



April 12, 2016

“I Can’t Breathe!”

On July 17, 2014, Eric Garner died in Staten Island, New York City, after a New York City Police Department (NYPD) officer put him in what has been described as a chokehold for about 15 to 19 seconds while arresting him, all recorded on video for the world to see. NYPD officers approached Garner on suspicion of selling "loosies" (single cigarettes) from packs without tax stamps. After Garner told the police that he was tired of being harassed and that he was not selling cigarettes, the officers went to arrest Garner.

According to news accounts and the video recording, when Officer Daniel Pantaleo took Garner's wrist behind his back, Garner swatted his arms away. Pantaleo then put his arm around Garner's neck and pulled him backwards and down onto the ground. After Pantaleo removed his arm from Garner's neck, he pushed Garner's face into the ground while four officers moved to restrain Garner, who repeated "I can't breathe" eleven times while lying face down on the sidewalk. After Garner lost consciousness, officers turned him onto his side to ease his breathing. Garner remained lying on the sidewalk for seven minutes while the officers waited for an ambulance to arrive. The officers and EMTs did not perform CPR on Garner at the scene; according to a spokesman for the PBA, this was because they believed that Garner was breathing and that it would be improper to perform CPR on someone who was still breathing. He was pronounced dead at the hospital approximately one hour later.

This tragedy must never happen again. Eric Garner was accused of selling single cigarettes and lost his life. “I Can’t Breathe” became a rallying slogan for those seeking justice for Mr. Garner’s family and for those seeking justice on our streets. We need to make it clear to law enforcement officers that the force they use needs to be proportional to the crime. The law also needs to be clear so any punishment is proportional and appropriate to the crime.

That’s why I introduced House Bill 4212, which decriminalizes the sale of single cigarettes. House Bill 4212, which was passed by the House last week and is now in the Senate, amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. It provides that a violation of the Act involving the sale or distribution of single or loose cigarettes that are not contained within a sealed container, pack, or package to persons who are 18 years of age or older is a petty offense punishable by a fine of not more than \$50, which may be satisfied without a court appearance by a written plea of guilty and payment of all applicable fines, penalties, and costs.

Now, I am against smoking cigarettes – smoking is the leading cause of preventable disease, including heart attacks, strokes, lung disease, and many cancers. But, we have to give guidance and a sense of proportion to our laws so our law enforcement officers are freer to spend their time and energy on crimes with greater danger to our society than selling single cigarettes. And, never again do we want anyone to have to exclaim, again and again - “I Can’t Breathe” - as he struggles for his life against an accusation of selling single cigarettes.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Ford', written in a cursive style.

La Shawn K. Ford
State Representative-Eighth District