

What Does it Feel Like to be a Lawyer?

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Susannah Sheffer, **Fighting for their Lives: Inside the Experience of Capital Defense Attorneys** ([Vanderbilt University Press](#) 2013).

The question of how it feels to do the work we do receives little attention in mainstream legal literature. We tend to treat the very acknowledgement of our work's emotional aspects as downright unlaywerlike — a challenge to law's rational and rigorous essence. Yet as this book beautifully illustrates, the question of how it feels to do our work cannot be cordoned off from the issues at the center of the teaching and practice of law: what it means to be an ethical, zealous, effective counselor and advocate with a satisfying, sustainable legal career.

Susannah Sheffer sheds light on all these issues, though she sets out to answer a narrower question: what it is like to be a capital defense lawyer specializing in post-conviction challenges. What is it like for these lawyers, she asks, not in the courtroom or the offices of the capital habeas unit, but “in the middle of the night, in the pit of the stomach, in their last visits or phone calls with clients who are about to be taken to the execution chamber, in the mornings after, in their lives with their families, in their dreams and flashbacks and quiet moments alone?” What is it like to do this work in the face of incomprehension and even hostility from the larger community? What motivates such lawyers and how do they keep doing what they do? Shaffer explores these issues in conversations with twenty capital defense lawyers in this insightful and deeply affecting book.

There have been some terrific books written about capital lawyering — books on the craft (such as Welsh White's *Litigating in the Shadow of Death*), accounts of particular cases (such as John Tucker's *May God Have Mercy*), memoirs by capital lawyers (such as David Dow's *The Autobiography of an Execution* and my colleague Andrea Lyon's *Angel of Death Row*). Sheffer comes at this topic from a unique angle, and her approach yields unique rewards. As she describes, she has been immersed over the years in other “what is it like” explorations involving the criminal justice system and violent loss, most recently as project director and staff writer for Murder Victims' Families for Human Rights. She is a gifted interviewer; one of her achievements here is her ability to create relationships of trust with lawyers who are unused to exploring the emotional aspects of their work and reluctant to make themselves the central topic of conversation. She is also a lucid and lyrical writer. The resulting conversations, woven into a compelling narrative, are searching and thought-provoking. They provide insights into the emotional aspects of lawyering that I have found nowhere else.

The book is organized topically; it explores the motivations for becoming a capital defense attorney, the responsibility (the sense of “it's on me to stop this execution”), the emotional impact of the work on the lawyer, the culture of not talking about this emotional impact, the relationship with the client (the complex tasks of keeping hope alive, giving realistic counsel, and maintaining trust), the emotional dynamics of fighting against overwhelming odds, the complicated notion of a “victory” in the post-conviction context, and two final chapters on getting out of the work and staying in.

Some of the questions explored are unique to capital defense law: how to talk to a client who is about to walk into the death chamber, whether to attend the execution of a client, how to go on to the next case after yet another client is executed, how to find work-life balance when you are the last barrier between your client and the death chamber. In one lawyer's haunting phrase, “Our clients can't afford for us to be finite, or frail, or tired.”

In the concluding chapters, Sheffer and her interviewees meditate on whether the support and camaraderie of those in

the field is enough, or whether there should be more institutionalized mechanisms for dealing with the pain, trauma and other emotional challenges of the work. Although it is not discussed explicitly, Shaffer briefly raises a more basic question at the close of her book — what it means to impose a penalty that requires people to drive themselves to try to be infallible; to carry this sort of weight. As she says, the death penalty is “something we decide to do.” For that reason, “its impact deserves our fullest attention.”

Thus this is a book about capital punishment, but it is about lawyering in broader contexts as well. I will highlight just a few of the issues on which this book sheds new light — issues whose cognitive dimensions have been discussed many times, but too often without attention to the affective dimension. One is the issue of “cause lawyering” and why lawyers choose to do it. These conversations capture the complex blend and broad sweep of emotional and intellectual motivations with satisfying nuance. Another is the question of role differentiation (how do we represent people who have done terrible things?). As I’ve [argued](#), this is not a complicated ethical issue, but it is a difficult emotional issue.

The book contains searching discussions of the lawyers’ loyalty to and empathy toward their clients, their mindfulness of the pain their clients have inflicted (the post-conviction lawyers in these pages rarely mention actual innocence claims), and the challenges of feeling both at the same time. Finally, there is the implicit question at the heart of this book: What would we gain, for ourselves, for our profession, for our system of justice, if we recast the emotional aspects of lawyering as an integral part of lawyering discourse?

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