

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

June 13, 2016

Legislator Kate M. Browning
Suffolk County Legislature
1120 Montauk Highway
Suite G
Mastic, New York 11950

Dear Legislator Browning:

I am in receipt of your June 6th request made on behalf of Legislator Lindsay that I appear at the June 16, 2016 Public Safety Committee meeting of the Suffolk County Legislature. For the reasons outlined below, I must respectfully decline your request.

As you are aware, there is an ongoing investigation by the United States Attorney's Office into matters relating to your request. There has also been a request for an investigation by the Governor. While these matters are pending, and for reasons described below, I cannot answer questions related to them at this time. At the conclusion of these matters, and consistent with applicable law, I would welcome the opportunity to address the Legislature.

Moreover, while the members of the Legislature and the media may not be bound by the very important non-disclosure provisions of the New York State Criminal Procedure Law, I am. Specifically, Criminal Procedure Law, Section 190.25(4)(a) provides that "grand jury proceedings are secret and no grand juror or ... the District Attorney [190.25(3)(a)] may except in the lawful discharge of his duties or upon written order of the court, disclose the nature or substance of any grand jury testimony, evidence, or any decision, result or other matter attending a grand jury proceeding." This prohibition includes any evidence obtained by grand jury subpoena. The unlawful disclosure of grand jury evidence by a public prosecutor is a crime. See, New York State Penal Law, Section 215.70. Furthermore, the rules regarding the non-disclosure of eavesdropping (wiretap) materials are even more restrictive than those prohibiting disclosure of grand jury information. All eavesdropping applications made and warrants

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issued are automatically sealed by the issuing Justice (C.P.L. Section 700.55(1)); immediately upon the expiration of the period of an eavesdropping warrant, the recordings must be made available to and sealed by the issuing Justice (C.P.L. Section 700.50(2)); the disclosure of and use of the information obtained is strictly regulated (C.P.L. Section 700.65(1)(2)(3)(4)) and the divulging of wiretap information to anyone except as specifically provided by law is a crime. See, New York State Penal Law, Section 250.20. Since much of the information relating to the matters covered by your request falls into one or both of these two prohibited categories, I am sure you can understand why I cannot discuss the issues you reference in your letter.

While it appears that you and other members of the Legislature may have accepted what is reported by the media as fact, I do not. Indeed, to the extent lawfully permitted, I have sought to correct the record at every turn. My request of the various media outlets to publish my responses to them in full have been largely ignored. To that end I include and ask you to not only read but incorporate into the public record of the Public Safety Committee the following correspondence:

1. A June 1, 2016 letter to the Editor of *Newsday* regarding their May 30, 2016 story Police, Prosecutors exchange blame in release of gang suspects;
2. A March 9, 2016 statement from Robert Clifford regarding the *Newsday* article alleging my alleged protection of Edward Walsh;
3. A January 26, 2016 letter from Robert Clifford to *Newsday*'s publisher regarding the *Newsday* inquiries about the resentencing of Robert Macedonio;
4. A January 20, 2016 letter to New York Times reporter Joseph Goldstein from Robert Clifford regarding his inquiries.

While there have been many other responses to various media outlets over the last months, I believe the responses my Office has provided presents a far different, and factually reliable, view of the issues presented. I cannot emphasize too strongly that many of the media-reported allegations rely on anonymous sources who in some cases appear to have no direct knowledge of the facts but "were told" or "heard" about something later reported as true. Such anonymity deprives the reading and viewing public of an opportunity to assess the motives, credibility and reliability of these sources.

As demonstrated in attachment #1, the letter to the Editor of *Newsday*, some members of the media have gone so far as to create controversy in cases where none exists. There is no "blame" being exchanged in the gun and drug case described in the referenced *Newsday* article. The members of the Legislature who are lawyers know full well, all crimes contain elements that are defined by law and must be proved beyond a reasonable doubt. Where those elements cannot be established based upon an arrest, additional investigation must take place prior to any further legal action. These standards are not flexible. They apply equally to a gang member or a pillar of the community.

I would also like to take this opportunity to assure the members of the Committee that while the persistent attacks on my integrity and that of my staff have been distressing and distracting, the important work of the District Attorney's office continues.

Over the past month alone, Assistant District Attorneys in my Office have convicted, after trial, defendants charged with Murder in the Second Degree, Narcotics Possession, Robbery (in a case where the defendant may face a life sentence), Domestic Violence (where the defendant was sentenced to over 20 years in prison), Child Sexual and Physical Abuse (in that case, the jury returned its verdict in 9 minutes); Endangering the Safety, Health and Welfare of the Environment (the second "dumping" conviction) and many others. Just last week, one of our newer Assistant District Attorneys convicted a defendant represented by a prominent criminal defense attorney, of Driving While Intoxicated in a very difficult case.

