

## Manual Day Labor in the United States

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No job certainty, low pay, minimal benefits, and exploitation characterize manual day labor in our country today. The restructuring of our economic system into a service economy and the efforts of employers to avoid the costs of permanent employees, have led to a marked increase in temporary employment. In general, temporary employment can be distinguished by impermanency, hazards in or undesirability of the work, the absence of fringe benefits, and limited governmental protections. While temporary employment is often painted as an innovative adjustment to the new economic conditions, it may reintroduce into the workplace uncertainty and arbitrariness long regarded as unfair to working people.

Although the temporary help field includes @high tech@ positions requiring specialized skills, i.e., computer skills or executive talents, and specialized assistants like legal secretaries and clerical workers, the focus here is on day laborers who perform physical and generally unskilled tasks such as hauling, cleaning, construction, landscaping, etc. Manual day laborers are found throughout the United States, most commonly in urban areas. They primarily secure jobs through individually solicited labor on street corners or hardware supply parking lots, and through labor pools, temporary services agencies that specialize in providing manual laborers for construction and industry.

### I. Labor pools

Labor pools are a relatively new phenomenon with tremendous growth in recent years. They are a form of hiring hall, but unlike the traditional hiring hall operated by trade and craft guilds, labor pools offer all the advantages to the employer with minimum protections or benefits to the workers. Workers employed by labor pools are not accorded such benefits as paid leave, sick time, or religious holiday. There are no health benefits.

The day labor agency (labor pool) contracts with another company to provide that company (the contracting firm) with temporary labor. The labor pool hires an individual to work for the contracting firm. Although the day laborers perform services for the contracting firm, it is the labor pool that pays the worker. The labor pool, in turn, charges the contracting firm for the services provided by the day laborer. It is common for the labor pool to charge \$12-16 per hour to provide laborers who are paid minimum wage.

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<sup>1</sup> Ellen Stern, Brown University, provided significant original research for this paper.

Large numbers of urban poor work for labor pools. The jobs generally require little or no skill. Many labor pools recruit directly from homeless shelters. The work ranges from light industrial to demolition to shoveling and cleaning up construction sites.<sup>1</sup> Although the pay is low and the chores are the ones that nobody else wants, labor pools rarely run short of workers. Workers are abundant because they are often unable to obtain permanent jobs because of poverty, lack of training, and no place to live.<sup>2</sup>

In most cities, workers at labor pools are predominantly, and often disproportionately to the city's population, African-American. Almost all workers are male. However, many labor pools are beginning to expand into new job markets for female day laborers, primarily as maids and housekeepers in hotels and offices.

It has been argued that labor pools provide a service to people who would otherwise have no employment at all or who would rather work day labor instead of trying to maintain the disciplined routine required to hold down a steady job. In reality though, labor pools often exploit their workers by paying them low real wages, charging them excessively for equipment or transportation to the job, failing to pay workers compensation, failing to warn workers of dangerous job sites, and failing to abide by laws aimed at protecting workers.

#### A. Growth of labor pool industry

While temporary labor is nothing new, it has grown tremendously in recent years. Historically, it existed through informal, word of mouth arrangements especially in rural

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<sup>1</sup>The type of work day laborers perform is extremely broad and could include: yardwork, inserting advertising supplements into newspapers, cleaning up press rooms, unloading trucks, performing evictions, asbestos removal, oil spill cleanups, demolition, moving furniture, mixing mortar, working at sports stadiums, setting up for events at civic centers, etc.

<sup>2</sup>Since many of these workers are unable to take showers, do not own nice clothes, and cannot afford to wait weeks for a paycheck, labor pools are the only means of income for many homeless people and those on the edge.

areas, and hiring corners in the cities. However, the conditions of modern temporary workBa pool of unemployed persons, extensive homelessness, large numbers of immigrants, expansion of the service industryBare a recent and primarily urban phenomena.

Labor pools are now big business. In many of our cities dozens of labor pools generally operate within a small radius. Thousands of workers are sent out every day. The situation in Atlanta is quite typical. While some labor pools are scattered around downtown, Techwood Street is the central hub of the day labor industry for the homeless and unemployed. Over a half dozen labor pools are clustered in a three-block area, within walking distance of the Georgia World Congress Center, the Atlanta Apparel Mart, numerous hotels, and several major construction sites where hotels and office buildings are being erected. The number of labor pools in Atlanta increased from 34 in 1974 to 130 in 1983, and has doubled in the last ten years.

