

Prosecutor says Wilkes-Foggo probe unneeded

by Kelly Thornton

SAN DIEGO - Allegations that the federal government leaked secret grand jury information to the media before indictments were issued against Brent Wilkes and Kyle "Dusty" Foggo are under investigation by the Justice Department.

That means a request by defense attorneys for a separate investigation is moot, Assistant U.S. Attorney Jason Forge stated in documents filed in federal court late Monday.

Forge was responding to motions by the defense urging the judge to dismiss the case against Wilkes, based on leaks. The prosecutor wrote that the request should be denied because it is "bereft of evidence to establish that the alleged violations substantially influenced the grand jury's decision to indict him."

The indictments against Wilkes, a former Poway defense contractor, and Foggo, the former third-highest-ranking CIA official, stem from former Rep. Randy "Duke" Cunningham's bribery scandal.

A grand jury in San Diego issued two indictments Feb. 13. One charges Wilkes with 25 counts of conspiracy, fraud, money laundering and bribing an official. The document details \$700,000 in gifts Wilkes allegedly bestowed on Cunningham, from prostitution services to luxury vacations, so the Rancho Santa Fe Republican would steer \$100 million in federal government contracts toward Wilkes' flagship company, Poway-based ADCS Inc.

A second indictment charges Wilkes and Foggo with conspiracy, money laundering and honest-services fraud. The government said Foggo used his influence at the CIA to direct \$1.7 million in business deals to Wilkes, who in turn lavished Foggo with gifts, expensive dinners, trips to Scotland and Hawaii, and promises of high-paying future employment, the government alleged.

Both men have pleaded not guilty.

Forge did not address additional allegations by Wilkes' attorney, Mark Geragos, that the media leaks were part of a campaign by former U.S. Attorney Carol Lam to use Wilkes and other defendants as "pawns" in a "political squabble" with bosses at the Justice Department who wanted her fired.

Geragos contended that Lam wanted the indictments before the Bush administration forced her from office. The indictments were issued Feb. 13; Lam left two days later.

Geragos said he was contacted by at least six reporters before indictments were issued, and some said they had seen drafts of the document to be presented to grand jurors. The grand jury process is secret; it is a violation of federal law to disclose grand jury matters.

In Cunningham's 2005 plea agreement, the former congressman said he took at least \$2.4 million in improper gifts in return for helping Wilkes and a one-time associate, Mitchell Wade, gain defense contracts. Wade also pleaded guilty.

Forge argued in his response that Wilkes put himself in the media spotlight when he made incriminating statements to reporters in November 2005 by publicly acknowledging that he was the unnamed person to whom Cunningham referred in his plea agreement as "co-conspirator No. 1."

Cunningham said in the plea agreement that he received hundreds of thousands of dollars in bribes from co-conspirators, including Wilkes, Forge wrote.

The prosecutor's point: that Wilkes' statements - 15 months before indictments - were far more damaging and potentially influential to grand jurors than the government's alleged disclosures.

U.S. District Judge Larry Burns is set to hear arguments Monday.

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