We are working with our law enforcement partners on significant confidential narcotics investigations, and hope to soon be able to report the results of a long term investigation that will return millions of dollars in ill-gotten gains to various municipalities across our County. From January through April 2016, prosecutors have handled over 10,000 new misdemeanor cases in our District and East End Courts and disposed of over 12,000 cases in these same courts. During that same time period, Suffolk prosecutors have presented over 450 new felony cases to the grand jury and disposed of almost 3,000 felony cases by way of plea or trial. We have also provided assistance to the Administrative Judge of the County Court in carrying out New York State's new Chief Judge's "excellence initiative" with the reduction of court calendar backlogs to their lowest levels in years.

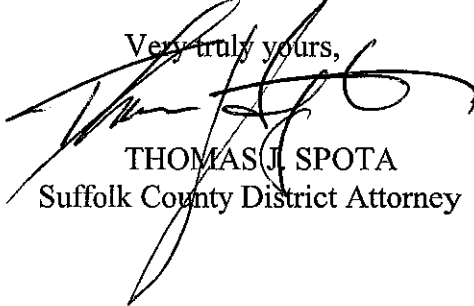
Prosecutors remain on call 24/7 to assist our law enforcement partners by writing search warrants and blood warrants, going to crash and homicide scenes and answering a myriad of legal questions. Our community outreach efforts are particularly significant this time of year as our Vehicular Crimes Bureau prosecutors speak at high schools throughout the County on the dangers of impaired and distracted driving.

Finally, Legislator Browning, you have repeatedly expressed concern and referred to a drug dealer who you claim has gone unprosecuted. The truth is the defendant was indicted and convicted for the sale of heroin in 2009 and was sentenced to 8 years imprisonment. He remains incarcerated with a maximum sentence expiration date of October 2, 2018.

-Page 4-

As Chair of the Public Safety Committee, I urge you to take time to read this letter and attachments carefully. The dedicated public servants in the Suffolk County District Attorney's Office deserve nothing less.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Thomas J. Spota', is written over the typed name and title.

THOMAS J. SPOTA
Suffolk County District Attorney

TJS/dh
Encs.

Cc: Presiding Officer Duwayne Gregory
Suffolk County Legislators

June 1, 2016 letter to the Editor of Newsday
regarding a May 30, 2016 story:

Police, Prosecutors exchange blame in release of gang suspects

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

June 1, 2016

Letter to the Editor
Newsday
235 Pinelawn Road
Melville, NY 11747

Dear Sir or Madam,

You do a disservice to your readers, the members of the Suffolk County Police Department and the 186 Assistant District Attorney's in the Suffolk County District Attorney's Office, with your anonymously sourced, inaccurate article that announces controversy where none exists. *Police, prosecutors exchange blame in release of gang suspects*, May 30, 2016.

Your readers deserve to know that police officers, detectives and assistant district attorney's work collaboratively to make sure Suffolk County remains a safe place to live and work. What the public may not know is that almost every search warrant executed by the Suffolk County Police Department and the many other police agencies in the County is actually written by an Assistant District Attorney. The search warrants referenced in your article were written by an experienced Suffolk County gang prosecutor. In addition to their work during business hours, prosecutors work without compensation at night, on weekends and holidays to assist the police department in their primary mission. Writing search warrants is just one of the ways they do this.

The drafting and execution of a search warrant is often just the first step in building a criminal case involving firearms or narcotics. There must also be some evidence to establish possession of the seized contraband. Possession is defined in the New York State criminal law as having "...physical possession or otherwise to exercise dominion or control over tangible property." Where individuals are guests in a home, make no statements admitting possession, and the guns and drugs are well hidden behind sheetrock walls and in crawl spaces, it is easy to understand why a prosecution may be challenging regardless of the pedigree of the home's occupants.

Despite these challenges, and no matter the case, police and prosecutors work together with the assistance of our outstanding crime laboratory to try and develop additional evidence including fingerprints, DNA and firearms tracing evidence. They attempt to learn the source of both the guns and drugs and often may begin new investigations developed from confidential information.

At the end of the day, even if no prosecutable case is possible, credible law enforcement officers are satisfied that guns and drugs have been removed from our communities. Sometimes, that is just the best that can be done given the facts and the high burden of proof in a criminal case; beyond a reasonable doubt.

Sensational articles serve no purpose other than to demean the important relationships between law enforcement partners that are critical to public safety.

