

# GOV'T: SPOTA'S GOAL TO

As closing arguments begin, aide's attorney says evidence lacking

Suffolk County District Attorney Thomas Spota's determination to keep Police Chief James Burke out of jail after the top uniformed cop assaulted a shackled prisoner led him to abandon his duty to uphold the law and lead a three-year conspiracy bent on protecting his loyal protégé, a prosecutor said Wednesday.

Spota and co-defendant Christopher McPartland, who led Spota's anti-corruption unit, abused their power and the trust Suffolk residents put in them, becoming criminals to protect a member of their inner circle, Assistant U.S. Attorney Lara Treinis Gatz told jurors.

"They were the law so they believed they were untouchable, but they were wrong," she added in a detailed closing argument at the pair's obstruction trial in U.S. District Court in Central Islip.

Prosecutors say Spota and McPartland orchestrated a cover-up scheme to try to conceal Burke's December 2012 assault on prisoner Christopher Loeb at Suffolk's Fourth Precinct station after Loeb burglarized Burke's police vehicle.

But the former Suffolk prosecutors maintain their innocence and contend they couldn't have been part of a cover-up because Burke never confessed to them before admitting his crimes in court.

McPartland's attorney, Larry Krantz, told jurors later Wednesday in his closing argument that there was "simply no reliable, credible evidence of the charged crimes." He added: "The government has gotten it wrong."

Krantz also said the prosecution's star witness was "on an island in this case" and motivated to cut a deal to save himself. Meanwhile, the accusations have turned McPartland's life "upside down" and "he had to leave the office he loved," the Manhattan defense attorney said.

Spota's attorney will deliver his closing argument to the jury Thursday.

In a February 2016 guilty plea, Burke admitted beating Loeb and trying to cover it up after Loeb took what prosecutors dubbed Burke's "party bag" from his vehicle. The Police Athletic League duffel bag had items in it that included his gun belt, ammunition, cigars, sex toys, pornography and Viagra, according to testimony.

Burke served most of a 46-month prison sentence before his release to home confinement last year.

Spota, 78, of Mount Sinai, and McPartland, 54, of Northport, pleaded not guilty to conspiracy, obstruction of justice, wit-



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This story was reported by **Nicole Fuller, Robert E. Kessler** and **Bridget Murphy**. It was written by Murphy.

ness tampering and acting as accessories to the deprivation of Loeb's civil rights.

Spota, Gatz explained, became "the CEO or president of the conspiracy," enlisting his right-hand man McPartland as the "chief operating officer," while crucial prosecution witness James Hickey took the role of "middle management."

Three of Hickey's detectives from the criminal intelligence unit he commanded became the conspiracy's "worker bees" after taking part in Loeb's assault with Burke — the guys "in the trenches taking their orders from the top," Gatz said.

The orders, she said, were about "keeping their mouths shut" as Hickey bore the weight of the conspiracy on his back.

But Krantz took aim at the government's key witness by presenting jurors with a list of "10 reasons why James Hickey cannot be believed" that included "raw self-interest," along with a "psychotic break from reality" and committing "perjury" in the past.

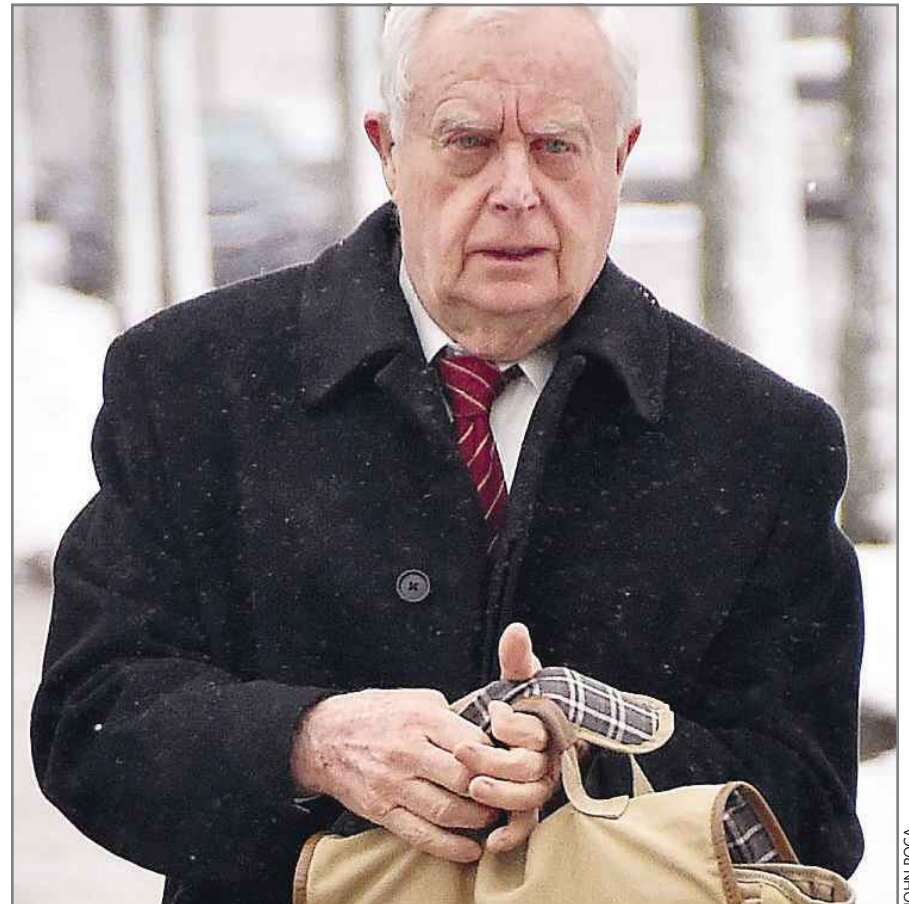
In her four-hour closing, Gatz also tried to demonstrate the strength of the bond between Spota and Burke by rewinding to four decades ago, when Burke was the star teenage witness in a murder trial Spota was prosecuting.

