

DIRECT SPEECH: AN INTERVIEW WITH SOUTH BROOKLYN LEGAL SERVICES ATTORNEY SONJA SHIELD¹

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This is the first in a series of interviews with attorneys who are pursuing social change through their work. This conversation³ is between Social Change staff editor Andrew Nellis and Social Change alumnus Sonja Shield, an attorney with South Brooklyn Legal Services.

Andrew Nellis: You work in the Comprehensive Rights Unit at South Brooklyn Legal Services, which serves both individuals who are HIV-positive as well as low-income people in the LGBTQ community. How does the work you do for these communities differ from the work performed by your colleagues in other units of SBLS?

Sonja Shield: Working in a population-based unit rather than an issue-specific unit means that we can address the full range of an HIV-positive or LGBTQ client's legal problems in a holistic manner. So I'm not just a housing lawyer, or a benefits lawyer, or an employment attorney; I provide the full range of civil legal services that my clients need—of course with the back-up and support as needed from attorneys at my organization dedicated to these issues. For example, I had a client who came to us because he was trying to have his name put on the apartment lease after his mother passed away. In the course of investigating this housing issue, we realized that he also wasn't receiving food stamps or the correct amount of SSI income. In a traditional unit, the client likely would have had to see a different lawyer (or two) to have his public assistance and SSI issues solved. Instead, I was able to work on these threads simultaneously and solve them more quickly.

Andrew: You've also been working on the City's (mis)use of nuisance abatement laws to bar tenants from their apartment before they can have their cases heard in court. What can you tell us about that?

Sonja: The City's nuisance abatement law, Chapter 7 of the New York Administrative Code, is intended to allow the City to shut down major locations of illegal activity, like when an apartment is used to manufacture or sell drugs, or when back rooms of bodegas host gambling or prostitution rings. But that isn't how the law is being used.

1. Sonja Shield is a senior staff attorney in the Comprehensive Rights Unit at South Brooklyn Legal Services, part of Legal Services NYC. She obtained her JD from NYU Law in 2005 where she was a Senior Articles Editor with the Review of Law and Social Change. She is the author of *The Doctor Won't See You Now: Rights of Transgender Adolescents to Sex Reassignment Treatment*, 31 N.Y.U. Rev. L. & Soc. Change 361 (2007).

2. Andrew Nellis is a second-year student at NYU Law, who interned last summer in direct services in New York.

3. This interview was conducted by email and edited.

Instead, we are seeing it used as a tool to effectively evict low-income tenants for minor offenses. It works like this: An individual will be arrested for a relatively small quantity of drugs in their apartment. Months later, the City will ask for an ex parte closing order in which it argues that the risk to public safety is so high that the tenants must be excluded from their apartment before the hearing is held three days later. Judges tend to rubber stamp these requests, even though the City never explains why it took months to file the case if the location is indeed so dangerous.

There are significant procedural deficiencies in these cases. Yet, those deficiencies are routinely disregarded by the courts despite the extreme prejudice this causes tenants. For example, the court papers filed by the City are so boilerplate that they usually don't even sue the tenant by name, instead naming them as John or Jane Doe. However, if you page through the court papers, you will almost always find the tenant's name on the arrest paperwork stapled to the court papers. The failure to properly name a party should result in the case being dismissed, but more commonly results in the tenant missing the court date because she was not served with the court papers, and then being locked out of her apartment.

As these cases are brought by the City in Supreme Court, not by a landlord in Housing Court, a tenant might still have a lease for her apartment and remain liable for the rent but be prohibited by the Supreme Court order from living in her apartment. Therefore, while a locked-out tenant fights to regain her rights to her apartment, she will have to keep paying rent on the apartment she is prohibited from living in, and find and pay for temporary housing elsewhere. Once the tenant is locked out, the City has tremendous power to extract one-sided settlement agreements from desperate—and in some cases, now homeless—tenants.

Andrew: In your experience, would you say the nuisance abatement law is mostly being used for its intended purpose, despite also being used as you've described, or is the situation you're describing actually the primary use of the law?