Very truly yours,

Handwritten signature of Emily A. Constant in cursive script.

EMILY A. CONSTANT
Chief Assistant District Attorney

March 9, 2016 statement from Robert Clifford regarding
the Newsday article alleging protection of Edward Walsh

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

March 9, 2016

Response to Inquiry Regarding Edward Walsh:

The Newsday cover story about the alleged protection of Edward Walsh by Mr. Spota is inaccurate and misleading.

Before addressing the timeline that proves this, it must be noted that Newsday did not contact the District Attorney's office until 10:05 p.m. last evening when their reporter emailed looking for comment on his story. These actions were clearly designed to prevent this office from providing a contrary narrative and timeline to their inaccurate reporting. The story was published online at 11:00 p.m. leaving approximately 50 minutes to respond to these serious claims.

The anonymous complaints received about Walsh by the District Attorneys' Office beginning in March of 2010 were immediately forwarded to Sheriff 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?

More to the point on May 7, 2014, the District Attorney made another referral to the Sheriff based on a third anonymous complaint against Walsh. This fact is omitted from the Newsday article. Obviously it does not fit the false narrative Newsday is attempting to sell. Again if the District Attorney was intent on protecting Walsh why would he make this referral?

With regard to the Walsh employment application issues; the conduct alleged could never have been the subject of a criminal prosecution by Mr. Spota because the statute of limitations had run before he was elected District Attorney. How this demonstrates anything about the District Attorney's alleged protection of Walsh is truly mysterious. Why Sheriff DeMarco did not pursue relief against Walsh based on these alleged falsehoods under Article 50 of the NYS Civil Service Law can only be answered by him.

Walsh's presence as a player in an illegal gambling establishment is not criminal. In fact New York State Penal Law section 225.00(3) specifically provides that a person who is a player cannot be charged with a gambling offense. The claim that Mr. Spota "failed" to charge Walsh with any crime related to this incident when he could have is contrary to New York State law and false. Every competent state criminal law practitioner knows a mere player in a game of social chance cannot be charged with a gambling offense in New York State.

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The timeline of the interaction between Sheriff DeMarco and the District Attorney regarding the substantive Walsh investigation presented by Newsday's story is inaccurate.

Beginning on April 25, 2014 and continuing until early August, 2014 when an Internal Affairs investigator was granted permission by DeMarco to advise District Attorney investigators that the case was in fact being investigated by federal authorities it was the Sheriff and his staff who thwarted the District Attorney's Office, not the other way around.

The facts are that on April 25, 2014 Sheriff Department employee Stephen Compitello was arrested for grand larceny involving false timesheets, not by the Sheriff but by District Attorney investigators. No information was provided about Mr. Walsh at that time. Sheriff DeMarco advised the District Attorney of his concerns about Walsh's timesheets in early May. Sheriff DeMarco provided no information to support a prosecution of Walsh. Additional details were promised but were not provided.

In June, the Sheriff called the District Attorney to advise he was proffering administrative charges against Walsh. Sheriff DeMarco refused to disclose the nature of the charges.

Early in the week of July 14th Sheriff DeMarco called the District Attorney to refer the Walsh investigation to the District Attorney's Office. Sheriff DeMarco promised that an Internal Affairs investigator would call that day to arrange an appointment. No call ever came. Finally, the week of July 21st a meeting was arranged between Internal Affairs and District Attorney investigators to be held on July 24, 2014. On July 23rd a call to confirm was made to the Sheriff's Department and the meeting was confirmed by them for 9:00 a.m. on July 24, 2014. The meeting on July 24th was thereafter cancelled by the Sheriff's Department. The meeting was rescheduled for July 29th. A Sheriff Department investigator promised to call on July 28th to confirm.

No Sheriff Department representative called on July 28th and no one appeared for the scheduled meeting on July 29th. On July 31st a Sheriff Department investigator called again to reschedule the meeting. When the investigator was queried about why no one had the courtesy to call or cancel the previous meeting he said he could not answer. Another invitation was extended for a meeting that day. Again District Attorney investigators were told that the meeting would have to wait for at least a week. When asked why, the investigator provided no explanation.

Clearly and unequivocally District Attorney investigators wanted to speak to Sheriff Department investigators about Walsh and made numerous attempts to do so. That they were unsuccessful is no fault of the District Attorney.