In South Florida, it is conservatively estimated that there are over 200 day labor pools representing 40 to 50% of the \$180 million temporary industrial labor market in that tri-county area. In downtown Miami, there are 5 labor pools in a 4 block radius, just blocks from 4 homeless shelters and numerous construction sites. They range from small local companies to nationwide corporations, such as Labor World of America, based in Boca Raton, Florida and Labor Ready, from Tacoma, Washington. Labor Ready proclaims itself to be the country=s Aleading provider of temporary manual labor to the light industrial and small business@ market. It operates 687 offices in 46 states, providing workers for 230,000 customers. In 1998, it filled 4.8 million work orders. Although specific data on the number of manual day laborers are not available, temporary employment as a whole has shown tremendous growth. The number of people working for temporary employment agencies increased 240% from 1983 to 1993.

The businesses that contract with labor pools range from small, local construction, landscaping and light industrial companies to multi-national concerns. Customers of labor pools include: Walmart, Revlon, W.M. Grace, Sears, State of Arizona, Pepsi Cola, Coca Cola, Wells Fargo, IBM, Johns Hopkins Hospital. A full list would be too large for this report.

The industry has now developed professional and advocacy organizations such as the National Association of Temporary Services and corresponding state affiliates. In Florida, the Florida Staffing Services Association lobbied strongly against reform of the labor pool industry in 1995, using its own staff lobbyist as well as hiring an extremely large and powerful lobbying firm to assist them.

The increasing popularity of day labor stems from the significant benefits accrued by the contracting firm. The contracting firm generally hires only when additional help is necessary, and for only a specific limited time frame. The firm avoids having to

advertise, interview, pay hiring costs or having to pay any benefits to workers. More importantly, the firm has limited responsibility with respect to the worker. They simply pay the labor pool a contracted rate. The labor pool pays the worker, and deals with taxes and in most cases deals with the laborer in every respect other than the time spent on the job site.

#### B. Abuses associated with labor pools

Day laborers often suffer from a wide range of abuses, from nonpayment of wages to an inability to secure workers compensation. Some of these abuses are illegal, but many are not covered by existing laws. A typical day laborer arrives at the labor pool by 5 am. to wait for a job assignment. They sign their name to a list and wait, hoping that their name is called by the operator. Hundreds of men are usually lined up. There is no guarantee of getting a job assignment, and often people will sit for 3 or 4 hours before being hired or being told that there is no work for them that day. There is minimal seating for those waiting. Toilets are moderately clean to filthy. Many facilities do not even allow workers to use restrooms. Many are in a state of disrepair because the owner's main concern is low overhead.

The labor pool operators are notorious for discrimination in selecting workers for jobs, often skipping over names on their lists, sending out their Afavorites@ rather than the next person in line. These Afavorites@ tend to be persons who do not complain about unsafe or unhealthy working conditions or who will buy the labor pool operators' food or other commodities.

If a worker is fortunate enough to be picked, it can be several more hours before work begins. The Federal Fair Labor Standards Act (FLSA) requires that most employers, including labor pools, pay minimum wage. In some instances, day laborers receive lower than the minimum wage, often due to deductions taken out of their pay by the labor pool. Many get paid for less hours than worked, i.e. get Ashorted.@ Since most day laborers do not have cars, labor pools will transport them to and from the job site charging up to \$5, which is deducted from their take home pay. Day laborers may have to buy or rent equipment such as hard hats, boots, gloves, goggles, clothing, resulting in charges taken from their take home pay. A typical example is a Miami day laborer who at the end of the day had to repay the labor pool for safety equipment and job materials: \$3 for transportation, \$3 for lunch, rental fees of \$1 for gloves, \$3 for a locker, \$2 for a hard hat, \$2 for steel-toed shoes. The labor pools often charge inflated prices for equipment, food, and cigarettes, much like a company store. It may take the day laborer a number of workdays to pay off his purchases.

