

James Burke case raises questions for Steve Bellone, experts say

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BY

The criminal charges against James Burke, Suffolk County's former top uniformed police officer, threaten to cast a shadow over County Executive Steve Bellone's second term in office and raise questions about Bellone's vetting of Burke before he named him chief, according to criminal justice experts and others.

Discussion about the effect on Bellone's political future intensified after a federal judge made the unusual move of denying bail to Burke, who is charged with beating a suspect and orchestrating a cover-up of the assault within the police department. He has pleaded not guilty.

"I thought chapters like this in the history of Suffolk police were over," said Patrick Halpin, a former Democratic county executive who was elected in 1987 on a platform of professionalizing the police.

"But this shakes the foundation of trust of law enforcement in Suffolk County," he said. Bellone, a Democrat, "has got to get to the bottom of the problem," Halpin said.

Stanley Klein, a Long Island University political science professor and a Suffolk Republican committeeman, said, "Burke's in trouble, so Bellone is in trouble. Bellone is the captain of the ship and when one of your deputies does something wrong, it's your fault."

Administration officials and other supporters downplayed any impact on Bellone, noting that he has moved swiftly to appoint a new police commissioner and chief of department after Burke resigned.

"We don't give a damn about politics," said Justin Meyers, Bellone's spokesman. "The only thing we are focused on is moving this department forward."

Rich Schaffer, Suffolk Democratic chairman, said he was "100 percent certain it doesn't affect Bellone."

Some Suffolk County lawmakers and law enforcement experts questioned whether Bellone investigated Burke properly before announcing his appointment in 2011.

A 1995 police internal affairs report said Burke, as a patrol officer, twice lost his police-issued service weapon at the same time that he carried on a sexual relationship with a woman who had a criminal record.

Samuel Walker, a retired professor of criminal law at the University of Nebraska-Omaha and a police accountability expert, said Bellone's appointment of Burke despite his internal affairs record could cast "a cloud" over his second term as county executive. Newsday described the internal affairs report to Walker and several other outside experts.

"For this level of appointment there should have been a thorough vetting," Walker said.

"If you have a political tradition of this kind of favoritism and of cover-ups, then this case is an indictment of that whole system," Walker said.

Sources close to the matter said Suffolk County District Attorney Thomas J. Spota had recommended Burke for police chief of department. Spota did not respond to a request for comment.

Schaffer said he also supported the Burke appointment. He said he was unaware of the internal affairs investigation when he recommended Burke to Bellone. But after the report was published in Newsday, Schaffer stood by Burke. "I believed in the work he was doing in the department," he said. Even now, Schaffer said he'd "reserve judgment" on whether hiring Burke was a mistake until the case is resolved.

Meyers said that at the time Bellone considered Burke's appointment, Burke "had been promoted through the department seven times under . . . county executives and he came highly recommended by the DA's office, where he had been head of all the detective investigators."

Meyers said the administration was "not aware of the internal affairs investigation report when we made our decision, which was based on information and recommendations we received at the time."

Asked if the police commissioner or Spota should have made Bellone aware of that information, Meyers responded, "I'd say the circumstances were certainly unfortunate and extremely disappointing."

Charged in beating, cover-up

Federal prosecutors have charged Burke with beating Christopher Loeb, who had stolen a duffel bag from Burke's department-issued SUV, as Loeb was handcuffed to the floor in a police precinct in December 2012.

According to the charges, Burke then orchestrated a wide-ranging cover-up of the alleged beating.

Bellone, who was re-elected last month, named Burke as chief of department shortly after winning the county executive election in 2011.

Bellone stood by Burke after reports of the alleged beating of Loeb surfaced in 2013.

That October, Bellone said in a statement that Burke was named Cop of the Year in 1997, was promoted seven times under three administrations and had served as chief investigator in Spota's office.

"Based on the entirety of his accomplishments over 27 years in law enforcement, James Burke earned the position of chief of department . . .," Bellone said at the time.

Doug Muzzio, a political science professor at Baruch College in Manhattan, said the episode begs the question of, "What did he know, when did he know it, and how quickly did he act once he knew something?"

"In this case the buck stops with the county executive, and on its face it appears the county executive did not do his due diligence," Muzzio said.

David Harris, a law professor at the University of Pittsburgh who specializes in police conduct issues, said Bellone's appointment of Burke, despite the 1995 internal affairs report, points to a "breakdown in the vetting process."