ROBERT CLIFFORD, SCDA COMMUNICATIONS

January 26, 2016 letter from Robert Clifford to
Newsday's publisher regarding the Newsday inquiries
about the resentencing of Robert Macedonio

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

January 26, 2016

Gordon McLeod
Publisher
Newsday Media Group
235 Pinelawn Road
Melville, NY 11747

Dear Mr. McLeod,

Over the past months your investigative reporters, Will Van Sant and Gus Garcia-Roberts, at the direction of their editor, Matthew Doig, have been interviewing judges, attorneys and others involved in the criminal justice system. During these interviews Van Sant and Garcia-Roberts have expressed their view that a sentencing proceeding which occurred five years ago regarding attorney Robert Macedonio was unprecedented in the history of Suffolk County. They even went so far as to tell judges and Mr. Macedonio's attorney during interviews that some of their questions were based on "rumors" they had heard and that they were looking for confirmation which they did not get. This, in and of itself, speaks volumes about the motives of Van Sant, Garcia-Roberts and Doig, as well as their supervisor Deborah Henley, demonstrating that they are proceeding with reckless disregard for the truth of the article they are writing.

Indeed, it would behoove Newsday to be as thorough in vetting the motives, biases and credibility of those acting as the "sources" of the "rumors". Rumors are by their very nature stories passed from person to person not proven to be true and with no known source. As a journalistic standard, they are as low as it gets.

On Friday, January 20, 2016 after the close of business, at 6:09 pm, months after the initial interviews, Mr. Garcia-Roberts requested an interview with the District Attorney on the case involving Mr. Macedonio and "related matters" without specifying what they were. Garcia-Roberts gave a deadline of Monday, January 25, 2016 for this interview to occur.

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It is clear that Newsday intends to publish an article alleging and implying that the Macedonio matter is "unique and unprecedented" (to use Van Sant's words to the people he has interviewed) despite the fact that those interviewed have expressed clear and unequivocal opinions to the contrary, and despite the fact that in Suffolk County many defendants both before and after the Macedonio matter have had their felony convictions withdrawn and replaced by misdemeanor and in some cases even violation convictions. Clearly Doig, Van Sant and Garcia-Roberts know this and are choosing to disregard the truth and are acting maliciously. The suggestion that anyone in the District Attorney's Office did anything improper in this case demonstrates a reckless disregard for the truth.

Robert Macedonio, an attorney licensed to practice law in the State of New York was charged by way of Superior Court Information with the class D felony of Criminal Possession of a Controlled Substance in the Fifth Degree on December 9, 2008 and thereafter pled guilty to that crime on April 9, 2009 in full satisfaction of the investigation conducted into his criminal conduct. On May 6, 2009 he was sentenced to a conditional discharge for a period of three years. As a consequence of his plea of guilty Mr. Macedonio's license to practice law was immediately revoked. After a period of more than two years, during which Mr. Macedonio remained alcohol and drug free after completing rehabilitation, his attorney asked the District Attorney to consider allowing Mr. Macedonio to be resentenced to a period of interim probation for a period of one year with continued alcohol and drug monitoring by the Department of Probation. The District Attorney agreed to petition the sentencing court for this relief. The Court granted Macedonio's application and he was so resentenced on July 26, 2011. In addition to the alcohol and narcotic conditions imposed as a condition of the interim probation the District Attorney specifically told Mr. Macedonio's counsel that the District Attorney would not in any way participate in his efforts to restore his client's license to practice law. After Mr. Macedonio's successful completion of the one year period of interim probation, Mr. Macedonio was permitted to withdraw his plea of guilty to the felony of Criminal Possession of a Controlled Substance in the Fifth Degree and plead guilty to the misdemeanor of Criminal Possession of a Controlled Substance in the Seventh Degree. He was sentenced to an unconditional discharge. His license to practice law was restored by the Appellate Division, Second Department sometime thereafter.

Two individuals who were associated with Mr. Macedonio were also arrested as a result of the investigation into Mr. Macedonio. Clyde Ward was charged by way of Superior Court Information with the class B felony of Conspiracy in the Second Degree and the class E felony of Scheme to Defraud in the First Degree on March 1, 2011. On that day he pled guilty to the A misdemeanor of Conspiracy in the Fifth Degree and the A misdemeanor of Scheme to Defraud in the Second Degree in full satisfaction of the investigation into his criminal conduct. On April 8, 2011 he was sentenced to two concurrent terms of 9 months in the Suffolk County Jail. Larry Demetrius was also charged by way of Superior Court Information on September 11, 2009 with the class B felony of Conspiracy in the Second Degree and the class C felony of Grand Larceny in the Second Degree in full satisfaction of the investigation into his criminal conduct. On that date he pled guilty as charged to Conspiracy in the Second Degree and was sentenced to time served. He had been in custody since early in 2008. A pending indictment against Demetrius was dismissed in satisfaction of his plea of guilty. It should be noted that both Ward and Demetrius had prior criminal convictions.

