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From left, David S. McLane, Marilyn E. Bednarski and Ronald O. Kaye

# Full Service

A desire to help criminal defendants in all aspects of their legal problems led three federal public defenders to form their own law firm six years ago.

By Susan McRae  
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**P**ASADENA — David S. McLane was arguing a false arrest claim in federal court when a judge's sharp-tongued comment brought him up short.

McLane had been impeaching two police officers for assaulting his badly beaten client, as he attempted to show that their reasons for arresting the man couldn't be believed, when the judge cut off his line of questioning.

## Small Firm Focus

"Small Firm Focus" is a twice-monthly series looking at small firm practices.

"He said, 'If you want to become a civil rights lawyer, become one,'" McLane recalled. "So, I thought, OK, maybe that's something we should do, because it was very upsetting to see that a lot of these individuals have no relief."

McLane, a federal deputy public defender for 13 years, had been talking for some time to fellow defenders in the office, Ronald O. Kaye and Marilyn E. Bednarski, about the limitations of their practice.

"Whether you're a state or federal public defender, you can only represent your clients with respect to the charge," McLane said. "Often there's ancillary proceedings, either in state court or maybe they're charged in both courts. Maybe they have some probation violation you want to resolve while the federal case is going on. You couldn't do those sorts of things."

"Also, often we would see our clients being mistreated, and I think that leads to why we wanted to do civil rights work."

So in October 2003, the three attorneys, who had racked up a collective 37 years of experience with the office, formed Kaye, McLane & Bednarski. The firm specializes in representing clients in state and federal court in criminal matters, civil rights claims and on appeal.

For the first six years, the trio worked out of space leased from prominent civil rights firm Hadsell Stormer Keeny Richardson & Renick. In July, they moved into their own suite of offices in the Paseo Pasadena, a mixed-use mall with a view of City Hall and the San Gabriel mountains.

From the beginning, the firm has had a vibrant criminal defense practice that allows them to take civil rights cases on contingency. "That was the business model we started with, and we're doing it," McLane said.

They point to the civil rights case of Thomas Lee Goldstein as emblematic of what they set out to do. A former Marine, Goldstein spent 24 years in prison for murder before his conviction was overturned.

The case arose from the 1979 shotgun killing of a man in a Long Beach alley near where Goldstein was living in an unheated, \$85-a-month garage. At the time, Goldstein was a student at Long Beach City College and drinking heavily. He had three arrests for public drunkenness but no record of violence.

Although police found no forensic evidence, they arrested Goldstein and charged him with murder based on what, years later, was shown to be tainted evidence from a jailhouse snitch who falsified a "confession," and an eyewitness who later recanted.

Five federal judges eventually agreed Goldstein was wrongly convicted and ordered him set free. But he remained in prison for two more years until a Superior Court judge in Long Beach ordered his immediate release in 2004, after a prosecutor said the district attorney's office was unable to retry him.

"Dave and I heard about this case, and went to visit Goldstein while he was in custody and,

the city of Long Beach, its arresting officers and the Los Angeles County district attorney and chief deputy from Goldstein's 1980 trial. The lawyers argued, among other things, that the informant lied to a jury about receiving leniency for his testimony. *Goldstein v. City of Long Beach*, CV 04-09692 (C.D. Cal., filed 2004).

The district attorney's office appealed, claiming prosecutorial immunity. The firm countered that a Grand Jury report on the office's use of jailhouse informants revealed it had no policy to ensure that deputies shared informant activities, thus its actions were administrative and not protected by immunity.

The District Court and 9th U.S. Circuit Court of Appeals agreed.

But the U.S. Supreme Court reversed, reasoning the prosecutors' decision not to share information was intimately connected to their roles as officers of the court.

While the setback was a major disappointment, the firm is pursuing the lawsuit against Long Beach and two of its officers and is set to go to trial in March in U.S. Central District Court.

