

# Thomas Spota: Sheriff's job — not mine — to probe Ed Walsh

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By Andrew Smith and David M. Schwartz

A spokesman for Suffolk District Attorney Thomas Spota said it was Sheriff Vincent DeMarco's job, not the prosecutor's, to investigate questionable actions of Conservative Party chairman Edward Walsh.

DeMarco told federal prosecutors that Spota repeatedly derailed efforts to investigate Walsh, according to court documents filed Tuesday night.

The statement from spokesman Robert Clifford Wednesday puts the onus for investigating Walsh, until recently a lieutenant in the sheriff's office, on DeMarco. Clifford said that the sheriff "provided no information to support a prosecution of Walsh." For example, in July 2014, DeMarco's office canceled several appointments with district attorney investigators about Walsh, Clifford said. DeMarco by then had brought the case to federal prosecutors.

"Clearly and unequivocally, district attorney investigators wanted to speak to sheriff department investigators about Walsh and made numerous attempts to do so," Clifford said. "That they were unsuccessful is no fault of the district attorney."

The statement came a day after federal prosecutors filed a motion saying that, in the case against Walsh, DeMarco would testify that Spota repeatedly refused to prosecute allegations against Walsh.

But Clifford said Spota repeatedly forwarded allegations to DeMarco “because they were complaints about his office and his employee. Sheriff DeMarco never reported the results of his investigation of these allegations, if he indeed conducted one. The appropriate question to ask is if the district attorney was protecting Mr. Walsh, why would he forward the complaints to the sheriff for action?”

DeMarco declined to comment Wednesday on the case.

Walsh is charged with theft of government funds and wire fraud for collecting more than \$80,000 in pay and overtime from his job at the sheriff’s department while prosecutors say he was actually golfing, gambling, conducting political business or relaxing at home.

Walsh’s attorney, William Wexler, has dismissed DeMarco’s claims after Walsh refused to back him in a race for Congress.

Since first being elected in 2001, Spota, a Democrat, has not faced a general election challenge, picking up the support of other party leaders, including the Conservative Party, in the past three elections.

The county legislature’s Republican minority leader suggested that Spota, a Democrat, should consider stepping down before his term ends in 2017 as other lawmakers said confidence in the office has been shaken.

“His judgment and ability to do his job are clouded,” Legis. Kevin McCaffrey (R-Lindenhurst), said. “I think it would be a better idea for him to consider resigning.”

Presiding Officer DuWayne Gregory (D-Amityville) said the allegations are a concern but he would not call for his resignation. "I'm not the one to make that judgment. The voters will have to make that assessment," he said.

Gregory said legislators will release a proposal in the coming weeks to strengthen legislative oversight of county departments, including law enforcement agencies.

In the statement, Clifford also criticized Newsday for reporting on the motion filed by federal prosecutors. The statement said that Newsday did not contact the office until 10:05 p.m. Tuesday.

"Newsday's reporting is based on a 27-page pretrial motion filed by federal prosecutors from the office of the U.S. Attorney for the Eastern District," Newsday Editor Deborah Henley said. "Spota's office was asked for comment soon after we obtained the pretrial document. We stand by our reporting."

The statement answered some, but not all, of the accusations in the federal prosecutors' motion. In addition to forwarding two anonymous complaints about Walsh to DeMarco in 2010, Clifford said another complaint was sent in May 2014.

Clifford said Spota had no grounds to investigate Walsh's presence at an illegal poker game raided by Suffolk police because state law specifies that "a person who is a player cannot be charged with a gambling offense." The statement said every competent criminal lawyer should know that.

And after DeMarco advised Spota of his concerns about irregularities in Walsh's timesheets in May 2014, Clifford said, "Additional details were promised but were not provided."

Also Wednesday in the wake of the federal prosecutors' motion, there were calls in both the political and legal worlds for Spota to step down amid some defenses of him. Spota has hired former federal prosecutor Alan Vinegrad of Manhattan to represent him.

Suffolk Democratic Party chairman Richard Schaffer defended Spota. "I've always known Tom Spota to prosecute or not prosecute based on whether or not there is a case," he said.

County Executive Steven Bellone did not respond to requests for comment Wednesday, but in a statement Tuesday night noted that in August 2014 he said Spota should recuse himself from the Walsh case "because I did not think he could or would be impartial."

"It is becoming increasingly difficult for the district attorney to fulfill the responsibilities of his office while coming under active investigation for the way he's conducted his office," said defense attorney Bruce Barket of Garden City, who is not involved in the case. "Public confidence in him has waned, and for good reason."