In Suffolk County and in each of the 62 counties in New York State what occurred in the Macedonio case occurs every day of the week. This is also true in Federal Court and in many other State courts. This makes the Macedonio matter common, not unique nor unprecedented.

Countless articles in publications including The New York Times, The New Yorker, many academic journals and even in Newsday have chronicled the creative ways the justice system deals with drug addicted offenders like Mr. Macedonio to keep them out of prison and in treatment so they can move on to lead productive lives.

To that end legislative efforts to reduce and in some instances remove the stigma of a criminal conviction which prevents defendants from obtaining meaningful employment have also been widely covered by the media, including Newsday.

In Suffolk County there exists a Judicial Diversion Program, Felony Drug Treatment Court, Veteran's Court, Mental Health Treatment Court and Youth Court. All of these problem-solving treatment courts allow individuals charged with a serious crime to successfully transition back to leading productive lives through various forms of rehabilitation. Their existence is promoted and in some cases mandated by the NYS Office of Court Administration as a matter of good public policy.

During Mr. Spota's tenure as District Attorney, over 150 defendants have had their felony convictions withdrawn and replaced by misdemeanor convictions. This is so even for individuals who were arrested and convicted by plea to robbery, assault, burglary and serious drug crimes. What happened in the Macedonio case where the court allowed the defendant to withdraw his felony plea with the consent of my office years after Mr. Macedonio entered and successfully completed a drug rehabilitation program, is absolutely no different than the 150 other defendants who have been afforded the same opportunity.

Our partnership with the Courts and Hope House Ministries has resulted in formerly jailed, violent but drug addicted felons pleading guilty, being released from custody and placed under Father Frank Pizzarelli's supervision for years. Upon completion of his program some of these defendants, all of whom faced lengthy prison sentences for their pleas to violent felony offenses, are permitted to withdraw their pleas and replace them with misdemeanor pleas just like Mr. Macedonio. A substantial number go on to complete college, professional and graduate school. Counted among them are lawyers, teachers and CEO's, just like Mr. Macedonio.

In 2012 a defendant who committed a robbery in 1994 when he was 19 and who later went on to earn his bachelors and master's degrees and was enrolled in a doctoral program was permitted by the court at our urging to withdraw his plea of guilty to a felony and thereafter the People affirmatively dismissed the indictment against him. This was done so he could continue to teach in his home state which had recently passed legislation that would have precluded him from doing so. He had no further interaction with the criminal justice system and his application was supported by members of his community.

Recently, President Obama commuted the sentences of 46 drug offenders. In a letter he sent to each of them the President said his power to grant pardons “embodies the basic belief in our democracy that people deserve a second chance after having made a mistake in their lives that led to a conviction under our laws.”

In another public policy move that underscores this point just last week Governor Cuomo announced a program to remove the stigma attached to youthful offender adjudications for individuals who had no further contact with the criminal justice system for a period of time.

I daresay were it not for your obvious bias against the District Attorney and his Office you would acknowledge that the actions taken to provide Mr. Macedonio his second chance are exactly what you would expect from a District Attorney who is true to his oath.

I request that this letter be published in its entirety in both the print and online editions of your newspaper. Previously your reporters have promised this but our response has only appeared on line.

As journalists I expect you will follow the Society of Professional Journalists Code of Ethics which require that you take responsibility for determining the accuracy of your work, verify information, remember that speed does not trump the need for accuracy, identify sources and consider their motives, provide access to source material when it is referenced and appropriate and above all else never deliberately distort facts or context. See, Society of Professional Journalists Code of Ethics, “Seek Truth and Report It.”

Very truly yours,

ROBERT CLIFFORD SCDA COMMUNICATIONS

January 20, 2016 letter to the New York Times reporter
Joseph Goldstein from Robert Clifford regarding
Goldstein's inquiries

**COUNTY OF SUFFOLK
OFFICE OF DISTRICT ATTORNEY**



**THOMAS J. SPOTA
DISTRICT ATTORNEY**

January 20, 2016

Mr. Joseph Goldstein
New York Times
Via E mail

Dear Mr. Goldstein:

As to the three areas of inquiry in your e-mail:

- I. This question has been previously answered.
- II. With respect to your inquiry about the "aggressive tactics" used by "ADA McPartland's Bureau";

