markets Cato Institute think tank.