Other deductions from pay are sack lunches sold by the labor pool, often the only food available to eat at the job site. Workers who do not purchase items from the labor pool are often less likely to be picked the next day. After deductions, not much is left of the minimum wage that most labor pools pay their employees. The laborer may take

home \$20. All too often the amount is less. The FSLA has been interpreted to require that such deductions cannot result in less than the minimum wage. However, workers find it difficult to bring claims proving the violation. Many will not receive documentation, or may not know that the law exists. Others know that if they take any action against the labor pool, they will get blacklisted.

On the job, the day laborer often encounters numerous health and safety hazards. They are often sent to hazardous sites without prior notice, without adequate training, or without being provided with proper safety equipment. They are often told to perform dangerous tasks, even if such work is specifically prohibited by their contract. In Miami a worker assigned to a job site at an outdoor sports arena was told by the labor pool that their insurance company prohibited his doing work on scaffolds or similar off-ground tasks. On the work site however, he was told by the contractor that if he did not get on the scaffold as told, he would not be hired again and would be reported to the labor pool for failing to do his work.

The Federal Occupational Safety and Health Administration (OSHA) covers many of these employment situations. However there may be disputes as to whether the labor pool or the contracting firm is liable for violations of OSHA. The double employment relationship creates an opportunity for both employers to evade responsibilities for the hazards. OSHA has also been criticized for lack of adequate enforcement.

At the end of the day, the workers are dependent on the labor pool van to pick them up. It is common to wait at the job site for hours for transportation the worker has paid for. The worker is not paid for the hours spent waiting. Labor pool vans are often crammed with workers and their equipment.

If a worker makes it back to the labor pool before it closes, he will get his check. If the van is late, and the office is closed, there may be no check until the next day. Occasionally the labor pool operator will arrange to leave a worker's check for a minimum amount at a local bar. The workers will then have to pick up the remainder of their wages at the labor pool the following day. The worker then has two checks and will have to pay two check cashing fees. Some checks are not negotiable at a local bank. Issued instead are vouchers redeemable at a local grocery store or bar. Pursuant to an agreement with the labor pool, the bar or grocery store will cash the voucher if the worker buys a beer or other item.

The desire of the labor pool to maintain a pool of available labor is responsible for another abuse that prevents a worker from getting a full time job. It is common practice for labor pools to include the A90 day clause into their contracts with the contracting company. This clause prevents the company from offering permanent jobs to day laborers for at least three months after the worker has worked there. Thus, even

when the day laborer's work could lead to a full time job, they are prevented from taking advantage of this opportunity and remain captive in the day labor world.

Labor pools do not fit neatly within existing laws generally designed to protect the full time employee. They do not provide adequate protection for these workers. With the huge increase in new labor pools, competition amongst labor pools is fierce. More money is deducted from the worker's pay in order to keep profits up. As a result of greater competition and lower prices for the contracted labor, labor pools have more of an incentive to skirt the law in order to make as much money as possible.

Day laborers fail to receive many governmental benefits or protections. The worker may not qualify for benefits because he does not work a sufficient number of hours or his circumstances make it difficult to take advantage of the benefit. Unemployment Insurance (UI) and workers compensation are subject to regular abuse.

Few day laborers can qualify for UI. State UI programs require minimum earnings during a certain period of time in order to qualify. While this may be reasonable for the general working population, many day laborers do not receive enough work to meet these requirements. Labor pools often try to prevent day laborers from getting UI in order to pay less money into the state's unemployment fund. They do so by ensuring that the worker making an unemployment claim gets a job. If the labor pool offers the UI claimant a job, he cannot establish a crucial element to qualify for benefits that jobs are not available. Labor pools may also try to evade liability by characterizing their workers as independent contractors who do not qualify for UI. Labor pools may also label their workers as casual laborers, which in some states would exempt the worker from UI.

Day laborers face similar obstacles in securing workers compensation. To qualify, the day laborer must show the law covers the type of injury and that the injury arose out of the employment. If the injury developed over time, such as a back injury, this will be difficult. Day laborers tend to work for many labor pools over a period of several months, going to numerous job sites. It is a common defense of the labor pools to claim that the injury did not occur during their employment, but while the worker was at another job. Similarly, many states exclude from coverage casual labor. If the worker is so classified, coverage will be denied.