Meanwhile, the scrappy team has kept busy holding the government's feet to the fire in a

handed to the Chinese.

"Everyone else in that case pleaded out and took deals, but our client believed in his innocence and took on the government with its phalanx of agents and prosecutors," Kaye said. "It was one of the most troubling results of my career. I respected the judge, but I knew Chi Mak very well. He was such a good human being. Everybody praised him. He would just be there for everybody, working extra hours, and the technology that was issued had been disseminated internation-

ally at forums." Bednarski, 51, a Loyola Law School graduate, joined the federal public defender's office in 1984. When Federal Public Defender Maria Stratton was appointed to the bench, Bednarski, a senior litigator, faced a decision of whether to apply for the top post or strike out on her own. She chose to heed her father's advice of not staying in a place so long that you become too comfortable.

Kaye, 48, a UCLA School of Law graduate, is an 8-year veteran of the federal public defender's office and a former Legal Aid

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Mak, then 67, was convicted in 2007 and sentenced to 24 years in prison. The firm hasn't given up, though, and has turned the case over to a colleague at the federal public defender's office who specializes in appeals. *United States v. Chi Mak*, CR05-293 (C.D. Cal., filed 2005).

The firm's disappointments have been offset by its successes.

Earlier this year, Kaye negotiated what he described as a handsome settlement against the City of Placentia on behalf of an 11-year-old boy whose father was teased and shot to death by a police officer. Afterward, police determined that the man, who had been suffering from a psychological episode, was unarmed.

Kaye reached a favorable settlement with the state Department of Corrections in a case alleging an officer at the Ventura Department of Juvenile Justice broke a girl's collarbone. He has another case pending against the department on behalf of a client who lost his sight because prison officials failed to treat his glaucoma.

While the partners each have their own specific reasons for joining the firm, they all wanted to be able to represent people in a broad spectrum of areas.

Foundation lawyer. He's taught criminal law at UCLA to members of the Kingdom of Bhutan judiciary and led a delegation investigating the murder of Jesuit priests in El Salvador.

McLane, 50, also a UCLA School of Law graduate, headed the federal public defender's office's Indefinite Detention Project, which resulted in the release of 300 detainees from numerous countries from unlawful immigration detention.

The lawyers say they have no plans to grow right away or ever grow too big. Being small allows them to become involved in each other's work. They reserve Friday afternoons for brainstorming and trying out closing arguments.

"It's a very communal feeling," Kaye said. "Everybody has their own cases, and we know where we're going, and we stand in for each other all the time."

They recalled when they decided to launch their own practice. McLane had just seen the movie, "All About Schmidt," with Jack Nicholson as a widower who retires, buys a motor home and laments opportunities he let pass him by.

"Dave said, 'Maybe you should see this movie,'" Kaye recalled. "He said, 'If we don't go into private practice, this is how we are going to feel. This is what we've got to do. We've got to go ahead and pursue our own thing.'"

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boom, he makes a decision to go with us," Kaye recalls. "Then he's released, and I have to pick him up. He has no clothes. He has no money. He's in a jail jumpsuit. Dave has the same measurements, so we went to Dave's house and borrowed some clothes."

Kaye and McLane treated their new client to a Mexican dinner and his first beer in 24 years. Afterward, they arranged lodging for him at a shelter run by The Catholic Worker, one of Kaye's clients, and got him a job as a paralegal at Hadsell Stormer.

The firm initially brought a suit for wrongful conviction and police misconduct against

variety of other matters, from allegations of international espionage to drug dealing to gang activity to police abuse and corruption.

Another case close to the firm's heart involved Chi Mak, a naturalized U.S. citizen who worked as an engineer for a California defense contractor. The U.S. attorney's office charged Mak with conspiring to export sensitive defense technology to China.

The Kaye, McLane & Bednarski team handled his defense. They argued that their client thought there was nothing improper in allowing a paper he already had presented at a international engineering conference to be