

# **Challenging Exploitation and Abuse: A Study of the Day Labor Industry in Cleveland**

**Daniel Kerr**

Ph.D. candidate in history, Case Western Reserve University

**Chris Dole**

Ph.D. candidate in anthropology, Case Western Reserve University

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## 1. Executive Summary

The plight of day laborers in Cleveland, which is documented in this report, makes it clear that the day labor agencies in this city are not paying the true cost of labor. As a result, they are producing unnecessary hardships for their employees and creating extensive costs for the larger community.

Owners of the commercial agencies have stressed that day labor and for-profit employment agencies have been a constant for the past one-hundred years. This fails to accurately reflect some of the significant transformations that have occurred in the industry. But more importantly, it erases the long and rich history of resistance to the abuses and exploitation that has typified the for-profit day labor agencies. If we are to avoid moving towards a permanent caste system in our city, it is this tradition into which we will need to tap.

This study is based on interviews and focus groups conducted with close to one hundred day laborers. These day laborers have stressed the following grievances with the day labor industry:

1. The day labor agencies do not pay a worker fairly for the work that he or she does.
2. Day laborers cannot afford the basic amenities of life with the wages they receive at day labor agencies.
3. Day laborers skills are not adequately compensated.
4. Day laborers are frequently lied to about the wages and hours of work they will receive.
5. Day laborers are not paid for overtime if they work multiple days in the week, even though the temp agency is the employer of record.

6. Deductions from day laborers paychecks for safety equipment, transportation and check cashing nearly always push workers below the minimum wage.
7. Day labor agencies discriminate on the basis of race, gender, nationality and disability.
8. Women day laborers face persistent sexual harassment.
9. Day laborers are frequently sent out to jobs with unsafe working conditions, inadequate training, improper safety gear, and insufficient information on the materials they are working with.
10. Transportation is frequently tardy and the vehicles and drivers are unsafe, unlicensed and uninsured.
11. Complaints at the day labor agencies result in retribution – not being sent to work or being only offered the least desirable positions.
12. Workers chances of obtaining permanent employment are purposely sabotaged by the day labor agencies who send workers to new job sites before they reach their ninety days.
13. The staff at day labor agencies is disrespectful and abusive to the workers.

**This report proposes two approaches to challenge the exploitation and abuses faced in the day labor industry:**

1. A non-profit Community Hiring Hall that pays workers daily and is run with extensive community collaboration.
2. A renewed effort to extend municipal, state, and federal regulations to the employee leasing industry.

## 2. Introduction

The true cost of labor can only be ascertained by ascertaining the cost of all the means necessary to the comfortable feeding, clothing and housing of the laborer and his family with the addition of schooling for his children. If the price paid for labor will not secure this to the laborer, than whoever gets that labor for such price is getting it at less than cost.

H.J. Walls, Commissioner of Ohio Bureau of Labor Statistics, 1878

Outside of his presumption that the laborer was a male, Walls quote nearly 125 years ago is just as appropriate today as it was then. The plight of day laborers' in Cleveland, which is documented in this report, makes it clear that the day labor agencies in this city are not paying the true cost of labor. As a result, they are producing unnecessary hardships for their employees and creating extensive costs for the larger community. The agencies would not be able to reproduce their workforce if it was not for the extensive and largely publicly subsidized infrastructure in place that provides for the unmet needs of their workers: the shelters, meal sites, drop-in centers and health care services available to the working poor in the city of Cleveland. From the day labor agencies' perspective, these locations are warehouses of workers that supply a ready pool of desperate and dependent warm bodies.

The impetus for this report emerged from the interviews that were conducted by Daniel Kerr in the Cleveland Homeless Oral History Project. To the investigator's surprise, it was soon discovered that the large majority of men and women who live in the shelters in the City of Cleveland work. Their principal employment is through temporary day labor agencies. The project also identified that one of the primary causes of homelessness, identified by the homeless themselves, is the temporary day labor industry. The nine-month study that this report is based on, has sought to identify the concerns and realities of workers within this industry. Many of the findings in this study are supported by the recent coverage done by the *Plain Dealer* and the *Free Times* on the abuses and exploitation in the local day labor industry.

