

No Power of Attorney

By **Glenn Thrush** | September 1, 1998

One quiet evening last year, Edna Simpson's apartment tried to kill her.

Simpson was sitting on the edge of her bed when she heard the sound of screws splintering out of old wood. Before she realized what was happening, the 30-pound closet door had fallen from its jamb and struck her square on the forehead, knocking her out cold.

Her headaches have abated, but the door still stands in the middle of her living room, like a war memorial.

Accidents happen, especially in 100-year-old buildings in neighborhoods like Bedford-Stuyvesant. But Simpson had been complaining about her landlord and the building's condition for months—even to the point of helping organize her fellow tenants.

To help her in that effort, she contacted the Bedford-Stuyvesant Community Legal Services, a government-funded nonprofit that provides free legal help to the poor.

"They gave me some advice, but they wouldn't represent me in court," Simpson says. "I needed a lawyer. I didn't get one."

Simpson didn't know that the group was trying to run a legal office with practically no lawyers.

For much of the last two years, Cherie Gaines, Bed-Stuy Legal Services' \$95,000-a-year boss, has tried to make do with exactly one staff attorney. For a time earlier this year, the organization actually employed no staff attorneys, the foot soldiers who generally handle housing court and benefit cases. During this same period, Gaines, a combative former city housing official and lawyer, fed a fat management payroll of five supervising attorneys. On average, managers make \$69,000 a year to oversee Bed-Stuy paralegals and support staff—and to handle a small caseload on the side.

Because Bed-Stuy has so few lawyers whose sole job is to represent clients, the office has had to turn away a large number of applicants. For most of the people they do take on, legal services means hand-holding or legal coaching—but no actual representation in court.

"They're just not serving the neighborhood," says Stephanie Coleman-Harris, until recently the director of the Brooklyn Neighborhood Improvement Association (BNIA), one of a half-dozen groups organizing to force Gaines to mend her ways. "There's a lot of poor people here, we need the help. But I would never refer people to Bed-Stuy. They are always turning people away. There's no one over there to take anybody's cases."

Gaines has recently hired two new staff attorneys and a pair of management lawyers have left, but Bed-Stuy is still, by far, the most top-heavy of the 10 Legal Services offices in the city. Arguably, it is also the most ineffective of the federally funded, locally managed neighborhood law centers.

"That place is an absolute disgrace," says a Legal Services executive, one of a half-dozen who expressed a similar opinion and requested anonymity. "Everybody knows what's going on over there and nobody's done anything about it."

The crisis at Bed-Stuy dates back to 1991, when more than a 100 Legal Services lawyers citywide staged a bitter, four-month strike over wages and benefits. The strike caused hard feelings throughout the city, but Gaines was especially enraged. "We had a responsibility to the community, and they were preventing us from fulfilling it," she says.

The strike left a permanent rift between the union staff and Gaines. "It was a war, and she loved it," says Jeff Busch, a government benefits attorney and union representative who left Bed-Stuy in early 1997. "She would have people she fired escorted out by security as a form of humiliation."

Over the next few years, Gaines promoted two staff lawyers to management positions. As tensions persisted, other lawyers began leaving--some of their own accord, some fired. "In 1994-95, we lost a lot of attorneys who were clearly not going to be replaced," says Busch, who is now working for a private law firm. "When people would leave--either they were fired or resigned--they would never be replaced. This is how she would get rid of the union members."

After Busch left, the one remaining lawyer, housing attorney Serge Joseph, found himself saddled with a massive 130-client caseload. "At the end, there were four managing attorneys. And there was me. All alone," he says.

And then there were none. In February 1998, Joseph quit after the director accused him of failing to do proper follow-up on some of his cases.

No other neighborhood office has ever had more managers than attorneys in the field--much less no staff lawyers at all. According to Legal Services officials, the average staff-to-management ratio is about four to one. Harlem Legal Services, which has roughly the same budget as Bed-Stuy, has 13 staff lawyers and four managers.

Gaines maintains that her staffing levels are adequate and that any lawyers she fired or forced out suffered from "case-handling problems." And she argues that finding new lawyers is difficult. "People cannot be replaced overnight. We have a [hiring] process that must be followed," she says.

She also refuses to apologize for the number of management-level attorneys who, she says, handle significant caseloads. "We had staff attorneys leave us, so what were supposed to do? Get rid of the only experienced people we had left?" she asks. "When you buy a staff attorney you have to bring them up to speed. When you have a supervising attorney, you have somebody who has been around the block a few times.

"Our policy was to maintain experienced casehandlers. We're supposed to lay off managers so that it looks good in some ratio?"

Bed-Stuy, like all other Legal Services chapters, has had to weather a decade of steep budget cuts. Gaines says the cuts--and the Giuliani administration's refusal to reimburse the agency for services--created a \$250,000 deficit that has dogged the organization for several years. As a result, she says Bed-Stuy was forced to lay off seven support personnel last year and, until recently, had to forego the hiring of new staff attorneys. The deficit is impossible to confirm, however, because Bed-Stuy has failed to file its last two income tax returns with the state, which are required by law.