## II. Street corner day labor

While labor pools dominate the unskilled day labor market in some areas, workers shun them in others and instead seek work by waiting on the Ajob corner. Both the demand for labor and the need for employment has bolstered the practice of street day labor. Workers hope to get picked up by one of the many trucks that drive by each day looking for workers. The employers could be moving companies seeking an

extra body to load or unload, roofers in need of crew members for the day, homeowners who have odd jobs that need to be done, small landscaping companies, etc. These workers wait on street corners, in hardware parking lots, parks, and hiring centers to solicit work. Like their labor pool counterparts, these workers report to the sites at around 5 am.

In suburban New York, street corner labor predominates. The major industries are landscaping, cleaning services, restaurants and small construction jobs. Most day laborers are men, most from South and Central America. Many are undocumented. In Los Angeles, day labor is a practice that has existed for the past two decades. In a recent study by Abel Valenzuela, of UCLA's Center for the Study of Urban Policy, it was found that the great majority of LA's day laborers were also male immigrants from Mexico and Central America, who often send part of their earnings to family in their native land. While a majority are recently arrived immigrants, without documentation and with few work options, one-fourth were longtime United States residents, some of whom had been coming to the same site for more than six years. The study identified 97 hiring sites in Los Angeles County and parts of Orange County, and estimated the region's total day laborer population at 20,000. The Coalition for Humane Immigrant Rights, LA (CHIRLA), estimates more than 200 sites where day laborers congregate, amounting to some 30,000 laborers on the street daily.

Most of the work in LA involves construction, painting or gardening. About 40% of those who hire day labor are homeowners, and an equal percentage are subcontractors. The study demonstrates that although the work is difficult, and often dangerous, day laborers who are able and persistent can earn a decent living, particularly in the summer months when there is a high demand for labor. The study defined a Adecent living@ as being able to pay for some sort of housing, while at the same time managing to send home an average of \$2600 a year. Workers at many sites have established their own minimum wage for that site, almost always higher than the state minimum wage of \$5.75. The fluctuations that workers experience in their wages were drastic. While in a good month the average day laborer in Los Angeles County can earn \$1,000, in a bad month their income could drop by two-thirds.

#### A. Day labor abuses

The problems that plague day laborers are many, ranging from not getting paid to arrest and criminal prosecution. With the increase in Astreet corner@ day labor, business owners and residents complain that day laborers have brought litter, traffic problems, public urination and drinking to their respective communities. These campaigns have made it even more difficult for workers to find work by pushing for greater restrictions on where and how day laborers can solicit work. In response to these complaints, police have begun to cite both the employer motorists and the workers for impeding the flow of traffic. On some street corners in Los Angeles, tension

between the police and day laborers has led to violence, with deputies yelling racial slurs. In one instance, police helicopters were used to chase away workers.

Communities have enacted ordinances banning or strictly limiting street corner solicitation, some with the hopes of pushing workers into regulated sites with strict rules of behavior. At least a dozen cities in the Los Angeles area, including Los Angeles County, have passed such laws. A county ordinance in Miami, Florida, made street solicitation a crime. Although the only criminal penalty written into the ordinance applied to the employer, police enforcement resulted in 500 arrests, none of an employer.

There are numerous problems that face day laborers once they find work. The work is unstable and incredibly risky. Many day laborers consider their most significant problem to be wage Arip-offs.@ These take many forms, from subtle deception to blatant theft. Many workers are strung along by the employer, promised to be paid soon, until one day the boss would drop them off, never to be seen again, the worker never to be paid. Many laborers would not even know the name of the employer or have a business card with a non-working phone or beeper. Receiving bad checks, or less money than promised, is a regular occurrence. Complaints are infrequent because workers are afraid of being fired on the spot.

A primary reason wage abuses continue to occur is that so many of the workers are undocumented immigrants who do not report abuses for fear of being deported. The fear of deportation has intensified recently as panic has spread over the new immigration policies concerning the reporting of undocumented aliens to the Immigration and Naturalization Service. Employers often threaten to report workers when faced with, and to avoid, any complaints.