The interviews and focus groups conducted with close to a hundred day laborers in the City of Cleveland, homeless and non-homeless alike, has revealed several key grievances. The most important of these grievances is that workers are not paid fairly for the labor that they do. As a result, they are unable to afford or maintain housing nor are they able to break out of a cycle of poverty from the wages they receive. Furthermore,

workers find themselves trapped in the day labor cycle with the promise of permanent employment never fulfilled. Workers find themselves in the industry for years without anything to show for it. Pensions and health benefits are out of the question.

The industry is characterized by long days and low wages. Typically workers wake up at 4:00am, go to the agency office and start waiting to be sent out at 5:00am. They may not be sent out until 8:00am and will often travel to the outer ring suburbs to work in machine shops and plastics manufacturers. They may start working around 9:00am and finish at 5:00pm, wait for a ride to pick them up (if it ever does) and not return home until 7:00pm. After fees for rides, safety equipment and check cashing, the worker will in most cases have between \$28 and \$30 in their pocket for approximately fourteen hours of working, traveling and waiting.

Other problems that workers face is that they are not paid overtime by their employers – the temporary day labor agencies. They are charged excessive fees, treated with disrespect by the dispatchers who send them out, and they are blacklisted or blackballed if they raise any concerns about company policies or safety procedures. Typically these workers perform the most difficult, hot, dirty, heavy, and dangerous work in the region. They are most frequently paid between \$5.15 and \$6.25 an hour without benefits. While many perceive day laborers to be unskilled, the reality is that their skills are not recognized and compensated accordingly. Workers are not provided with appropriate safety gear and are sent out to work on unsafe equipment and in positions that have a high degree of risk for personal injury. The agencies make local companies sign contracts that forbid them from hiring a worker until they work ninety continuous days. Often workers find their tickets disappear shortly before reaching this barrier - then both the client company and day worker have to start from day one. The workers participating in the study have indicated that the day labor agencies actively participate in discrimination on the basis of race, gender, nationality and disability. Also dispatchers at the agency engage in the practice of favoritism – sending out workers who they are friends with before other workers who are ready and willing to work.

Workers interviewed have reported that it has become significantly more difficult finding jobs directly through a company. Two factors have played a role in this. Many companies have left the city and relocated in industrial parks along the outer ring highways that circle the perimeter of the city. This makes it extremely difficult for workers to apply for jobs at these shops. Secondly, employers have sought to avoid paying workers' compensation, unemployment insurance, and benefits by using temporary agencies for workers. The downsizing, outsourcing and movement towards flexible production that has typified the industrial reorganization of this region in the past thirty years has meant that temporary employees who can be called on and let go at a moment's notice have

become much more heavily utilized than they have since the 1920s. (See **Appendix: Exhibit A** for a complete list of companies and job sites where local day laborers have reported being sent to work)

While this shift has in many ways benefited local industrial concerns, and it has very much benefited the temporary day labor agencies, it has displaced an inordinate amount of risk onto the workers. These workers no longer have jobs with security or benefits and they have substandard wages. While these workers have borne the risks, they have not shared in any of the benefits of the economic expansion of the 1990s.

We believe that a series of structural changes within the labor market can be implemented that will allow these workers to get paid a living wage with benefits. First and foremost, a non-profit community hiring hall can address many of the grievances of current day laborers and provide them with the material basis from which they can live with dignity and respect. Secondly, we believe the city, county, organized labor, regional employers, and non-profits with an interest in employment can become full partners with this hiring hall. To supplement the establishment of this hall, the city, state and federal government need to regulate the employment leasing industry. The leasing method was developed to bypass the regulations of the fee-charging placement agencies of old. The staffing industry has argued that they are capable of policing their own, but as this report will document, they have abysmally failed in doing so.

### **3. The History of Day Labor in Cleveland**

While it is true that the day labor phenomenon has been around since the latter nineteenth century, it would be misleading not to recognize that it has changed significantly over time. By focusing solely on the presence of the day labor industry over time, we fail to recognize the significant regulations and interventions that have sprung out of movements to counteract the depredations of commercial day labor agencies in the late nineteenth and early twentieth century. Seeing day labor agencies as an inevitable constant over time in an industrial capitalist economy also fails to fully understand the significant intensification of the temporary day labor industry in the latter part of the twentieth century.