Gatz then pointed out how Spota advocated for Burke when he got into trouble as a Suffolk cop in the early 1990s, acting as his lawyer in connection with internal disciplinary charges that ended with the finding that Burke was guilty of conduct unbecoming an officer.

Spota knew, Gatz said, that Burke in 1993 had a sexual relationship with a prostitute who used and sold drugs and at one point had possession of Burke's service weapon.

But Burke's "checkered past" didn't stop Spota from defending Burke in 2011 as Burke sought to become chief of department in County Executive-elect Steve Bellone's administration, Gatz said.

When an anonymous letter tried to dis-



Spota outside court Wednesday. His attorney's summation is expected Thursday.

courage Bellone from promoting Burke to the role, warning Burke frequented prostitutes and one had stolen his gun, Spota wrote his own letter and Burke got the job, the prosecutor told jurors.

"Tom Spota has a history of protecting and covering up for Jimmy Burke," Gatz said. After becoming chief, Burke — who had already been Spota's chief investigator for a decade — joined the district attorney and McPartland to become one of "the three most powerful men in Suffolk County," Gatz added. Anyone who crossed a member of the trio became an enemy of them all, and retaliation was "sure to follow," the prosecutor said.

She said the cover-up was an effort "to protect their fiefdom" as a federal investigation into Loeb's police brutality allegations "threatened to destroy all they had worked for and accomplished."

Gatz tried to demonstrate close ties between Burke and McPartland, calling them "best friends" who would "golf together, drink together, vacation together."

The prosecutor said Burke talked to McPartland six times after beating Loeb on Dec. 12, 2014, alleging Burke told McPartland what he had done because Mc-

Partland was in a position to help him cover it up — which she said he did.

Gatz said phone records show McPartland called Spota that day, alleging McPartland filled Spota in on Loeb's beating, before the group went into "full damage control mode" to protect Burke.

Krantz, however, attacked the government's reliance on phone records, saying they proved "nothing about what was said." Gatz alleged that the fact that McPartland's specialized unit took on Loeb's larceny case showed McPartland was in on the cover-up from the beginning.

The prosecutor disparaged the testimony of former Spota chief deputy Emily Constant, saying her contention that she forgot to follow an order from Spota to transfer the case out of McPartland's unit before a special prosecutor took over was "fiction." Gatz said the testimony of Spiros Moustakas, who worked in McPartland's unit and to whom McPartland assigned Loeb's case, showed Spota never ordered the case transferred.

Moustakas recalled seeing Spota as he headed into a grand jury proceeding in Loeb's case and Spota didn't question why Moustakas was still handling the matter,

# SAVE BURKE



JOHN ROCA

McPartland arrives at federal court Wednesday. ■ Video: [newsday.com/suffolk](http://newsday.com/suffolk)

Gatz said. She also recalled Moustakas' testimony about a February 2013 meeting in Spota's office that included Constant and McPartland. The witness said it occurred after Loeb's lawyer told Moustakas in court Loeb had been assaulted in police custody.

Loeb's lawyer had given Moustakas legal paperwork that included a written demand for the names of any witnesses to Burke's assault on Loeb, Gatz recalled.