But Bed-Stuy's critics say the money woes mask an even more fundamental flaw--Gaines' legal philosophy.

To deal with the cuts, her office discontinued in-person intake appointments in January 1997 and now screens potential clients over the phone. Many Legal Services offices use phone screening, but according to its former lawyers, Bed-Stuy advises a disproportionately high percentage of clients over the phone.

When clients are invited into the office, they are given step-by-step advice on how to represent themselves in court, but because of the lawyer shortage are rarely given actual representation. "When we can't be there personally, we prepare them to represent themselves in court. It's a very valuable function," Gaines explains. The technique has allowed her office to process 400 clients a month, a number she says is rising.

But that statistic may be misleading. "I like being in court," Joseph says, "but instead of doing real, live cases, we'd be on the phone. That's a case, that's a number in a column. To Cherie, that's helping the community." Typically, he adds, the office would only choose to represent "one or two" new applicants a week.

"Her whole thing was that it was very important to 'touch bodies' to ring up the number of clients served," says Deanna Arden, a former Bed-Stuy management attorney who resigned in 1994. "Sure, we saw a lot of people, but we were prohibited from doing hard cases."

Hard cases, the lawyers say, involve clients who need more help than a few phone calls, one or two court appearances, or some forms to be filled out. Clients whose lives don't fit into a neat case category are often left listening to a dial tone.

Mary Robinson, who was waiting for the marshal to evict her when she spoke to *City Limits* in mid-July, needed more help than Bed-Stuy was willing to give. In late 1997, Robinson, with Serge Joseph's help, applied to state welfare to help her pay \$7,000 in back rent. When she called back to talk to Joseph, she was told three things: 1) he had quit, 2) her welfare application had been rejected and 3) that she was no longer a client at Bed-Stuy.

Robinson, who lives with her four grandchildren, got flustered and hung up the phone. The lawyer who now represents her, however, says a recent change in her household's welfare status might have forced the state to reconsider its decision. "They told me there was nothing they could do to help," Robinson says. "That was it. I'll never go back there, never."

Bed-Stuy also takes a pass on most cases involving more than one client, especially tenant associations fighting landlords for repairs. BNIA currently represents several buildings that wanted to bring actions against their landlord but were turned down by Bed-Stuy.

Hearing a series of similar reports, the City-Wide Task Force on Housing Court has stopped referring clients to Bed-Stuy. "They just weren't getting represented," says task force director Angelita Anderson.

Ironically, Bed-Stuy's own staff sends clients to other Legal Services or Legal Aid offices for help. "We became sort of a referral service," Arden recalls. "At some point, I realized that if something needed to really be handled, it would have to be referred to another place."

Increasingly, that other place has become the Legal Aid Society's walk-in clinic at Medgar Evers College. Staff lawyers there say that at times half of the 90 people they see every month have been turned away by Bed-Stuy.

"I accept that we are unable to meet the enormous need," Gaines concedes. "We even refer people to places where we believe they'll be able to get help. There's just not enough resources to deal with everybody who comes here."

That's true, but Bed-Stuy pulls in \$1.4 million a year. That's about the same budget Gaines had in the early 1990s when she employed eight staff lawyers—before the union strife began.

Recently, a coalition of groups—including staffers from the Pratt Area Community Council, BNIA, the City-Wide Task Force on Housing Court and the lawyers union, as well as an assortment of Legal Services and Legal Aid attorneys—has met to plan ways to force Gaines to hire more lawyers and take more cases.

Several times, they have brought their complaints before Bed-Stuy's board of directors, which has the power to remove Gaines. But chairman Hiram Bell III and other board members have closed ranks behind the director. "We have only so much money, and we represent only as many people as we can," Bell says. "She tries to use our limited staff as best as she can."

The lawyers union has been a little more successful in pressuring Legal Services for New York, the central organization empowered with the oversight of Bed-Stuy. In 1997, LSNY's executive director, Dale Johnson, blocked Gaines from hiring an administrative manager after the union objected to the employment of anyone other than a staff lawyer.

In contract negotiations late last year, Johnson reportedly promised union representatives he would try to raise the money to investigate how Gaines runs Bed-Stuy. He even went so far as to suggest that the directors of other Legal Services offices chip in money for a Bed-Stuy investigation fund. So far, however, nothing has come of the plan, and Johnson did not return calls for comment.

But all the pressure seems to have had some impact. In April, Gaines hired a staff attorney to replace Joseph, followed by two new hires in June. At the same time, two managers have quit, bringing the management to a healthier one-to-one ratio.

But it's too late to help Mary Robinson, who's on the edge of eviction. "It's over for me," she says. "The marshal's coming, and when he gets here I'm just gonna walk out and not look back."