Historian Alexander Keyssar argues that continuous work was the exception, not the rule in the late nineteenth and early twentieth century. The industrial economy was marked by



frequent panics and business depressions followed by relatively prosperous years, creating an ideal setting for the emergence of the commercial day labor industry. The early growth of this industry immediately met resistance from multiple fronts. The Charity Organization Society, which was established in Cleveland in 1881 with the support of several leading industrialists, sought to organize an employment agency to systematize and rationalize the workings of the labor market. COS hoped that the establishment of a non-profit employment agency would decrease the societal cost of relief by eliminating the depredations of the fee charging agencies.

Political officials also recognized that the commercial agencies were posing significant problems. In 1888 the Ohio Commissioner of Labor, A.D. Fassett, investigated the operation of private employment agencies operating in the state. He reported that the private employment agencies charged exorbitant fees for a doubtful service. Unlike the day labor agencies of today, early employment agencies did not directly employ workers that they sent out to client firms. They charged workers a fee to help them search for employment, charged them another fee if the applicant obtained a job and when possible, the employer was charged a fee as well. Fassett determined that these fees were essentially coming out of the wages of employees who received jobs: jobs that paid very poorly to begin with. There were no provisions for refunds when the jobs proved unavailable. He concluded: "But the employment agencies, feasting upon the necessities of the army of the unemployed, filled up the ranks as fast as the sad experience of the victims thinned them out."

Following this study, organized labor became the major statewide backer of a bill designed to establish free employment agencies across the state. In 1890 the bill was passed, making Ohio the first state to establish a system of free employment bureaus. Cleveland's office opened on July 1, 1890. Early reports from the free agency indicated that the employers were just as eager to bypass the fee charging employment agencies as the labor movement. Because the fee charging agencies were paid with each laborer placed, employers believed that the agencies had an active interest in generating labor turnover in their factories. The agencies appeared to be just as unscrupulous in their dealings with employers as employees, misrepresenting the qualifications of laborers sent to an employer as well as misrepresenting the details of jobs to the worker. Since the free agency was not motivated by profits, it had no reason to make the misrepresentations that were commonplace in the fee-charging agencies.

In addition to the establishment of a free employment bureau, both the City of Cleveland and the State of Ohio extensively regulated commercial employment agencies. In Cleveland an ordinance was introduced and passed in early 1915 to curb the worst abuses of these agencies. The ordinance mandated that agencies needed to provide their workers

with a contract that was written in the employee's language along with a card that contained the terms of this contract and could be used to file complaints with the inspector's office, set up under the Director of Public Welfare. Agencies were forbidden to send workers out to places where there was "labor trouble" without first notifying the worker of this trouble. They were forbidden from making any false representations to employers or employees or paying an employer any part of their fee as an inducement to hire or discharge an employee. The ordinance mandated that agencies must refund fees if employees' jobs were terminated prior to earning twice the amount of their fee. Violations would lead to a fine, and potentially a revocation of an agency's license. In 1924 these municipal regulations were tightened to state that all fees must be based on employment lasting at least 90 days. Any employment lasting less than 90 days was prohibited from exceeding 10% of all wages or salary earned during the period of employment. Agencies were also forbidden from soliciting applicants on the street or in business establishments. A regulation passed in 1927 in Cleveland required companies to pay a worker any money spent on transportation to non-existent jobs.

While the fee charging agencies thrived on industrial cycles of recession and growth, most could not survive the depression in the early 1930s. With the backing of employers, social service agencies and workers, the State City Free Employment Bureau was able to survive. In 1938 the bureau was incorporated into the Ohio Bureau of Employment. When the fee charging agencies began to reemerge in the late 1930s and 1940s, they were largely kept out of the industrial sector by organized labor. The agencies focused on the unorganized positions in the economy. In the postwar era commercial agencies placed workers in managerial and professional jobs, as well as clerical, domestic and laundry work.