Harris said that "in a situation like this, when that knowledge was out there, if he did not know, it's fair to say he should have known.

"If he says he didn't know, that's not an acceptable full answer. Why didn't you?" Harris said.

"The executive who appoints the chief is ultimately responsible for how things go under that chief of police - if they go well, everyone takes the credit," Harris said. "If they don't go well, the executive will have to take the heat, as we're seeing with Rahm Emanuel in Chicago."

Emanuel, Chicago's Democratic mayor, has faced calls to resign after the release of a video showing a Chicago police officer fatally shooting a teenager.

Chicago Police Superintendent Garry McCarthy resigned at Emanuel's request amid the public outcry over the video. Protesters and other critics say Emanuel's administration withheld the video from the public for more than a year, until after his re-election in April.

Kenneth Sherrill, a professor emeritus of political science at Hunter College, said the Burke case may pose an "obstacle" to Bellone if he decides to run for higher office.

Bellone's name was floated as a possible running mate for Gov. Andrew M. Cuomo in the 2014 gubernatorial race. Cuomo picked former Rep. Kathy Hochul of Buffalo as his candidate for lieutenant governor.

"If he aspired to higher office, it's the kind of thing that any opponent for the Democratic nomination won't let the voters forget," Sherrill said.

#### Eyes on police department

Sherrill said a key question is whether Bellone can turn the police department around. Bellone recently named Timothy Sini, a former federal prosecutor and aide to Bellone, as police commissioner. Stuart Cameron was appointed chief of department.

"With three years left before the next election, he might be in a position to take credit for cleaning up a mess, even if he helped to make the mess," Sherrill said.

Gerald Benjamin, a political scientist at the State University of New York at New Paltz, said the timing of Burke's arrest, about a month after the county elections, works in Bellone's favor because "there are four years for voters to forget."

Bellone backers note that former Suffolk County Executive Steve Levy in 2004 also faced potential fallout when two close allies, former county Legis. Wayne Prospect and Levy campaign aide Steve Baranello, were brought down on corruption charges.

Levy was never implicated and ran for re-election unopposed four years later, backed by the major and minor political parties.

Nonetheless, some Bellone supporters worry that the county executive has not responded forcefully enough to distance himself from the Burke case.

"There are a lot of questions," said Suffolk Legis. Jay Schneiderman (I-Montauk), who caucuses with Democrats and who will become Southampton town supervisor next month. "And Bellone hasn't said very much. . . . The rumors are flying all around."

#### Accountability questions

Some critics in the legislature say the Burke case shows that Bellone had no control over what was going on in his own police department.

"He doesn't pay enough attention to things," said Legis. Kate Browning (WF-Shirley), chairwoman of the legislature's public safety committee. "He doesn't seem able to multitask."

"It's got to splash back on him," said Legis. Kevin McCaffrey (R-Lindenhurst), the GOP caucus leader. "There's going to be more to come."

"Up to now, when allegations have come up, no one comments, hoping it goes away," said Legis. Robert Trotta (R-Fort Salonga), a former police detective who is highly critical of Burke. "This time it isn't going away."

Roger L. Goldman, a St. Louis University law professor and a national expert on police misconduct, said the Burke episode highlights the need to give the state more power to discipline local law enforcement officers, so local political interests don't interfere with the disciplinary process.

Only six states - New York, California, Hawaii, Massachusetts, New Jersey and Rhode Island - do not professionally license police officers, Goldman said. Other states convene special panels to discipline and revoke the licenses of officers with records of misconduct, Goldman said.

In New York, where many state lawmakers accept campaign contributions from police unions and often seek political endorsements from them, the legislature has rejected proposals aimed at increasing police oversight.

A 2013 Newsday analysis found the state legislature rejected 50 bills to increase police oversight over a five-year period.

Suffolk police union leaders have defended the existing disciplinary system, in which misconduct allegations are investigated locally and blocked from public view under state confidentiality laws, saying the setup compels officers to testify when called into Internal Affairs.

Goldman argued that if the allegations against Burke cited in the 1995 report had come before an impartial state licensing panel, Burke may have been disciplined earlier in his career and perhaps not risen through the ranks. It is not clear how or if Burke was disciplined.

"You cannot leave these decisions, be it the police chief or the patrolman, to the local officials," Goldman said.

With Robert Brodsky, Yancey Roy and David Schwartz

