



BOOK REVIEWS

from witnesses on the stand, juries delivering acquittals, or legal sleight-of-hands that television viewers see on *CSI*. Instead, Feige, who is trial chief of the Bronx Public Defender's Office, charts his movement through the various levels of the New York City court system. It is a harrowing, enlightening and ennobling experience.

What goes on during his day? Various court appearances, client conferences and bail hearings fill Feige's time. Readers accompany Feige as he empathizes with clients, schmoozes with guards, spars with district attorneys, argues with judges, and, at the end, draws night court duty.

Between running from office to court to jail to court, Feige flashes back and interweaves the stories of the criminal justice system from the public defender perspective. In an engaging, lively style, Feige recounts his experiences in this trial and that trial and with such-and-such client. He identifies judges by type and district attorneys by attitude. You will recognize them all.

Feige does not shy away from naming names, and his honesty may meet with a chilly reception from some courts. However, judging from the accounts in *Indefensible*, the attitudes are well-deserved. Feige ruefully notes, and we can all relate, that "years of my life have been spent navigating the dangerous reefs of a belligerent judiciary. Half of being a good lawyer is learning how to anticipate and cope with the idiosyncrasies of various judges." He goes on to note that judges have enormous power, and "[t]he result of this power is a constant deference that turns many judges into spoiled divas who can't stand even a hint of disrespect." (p. 71) On the other hand, there are judges who are kind, compassionate, and know how to play the role and dispense justice. Unfortunately, the former seemingly outnumber the latter.

What struck me as most true about this account is Feige's attitude toward being a public defender and toward his clients. In telling their stories, the author speaks for all of us who do indigent defense. We have all been the subject of a client's wrath or disrespect, but Feige works to recall that "[t]hey're angry, resentful, sometimes frightened, and

almost always desperate to get out as soon as possible. And they have no one to lash out at. All the anger, fear, and frustration of a steady diet of violence and bologna sandwiches are often hurled at the only available outlet — the public defender they did not ask for and do not trust." (p. 118).

In the stories about his clients, Feige is always engagingly human. He recalls how he nearly went to trial with a client who was facing a ton of time because the client was so impressed with Feige's belief in his innocence. The client was willing to take decades not to disappoint Feige and admit that, indeed, he committed the robbery. In another case, Feige discusses the difference between the hardened defendant, who has been through the system and has a professional attitude towards it, and the first-time offender who, in one example, through a series of mistakes and drawing an especially vitriolic judge, was jailed for four days after being ticketed for walking a dog that did not have its proper licenses. Feige hits things dead-on, such as in client relations where the key thing is often, more so than class, race or practically anything, whether the client is in custody or out.

Many of us who are public defenders believed, when we started this work, that trials would be the vindication of the system, *i.e.*, that one goes to trial for justice. It is all too true, as Feige observes, that although trials capture the imagination of the public and inspire young people to become lawyers, they can represent the failure of the system. These failures include the failure to find forensic evidence; failure of the DAs to make a reasonable deal; and failure of defense counsel to convince the client that a plea is a good one even though it will result in several years in prison.

One of the joys of the book is the nomenclature or slang that is used in the system, which is a culture unto itself, and yet is a variation of similar conversations being held in similar lock-ups throughout the system: "football numbers" (meaning 10-15 years); "cards" (as a synonym for bodies); "milk or pampers" (a shorthand for an explanatory defense); and describing a certain arrest as a "B&B" in an area where there are "nickels and dimes." This is a language that is

Indefensible: One Lawyer's Journey Into the Inferno of American Justice

By David Feige
Little, Brown and Co.
274 pages; \$24.95
Reviewed by Jon M. Sands

Abandon all hope ye who enter. This inscription, carved at hell's entrance, confronted Dante as he entered into the inferno. It could serve as a metaphoric inscription, instead of the usual pious platitudes carved in marble on courthouses, for defendants entering the criminal justice system. Those who enter such an inferno would be fortunate to have a public defender as dedicated as David Feige, and fortunate to have a manual for survival as presented in *Indefensible*.