By the 1960s companies such as Manpower Inc. began developing a foothold in the industrial casual labor market. This development coincided with the decision by the Ohio Bureau of Employment to give up its free placement services. The state-run offices became solely used as places to register and collect unemployment insurance. Local companies Minute Men Staffing and the forerunner to Ameri Temps were started in 1968 and 1969. Lakeland Labor also formed during this period. To bypass existing regulations, these companies conducted business in a different manner than the labor agencies of old. Instead of placing workers directly into the employ of a client company, the new day labor agencies hired workers directly and then leased them to other companies. The agencies marketed themselves to client companies by stressing that these firms could avoid the costs associated with fringe benefits, workers compensation and unemployment insurance. In addition, they could depend on temporary industrial help to deal with seasonal and unexpected business. The staffing industry as a whole, through the establishment of the National Association of Temporary Staffing Services, fought to avoid the extension of regulations to address this new model of business. NATSS argued that the staffing industry could police its own. Due to the relatively insignificant position

these firms had in the economy at the time, there was little organized opposition to these efforts.

These companies remained marginal players in the industrial sector until the recession of the early 1980s. The recession prompted attacks on organized labor, corporate downsizing, outsourcing and what became known as flexible management. The new lean and mean economy became a fertile ground for commercial staffing agencies. In two weeks alone in 1983, the business that became incorporated as AmeriTemps quadrupled.

The day labor industry continued to grow in the 1990s. Cutbacks in general assistance in the early 1990s and welfare reform in 1996 provided more warm bodies for the industry to send out. As the industry intensified and expanded, resistance to the day labor agencies re-emerged. In 1992 a group of homeless men and women started a job pool on Lorain Ave. in an effort to bypass the commercial agencies. The job pool operated on the older model by attempting to place workers in the direct employ of companies. With little outside help, the job pool eventually succumbed to internal conflicts. Ultimately it failed to compete with the dominant leasing model of the commercial firms.

Although the labor pool failed, day workers concerns were not abated. In the winter of 1999-2000, groups of day workers met at Bishop Cosgrove to determine whether homeless day laborers were interested in supporting the Living Wage Campaign. It was clear that the actual ordinance would have little direct impact on their working lives. However these workers decided to support the legislation because they felt the concept of the living wage was worth backing and this measure could be a first step in improving their own working conditions. During the campaign these workers collected hundreds of signed cards to pressure city council to vote for the ordinance, they produced a pamphlet explaining why homeless workers backed the ordinance, and they gathered in numbers at the public hearings and the rallies at City Hall.

In September 2000, the Low Wage Workers Union (LWWU) was formed to specifically address the concerns of temporary day laborers in northeast Ohio and to take the campaign for a Living Wage to another level. Since its formation, the LWWU has petitioned the Salvation Army and Catholic Charities to establish a code of conduct for labor agents recruiting on their premises, (see **Appendix, Exhibit F**) it has worked with the local press to expose the abuses of the temporary agencies, and it has built links and networks between those who are working for the temporary day labor agencies, organized labor, community organizations and local churches. At its summer convention

on August 25, 2001, the organization officially changed its name to the Day Laborers' Organizing Committee (DLOC) to more clearly reflect the work it was engaged in.

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#### **4. Methodology**

This report is based on extensive interviews conducted with seventy-seven day laborers over a four-month period between April and August 2001. A volunteer group of 16 people conducted the interviews in seven different locations in the city. All the participants in the interviews did so on a voluntary basis. Thirty-five people were interviewed at sites where free meals are served: St. Augustines, St. Malachai, the Bishop Cosgrove Center, and Public Square. Thirty-six people were interviewed in the emergency men's shelter at 2100 Lakeside, and two people were interviewed at the Cleveland Mediation Center and the Northeast Ohio Coalition for the Homeless. Of those interviewed, 88% were men and 12% were women. 62% of the interviewees identified themselves as African-American/Black, 31% identified themselves Euro-American/White, 3% of the interviewees indicated they were biracial, and 4% remained unidentified. 79% of the interviewees were homeless, and 28% were veterans. The ages of interviewees ranged from 22 to 63 years with a mean age of 43.

The demographic breakdown of the people who were interviewed was affected significantly by the staff's refusal to cooperate with this study at the women's shelter run by Catholic Charities. While volunteers were allowed to interview day laborers in the men's shelter, women volunteers were denied access to the women's shelter. If we take those interviewed solely in mixed gender settings, then the percentage of women in the sample jumps from 12% to 22%.