Workers who report wage abuses have a tremendous amount of difficulty recovering their owed money. Those who go to the U.S. Department of Labor find little success because the DOL simply does not have enough inspectors to handle the wage complaints. While small claims court is another way to seek relief, day laborers often find it difficult to prove their case. First, they are faced with a significant language barrier since so many do not speak any English. Second, it is hard to prove their case since there is often no time-clock, or any records documenting the hours worked or the rate of pay.

Safety risks also plague the work. Though no statistics are available regarding accidents or job related illnesses, many doctors and counselors who deal with immigrant populations note a disturbing pattern of injuries that could have been prevented or more thoroughly treated. Numerous injuries occur simply because the work is often dangerous, with the highest rates of injury in the areas of construction, agriculture and manufacturing. The workers either by choice or by necessity do not take the proper precautions, often because they are not provided with adequate safety equipment. They receive little, if any, training and often have little experience, which leaves them ill-equipped for the dangerous jobs they might receive.



Beside the risk of accidents, many day laborers are frequently exposed to hazardous chemicals. They are reluctant to mention health concerns to their employers for fear of being fired or reported to INS. Some injured workers never receive proper medical care because the employers never call an ambulance or make available any form of medical care. Not a single worker in the Los Angeles study had private health insurance. Many employers carry no insurance as well. Most workers turn to storefront medical clinics or common pharmacies for their medical needs. In only the most serious of cases, and not always then, would the worker make the expensive, and for the undocumented, risky trip to the hospital.

Those who do receive medical attention often neglect to follow through with the treatment because of a language barrier, financial inability, or unfamiliarity with the system. OSHA lacks the resources to respond to the number of complaints filed and has proven to be of little use in looking into safety problems of day laborers.

### III. Efforts to address day labor abuses

There is no single fix to bring this workforce within current social and employment protections. Some of the recommendations to improve the situation of day laborers include: 1) vigorous enforcement of laws relating to employment practices and health standards; 2) amending laws to reflect the growing prevalence of day labor, especially revising thresholds for coverage under employment laws; 3) removing incentives for employers to rely on an expendable contingent workforce, i.e. requiring the registration and regulation of intermediaries such as labor pools and temp agencies, make client companies responsible as joint employers of day laborers, requiring safety training of temporary employees; 4) government, with the cooperation of private non-profit organizations, cooperatives and labor unions, should develop day labor agencies as a means to train and to improve the employable skills of workers, and to provide safe and better paying temporary employment; and 5) opposing and challenging local ordinances that unfairly prevent day laborers from securing employment.

Many communities have already taken significant steps to address some of the problems.

#### A. Labor Pool Legislation

##### 1. Federal

Legislation to regulate the practices and abuses of labor pools has been successful in Georgia, Texas and Florida, and an ordinance has been passed in Atlanta. The forerunner to these efforts was the attempt by Congressman Abner Mikva (D. Ill.) to pass the Day Laborer Protection Act of 1971. Rep. Mikva's proposal was an effort to bring to light the Asordid world of the day laborer. @ Mr. Mikva's bill would have, in part, established minimum standards by which labor pools would operate,

including licensing and regulation on a federal level, enforced Federal Law where applicable, prohibited practices which would restrict employees from accepting permanent positions with a client the worker is referred to, and prohibited the use of day laborers as strikebreakers.

Rep. Mikva stated before the committee: Awe decided a long time ago in this country that no man should be entitled to make a living by enslaving another man. We do not try to resolve unemployment problems in the economy by putting people to work for slave wages and in intolerable conditions. A job is not a goal in itself. Maintaining job levels is not a worthwhile goal if those jobs lack basic decency.@ Strong lobbying by the temporary labor industry led to resounding defeat of the bill.

## 2. State

Three states have enacted legislation that specifically protects labor pool workers, Florida, Georgia, and Texas.<sup>3</sup> Florida's is the most recently passed and includes: a prohibition on charges associated with equipment, clothing, and other items required by the nature of the work or by the third-party employer; limitations on fees for travel and meals; a mandate that workers be paid in cash or commonly negotiated instruments; a prohibition that deductions, except those specifically permitted under federal and state wage and hour law, may bring a worker's pay below the minimum wage; requirements that wage reports, including itemized deductions, be provided to the worker; a mandate that labor pools that operate labor halls must provide basic conveniences, including restroom facilities, drinking water, and sufficient seating; and a provision that labor pools may not restrict a worker's right to accept a permanent position with a third-party user to whom the worker was referred for temporary work. The law provides a private right of action for the worker to sue the employer and provides penalties of \$1,000 for every violation of the Act. The Georgia and Texas laws are similar in their content.

