

newsday.com
\$2.00 | LI EDITION
Friday
Oct. 27, 2017

Newsday

SPORTS FINAL

THE LONG ISLAND NEWSPAPER


HI 63° LO 47°
MOSTLY SUNNY



SPOTA OUT

Under federal
indictment, Suffolk DA
says he'll retire

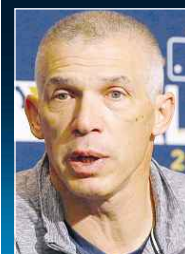
A2-5 | VIDEO AT NEWSDAY.COM

STEVE PROST



OPIOID CRISIS

Trump declares
public health emergency **A7**



SAY IT AIN'T JOE!

Yanks skipper done **SPORTS**

SPOTA SAYS HE

Indicted Suffolk DA announces he will retire, but he doesn't give date

BY ANDREW SMITH
andrew.smith@newsday.com

Suffolk County District Attorney Thomas Spota announced Thursday he will leave office as a result of his indictment on federal obstruction of justice charges.

"I will be leaving my post as district attorney at the earliest opportunity after the resolution of normal administrative matters relating to my retirement," Spota said in a statement released by his office. "The governor will be notified of my decision today. The chief assistant district attorney, Emily Constant, will thereafter assume my duties and responsibilities."

Spota spokesman Robert Clifford said it was unclear how long it would take for the necessary paperwork to be filled out.

Neither Spota nor Constant was available for comment Thursday.

The Spota announcement

came less than a day after the district attorney and one of his chief aides, Christopher McPartland, were indicted on federal charges accusing them of taking part in a cover-up of former Suffolk Police Chief James Burke's assault of Christopher Loeb in 2012. Loeb had been arrested after Burke's police vehicle had been broken into. Loeb was accused of stealing a duffel bag that contained a gun belt, pornography, sex toys and other items.

On Thursday, Clifford said McPartland, who runs the political corruption unit, was reassigned "to duties unrelated to his former responsibilities."

Loeb's attorney, Bruce Baraket of Garden City, said Spota's decision is "hardly surprising. Resigning is clearly appropriate and despite his missteps Tom Spota mostly did the right thing. It is an unfortunate and sad way to end a career."

Suffolk County Executive Steve Bellone said at a news conference outside the district attorney's office that Spota should step down immediately.

"That is unacceptable," Bellone said. "He can deal with retirement issues after he leaves office. Leaving office at some time in the future is not what this moment calls for. Not at this moment in this county's history."

Bellone said McPartland should also resign immediately.

A source close to Gov. Andrew M. Cuomo said the governor probably would not appoint a replacement for Spota. Cuomo generally doesn't appoint a new district attorney in such instances when there is a top assistant prosecutor in the office, the source said, and the election to replace Spota is just two weeks away.

Spota, 76, and McPartland, 51, each faces four counts: conspiracy to tamper with witnesses and obstruct an official proceeding; witness tampering



STEVE PROST

I will be leaving my post as district attorney at the earliest opportunity

after the resolution of normal administrative matters relating to my retirement. The governor will be notified of my decision today. The chief assistant district attorney, Emily Constant, will thereafter assume my duties and responsibilities.'

— Suffolk District Attorney Thomas Spota's statement

WILL STEP DOWN

DA's successor built career on sex abuse cases

BY ANDREW SMITH
andrew.smith@newsday.com

Emily Constant, who will succeed Suffolk District Attorney Thomas Spota after his imminent retirement, supervised domestic violence and child sex abuse cases for years.

Constant, 63, of Port Jefferson, has been Spota's chief assistant since 2010. Before that, she was chief of investigations, the role held until Thursday by Christopher McPartland, who was indicted along with Spota on federal charges of obstruction of justice.

Unless the governor appoints a successor, the chief assistant succeeds a district attorney who leaves office.