In addition to the individual interviews, a series of four focus groups were held between January and August 2001, to identify key grievances of day workers. The workshops were conducted at the Northeast Ohio Coalition for the Homeless offices, 2100 Lakeside, Bishop Cosgrove, and Escuela Popular on W. 14<sup>th</sup> Street. Between fifteen and twenty-five people attended each of the focus groups. Many of these people also provided individual interviews.

## **5. Day Laborers' Grievances**

### **5.1 Hours And Pay**

The principal concern of all day laborers interviewed has been that they do not feel they are paid fairly for the work they do. This concern was chosen as the number one grievance by day laborers in every focus group. Workers report that they receive approximately \$28-35

a day after fees and taxes for eight hours of work. Along with the actual time spent at work, day laborers report that they spend another four to six hours on average waiting to be sent to work and traveling to and from the job site. All day laborers stated that it was impossible to live decently on this money.

Day laborers reported difficulty obtaining housing. An apartment at the low end of the rental market will cost \$300 a month and require a \$300 security deposit. This would require 100% of a worker's monthly wages if they are fortunate enough to work full time – leaving nothing else for food, clothing, or bills. But because day labor is not as secure as a full time position, several workers have stated they have been turned away by landlords because their employment reference was a day labor agency. Landlords fear that a day worker may not be sent out during a slack season and will be unable to afford rent. Rather than face these potential risks, many turn day laborers away altogether. With monthly rentals out of reach, day laborers frequently pay for rooms by the day and the week. Ultimately this is more costly and the housing conditions are inferior to monthly rentals. As the study shows, a large number of day laborers have to depend on homeless shelters or camps.

Other day laborers have reported that they became homeless because they could not keep up with the bills on the pay they received from day labor agencies. Many non-homeless day laborers in Cleveland are literally a paycheck away from becoming homeless. An injury, illness, or not being sent out for a day or a week can mean the difference between having housing and being on the street. For some workers, the road to homelessness is more of a steady one downwards. One worker stated that after driving his car to jobs he was assigned across northeast Ohio, he could not afford to keep up with the necessary maintenance. Without transportation, he lost his standing among the dispatchers and was

not sent out as frequently. As a result, he eventually fell behind on his rent and lost his home.

Additional grievances over pay can be broken down into five categories: not being paid promised rate, not being allowed to work the quoted number of hours, not being paid for overtime work, deductions from checks for items to used, and working at jobs above the skill level for which their pay was based.

In 58% of reported cases, workers were paid less than the price quoted to them upon being hired by the temporary day labor agency (Table 1, Figure 1).

Table 1.

Day Laborers Being Paid Less than Quoted Wage

	YES	NO	Total
Frequency	45	32	77
Percent	58.4	41.6	100.0

For instance, a forty-seven-year-old male reports that temporary agency dispatchers sent to the Bishop Cosgrove Center offered him work for \$6.00/hr. When he finished the shift he returned to the office and received a check based on a 5.15/hr pay rate. This same story can be told dozens of times. The large majority of examples where this is reported occur when a labor agent recruits off the premises of the labor agency. This grievance was one of the motivating factors behind the LWWU's petition drive to get the Salvation Army and Catholic Charities to enact a code of conduct (see **Appendix: Exhibit F**). In addition to day workers finding themselves lied to about wages, they also report not receiving raises offered to them by client companies. A forty-five-year-old woman describes, for example, being told that the client company was paying the temp agency an additional \$.25/hr to provide her with a raise. The raise never made it to her paycheck. Another worker, a forty-eight-year-old man, reports arriving at 7:30am to a work site, working one hour, and then being sent back, and returning at 10:30 am. Although the company was charged for four hours of work (at \$10.00/hr), and he spent 3.5 hours in total of his time, he was only paid for one hour of work. Out of the \$40.00 the temporary labor agency received on that day, this worker received \$2.85 after his fees were subtracted.

Nearly one out of every two day laborers (46%) complained about not being allowed to work the number of hours they were quoted upon being hired (Table 2, Figure 2). With

some workers spending daily some 14 hours working, waiting, and being driven to and from the work site, still more explain that the number of hours the dispatcher quoted for a given job was less in actuality. Day-workers in most cases seek to work a full eight hours or more since the shorter one works, the greater proportion of ones time is spent waiting without compensation. This makes it especially disappointing to find an eight hour job turn into a two hour job. One forty-eight-year old male reports this occurring on at least twelve separate occasions.