This is an extraordinary book. It is an account of one day in the life of a Bronx public defender. It is a "typical" day, which means that there are no astounding trials, confessions blurted

taught at the college of hard knocks and derives from the linguistics of poverty, despair and drug trading.

Feige has empathy for his clients and for people in general. He is a nice guy; this fact shines through. He reflects that, “Defending the guilty is easy. Not all clients are classically pleasant, of course. Some are defiant, others pathetic, some terribly needy, others inalterably enamored of the gangster life. But every client has a story — not a story about the crime or charges, but a life story that is, by turns, tragic, compelling, and unique — and getting to know clients makes them easy to defend. It is easy to want to protect someone you know from the horror of prison — even if they have done something criminal.”

The difficulty comes from representing the innocent. “Nothing good can happen when you represent an innocent client. If you beat the case, and the client is acquitted, it is precisely what everyone expects — no joy there, just the relief associated with avoiding a terrible injustice. And if you lose, the case haunts you so that in the middle of the night and until sunrise you wonder what you did wrong, what you forgot, what you could have said — how such a thing could have happened. It is a searing, guilty pain that can last for years, if not forever. It is the innocent ones that drive you out of the work.” (p. 58)

It is observations like this that ring so true, that have such a verisimilitude that I did not want the book to end as the clock ticked to the midnight hour. But end it does, as Feige drags himself, after his night court shift, to a late night, or really early morning, dinner and then home to bed. And the recollection, that we have all had, that we have screwed up. He talks, at various times, of burn out and how the work can grind you down until, to protect yourself from caring too much, you cease to care at all. But if you care, the searing pain of knowing that you made mistakes comes forth. In the triage of public defenders, one does make mistakes:

Every public defender is going to make mistakes, and those mistakes are going to take a terrible, inexcusable and unforgivable toll on the lives of the clients you love. It’s just going to happen. You will err, and someone will go to jail because of it. Somehow, to survive in the work, you will need to find a way to forgive the unforgivable, to accept and acknowl-

edge that you have screwed up and to recognize the price of that screw-up without becoming so paralyzed that you can no longer do the work. As bad as you may think you are, clients need you — they are desperate for decent lawyers. Don’t be your own worst enemy. *Forgive yourself* — or you will burn out in two years.

(p. 252)

This book should be required reading for every public defender. It is riveting, vivid, alive. My only quibble is, sadly, with the title, *Indefensible*. It sounds too hopeless. Feige proves that even in the hell of an under-funded, over-stressed criminal justice system, crimes are defensible and people can be given dignity. Feige sees to that. If you want a manifesto for why we do what we do; if you want a creed for defending the Constitution; and if you want to believe again, this is a book you must read.

Criminalistics: An Introduction to Forensic Science, 9th Ed.

By **Richard Saferstein**
Pearson Prentice-Hall (2007)
654 pages; \$104
over 200 illustrations, index
Reviewed by Gil Sapir

Do not judge a book by its cover. This maxim is apropos for the ninth edition of *Criminalistics: An Introduction to Forensic Sciences*. A plain white cover (replacing the graphically enticing and compelling artistic cover designs of previous editions) and uninspiring photographs belie the book’s opulence of educational material.

Forensic science is the application of science to law. It is used to convict the guilty and exonerate the innocent. Scientific principles and technology are extensively relied upon by law enforcement in criminal prosecutions. All cases involving criminal charges generally entail some aspect of scientific evidence and forensic science. The discipline of criminalistics utilizes known laboratory techniques and procedures to solve crime. Saferstein makes forensic science and criminalistics both comprehensible and meaningful for nonscientists without sacrificing the integrity and detail of science.

Even though crime laboratories have benefited from enormous advances in scientific technology and a proliferation of public interest, forensic science is still developing, especially in areas concerning technology. The most basic concern is an effective foundational education. Saferstein meets this concern with an unrivaled fundamental introductory survey textbook on criminalistics.