For most of her 38-year career in the office, however, Constant tried sex crimes cases and supervised other prosecutors handling such cases. Lawyers who worked for her expressed confidence in her ability to run the office until a new district attorney takes office Jan. 1.

"It's only two months, but

I'm sure Emily will do a great job," said defense attorney Donald Mates Jr. of Hauppauge, who worked for Constant in the domestic violence and child sex crimes bureau. "She's very knowledgeable. She taught me many things that made me the attorney that I am today."


Mates said Thursday that child sex cases are difficult and sensitive to handle.

"She literally sat down with me and taught me what to do," he said. "She was involved in everything. She knew how to evaluate a case instantly, and correctly."

A graduate of Pace University's law school, Constant led Spota's investigation into sexual misconduct by Catholic priests in the Diocese of Rockville Centre. She also led the corruption investigation that led to the dissolution of the Village of Greenport police department, and prosecuted serial rapist Scott Carroll in 1988.


She also served in the office's appellate bureau.

SUFFOLK COUNTY



EMILY CONSTANT

- **HIRED** as an assistant district attorney in 1979.
- **WORKED** as a prosecutor in the rackets, appeals and major crime bureaus.
- **PROSECUTED** Scott Carroll, the South Shore serial rapist in 1988.
- **SERVED** as deputy bureau chief of appeals and major crime bureaus.
- **PROMOTED** to chief of the family crime bureau in 1995.
- **LED PROBES**, as chief of investigations, of the Diocese of Rockville Centre, the now-disbanded Village of Greenport police department and the county office of child protective services.
- **BECAME** chief assistant district attorney in 2010.



Constant declined through a spokesman to comment.

Some questioned whether Constant, who has worked as a supervisor for Spota throughout his 16 years in office, should be the acting district attorney.

"I don't think it's appropriate," said Dan Russo, defense

attorney and administrator of the Suffolk assigned counsel defender program.

Christopher Brocato, president of the Suffolk Criminal Bar Association, said Constant is experienced and knowledgeable, but he was surprised that Gov. Andrew M. Cuomo did

not act to bring in an outsider to run the office for the next two months.

He and others have said the governor has the authority to immediately appoint whoever wins the election as district attorney for the remainder of Spota's term.

and obstruction of an official proceeding; obstruction of justice; and accessory after the fact to the deprivation of civil rights, according to the indictment. If convicted, they each would face up to 20 years in prison. They pleaded not guilty at their arraignment Wednesday, and they were each released on a \$500,000 bond.

Federal prosecutors said in a bail letter that Spota and McPartland "agreed to conceal Burke's role in the assault and to obstruct and attempt to obstruct the federal investiga-

tion in order to protect Burke."

Federal prosecutors said the two men were accused of "using intimidation threats and corrupt persuasion to pressure . . . witnesses, including co-conspirators not to cooperate with the federal investigation, to provide false information, including false testimony under oath, and to withhold relevant information from" federal investigators.

The charges and decision to leave office abruptly end nearly 16 years in office for Spota, who

came into office promising to fight corruption and political prosecution.

U.S. District Court Judge Leonard Wexler, at their arraignment, ordered Spota and McPartland not to have contact with each other without their lawyers present in matters of the indictment, and not to contact any witnesses.

The judge said a third party, agreed to by prosecutors and defense attorneys, has to be involved in any joint regular work at the district attorney's office by Spota and McPartland.

Those restrictions made it impossible for Spota to stay in office, attorneys said.

"I can't see how he functions," said Christopher Brocato, president of the Suffolk Criminal Bar Association. "He can't talk to his senior staff."

Brocato said the scandal would taint every criminal trial that starts while Spota remains in office.

"He knew that his ability to administer justice was really compromised," Brocato said.

"I certainly think it's the right decision," said Dan Russo,

defense attorney and administrator of the Suffolk assigned counsel defender program. "He probably should have left earlier. It's done damage to some good people [still in the office], and that's unfortunate."

Russo called "for a complete housecleaning, and that means anyone in a supervisory capacity has to go," meaning all bureau chiefs and deputy chiefs.