Table 2.

Day Laborers Working Less than the Quoted Hours

	YES	NO	Total
Frequency	35	42	77
Percent	45.5	54.5	100.0

One worker for example, a forty-eight-year-old African-American man, tells of arriving at the agency office at 5:00 am, being sent out at 2:00 pm, not clocking in on the job until 3:20 pm, working until 11:40 pm, and finally returning at 1:00 am. He was paid for 7.75 hours of work. Another afternoon, after working from 2:00-10:00pm, the return vehicle was so late that he did not arrive back at the agency until 3:45 am. He slept on the bus until the office opened at 5:00 am, finally receiving his check at 10:00 am. On another occasion, he was sent to do landscaping work and was sent back home after one hour because too many workers had been sent to the site. From there he was sent to do garbage disposal until 3:30 pm. By 5:00 pm no return ride had materialized, and he had to pay his own transportation. Although he was paid for 9 hours work at \$6.75, a month later he found \$16.00 deducted from a check because of an error in regard to the 9 hour pay. After complaining, another \$8.00 was taken from his check.

Others similarly complain about agencies sending more than the necessary amount of workers to a work site. A forty-five-year-old woman reports being sent along with 47 others to a site, where upon arrival they learned only 37 were needed. Another forty-one-year-old male waited four hours at one work site, along with 17 other day laborers, until he was allowed to work. In cases such as this, the worker is still charged the \$4.00-\$6.00 transportation fee. Particularly in cases where workers have spent much of their day in transit, with no work done and hence no paycheck, workers often find themselves stranded at the agency. One thirty-three-year-old woman, after using the last of her money for the bus to the temporary labor agency, waited 3.5 hours at a work site before being sent back with no work. She received no financial remunerations and thus could not afford a return bus ticket. She was raped as she walked to her home.

Strikingly, 56% of day laborers interviewed for this study report having worked in excess of 40 hours in one week and received no overtime pay (Table 3). Agencies have repeatedly misled day laborers by explaining that as a matter of policy they do not pay workers overtime unless all work is conducted at one work site. Additionally, when workers do approach the 40 hour limit at one work site, they are inexplicably transferred elsewhere. A forty-nine-year-old African American male, for example, reported this as standard policy by at least two temporary labor agencies (Lakeland and Minute Men), something he has fallen victim to on several occasions.

Table 3.

Day Laborers Who Worked Over 40 Hours  
and Received No Overtime Pay

	YES	NO	Total
Frequency	43	34	77
Percent	55.8	44.2	100.0

A significant impact on worker's checks were the standard deductions that are applied after completing a job – such as for transportation, safety equipment, and check cashing. As mentioned above, after these deductions most workers' pay falls well below the minimum wage limit. For instance, if a laborer works an eight hour shift and then has the standard deduction removed from their check, as well as a \$4.00 transportation fee, an on average \$1.50 fee for gloves, and an on average \$1.50 check cashing fee, their average hourly wage falls to \$4.28. Additionally, it is not uncommon for workers to be incorrectly charged for equipment. A forty-eight-year-old man, for example, explains that although he was informed that the company for which he works supplies gloves for its workers, he was nonetheless charged a fee by the temporary labor agency. When we consider the common experience of the day laborer being sent home prior to working the full eight hours, the average hourly wage falls significantly. From the 45% of the day laborers that reported this, the modal difference between the hours promised and the hours actually worked was four hours. Taking into account other deductions, such a case results in an hourly wage of \$3.40.



As opposed to arguments that temporary day labor agencies provide unskilled work, it was common to find day laborers working at jobs that would traditionally be considered as skilled (see **Appendix: Exhibit B**). Additionally, day laborers often worked at jobs well above the skill level advertised at the agency. A forty-six-year-old man describes being sent to do one position but then found himself put into positions that were more dangerous and that typically paid double what the job he was assigned to be doing. Another worker, a forty-eight-year-old man, reports being told he would be running a punch press and was then told to work in a position that required more skill. He describes having to perform 3-4 skilled jobs at one site - still being paid the minimum wage of \$5.15. Another fifty-four-year-old worker describes being told he would operate a punch press job at the temporary agency, but was put on a precision grinding machine at the work site – a machine that the other permanent machinists on the job were receiving \$17.00/hr to operate. In fact, three workers (3.9%) report working as supervisors and another reports actually training permanent workers.