Sonja: I find it hard to believe that the nuisance abatement law was intended to go after such small fish. And, if the City really believes that people with miniscule amounts of drugs in their apartment represent a true threat to public safety, it is odd that the City would routinely wait months after an arrest before trying to shut the apartment down.

New York City's nuisance abatement law has become, in effect, a civil asset forfeiture law. Civil forfeiture laws, and their impact on low-income people, have gotten more attention nationally after Ferguson. In essence, asset forfeiture laws often function as schemes by state and local governments to confiscate assets belonging to low-income, often marginalized individuals. Government actors seize property with only the merest allegation of a crime and unduly shift the burden to the person whose property was seized to try to show that she is innocent and that her property should never have been taken in the first place. Asset forfeiture comes in a variety of coercive forms. In so-called "forfeiture corridors," for example, law enforcement sets up traffic traps and then seize the cars and money from out-of-state drivers, usually people of color who have been racially profiled as drug runners.

Imagine being stranded on the side of I-95, states away from home, trying to prove a negative – that the money in your wallet is not drug money. Or imagine

coming home to your apartment to find police tape across the door, months after you've resolved your minor drug case, with your diabetes or HIV medication locked inside. Imagine being locked out during a harsh winter like the one we just had, and having nowhere to go other than a homeless shelter—shelters that, for the record, are horribly unsafe for many of my LGBTQ clients.

Desperate people will agree to almost anything the City demands, no matter how unreasonable or coercive, in order to get back into their homes. And this all occurs without (or before) any finding of wrongdoing by a judge.

Andrew: You obtained your Master of Social Work at NYU while working on your JD. Is it safe to assume then that you knew for a while that you wanted to work in legal services? Can you tell us about your motivation and interests in this field?

Sonja: After college, I worked for a few years as a mental-health case manager with low-income people in San Francisco who were dually-diagnosed with mental illnesses and substance addictions. Most were marginally housed in single-room-occupancy (SRO) residential hotels, which were dangerous and dirty buildings intended to be rented by the week or the day. Residents could, however, become legal tenants with tenancy rights if they lived there for more than a month. The building owners would typically kick residents out after 28 days—often just for the night—to prevent the resident from gaining legal tenancy. Then I learned there were actual laws that forbade this practice. Funnily enough, I found that building owners were much more amenable to allowing my clients to keep their SRO room after I explained to them the law and the stiff financial penalties they faced if they illegally evicted my client! This was tremendously exciting to me as a 23-year-old caseworker, and it whetted my appetite to find out how else the law might be used to help those who would otherwise be at the mercy of those more powerful than themselves.

Andrew: Speaking of those more powerful, after law school, you clerked for Magistrate Judge Cheryl Pollak of the Eastern District of New York. How, if at all, did this experience influence your thinking about your chosen field or career path?

Sonja: I knew coming out of law school that I wanted to work in direct services. Clerking was an excellent opportunity to see federal court practice from the inside. To give you one example, Judge Pollak is amazing at conducting settlement discussions—with helping parties cut through barriers, home in on their central concerns and areas of agreement, and reach a mutually agreeable settlement. Getting to sit in while she met first with one party and then the other party as she coaxed them towards agreement helped me understand how this process could and should work. I also got to observe many lawyers at work, from the excellent to the not-so-good, and from that I began to see what practices to emulate and which to avoid.

Andrew: You also teach client-interviewing skills to law students. Do you have any advice for young public interest attorneys taking on their first clients?

Sonja: Client interviewing takes imagination and curiosity. You may start with a set of basic facts, but you have to dig beneath the surface. That requires that you ask creative questions—more like a journalist. You can't take things at face value. Effective advocates become experts on the facts, ponder them, look for what is

missing, for what questions or possibilities are raised, and then follow those threads.

As a new attorney, it may be the first time you've had primary or sole responsibility for a case. This is often a profound shift from being under the supervision of a clinic instructor or internship supervisor. In my experience, the most significant change comes as you take ownership of a case and know that it is up to you—not a supervisor—to learn about and assess the case and advise and represent your client.