I disagree with your characterization of the investigative methods employed by the Government Corruption Bureau as "aggressive tactics" clearly implying something nefarious. The Government Corruption Bureau under Mr. McPartland's leadership has been extraordinarily successful in prosecuting and convicting corrupt public officials and members of law enforcement. The use of the same methods to investigate and prosecute official corruption that are used against other criminals, including deploying undercover officers, confidential informants and electronic surveillance is not aggressive but emblematic of a proactive law enforcement agency. While certainly the use of these methods can be unpopular, their use is hardly confined to this office. As you are no doubt aware, the United States Attorney for the Southern District recently convicted a New York State Senator in part based on evidence from electronic surveillance. Furthermore, in an editorial published by your newspaper on October 10, 2015 endorsing Madeline Singas for Nassau County District Attorney, the editorial board said, "Nassau needs a county prosecutor who is willing to enforce the law no matter where it leads. In neighboring Suffolk County Thomas Spota, a Democrat has made a career of bringing down corrupt officials, even in his own

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party". Obviously had the Times' editors quarreled with the tactics employed they would not have held out Mr. Spota and his corruption prosecutions as worthy of being emulated in Nassau County.

The investigation and prosecution of official corruption is challenging and unlike the prosecution of murderers, rapists and drug dealers, it can also be unpopular. There is always someone ready to complain that a favorite politician or official was unfairly targeted or that a complaint of corruption was for political reasons either acted upon or ignored. That is why this office has consistently conducted corruption investigations in a cautious manner, mindful of the impact of false allegations upon the reputation of public officials. Discreet investigative techniques have been employed until a case ripens to the point of arrest, when meaningful discussions with defendants represented by counsel take place to responsibly advance the prosecution. As such the history of corruption prosecutions under DA Spota has been free of complaints of unfair treatment or the wrongful destruction of the reputation of public and elected officials. It is galling that you and your sources do not act in this same ethical manner and with the same concern for the reputations of your subjects.

Mr. Spota has been and remains committed to the investigation and prosecution of corrupt public officials and public employees regardless of political affiliation. It is clear from your questions and the reckless disregard for the truth apparent in your earlier article, that you possess little in the way of actual fact. I believe you need to be educated about the real story of corruption prosecutions under District Attorney Spota. A sample of the cases investigated and prosecuted by the Public Integrity Unit and its successor the Government Corruption Bureau is annexed to this letter for ease of reference.

Almost all of the corruption cases were resolved by guilty pleas. Not one defense attorney complained to the Court or this office about the investigative methods utilized and not one judge ever suppressed evidence obtained by electronic surveillance, including wiretaps.

III. As to the "secrecy" surrounding the Steve Levy settlement;

The resolution of the investigation into former County Executive Steve Levy was resolved by a Confidential Agreement. I will repeat what Mr. Spota said on March 24, 2011 about the matter:

"In my nine years as District Attorney I have prosecuted numerous public officials including town supervisors, county legislators, department heads and others without regard to political affiliation. I believe that my time as District Attorney will be defined by my aggressive and impartial investigations and prosecutions of corrupt government officials.

Today, our County Executive Steve Levy announced that he would not seek re-election and that he was turning his campaign funds over to the District Attorney's Office. This action was taken by him to resolve a sixteen-month investigation conducted by the Government Corruption Bureau which began in the summer of 2009.

I am satisfied that the actions taken by Mr. Levy resolve the investigation in the best interests of the citizens of Suffolk County. Our investigation included the full cooperation of the County Executive. He met with prosecutors and investigators on multiple occasions to answer questions and provide information relevant to our inquiry.

There is no question that while the investigation revealed serious issues with regard to fundraising and the manner in which it was conducted, including the use of public resources, I am confident that Mr. Levy did not personally profit. The forfeiture of his 4 million dollar campaign fund demonstrates his acceptance of responsibility for these failings.

The campaign money will be distributed to those individuals who request that it be returned. The remainder will be donated to charity. To avoid political gain by another person or political party I have determined that no distribution will be made until after the November 2011 election.

The decision to allow Mr. Levy to complete his term was carefully considered and involved weighing his conduct, the need for stability in government in these difficult economic times while affording a smooth transition after the 2011 elections. You can be assured that if I believed that his actions compromised his ability to govern I would have sought his resignation.

Restraint is often more difficult than aggressive action but in this case I know it is more appropriate.

This outcome ends the inquiry into Mr. Levy's conduct. The investigation will continue with respect to the conduct of others."

While it is easy to criticize the confidential resolution of this matter, criticism the District Attorney certainly understands, the resolution was based on his best judgment, using the discretion given to him as District Attorney, as well as persuasive arguments made by Mr. Levy's able defense attorneys, Stephen Scaring and Edward Robertson. Because of your biased attempt to tarnish the reputation of the District Attorney and the reputation of the prosecutors and investigators assigned to the Government Corruption Bureau, you stand ready to ignore counsel for Mr. Levy who specifically told you the resolution of the case was a sound exercise of prosecutorial discretion and that funds had been returned to contributors and further that the District Attorney's Office was not rife with improprieties. You ignored his comments entirely in your first article, there is no reason to believe you will include them in any subsequent piece even though it would be a reckless disregard for the truth to omit them.