He also urged other county agencies, like the medical examiner's office and the crime labo-

See SPOTA on A5

Records sought

Source: Info on bonuses for DA staff subpoenaed

BY DAVID M. SCHWARTZ
david.schwartz@newsday.com

The U.S. attorney's office in Brooklyn has issued a subpoena to the Suffolk County comptroller for information about bonuses paid by District Attorney Thomas Spota's office to top employees with asset forfeiture money, according to a county source with knowledge of the subpoena.

The federal subpoena was dated Oct. 13, the source said.

John Marzulli, spokesman for the U.S. attorney for the Eastern District, said the office "does not confirm or deny the existence of an investigation."

Robert Clifford, a spokesman for Spota, who announced Thursday he is leaving office after his indictment on federal charges involving a cover-up of a former police official's assault of a suspect, said the district attorney's office "has not received federal subpoenas related to the payments you cite."

Specific information about what the subpoena sought was not available.

Spota's office has paid a total of \$2.7 million in bonuses since 2012 using an asset forfeiture fund, according to documents released this month. The payments had not been budgeted or approved by the Suffolk legislature, although the district attorney's office said that is unnecessary.

Asset forfeiture money comes from assets seized during criminal investigations. The money typically goes to fund new law enforcement technologies and drug treatment programs.

Suffolk Comptroller John Kennedy, a Republican, said he would cooperate with any outside investigation.

"My research so far seems to indicate that it's a permissive use of state asset forfeiture funds," Kennedy said of the district attorney's practice.



John Kennedy

The annual bonus payments began in April 2012, and were approved by former Comptroller Joe Sawicki and later by Kennedy. Sawicki, a Republican who works as a Suffolk assistant police commissioner, did not return calls for comment.

District Attorney Division Chief Edward Heilig has said the bonuses were initiated to keep up with rapidly escalating county police salaries and were based on factors that included merit and working more than 35 hours a week.

Heilig said expenditures

from the asset forfeiture fund don't need legislative approval because they come from seized property. Heilig said other expenditures to pay for police overtime and for an East End emergency communications system also have been made without legislative approval.

The payments were made from a county general fund account and were reimbursed by the district attorney's office with asset forfeiture money.

On Wednesday, Spota and Christopher McPartland, head of the district attorney's political corruption unit, were indicted on unrelated federal charges involving a cover-up of former Suffolk Police Chief

James Burke's assault of a suspect in 2012. Spota and McPartland pleaded not guilty in U.S. District Court in Central Islip.

Since 2016, McPartland received three bonuses worth \$37,500, according to county comptroller records.

Suffolk County Executive Steve Bellone, in a letter to Kennedy about the bonuses last Friday, said "it is not clear" under what authority the payments were made.