Criminalistics is not a pure forensic science handbook. It is designed for learning. This college-level textbook, used by students preparing for the American Board of Criminalistics Examination, is readable, well organized and in-depth. It addresses current topics and has numerous illustrations and photographs. Each chapter has stated learning objectives, key terminology indexed and highlighted, a reference list of additional and easily obtainable resources, and wide margins for personal handwritten notes. At the end of each chapter is a succinct summary and relevant review questions.

Saferstein utilizes actual cases to illustrate applied theory and practice, including Monica Lewinsky’s famous navy blue dress and the corresponding FBI laboratory report on presidential DNA; the anonymous Anthrax letter sent to Senator Thom Daschele; the Scott and Laci Peterson case; the BTK killer; the Charles Lindbergh kidnapping and the O.J. Simpson case. The book contains two interactive CD-ROMs (“What Every Law Enforcement Officer Should Know About DNA Evidence”) from the National Institute of Justice concerning the identification, collection and preservation of crime scene DNA evidence. The revised instructor’s manual and laboratory manual are available for use with the book.

The author is a respected forensic scientist, expert witness, college instructor and media consultant. He is a recipient of the American Academy of Forensic Sciences’ prestigious Paul L. Kirk Award for distinguished services and contributions to the field of forensic science. He spent 21 years as chief of the New Jersey State Police Crime Laboratory. Saferstein’s knowledge, insight and experience are evident in this book. *Criminalistics* is useful to a variety of people aligned with forensic science, including judges, attorneys, law enforcement officers and mystery enthusiasts.

The ninth edition has been substantively revised and expanded to reflect the changing demands of the 21st century.

The book presents case studies with the latest technologies for trace evidence relied upon by law enforcement including DNA typing, crime scene investigation, digital imaging enhancement of fingerprints, bioinformatic tools, computerized ballistic examination, microscopy, drug and alcohol analysis, arson and explosion detection technologies. This edition has a full color layout, a new computer forensics chapter, an enhanced chapter on forensic science and the Internet, a section on forensic databases of physical evidence, and many “Web extras” throughout the book. The Web extras provide handy links to related topical Internet sites.

Criminalistics has some deficiencies. The legibility of this worthy textbook is noticeably compromised by the use of indistinguishable and confusing color combinations, weak color contrasts, thin or small size fonts and other visual impediments. The concise chapter on computer forensics needs further development and comprehensive summaries. The index does not adequately cover the book’s content. Moreover, the DUI material is weak, even though it was revised and merged into the toxicology chapter. Also, the crucial effects of *Daubert* and *Kumho Tire* on handwriting, fingerprint and voiceprint analysis (and their related determinations of error rates) are not addressed in the book.

Although somewhat basic for people familiar with cyberspace, the chapter on forensic science and the Internet is good, particularly due to its resourcefulness. The book is neutral and factual except for the excerpt from *Outrage*, Vincent Bugliosi’s book concerning the O.J. Simpson trial. The passage is a form of tabloid journalism and it does not belong in this textbook.

Unfortunately, the author does not discuss ethics in forensic science. The power and effect of scientific evidence cannot be underestimated. It is the most powerful of all evidence. Nor can the forensic scientist’s temptation to compromise his or her honesty and integrity through shaping and shading of evidence be neglected. It is noteworthy that no mention is made of the people or agencies that have distorted and fabricated scientific evidence to obtain civil judgments or convict innocent people. A section on applied ethics in forensic science would have been most beneficial, especially for neophyte criminalists and attorneys.

The substantive quality and practicality of the book, however, transcends these criticisms.

Richard Saferstein’s book is a very

good instructional teaching text, which cannot be said for other volumes in forensic science. *Criminalistics* will undoubtedly be used as a tool to promote and facilitate equal justice. ■

About the Reviewers

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