But the prosecutor said the document sparked a reaction from Spota and McPartland that was more like that of "criminal defense attorneys" than prosecutors.

Later, there was no mention of any assault allegations in an affidavit Spota's office crafted, portraying Burke as a victim, while seeking a special prosecutor for Loeb's larceny case, Gatz pointed out.

McPartland's attorney defended Constant, saying Gatz had attacked her because she contradicted Hickey's testimony.

"If you have a choice between believing Emily Constant, a prosecutor for 38 years with an unblemished record, and James Hickey, who you gonna pick?" Krantz said.

But Gatz said Hickey was worthy of belief, saying other evidence supported his account of what was "a perfect view"

inside the conspiracy.

Hickey testified that he pleaded guilty in 2016 to taking part in the attempted cover-up of Loeb's assault and is hoping for leniency when he is sentenced after testifying for the prosecution.

The retired police lieutenant was hospitalized in October 2015 after hallucinations brought on by stress and sleep deprivation after a separate hospitalization in 2013 for pancreatitis after excessive alcohol intake, testimony showed. Hickey attributed both hospitalizations to the stress of the conspiracy, insisting his memory wasn't compromised by drinking.

But Krantz said the government wanted jurors to accept Hickey's "un corroborated" testimony as "gospel," while saying the former lieutenant had falsely accused McPartland and "is a combination of desperate and not well."

The defense attorney acknowledged his client had a friendship with Burke but said it wasn't a crime for him to talk to Burke about the Loeb case. "Mr. McPartland acted properly, obstructed nothing . . . He was lied to by Burke," he added, while imploring jurors to acquit his client and "End this nightmare."

## A story of protection

BY JOYE BROWN

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Over four hours, Lara Treinis Gatz laid out, in exacting detail, the government's case against Thomas Spota and Christopher McPartland — painting them not just as individuals, but heads of an organized power center dubbed "The Administration," which at one point successfully took control of law and order in Suffolk County.

And when one of their own, James Burke, former Suffolk police chief of department, needed help, Gatz told jurors, "The Administration" heeded the call. And not just to protect Burke.

"You know why they did it," Gatz told jurors Wednesday. "They did it to protect their fiefdom, their kingdom."

"They had just taken over the county, achieved their master plan," she said. "And the federal investigation threatened to destroy all they had worked for and accomplished."

"One of them was in trouble, and so all of them were in trouble," she told jurors.

"They had to do whatever it took to protect their interests," she said.

"They did it to protect Jimmy," she

said. "They did it to protect 'The Administration.'"

### A brief history

Spota, Gatz said, was an integral part of Burke's rise in the police department from the beginning.

"Even a cursory review of Burke's personnel file reveals he was unqualified to be a police officer," she told jurors. "He had a history of drug use, and a conviction for driving under the influence."

But still, he rose.

"Promoting Burke, defending Burke, protecting Burke — all was done with Spota's eyes wide open," Gatz said.

"Spota was directly responsible for Burke climbing four ranks in the Suffolk police department in three years without Burke ever leaving the DA's office," she said.

By 2003, Spota was county district attorney, Burke had been assigned to

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# Wiping out swiping in

## OMNY fare-pay system debuts at Penn Station

BY ALFONSO A. CASTILLO  
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The MTA on Wednesday debuted its OMNY fare payment system at Penn Station's subway turnstiles, and also opened a temporary ticket office for Long Island Rail Road customers while the regular ticket windows are closed for renovations.

OMNY, an acronym for One Metro New York, aims to replace the Metropolitan Transportation Authority's quarter-century-old MetroCard fare system with one that allows customers to pay their fares with a tap of a credit card or mobile device.

Since testing the system at a few select subway stations and on bus routes this year, the MTA has recorded more than 4 million taps. The introduction of OMNY at Penn kicked off the systemwide rollout of the system, which MTA officials said will be in place at all city subway and bus routes by the



The new OMNY contactless fare payment system in Penn Station. ■ Video: [newsday.com/nyc](https://www.newsday.com/nyc)

end of 2020.

The OMNY system, which is costing the MTA about \$645 million, aims to improve on the aging MetroCard system by giving customers more options and by eventually streamlining fare systems across various public transportation systems.

The availability of the OMNY sensors for Penn's 1, 2, 3, A, C and E subway lines is

particularly significant for LIRR commuters, about half of whom use the subway.

"We are now making OMNY accessible to a whole new market," MTA New York City Transit president Andy Byford said. "It saves time and it's flexible and it's easy and it gives the customer choice in how, when and where you pay your fare."