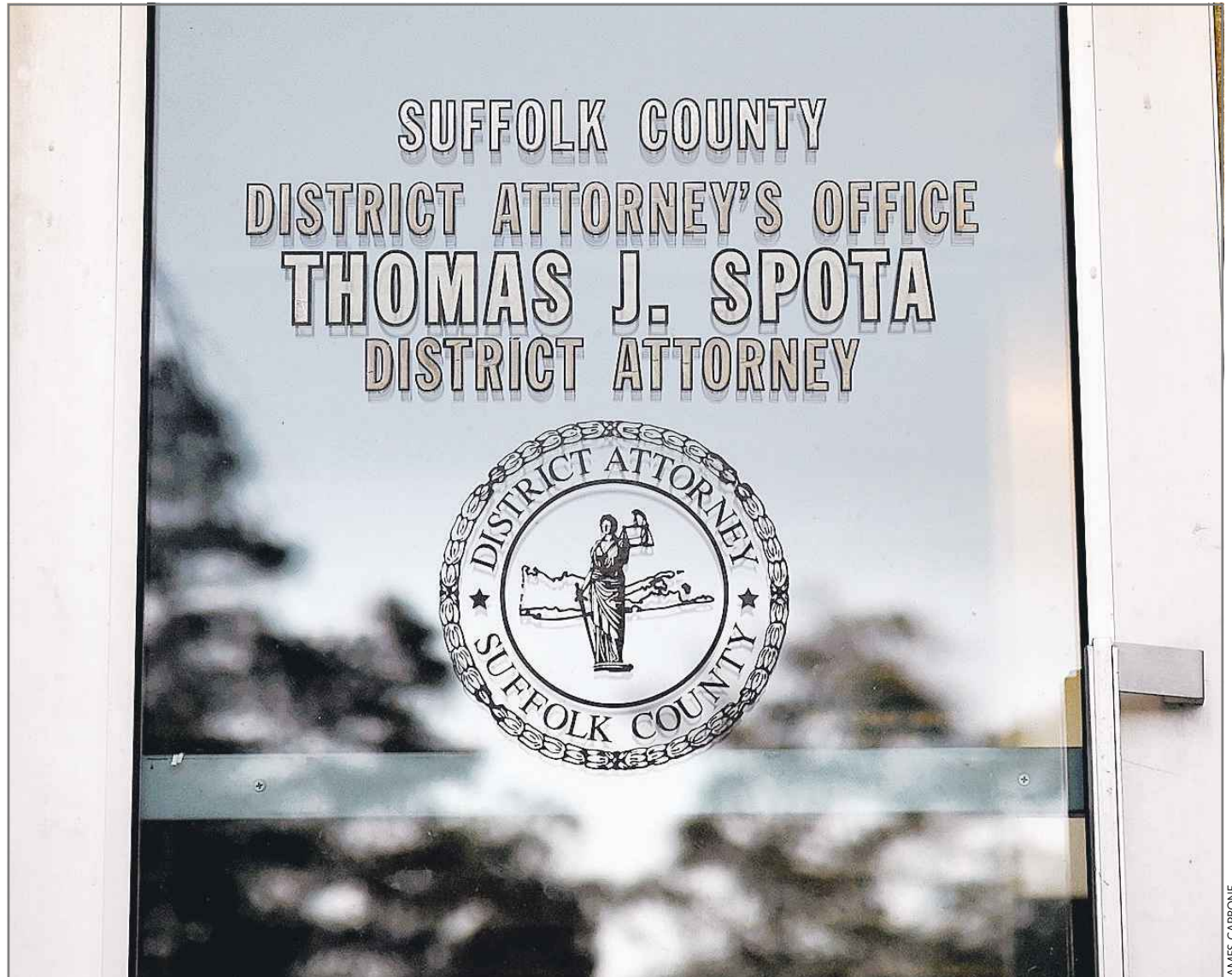
Bellone said an interview Thursday, "It looks like these payments, that were made in secret, have not been made in a manner consistent with the county code."

Legis. William Lindsay III

(D-Bohemia) and Legis. Kara Hahn (D-Setauket) also have written to Kennedy requesting more information about the bonus payments.

Hahn said compensation for public employees should be set during the budget process. "If you don't think people are paid what they're worth, you have to come to the legislature and convince us," she said in an interview.

Kennedy said he initiated audits of police, sheriff and probation earlier this year, as lawmakers raised questions about how the funds were being used. He began an audit of the DA's fund around September, he said.



The Suffolk DA's office has paid \$2.7 million in staff bonuses since 2012 using an asset forfeiture fund, documents released this month say.

Imprisoned ex-chief gets \$145G pension

BY SANDRA PEDDIE
sandra.peddie@newsday.com

James Burke, the imprisoned former Suffolk County police chief at the center of the indictments of Suffolk District Attorney Thomas Spota and a top aide, currently collects an annual pension of \$145,485, according to state records.

That taxpayer-funded income is in addition to a one-time \$194,901.98 payment he took from his pension when he retired, according to the state comptroller's office.

