

# WHAT DOCUMENTS SAY

## Court papers detail alleged Spota, McPartland actions

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The meetings took place in a church parking lot, at an athletic field and in the Hauppauge office of then-Suffolk District Attorney Thomas Spota, court papers say.

The purpose was for top county law enforcement officials to plan how to keep federal investigators from finding out how they covered up the beating of a Smithtown man charged with stealing a duffel bag from then-Suffolk Chief of Police James Burke, federal prosecutors say in court papers.

The chronicle of events in the documents provides a fuller description of the alleged actions Spota and Christopher McPartland, chief of Spota's governmental corruption bureau, took to shield Burke — Spota's longtime protégé — from federal prosecutors investigating Burke and others had participated in the beating of Christopher Loeb and the cover-up.

"Initially, the efforts to obstruct the federal investigation were successful and, as of May 2015, the investigation had not resulted in any criminal charges," an affidavit for a search warrant reads.

Ultimately, the papers say, the attempts to thwart the federal probe were unsuccessful. Burke pleaded guilty on Feb. 26, 2016, to depriving Loeb of his civil rights and conspiracy to obstruct justice by orchestrating a cover-up of the beating. Burke, 54, of St. James, went to prison and was released recently to a halfway house to serve the rest of a 46-month prison sentence.

Spota, 77, of Mount Sinai, and McPartland, 53, of Northport, were charged with conspiracy to tamper with witnesses and obstruct an official proceeding; witness tampering and obstruction of an official proceeding; obstruction of justice; and accessory after the fact to the deprivation of civil rights. They have pleaded not guilty and are each free on \$500,000 bond. Their

trial is due to begin in May.

Spota's attorney, Alan Vinegrad of Manhattan, said, "Tom adamantly and unequivocally denies all charges of wrongdoing and looks forward to his trial."

McPartland's attorney, Lawrence Krantz of Manhattan, has said that his client "has always been an honest and dedicated public servant. He vehemently denies the charges and asserts his innocence. He looks forward to his day in court."

The indictment accuses them of helping Burke cover up his crimes by pressuring witnesses not to discuss Burke's actions and of undermining the federal investigation of him.

Burke's crime led to the indictment and resignation of Spota. Current Suffolk District Attorney Timothy Sini did not keep McPartland on the staff.

### Blizzard of records

In pretrial motions, defense attorneys said they have been inundated with evidence from the prosecution but have not received what they need the most — the names of other law enforcement officials who prosecutors said conspired with their clients and specific things Spota and McPartland did that amount to obstruction of justice.

Krantz wrote that prosecutors have "provided volumes of largely uninformative discovery," including hundreds of thousands of phone records relating to calls involving Spota, McPartland and Burke. But, Krantz said, "These materials shed little or no light on what the defendants are alleged to have done."

Prosecutors say that, since November 2017, the government has provided 40,000 pages of documents, 70,000 pages of telephone records, thousands of pages of bank records, hundreds of pages of court hearing transcripts and hundreds of photos.

In a recent interview, Krantz said, "We're arguing that in order to properly defend the case, we need certain critical information, including who the co-conspirators are alleged to be."



Thomas Spota "adamantly and unequivocally denies all charges of wrongdoing," his attorney says.

Prosecutors replied that the defense has most of what it needs already.

"While the obstruction continued for several years, this is a straightforward, uncomplicated case involving the cover-up of a civil rights violation and the obstruction of a grand jury investigation, not a complex white-collar matter," Assistant U.S. Attorneys Lara Treinis Gatz, Justina Geraci and John Durham wrote in reply. They added that because Spota and McPartland al-

ready are accused of witness tampering, identifying witnesses publicly would risk both the "integrity of the trial and the government's investigation, which continues."

In an affidavit for a search warrant, FBI Special Agent Michael Weniger sought information on phones belonging to the defendants, Burke and several other members of the Suffolk police. In the affidavit, he described steps they took to avoid detection after the beating of Loeb in

December 2012.

Those steps began as soon as June 25, 2013, the day after the FBI subpoenaed members of the Suffolk police department, according to the affidavit. Weniger wrote that Burke told an officer identified as Cooperating Defendant #1 "to gather the SCPD members who had been served to find out what they said to the FBI agents and make sure they were keeping quiet. Further, Burke reassured Cooperating Defendant #1 that he had Spota and

# ABOUT BURKE COVER-UP



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**Christopher McPartland**

McPartland on his side.”

The officer identified as Cooperating Defendant #1 has pleaded guilty to conspiracy to obstruct justice as part of a cooperation agreement with federal prosecutors, the affidavit says.

After the investigation seemed to be stalled, court papers say, prosecutors issued more subpoenas, including to an officer identified as SCPD Member #3, who participated in the beating of Loeb. That officer also has pleaded guilty as part of a cooperation agreement, according to the affidavit.

Weniger wrote in the affidavit that SCPD Member #3 and Cooperating Defendant #1 met at an athletic field next to police headquarters in Yaphank to discuss what SCPD Member #3's attorney had told him after a meeting on June 3, 2015.

That evening, Cooperating Defendant #1 met Burke in the parking lot of St. Patrick's Roman Catholic Church in Smithtown to relay what SCPD Member #3 had told him, the affidavit says. Phone records show Burke was in contact with Spota and McPartland before and after that meeting, the affidavit says.

