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## DOMESTIC & ECONOMY

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### Firing the Foggo Prosecutor: Sacked U.S. Attorney Bags CIA Official

**By Scott Lilly****February 14, 2007**

Two days before giving up her position as the U.S. Attorney for San Diego, Carol Lam won indictments against a former top official in the Central Intelligence Agency and a California businessman who was a top contributor to the Bush 2004 reelection campaign. The Justice Department says she is being asked to step down because of "performance-related" issues.

Last year, Lam convicted Congressman Randy "Duke" Cunningham (R-CA) of tax evasion, conspiracy to commit **bribery**, mail fraud, and wire fraud. In his plea agreement he admitted to accepting \$2.4 million in bribes, making his case many times larger than the next biggest public corruption case in the history of the country.

Also convicted last year as a result of Lam's efforts was Mitchell Wade, a major defense contractor. Wade plead guilty to bribing Cunningham as well as corrupting officials at the U.S. Department of Defense and to election fraud.

What is disturbing about Lam's departure is not simply that her efforts seemed to have been judged unfairly but that she is being forced to leave behind so much of the work that she started. Not only must the prosecution of former CIA official Kyle "Dusty" Foggo and businessman Brent Wilkes be placed in the hands of someone else, but investigation of numerous remaining questions will also fall to her successor.

Foggo, who was **indicted yesterday**, had languished for years as a mid-level bureaucrat passed over by supervisors who viewed him as ethically challenged and prone to poor judgment. When President Bush asked Congress to approve Porter Goss to replace George Tenet as Director of CIA, Goss brought with him long-time associate Patrick Murray, whom President Bush had previously appointed as Associate Deputy Attorney General.

Between the two of them, they conducted a major house cleaning of senior agency personnel and to the amazement of almost everyone, elevated Foggo from running a logistics shop in Germany to becoming Executive Director of the CIA, the No. 3 position in the agency and the office charged with not only running day-to-day operations but also with responsibility for all agency contracts and procurements. The crimes that Foggo is alleged to have committed had already occurred when he became Executive Director.

Indicted with Foggo was his long-time friend, Wilkes, who was **indicted** not only for conspiring to trade favors for lucrative government contracts with Foggo but also with bribing Cunningham. Wilkes, the operator of numerous corporations and shell corporations is also a Bush "Pioneer," meaning that he contributed in excess of a \$100,000 to Bush's 2004 presidential campaign.

Whether Wilkes used his influence with the Bush White House or friends in Congress to help his buddy Foggo gain his dramatic advancement within the CIA is unknown. But it is clear that he would have significant reasons to do so. Wilkes would have been grateful for

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the contracts that he had already gained from Foggo and would have been aware that in his new position Foggo would have been capable of being far more helpful to a contractor seeking business with the agency.

Whomever the White House selects to replace Lam will lack the same credibility that she possesses to not only establish guilt but also innocence in this disturbing tale. The investigative work that Lam leaves behind does not end with Foggo and his relationship with Wilkes. Case in point: Mitchell Wade has confessed to "corrupting officials" of the Defense Department, but so far those officials have not been named or charged.

Wade's company, MZM Inc., rocketed from a shell organization with no revenues in 2001 to one of the top 100 federal contractors in 2005 with revenues of more than \$66 million. MZM's first government contract came in 2002. It was for \$140,000 to provide "furniture" to the White House. No one has explained when Wade got into the furniture business, when he got out or why the White House would choose a company that had never previously sold anything to anyone as a vendor for White House furniture.

It is also clear that while Cunningham was very helpful to MZM and to the companies operated by Brent Wilkes, his assistance accounted for only a small fraction of their annual revenues. Were the other government contracts that these two businessmen obtained on the up and up (with the possible exception of those obtained through Foggo) or are they areas that Lam's investigation should examine?

The possible extent of this investigation and the amount of important work that is yet to be done makes the decision by U.S. Attorney General Gonzales to change leadership all the more troubling. A report by McClatchy Newspapers based on disclosures by unnamed Justice Department officials, disputes that there was a significant performance issue with respect to Lam or any of the other U.S. Attorneys dismissed by Gonzales. According to McClatchy:

Performance reviews of U.S. attorneys are conducted every three to four years by a team of experienced Justice Department officials, who interview judges, staff members, community leaders and federal agents. In some of the five cases, the reviewers made recommendations for improvements, but overall their assessments were positive, Justice Department officials said.????Lam was described in her 2005 evaluation as "well respected" by law enforcement officials, judges and her staff. Overall the review was positive.

Lam's principal public detractor has been right-wing Republican Congressman Darrel Issa, who represents a district adjacent to the one represented by Cunningham. Issa supported Cunningham for months after the disclosure that he had sold his house to a defense contractor for far more than the market price. Finally, Issa conceded after Cunningham had confessed that his colleague's behavior "fell below the standard the public demands of its elected representatives."

Issa, who has had his own personal scrapes with law enforcement, claims that Lam failed to emphasize the law enforcement priorities that he believes most pressing, including gun violations, prostitution and illegal immigration. (Issa himself was once convicted of illegal possession of a hand gun and has been accused of other gun crimes.)

But Lam's emphasis on public corruption is consistent with the law enforcement priorities officially set by the Justice Department. The department rates action against public corruption above all other areas of law enforcement except the prevention of terrorist attacks, counter intelligence, and the prevention of cyber attacks against American computer networks.

If Justice has yielded to Issa on Lam's continued presence in the U.S. Attorney's office, then has the department also yielded on the question of shifting resources from the ongoing investigations initiated in the wake of the Cunningham scandal? Gonzales' firing of this

particular U.S. Attorney at this particular point raises numerous questions that one would think this embattled White House would not wish to confront.

If the White House wishes to be absolved of the obvious inferences that are being drawn from this case then the president and his advisors should insulate the judicial process surrounding it as much as possible from any appearance of political interference. Instead, they have set forth boldly where no one has previously trod—replacing U.S. Attorneys without clear cause and doing so in the middle of sensitive and important prosecutions that appear that they might lead to or near the White House.

Rep. Rahm Emanuel (D-IL) has called on Gonzales to appoint Lam as a special counsel in the case so that she can complete the work she started. It would seem that is a reasonable way out for an Attorney General whose reputation will otherwise be permanently sullied by the messy course he has chosen.

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