

# H-Net Reviews

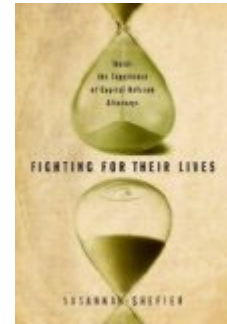
in the Humanities & Social Sciences

Susannah Sheffer. *Fighting for Their Lives: Inside the Experience of Capital Defense Attorneys*. Nashville: Vanderbilt University Press, 2013. 224 pp. \$27.95 (paper), ISBN 978-0-8265-1911-5.

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Published on H-Law (November, 2013)

Commissioned by Craig Scott



I should alert H-Law readers at the outset that this book is not a conventional work of legal scholarship. It is, rather, a conversational collective portrait of veteran capital habeas lawyers, written by an activist in the field—Susannah Sheffer, a staffer at the anti-death penalty organization Murder Victims’ Families for Human Rights. Seeking to illuminate the “emotional experience” of attorneys in this isolating line of legal work (p. 4), Sheffer presents an often moving account of the psychological and even physical toll of representing death row prisoners.

The book is organized topically, with Sheffer’s own observations interwoven with attorney reflections about such subjects as why they got into death penalty work; how they maintain the motivation to continue; how they define their role; and what strategies they use for coping, or not, with the pressures of their uniquely high-stakes, low-success job. In the anecdotes they recount, these attorneys cycle through rage, fear, anxiety, guilt, helplessness, and numbness; they fall into ruts of depression; they work all night, drink too much, and flail through nightmares.

A recurrent theme is the disconnect between their professional identity and training in the law, with its bourgeois conventions and rules, and the horrific dysfunction and suffering to which their work exposes them. However well prepared for the intellectual challenges of crafting a federal habeas petition, they were never taught how to comfort a condemned man’s mother in a prison parking lot, or to square their friendships with their clients with compassion for the victims of their clients’ crimes. As one lawyer tells Sheffer, “there’s no course in

law school in bedside manner at an execution” (p. 88).

*Fighting for Their Lives* would make good companion reading for a criminal law clinic or externship; excerpts might also be used to spark discussion in legal ethics courses. Some chapters are meatier than others. I found most thought provoking chapters 5 and 6, which grapple with the psychological fallout of capital representation and the relative dearth of support mechanisms within the legal profession—particularly in comparison to other fields (such as policing or medicine) that regularly expose professionals to traumatic situations—and chapter 8, on capital defenders’ sometimes volatile relationships with their clients.

For legal historians, however, the book’s format tempers its incidental value as a quasi-primary source in the history of the modern American death penalty. Many of Sheffer’s sources were in college or law school during the punitive turn of the 1980s and ’90s. Their memories could add depth to our understanding of the day-to-day operations of what Justice Harry Blackmun called “the machinery of death,”[1] forming a more personal, ground-level complement to big-picture sociological and historical works like David Garland’s *Peculiar Institution: America’s Death Penalty in an Age of Abolition* (2010) and James Q. Whitman’s *Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe* (2005) that ask why capital punishment has persisted in (parts of) the United States beyond its abolition in other Western democracies.

But Sheffer reveals little about the identity or background of the twenty attorneys whom she interviewed.

The reader learns that they average nineteen years' experience and are "highly regarded"—the sort of lawyers who are "invited to speak at conferences and to consult on others' cases" (pp. 5-7, 138). Not surprisingly given the geography of the modern death penalty, they work primarily though not exclusively in the Deep South. That's about it. Sheffer does not tell their ages, class or racial or sexual or religious or political identities, or even where exactly they live and practice. Their reasons for entering death penalty work are sketched in generic outlines, such as being "a good Samaritan" or "tak[ing] the side of the underdog" (pp. 17-18). This lack of personal detail blends the individuals interviewed into a sort of amalgamated ur-defender.

Sheffer's effort to protect her sources' confidentiality, although perhaps necessary to secure interviews delving into sensitive topics, means that *Fighting for Their Lives* furnishes little of the raw material that historians would need to trace change over time or variations from place to place. As I hope is evident, I offer that observation only in the spirit of a public service announcement, and not as a criticism, since aiding historians is not, of course, the book's goal. On its own terms, the book succeeds, highlighting emotional dimensions of lawyers' work that are often overlooked in legal scholarship and education.

Note

[1]. *Callins v. Collins*, 510 U.S. 1141 (1994).

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**Citation:** Sara Mayeux. Review of Sheffer, Susannah, *Fighting for Their Lives: Inside the Experience of Capital Defense Attorneys*. H-Law, H-Net Reviews. November, 2013.

**URL:** <http://www.h-net.org/reviews/showrev.php?id=40132>



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