

NB:JJD:LTG/JMM
F. #2014R01885

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

JAMES BURKE,

Defendant.

- - - - - X

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

1. Until October 2015, the defendant JAMES BURKE was a police officer with the rank of Chief of Department at the Suffolk County Police Department ("SCPD").
2. On or about December 14, 2012, within the Eastern District of New York, John Doe, an individual whose identity is known to the Grand Jury, was arrested on suspicion of burglarizing motor vehicles, including a motor vehicle issued to and possessed by the defendant JAMES BURKE. Thereafter, John Doe was transported to the Fourth Precinct of the SCPD, placed inside of an interview room, and handcuffed to a permanent fixture inside of the room.

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
★ DEC 06 2015 ★
LONG ISLAND OFFICE

INDICTMENT

Cr. No. **CR 15 627**
(T. 18, U.S.C., §§ 242, 1512(k), 2 and 3551
et seq.)

WEXLER, J

3. Later that day, the defendant JAMES BURKE, and other members of the SCPD, entered the interview room, and, while John Doe was handcuffed, BURKE slapped and punched John Doe about the head, face and body. Thereafter, John Doe confessed to the burglary of the vehicle issued to and possessed by BURKE. During his subsequent prosecution on state burglary charges, John Doe alleged in court pleadings that his confession was involuntary because, in part, he had been beaten by BURKE.

The Federal Investigation

4. In or about April 2013, the Federal Bureau of Investigation (“FBI”) initiated a Federal Grand Jury investigation of the December 14, 2012 assault of John Doe (the “Federal Investigation”). On or about June 25, 2013, FBI special agents served members of the SCPD with federal grand jury subpoenas.

The Conspiracy to Obstruct the Federal Investigation

5. In or about and between December 2012 and the present, the defendant JAMES BURKE, together with other members of the SCPD, met on multiple occasions to discuss John Doe’s assault allegations and agreed to conceal BURKE’s role in the assault by, among other means, agreeing to provide false testimony under oath about the assault, and agreeing to provide false information and to withhold relevant information from the FBI and the Federal Grand Jury investigating the assault.

COUNT ONE
(Deprivation of Civil Rights)

6. The allegations set forth in paragraphs one through five are realleged and incorporated as if fully set forth herein.

7. On or about December 14, 2012, within the Eastern District of New York, the defendant JAMES BURKE, together with others, while acting under color of the laws of the United States, did knowingly and willfully deprive John Doe of a right and privilege secured and protected by the Constitution and laws of the United States, to wit: the right to Due Process of law under the Constitution, which includes the right to be free from excessive force by one acting under color of law, by striking John Doe, resulting in bodily injury to John Doe.

(Title 18, United States Code, Sections 242, 2 and 3551 et seq.)

COUNT TWO
(Conspiracy to Commit Obstruction Of Justice)

8. The allegations set forth in paragraphs one through five are realleged and incorporated as if fully set forth herein.


9. In or about and between December 2012 and the present, both dates being approximate and inclusive, within the Eastern District of New York, the defendant JAMES BURKE, together with others, did knowingly, intentionally and corruptly conspire to obstruct, influence and impede an official proceeding, to wit: the Federal Investigation, by agreeing to conceal BURKE's assault of John Doe, contrary to Title 18, United States Code, Section 1512(c)(2).

(Title 18, United States Code, Sections 1512(k) and 3551 et seq.)

A TRUE BILL



ROBERT L. CAPERS
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK



FOREPERSON