## 3. Local Ordinances

The City of Atlanta enacted a Labor Pool Ordinance in 1993. The key element is that it makes it unlawful for any person to operate a labor pool without first obtaining a license at a cost of \$175 from the Police Department. Applicants for the license must provide a wide array of information including criminal history, previous business associations with labor pools, and identifying information. Labor pools are required to keep daily records consisting of the names of every person assigned a job, the type of job assigned, the name and location of the contractor and the number of hours worked on that particular job. At the completion of a day's work, the worker is to sign his or her

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<sup>3</sup>Florida Statutes Section 448.20; Georgia Statutes Section 34-10-1; Revised Civil Statutes of Texas, Article 5221a-10.

name next to the information. The law prohibits labor pools from charging workers for equipment or for transportation, and requires them to provide workers with a receipt or pay stub which states the number of hours worked, the amount of pay per hour, and any deductions made from the final amount. Labor pools have to apply annually for a renewal of its license at a cost of \$100.

#### B. Enforcement of Labor Laws

One of the few successful efforts to secure USDOL enforcement of federal wage and hour laws was initiated in Tucson in 1992 by the Primavera Foundation, which worked with homeless persons. Proving that a labor pool=s deductions for transportation from workers= paychecks caused their hourly rate to fall below minimum wage, in 1995 the DOL ordered the labor pool to repay \$71,923 to 563 workers.

#### C. Non-profit Labor Pools

One of the alternatives to profit-driven labor pools has been the creation of governmental and non-profit organizations. These groups are not driven by the profit motive and can thus operate on a smaller margin between the fees paid by the contractor and the wages that end up in the workers= hands. They have been established in a number of cities, including Atlanta, Miami and Tucson. In Miami, as an outgrowth of the attention brought by the passage of Florida=s Day Labor Act, a nonprofit labor pool was created through a grant by the Dade County Homeless Trust to Jewish Vocational Services(JVS). Initially funded in 1995 through a three year \$3.1 million grant from US HUD, it has been subsequently funded for three more years. It provides day labor, job counseling, permanent job placement and vocational training to homeless persons. JVS secures day labor positions with companies which pay JVS all or part of the hourly wage paid to the employees. JVS provides transportation(or bus passes) and all equipment needed that is not provided directly by the contractor. While wages begin at minimum wage, they increase after 30 days. The only deduction from paychecks are federal taxes. Although decent jobs and wages through day labor is the short term goal of the program, facilitating permanent jobs for its employees is the ultimate focus.

Similarly, in Tucson, Primavera Services began in 1996. The genesis was the successful complaint filed by labor pool workers with the USDOL concerning labor pool deduction from their wages. Recognizing that labor pools would continue this type of wage abuse, a non-profit labor pool was created. Started initially with a \$390,000 grant from USHUD and then a \$450,000 grant from the Charles Stewart Mott Foundation, Primavera Services has created a non-profit labor pool that provides higher wages for workers, better rested and trained workers for employers. Primavera Services is now seeking to impact the abusive practices of labor pools through marketplace competition and a public relations campaign they have recently begun in the media.

#### D. Organizing AStreet corner@ day laborers

One of the ways that cities in Southern California regulated day labor was to push the day laborers into controlled sites with strict rules of behavior. Several immigrant worker organizations began to organize these sites. CHIRLA is one of the first and main organizations which has taken up the effort. The longest organized CHIRLA sites in the city are in North Hollywood and Harbor City, which were originally set up by the city of Los Angeles in 1989. CHIRLA took over the city-funded hiring operation, and along with the Institute of Popular Education of Southern California (IDEPSCA), created the Day Labor Program, which is funded by community development block grants.