Long Island commuters will

become more familiar with the fare system when it rolls out on LIRR trains in February 2021. Al Putre, director of the MTA's new fare system, said OMNY sensors will be able to read electronic railroad tickets, which are currently used by about 30 percent of LIRR riders.

At Penn Station, subway user and occasional railroad rider Leroy Thompson of White

Plains said he looks forward to the integration of OMNY throughout the MTA network.

"To cover all the system with one swipe or one tap would be appreciated," said Thompson, 66, who had mixed feelings about the MetroCard. "Generally, [the MetroCard] works. It does. Occasionally, it does not. You'll swipe it in somewhere and it works, and maybe at another turnstile it doesn't."

Also Wednesday, LIRR travelers arrived at Penn to discover the railroad's regular ticket windows shuttered, and a smaller ticket office along the station's pedestrian concourse.

The LIRR said the relocation is necessary as it advances work on a major renovation of Penn that will "widen the concourse, improve pedestrian flow and decrease crowding while introducing natural light into the station." The project is scheduled for completion by late 2022.

Francisco Romero, who formerly lived in Montauk but now resides in Miami, stopped by the new ticket office Wednesday while visiting family.

"It was really good, very quick," Romero said. "It was actually easier than before."

# Spota orchestrated Burke's rise in ranks, prosecutor says

POWER from A7

his office and McPartland had been brought on as head of Spota's government corruption unit.

"All the pieces were in place," Gatz said. "But there was a problem."

"There was a not-so-friendly county executive, Steve Levy, running Suffolk, who was viewed as anti-cop" and had a police commissioner who "was fiercely loyal to Levy."

Gatz continued, "but then in 2011, anti-cop County Executive Levy decided not to seek another term, which opened up the county executive spot for a newcomer, Steve Bellone."

Gatz did not tell jurors why Levy, a popular county executive who likely would have won a third term, decided in 2011 against seeking reelection. The decision came after an investigation by Spota's government corruption bureau. To this day, there has been no public explanation

of exactly what Levy was alleged to have done or why Spota's office decided to have him return campaign donations as opposed to facing any charges.

Still, Levy was gone — which left an opening that Bellone filled upon taking office in 2012.

Bellone, in turn, appointed Burke as police chief — even before he had selected the police commissioner who would, on paper at least, be Burke's boss.

"As of 2012, defendants Spota and McPartland were in charge of law in Suffolk County, and Jimmy Burke was in charge of order in Suffolk County," Gatz told jurors. "Meet 'The Administration.'"

### In the union

Among The Administration's supporters were Suffolk's three police unions, which generally represent officers, detectives and superior officers.

In trial testimony over five weeks, the names of several current and former union officials



came up.

There were photographs of union officials on fishing trips with Bellone and Burke.

James Hickey, a former Suffolk detective lieutenant, testified that after he received a subpoena in 2015, he went straight to his union's office to see about getting a lawyer.

Hickey said he was surprised when, after about a half-hour, Burke walked in. Hickey said he had not called Burke, but later he found out that one of his union officials had.

In summation, Gatz returned several times to the unions.

"In 2001, Tom Spota ran for Suffolk County DA with the backing of the three police unions and assistance from Jimmy Burke, and, of course, he won the election," Gatz said.

"Burke was feared because of his power, not just his power as chief of police," Gatz said at another point.

"But he was even more powerful as the favorite of the DA and the chief of public corruption — and even more powerful because he had the unions in his pocket."

Gatz said Burke "seemed untouchable, invincible, unbeatable. A man you crossed at your own peril."

"Burke was backed by the law, order and the unions," she told jurors.

"There was nowhere to turn."

### The burglary

Burke was appointed chief in January 2012; that December, he assaulted Christopher Loeb, who had broken into his SUV and stolen a duffel bag.

"Burke had a prosecutor on retainer, his best friend, Christopher McPartland, who personally supervised the investiga-

tion into who broke into Burke's vehicle," Gatz told jurors. "After all, Burke and McPartland are members of 'The Administration' and that means they have each others' backs."

Gatz continued, "They are in full damage-control mode, they must protect Jimmy . . . this is what they do."

### For the defense

But while Gatz concentrated on tying McPartland, Spota and Burke together, Larry Krantz, McPartland's lead attorney, in a summation of some 90 minutes concentrated on just two people: McPartland and Hickey, the government's key witness.

"Christopher McPartland is not only presumed to be innocent, he is actually innocent of these charges," Krantz told jurors. "He has not committed any of these crimes."

A summation by Spota's attorney, followed the government's rebuttal, is slated for Thursday.