There was no ulterior motive to the disposition as some have suggested and efforts were made NOT to unduly effect the County Executive election including resolving

the investigation early in 2011 and not distributing the Levy campaign money until after the County Executive election was over.

Mr. Spota was not prescient and did not know who the candidate for either party was going to be nor the outcome of the electoral contest. To suggest otherwise, as you have, is completely speculative and not based upon one shred of credible evidence.

It is apparent you deem more credible your anonymous sources, one of whom is likely a former Suffolk County Police Department Detective, whose credibility was seriously questioned and his misconduct noted by no less than a Federal District Court Judge, than the parties to the Levy agreement or those involved in the numerous other successful corruption prosecutions in Suffolk County since 2002. It is for this reason I request this entire response be published as an addendum to any articles authored by you in both the print and electronic editions. Times readers deserve the whole story, not one peddled by anonymous sources whose credibility and the basis for their assertions, which you have recklessly adopted, cannot be explored or challenged because their identity is a secret. This certainly falls well below the ethical standards your readers and your newspaper demand.

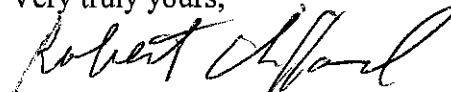
Let us contrast your stories using unnamed, unchallenged sources with the conclusions expressed by Times editors in March, 2006 following a guilty plea from Peter McGowan, the Islip Town Supervisor.

Mr. McGowan lived as if it was Mardi Gras all the time, said Thomas Spota, the Suffolk District Attorney, whose office has bagged political cheats, dirty-dealers and thieves, one after another, with the cool efficiency of a pest-removal company.

As with termites and wood-borer beetles, selfish politicians are part of the Long Island landscape. Removing them usually gives only temporary relief, because others emerge to take their place....Long Island is lucky to have the relentless Mr. Spota and his anti-corruption squad on the job.

Finally, Mr. Goldstein, your "aggressive tactics" are much more damaging to the personal and professional reputation of the District Attorney and his team than any ever employed by the Government Corruption Bureau against the criminals they have prosecuted.

Very truly yours,



ROBERT CLIFFORD

SCDA

RC/dh

Cc: Executive Editor Dean Baquet

FRED TOWLE (2003)

Pled Guilty to Bribe Receiving and Scheme to Defraud
(scheme: used campaign money for personal use and used county employees to campaign)
Suffolk County Legislator
No eavesdropping
Sentenced, six months incarceration and five years probation

WAYNE PROPECT (2003 arrest, 2006 conviction)

Convicted of Bribe Receiving and Conspiracy
Former County Legislator – Aide to County Executive Levy
State Prison, Sentence commuted by Governor Patterson for medical reasons

STEPHEN BARANELLO (2004)

Pled Guilty to Bribe Receiving and Conspiracy
OTB employee, Aide to County Executive Levy
6/5, community service

MICHAEL HOLLANDER (2005)

CEO of Long Island Convention & Visitors Bureau
Pled Guilty to Defrauding the Government, OFIF, Official Misconduct
Used convention money for personal enrichment

VINCENT DRAGONE (2006)

Town of Brookhaven Chief Building Inspector
Plead Guilty to Grand Larceny by Extortion, Bribe Receiving, Official Misconduct
2 ½ to 7 ½ years in State prison

HARRY TEW (2006)

Contractor/Excavator
Pled Guilty in Dragone case to Conspiracy to Receive Bribes
Probation

TIMOTHY PENATELLO (2006)

Contractor
Pled Guilty to Conspiracy to commit Bribery in the 3rd degree

PETER McGOWAN (2006)

Town of Islip Supervisor
Pled Guilty to Commercial Bribe Receiving 1st degree
Tampering with a Witness, Grand Larceny 2nd degree, OFIF
6/5 (90 of which was community service)
(took kickbacks from pollster paid by his campaign)

THEODORE RICKMAN (2005)

Town of Brookhaven Zoning Board member
Pled Guilty to Grand Larceny by Extortion, Bribe Receiving
Money for Zoning Board influence
90 days

ALBERT BREUD

Town of Brookhaven Republican Party member
Co-defendant of Theodore Rickman
Pled Guilty to Conspiracy, Grand Larceny by Extortion, OFIF
C.D., restitution