The Day Labor Program brought in additional resources to the sites, and has established such services as free English and Spanish literacy classes, monthly medical and legal clinics, social service referrals, and skills training sessions. CHIRLA also brought to the sites such amenities as office space, telephones, coffee and donuts, and toilets which has made the sites a more dignified and pleasant place to gather. The sites operate under a lottery system that incorporates job skills categorization. This ensures that a laborer is suited for a particular job, and that jobs are obtained in a fair and orderly manner. More than a hundred laborers register daily at each center, about fifty of whom will get work that day. None of the centers get a cut of what the workers earn, nor is there a charge for the services they provide.

Some of the organizing techniques that have been used at the sites include day laborer theater groups and soccer teams. When the day laborers first started the *teatros*, they performed their own stories about what life had been like for them on the streets. Now the productions serve more as a vehicle for demonstrating to other day laborers exactly what their rights are, and what they deserve from employers.

There are also a number of street corners in Southern California where the workers have organized without any outside assistance. On such street corners the laborers form a committee and agree on ground rules for people looking for work at that corner. The committee will then usually negotiate with local law enforcement to set aside a strip of sidewalk where local contractors and employers can pull up in their vehicles and hire them. In September of 1997 there was an inter-corner conference to which street-corner committees across the city sent delegates to begin writing the organization's first bylaws and principles.

In the New York area, an emerging group of community-based worker organizations are trying to establish leadership training, legal representation and tougher penalties against employers. The most prominent of these groups is the Westchester Hispanic Coalition which is in the process of launching several programs to unite and educate day laborers in addition to quelling the anti-immigrant sentiment

present in many of the communities. The Coalition hopes that these programs will make workers more self-reliant, and integrate them more into the community.

The first program is the Mount Kisco Workers Project. Workers contribute \$1 a week to an emergency fund to provide other workers in need with housing, food, or emergency medical care. Those who are a part of the project will be able to attend workshops on a wide range of topics including job skill training and civic rights and responsibilities. The Coalition envisions an orderly system to match workers with jobs in addition to providing English lessons or more extensive job training. A second program is the Workers Rights Clinic. They are seeking funding for legal staff to handle wage-abuse cases. The third program is Latino Immigration Services to conduct immigration seminars and to help obtain citizenship and working permits.

Most of the programs of the Coalition are modeled after programs at the Workplace Project in Hempstead. At the Workplace Project about 370 laborers have finished a nine week course in worker rights, workers' compensation, and job safety. The Project has been successful at organizing the workers, and in 1997 pushed New York State to toughen penalties against employers who repeatedly underpay their workers.

#### E. Ordinances Prohibiting Day Labor

A continuing threat to street corner day laborers is ordinances severely restricting their opportunity to secure work, and in many cases criminalizing their efforts to do so. Ordinances of various types have been enacted. They appear to be fairly similar with a few basic differences. Some specifically address day laborers, such as in Marietta, Georgia or that proposed in Suffolk County, New York. Others prohibit loitering on public property. There are differences as to who is subject to a criminal penalty. One option is to penalize the day laborers who are soliciting work, such as Marietta which makes it illegal for day laborers to congregate on public property. Another option, like Austin, Texas, makes it illegal to solicit work to a pedestrian from an automobile or for a pedestrian to solicit someone in a vehicle. Other ordinances, like Miami, only penalize those who pick up laborers.

Lawsuits have been filed challenging these ordinances and successful campaigns have been waged to prevent proposed ordinances from being enacted. In Miami, the American Civil Liberties Union filed suit in 1996 challenging a county ordinance as a violation of free speech, and that the arrest of day laborers was not authorized by the ordinance. Documentation established that, in spite of the fact that the criminal penalties only applied to employers, all of the arrests made under the ordinance were workers, who were almost exclusively Hispanic. The case was settled with the County. The settlement provided for payment of \$2,000 to workers for each incident of arrest and the County agreed not to arrest any workers. The Mexican American Legal Defense and Education Fund has filed a lawsuit against the city of Los

Angeles challenging their ordinance prohibiting day laborers and employers from soliciting employment on public property.

A 1999 effort in suburban Suffolk County, New York, to pass an ordinance prohibiting solicitation for work from county roadways and private posted parking areas was defeated by a strong coalition, led by immigrant advocates advocates who exposed the ordinance, entitled the ASafe Employer Practices Reform Act,@ as being aimed at the elimination of Hispanic immigrants from the community.