

Capital work may be the quintessential big-firm pro bono project. So why are so many death row inmates still lacking representation?

A Matter of Life and Death

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IT'S NO SECRET THAT BIG-FIRM LAWYERS are competitive when it comes to corporate clients. That trait can carry over to pro bono work as well. Sidley Austin Brown & Wood partner John Gallo, a former federal prosecutor, says he was deeply moved by a presentation that Robin Maher of the American Bar Association's Death Penalty Representation Project gave to a group of Chicago lawyers about death row inmates who have no lawyers. But when he heard that friends (and rivals) at Chicago's Schiff Hardin had already signed up to take three cases, he thought, "I want to do better." Seventy Sidley lawyers have signed up for death penalty work, and the firm has taken on 12 cases, all in Alabama.

Maher, who also helped steer Schiff Hardin to work in a single jurisdiction—Georgia—calls it "the SWAT team approach to the death penalty." Focusing on one state allows lawyers to share experiences and expertise, making these traditionally difficult and expensive cases easier and more effective. For firms like Sidley, which has offices spread across the country, there's a collateral benefit too, Gallo says: "Lawyers from geographically distinct offices connect in ways that they had not before."

Despite Sidley's commitment, dozens of unrepresented people remain on death row in Alabama, and Maher estimates that there are several hundred more across the country. "At any one time, we have between 35 and 50 cases to place in postconviction, and the only reason we don't have more is because we can't handle more in our office of three people," says Maher. "As soon as we place a case, we get more. The queue is always full." Maher hopes the recent flurry of firm activity will inspire others to a friendly competition to help ensure that people whose lives are on the line have fair access to justice.

An *American Lawyer* survey of the nation's 200 highest-grossing firms showed that 45 firms have never taken a death case, and of the firms, 11 are in The Am Law 100. Another 39 firms refused to respond or disclose whether they had taken a death penalty case. No firm reported an outright ban on taking the cases; but some, like *Jenkins & Gilchrist*, say that such work is not compatible with their culture. Petri Darby, *Jenkins's* public relations and corporate communications manager, explains, "We're primarily a corporate civil firm, so we don't do any criminal work. The pro bono work we do is principally on the civil side." —ELIZABETH AMON