

Criminal case filings up since Lam was replaced in San Diego

by Greg Moran - CNS

SAN DIEGO, Calif. - In the seven months since Carol Lam was forced to resign as the U.S. attorney in San Diego - ostensibly because she was not prosecuting enough cases - criminal case filings have increased significantly in the federal courthouse.

And if the current pace continues, more cases will be filed this year in the southern district of California than in any year since 2001.

Filings were up 70 percent in August, compared with the year before. At this rate, filings will be up 32 percent overall for the year.

However, the surge in case filings began even before Lam left office, data from the Federal Court Clerk's Office show.

In January, when word of Lam's imminent departure first leaked out, 230 criminal cases were filed. That was a 38 percent increase from the same month in 2006.

It set the trend for the year. Only in June did filings fall - down by 10 percent from June 2006. Since then, filings rebounded.

The sharp increase is quietly welcomed by some federal law enforcement officials. They say U.S. Attorney Karen Hewitt, a career prosecutor named to replace Lam in February, displays a greater willingness to prosecute border-related cases.

"She's made changes and is putting her fingerprint on the office," said Michael Unzueta, special agent in charge of the Immigration and Customs Enforcement agency in San Diego.

But some defense lawyers said the increase is a result of the office being more willing to prosecute immigration cases.

"Any time you want to turn on the spigot and get your filings up, it's easy to do," said defense lawyer Michael Crowley. "They always get their numbers up with immigration cases - it's a cash cow."

Lam, who spent 4 1/2 years on the job, was criticized for not prosecuting enough immigration-related cases while leading an office with jurisdiction over the busiest segment of the U.S.-Mexico border.

Immigration prosecutions in San Diego are projected to be up 12.4 percent for the fiscal year that ended Sunday, compared with the previous fiscal year, according to data from the Department of Justice.

That's more than double the 5 percent increase in immigration prosecutions from 2005 to 2006, the last full year of Lam's tenure.

Hewitt attributed the increase to several factors, including more resources - the office has added 10 prosecutors since she took over Feb. 15, bringing the total to 115.

Other federal agencies in the southern district, which covers San Diego and Imperial counties, have also increased their staffing, leading to more arrests and eventually more cases.

Additionally, there is continuing broad coordination between the agencies and the prosecutors in her office, Hewitt said in an interview.

Unzueta said his agency has seen an upswing in prosecutions of human smuggling cases, and a marked increase in prosecutions of people who re-enter the country after being deported.

There also have been more prosecutions for possession of child pornography, he said, which often were handled in state court.

Still, defense attorneys said the increase simply shows that the office under Hewitt more readily accepts cases brought to them by law enforcement agencies than when Lam was in charge.

"The agencies were disgruntled because the filings were down" during Lam's tenure, said criminal defense lawyer Jan Ronis. "Of all the reasons I heard as to why they let Carol go, that was the only one that made sense."

The message was clear that the U.S. attorney was to keep the agencies happy, Ronis said. "You would have to be a fool not to have learned that lesson."

Lam departed under pressure from her superiors in Washington on Feb. 15, one of several U.S. attorneys around the country who were forced out of office in an unprecedented purge.

Lam said she had pursued a policy of going after bigger fish in immigration cases and working with local prosecutors to bring gun cases in state court - where penalties are often higher. She testified before Congress that she was confused by her firing and was never told her job performance was poor.

Others saw Lam's ouster as politically motivated, citing her aggressive pursuit of public corruption cases and white-collar crimes. Lam's investigation of former Rep. Randy "Duke" Cunningham, R-San Diego, led to his guilty plea to conspiracy and tax evasion, a more than eight-year prison sentence and a wider investigation into congressional corruption.

Lam also secured indictments against Poway, Calif., defense contractor Brent Wilkes and Kyle "Dusty" Foggo, the former third-ranking official with the CIA. They are charged with conspiracy, money laundering and fraud.

Hewitt's interim appointment expires Oct. 12, and many observers expect that she will remain in office until President Bush's term expires next year. The Justice Department is in flux after Attorney General Alberto Gonzales' departure - in large part because of how the federal prosecutors' firings were handled and justified.

No permanent replacement for Lam has been nominated. By law, if someone is not tapped within 120 days of an interim replacement, the federal judges in the district make the appointment. Hewitt could be reappointed by a vote of the judges.

U.S. attorneys were also replaced earlier this year in the Northern District of California, which encompasses the Bay Area, and the Western District of Washington, which includes Seattle. The judges in those districts have already voted to make the interim appointments to those posts permanent.

Chief Judge Irma Gonzalez in San Diego said no vote has been taken here yet on a replacement for Lam. But, she said, the judges will make a decision before Oct. 12.

Hewitt declined to comment on her status. But Gonzalez praised Hewitt's performance. "I believe she has done a very good job, an excellent job," she said.

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