The next morning, Cooperating Defendant #1 met with Spota, Burke and McPartland in Spota's Hauppauge office, the affidavit continues, and told them what he'd learned. Spota and Burke could not believe the federal investigation had been reactivated, and the affidavit says Spota called Burke's attorney to see if it was true.

“McPartland stated that he thought SCPD Member #3 was a ‘rat,’ and Spota told Cooperating Defendant #1 that, if SCPD Member #3 was a rat, Cooperat-

ing Defendant #1 had better find out fast,” Weniger wrote. “Additionally, McPartland directed Cooperating Defendant #1 to ‘take his guys’ tempera- ture’ and confront them one-on-one about whether they were a ‘rat.’ Spota reiterated that Cooperating Defendant #1 needed to ‘get his guys in order.’”

Burke then told Cooperating Defendant #1 to warn his officers about “what happens to people who ‘go against the administration,’” the affidavit says. McPartland raised the example of a former Suffolk detective whom McPartland had investigated for leaking information to reporters, according to the affidavit. That detective retired and pleaded guilty to a misdemeanor charge of official misconduct.

The affidavit identifies that detective as John Doe #2, but the description matches the case of former Suffolk Det. John Oliva, who had worked on a federal task force pursuing MS-13 street gang members until Burke withdrew Suffolk police from the task force.

As the investigation picked up speed, SCPD Member #3 and Cooperating Defendant #1 met at a high school in Smithtown on Aug. 17, 2015, the affidavit says.

At about 6 that evening, the affidavit says, Cooperating Defendant #1 returned to the St. Patrick's parking lot to meet with Burke and McPartland.

McPartland warned his colleagues there that they were probably committing crimes, the affidavit says. McPartland said federal investigators “might be working on an obstruction case and ‘our actions fit within the statute.’ Further, McPartland reiterated that SCPD Member #3 was a ‘rat’ and it was Cooperating Defendant #1's failure to control SCPD Member #3 that had created the current situation,” the affidavit says.

After that meeting, the affidavit says, phone records show McPartland called Spota at his home. The court papers don't reveal what they said.

However, Spota and McPartland again discussed their concerns about the investigation at a Farmingdale bar after attending a wake on Oct. 15, 2015, court papers say.

Burke's last day on the job was

less than a month later, on Nov. 11, 2015. That night, the affidavit says, he and McPartland met with two others at an Asian restaurant in St. James. Burke told them he expected to be arrested, and he was, on Dec. 9.

Krantz and Vinegrad declined to address the account of the meetings and said their clients did nothing wrong.

### Money for legal fees

In a separate affidavit for another search warrant as part of the investigation, Weniger described another series of meetings that he says resulted in Burke directing the delivery of \$25,000 in cash from a safe-deposit box to McPartland to pay for McPartland's legal expenses.

The first meeting on this topic was Feb. 18, 2016, when the affidavit says McPartland contacted someone identified as CS (for cooperating source) #1, a childhood friend of Burke's, and asked to meet at a local Chinese restaurant. When they did a few days later, the affidavit says McPartland asked CS #1 to lend him \$25,000 for legal fees. CS #1 balked.

“While he had socialized with McPartland through his friendship with Burke, he did not know McPartland that well and he did not feel comfortable loaning him the amount of money requested, so he declined,” the affidavit says. “Then McPartland began to cry, thus, CS #1 said he would think about loaning McPartland the money.”

On Feb. 25, 2016, CS #1 and three other people visited Burke at the Metropolitan Detention Center in Brooklyn. Another man told Burke that McPartland had asked CS #1 for the loan. Burke told CS #1 he would get the cash to him to give to McPartland, the affidavit says.

Shortly afterward, another person whose name is redacted in the affidavit contacted CS #1 and asked to meet him at a TD Bank branch in Lake Grove. That other person opened safe deposit box 251, according to the affidavit. The person, whose name is redacted in the affidavit, counted out \$25,000 in cash and handed it to CS #1.

“According to CS #1, it was never made clear to him why [this person], who knew McPart-

land very well, did not give McPartland the money himself,” the affidavit says.

CS #1 and McPartland met again in the parking lot of the same Chinese restaurant and CS #1 handed over the cash, the affidavit says. McPartland thanked him, but CS #1 replied he wasn't the one to thank, according to the affidavit.

“McPartland then immediately put up his hands in a ‘stop’ motion indicating, according to CS #1, that he, McPartland, did not want to know where the money came from,” the affidavit says. “Then, McPartland promised to provide CS #1 with a promissory note indicating that he, McPartland, would pay back the \$25,000. However, according

to CS #1, to date, McPartland has never followed through with that promise.”

Weniger said a search of the safe deposit box could turn up evidence of a conspiracy to obstruct justice, but Krantz said the episode was meaningless to the case.

“We believe that these allegations are absolutely irrelevant, as they allege nothing unlawful,” Krantz said.

Defense attorneys have until Jan. 7 to respond to the prosecution's claim that it does not have to disclose yet the identities of co-conspirators or outline particular criminal acts they say Spota and McPartland committed. U.S. District Judge Joan Azrack will later rule on those issues.

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