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Life After Prosecuting for the Feds: Opening a Private Practice

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SAN FRANCISCO — When David P. Bancroft and Richard J. Sideman left their jobs as assistant U.S. attorneys in 1978, they were believed to be the first former federal prosecutors in Northern California to start their own firm.

“I wanted to do business crime defense work and Richard wanted to do criminal tax and tax controversy work,” said Bancroft, name partner of the San Francisco-based criminal, civil and tax law boutique Sideman & Bancroft.

“If you had gone to a law firm at that time and said you wanted to do that kind of work, they’d say, ‘We don’t do that.’”

At the time, it was uncommon for the Department of Justice to involve itself in corporate malfeasance. Instead, the Securities and Exchange Commission levied large civil fines to deal with infractions that today would warrant criminal prosecution by a white-collar crime unit.

“We really didn’t have a skill set to sell to a law firm,” he said. “I get calls from headhunters all the time now. It’s laughable to think I would’ve gotten a call in 1978.”

In the past three decades, Sideman and Bancroft have seen a growing, but still relatively small, number of former government prosecutors start their own firms. They include Los Angeles-based Terry W. Bird and Vincent J. Marella, who opened a firm in 1981, and San Francisco’s Ismail J. Ramsey and Miles Ehrlich, who hung their shingle this year.

Ask Steven F. Gruel why, after 16 years as a successful federal prosecutor in the Northern District of California, he chose to start a solo defense practice at the start of



S. TODD ROGERS / Daily Journal

Former federal prosecutors Ismail Ramsey, left, and Miles Ehrlich opened their own criminal-defense firm this year. “The small footprint we have gives us a lot of flexibility to work on a variety of cases and structure rates for individual clients,” Ehrlich said. “That would be very hard to do at a [big] firm.”

2005, and he answers without any hesitation.

“The view,” he said, sweeping his hand across the breathtaking view of the San Francisco Bay he has from his corner office 17 stories above Montgomery Street.

“Not just this view, though,” he said. “It’s a change of view of who I am and what I want to do.”

During his last four years with the Department of Justice, Gruel served as chief of the major crimes unit and acting chief of the organized crime and racketeering strike force.

He left the U.S. attorney’s office in January 2005 shortly after the successful

prosecution of 21 defendants, all members of the violent Nuestra Familia prison gang, in connection with 15 murders.

Gruel agreed that leaving the office on that note was analogous to hitting a game-winning buzzer-beater in the final game of his career as a prosecutor.

“I knew the day would come,” he said. “When it came to challenges [as an assistant U.S. attorney], I had reached the end of the line.”

The transition was seamless. He’s now defending Los Angeles private investigator Anthony J. Pellicano, whom he once relied on as an expert witness as a prosecutor, against a 112-count conspiracy,

racketeering and wiretapping indictment.

Other cases include the defense of a drug enforcement agent, counseling in white-collar investigations and representing one of 28 defendants charged with human trafficking.

Gruel already is considering opening a Los Angeles outpost and expanding his practice to his native Wisconsin.

Ramsey & Ehrlich, a Berkeley-based criminal defense boutique, opened for business at the beginning of the year. Ramsey spent four years as an assistant U.S. attorney between two two-year stints as an associate at Kecker & Van Nest, a litigation boutique co-founded in 1978 by former assistant federal defender John W. Kecker.

As a prosecutor, Ramsey was assigned to both the white-collar crime unit and the computer hacking and intellectual property unit in the Northern District of California.

Following clerkships in the 9th U.S. Circuit Court of Appeals and the U.S. Supreme Court, Ehrlich spent six years as a prosecuting trial attorney in the Justice Department's public integrity unit in Washington, D.C. He came west in 2000 and spent five years in the white-collar crime section. He was the unit's chief in his final two years as a prosecutor.

Ramsey, 38, and Ehrlich, 40, initially considered their choice to go out on their own a "leap of faith." But the opportunity to gain the independence and versatility to represent individuals, as opposed to corporations, and the ability to accept a diverse mix of cases outweighed any perceived risk.

They're off to a running start, with a client list that includes Mark Klein, the AT&T whistle-blower who exposed warrantless surveillance by the National Security

Agency, and a physical trainer in Major League Baseball's ongoing steroid investigation.

"The small footprint we have gives us a lot of flexibility to work on a variety of cases and structure rates for individual clients," Ehrlich said. "That would be very hard to do at a firm where the economic realities are different."

Having spent two years at a Madison, Wis., firm before becoming a federal prosecutor, Gruel knew firm culture to be "too routine" for his liking.

"Going from complete relative autonomy to supervision by someone who most likely doesn't have my courtroom experience was unacceptable," he said. "I wanted to have the complete freedom of taking a practice and have it be exclusively mine."

Economics might be the main cause for the rarity of prosecutors willing to take a gamble on a venture of their own.

"Over the years, we've heard a lot of people mention that they'd want to go practice on their own or start a small firm," Ramsey said. "But I think, when push comes to shove, a lot of people are not in a position with their family and their finances to take the risk of starting on their own."

The outlay of cash to set up a firm's infrastructure can be costly, Ehrlich said, and there's always the possibility that many won't be able to take a draw for a while.

"You're a rainmaker, an accountant, a [public relations] man and a lawyer," Gruel said. "Every day is either a Saturday or a Monday. You can take the day off, or you can pound the street. I have more Mondays than Saturdays because I want to make it big."

Referrals are the start-up law firm's bread and butter.

Before leaving the U.S. attorney's office in the late '70s, Sideman and Bancroft compiled a list of acquaintances, relatives, friends and friends of friends whom they thought they could rely on for business in private practice.

A third of the 40 names on the list agreed to retain them for one thing or another, once they launched their practice.

"Do you know not one of those people gave us any business for the next five years," Bancroft said. "We relied on referrals from the law firms that wouldn't hire us. I'd like to think they came to us because we were the best, but the truth is there were very few people doing this kind of work."

When Ramsey and Ehrlich announced their intention to hang their shingle, they had no clients.

"But before we actually opened our doors, we started getting work," Ramsey said.

Cases came due to Ramsey's appointment to the Criminal Justice Act panel, a hand-picked group of attorneys who accept cases when conflicts prevent appointment of a federal public defender.

Another source of work came when a publicly traded software company retained the firm to counsel on compliance of trade-secret laws as independent monitors.

Gruel relied on the contacts he'd made throughout his prosecuting career.

"I'd purposely get involved in activities outside of the law to cultivate contacts," he said. "You don't expand a solo practice at bar association meetings. Those people don't hire lawyers."

Gruel said the phone is ringing off the hook.

"The practice is building so quickly, it's hard to keep it under control," he said. "I don't think I'll be content keeping it solo."