And it doesn't include the nearly \$435,000 Burke received in 2016 for unused sick and vacation time.

Spota, 76, announced Thursday that he will leave the office he has held since 2001 after filing for retirement. The amount of his pension has not yet been calculated. Christopher McPartland, 51 — since 2005, the chief of the district attorney's public corruption unit — has not filed for retirement, a spokesman for the state comptroller's office said.

Both Spota and McPartland were indicted Wednesday on four counts including conspiracy, witness tampering, and obstruction in connection with the federal investigation of Burke. They have pleaded not guilty.

Public pensions are protected by the state constitution and for the most part cannot be revoked even if the retiree committed a crime in office. A November ballot proposition would amend the state constitution to allow judges to reduce or revoke a pension of a public official convicted of a felony related to his or her duties. If approved, the amendment would apply only to crimes committed on or after Jan. 1, 2018.

Judges are allowed to strip pensions

of public officials convicted of corruption, but it only applies to appointed and elected officials who joined the pension system after Nov. 13, 2011. The proposed amendment would allow the law to apply to public officials who joined the pension system before then, as well.

Burke, 53, was sentenced in November 2016 to 46 months in federal prison after pleading guilty to covering up his beating of a man who in December 2012 stole a duffel bag out of his SUV that reportedly contained a gun belt, cigars, sex toys and adult pornography.

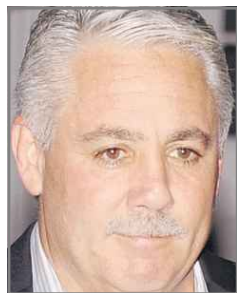
Burke, whose career in law enforcement spanned three decades, received \$434,369.52 for unused sick and vacation time on Jan. 4, 2016, less than a month after his indictment. It was paid according to union contracts, under which police employees receive payouts for up to 120 days of vacation time and 300 days of sick time. Because the payment is set by contract, the county cannot revoke it, a spokesman for the county comptroller said.

Legis. Rob Trotta (R-Fort Salonga) said that if Burke had been brought up on departmental charges and disciplined, he could have lost days and the payment could have been reduced.

"It's absurd," Trotta said. "The guy commits a crime relative to his duties, and we're paying for it?"

Doug Kellogg, a spokesman for Reclaim New York, a nonprofit government watchdog, echoed Trotta's sentiment.

"When we have public officials who are entrusted by the public with their trust, it's absolutely outrageous that when they commit crimes and get convicted of them, that the same members of the public have to pay for them," he said.



James Burke

Spota to retire at 'earliest opportunity'

SPOTA from A3

ratory, that hold themselves out as being independent of police and prosecutors to examine whether they truly are not just tools of law enforcement.

J. Stewart Moore of Huntington, president of the Amistad Long Island Black Bar Association, said he was pained by Spota's departure, because the office had just begun addressing issues of institutional bias.

"The African-American community's concern is that they lack confidence in the prosecutor's office overall," Moore said. "I give credit to Spota for doing something, however late."

Timothy Sini, the current Suffolk police commissioner and Democratic candidate for district attorney, said Thursday that Spota's resignation would be "the next positive step in restoring integrity to the district attorney's office."

He called McPartland's reassignment "ridiculous," adding: "He should be fired immediately."

Sini's Republican opponent, Ray Perini, said in a statement he posted on Twitter, "It is a sound decision for Thomas Spota to resign, but I am deeply saddened that the most powerful law enforcement official is under a federal indictment."

With Nicole Fuller and Michael Gormley

ROLEX

OYSTER PERPETUAL

COSMOGRAPH DAYTONA



LONDON

JEWELERS since 1926

AMERICANA MANHASSET 516.627.7475
EAST HAMPTON 631.329.3939 | SOUTHAMPTON 631.287.4499
WESTFIELD WORLD TRADE CENTER 212.381.9455

ROLEX OYSTER PERPETUAL, COSMOGRAPH AND DAYTONA ARE ® TRADEMARKS.