RICHARD THURY (2007)

Town of Huntington Conservative Chairman
Pled Guilty to Bribe Receiving
Took money for jobs in Town of Huntington
10 days/5 years probation (health issues)

CHARLES SULLIVAN (2007)

Town of Huntington Conservative, Town of Huntington Employee
Pled Guilty to Bribe Receiving
1-3 years, co-defendant of Richard Thury

BRIAN TOUHEY (2007)

Town of Huntington/co-defendant of Richard Thury and Charles Sullivan
Pled Guilty to Bribe Receiving, OFIF, Criminal Possession of a Forged
Instrument
60/5

HOWARD ZEIS (2007)

Co-defendant of Brian Touhey and Charles Sullivan
Town of Huntington
Pled Guilty to Disorderly Conduct

CHARLES GALLO (2007)

Town of Islip Public Safety
Pled Guilty to Defrauding the Government
Running private security business
C.D., restitution

JAMES SCHAEFFER

Co-defendant of Charles Gallo
Pled Guilty to Defrauding the Government
4 months jail/5 years probation, community service alternative, restitution

ROBERT BONERBA (2009)

Town of Smithtown Chief Building Inspector
Pled Guilty to Bribe Receiving (money for building department favors)
Sentenced to one year in jail

MARK PALERMO (2007)

Town of Brookhaven Plumbing Inspector
Pled Guilty to Bribe Receiving
(Money for Town favors paid in part through children's softball team)
10 days, 5 years probation

EDMUND LYNCH (2007)

Town of Smithtown Highway Superintendent
Pled Guilty to OFIF
Misuse of campaign funds
Sentenced C.D. restitution

ELIE MYSTAL (2010)

Suffolk County Legislator
Pled Guilty to OFIF
False Documents regarding residency
Probation

ALLAN BINDER (2009)

Suffolk County Legislator
Money for golf issues w/county
Pled Guilty to Bribe Receiving
Probation, Restitution

NEAL TRABICH (2009)

Golf Concessionaire
Paid Allan Binder money
Pled Guilty to Grand Larceny, Forgery, OFIF, Bribery 2nd Degree
4 months/5 years probation

CHRISTINE STULSKY (2015)

Town of Southold Court Clerk
Stole money from Court
Pled Guilty to Grand Larceny 2nd degree
Sentenced 6/5

DONALD RODGERS

Suffolk County Information Technology Commissioner
Falsified contract documents
Pled Guilty to Misdemeanor, OFIF, Official Misconduct
Resigned

GLENN JORGENSEN (2015)

Town of Smithtown Highway Superintendent
Falsified paving records
Pled Guilty to OFIF, Official Misconduct
4 months Community Service/5 years probation

EDWARD HULTS (2010)

Town of East Hampton Fiscal Officer
Falsified Town financial documents/bond documents
Pled Guilty to Misdemeanor Securities Fraud and Official Misconduct
C.D.

In addition to the above cases, please be advised that more than two dozen law enforcement officers have been prosecuted by this Office since 2002 for crimes involving their official position and for crimes involving, among other things, domestic violence and sexual assault.

Some of these cases include:

GUY GIAMMATTEO

A Police Officer who was charged with Bribe Receiving and Official Misconduct. He later pled guilty to multiple counts of Official Misconduct.

RAYMOND MONTEFUSCO

A Police Officer who went to State prison as a result of his role in a series of commercial burglaries.

SCOTT GREENE

A Police Sergeant who was recently convicted of stealing money from unsuspecting motorists he stopped. Greene is in custody pending sentence and trial on pending Indictment.

BRUCE BLANCO

A Police Officer charged with Grand Larceny and Bribe Receiving who Pled Guilty to Grand Larceny.

ROBERT DITO

A Police Officer charged with Computer Trespass, who went to federal prison after a leak investigation by the Suffolk County District Attorney's Office revealed his role in an organized criminal enterprise.

JOHN OLIVA

A Police Detective charged with Criminal Trespass, Grand Larceny and Official Misconduct, for leaking confidential police department information to a reporter. Oliva pled guilty to Official Misconduct.

THOMAS FOLEY

A Police Officer charged with Criminal Sale of Controlled Substances and Conspiracy to Distribute Cocaine. He was sentenced to one to three years in state prison.

Numerous other officers have been charged and prosecuted by this Office for crimes involving excessive force, grand larceny, falsifying documents, narcotics offenses, disability fraud and other offenses.

Please note that approximately one quarter of the Government Corruption Bureau investigations involving corrupt public officials and law enforcement officers utilized eavesdropping warrants.