By all accounts, the majority of work sites were extremely rigid, with the slightest infraction resulting in serious retribution on both the worker and sometimes his or her co-workers. Workers, for instance, commonly describe policies whereby the slightest infraction results in the worker receiving minimum wage, despite the quoted wage. A forty-three-year-old male, for instance, describes this happening to all of his co-workers as a result of his smoking a cigarette while working. Other workers, such as a forty-two-year old African American male, describes receiving pay cuts for going to the bathroom. Many of these penalties are the result of the provision of little and at times no breaks for day laborers. A forty-four-year-old male, for example, received only a 30 minute lunch and no breaks during an eight hour shift. The same worker worked 10 hours at another site, doing extremely heavy labor, and received one 15 minute break and one 30 minute lunch. Another fifty-nine-year old man describes numerous occasions of being overworked for long hours and receiving short or no lunch breaks. In all of these cases, complaining was not a realistic avenue for expressing grievances. Although we will consider this more fully in the final section, complaining about any of the above problems resulted in either the worker not being sent out or being sent to the least desirable jobs.

## 5.2 Racial Discrimination

Racial discrimination in the hiring practices of temporary day labor agencies appeared recurrently in both the focus groups conducted and interviews administered. From the interviews, 24% of those interviewed reported being personally discriminated against based on their ethnicity (Table 4).

Table 4.

### Day Laborers Who Experienced Racial Discrimination

	YES	NO	Total
Frequency	24	53	77

Percent	31.2	68.8	100.0
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This discrimination took many forms, such as African-Americans not being given jobs at all, Euro-Americans being sent out more quickly than African-Americans, African-Americans being sent to more difficult jobs, or African-Americans experiencing verbal harassment. In fact, when we look at the African-American segment of the sample, we see 39.6% of them personally experiencing discrimination (Table 5, Figure 3). This represent a much higher proportion than the overall sample. In both cases, these are extremely high rates of racial discrimination.

Table 5.

African-American Day Laborers (n=48) Who Experienced  
Racial Discrimination

	YES	NO	Total
Frequency	19	29	48
Percent	39.6	60.4	100.0

Most commonly, day laborers who complained about racial discrimination in the hiring practices of temporary day labor agencies emphasized the disproportionate rate at which Euro-American workers are given jobs. A forty-six-year-old Euro-American male described, for example, how a particular agency will send out 3-4 Euro-American workers while upwards of four dozen African-American workers, most of whom had arrived before the Euro-American workers, waited. A forty-two-year-old self-described biracial male explained that a particular company will send back workers for the third shift if there are too many African-American workers, then request more Euro-American laborers.

Racial disparities are also seen in the types of jobs to which African-Americans are sent. As both a fifty-two-year-old African-American man and a forty-eight-year-old African-American man report, African-Americans are frequently sent to the most physically strenuous and dirtiest jobs. As the former explained, he was repeatedly sent to work involving the cleaning of oil off of machinery or the wiping off of oil from parts without gloves. The latter, in comparison, describes how Euro-American workers are alternatively sent to easier janitorial or shipping jobs while African-Americans are sent to the dirtiest jobs. Racial discrimination is so pernicious in the temporary day labor industry in Cleveland that, as a fifty-three-year old black male describes, it is common knowledge amongst African-Americans that they will not be sent to specific work sites (Euclid Industries). A fifty-nine-year-old African-American man describes the discomfort

he experienced being sent, perhaps by mistake, to this work site and being the only person of color in the entire building. At the same time, it is common knowledge amongst workers that other companies (Atlas Tech in Lorain) will only hire Latino laborers.

Some Euro-American day laborers, such as a thirty-five-year-old white male who was interviewed, could not help but notice the discrimination experienced by African-Americans both by the temporary day labor agency and the companies to which they are sent. Another worker, a thirty-year-old white male, describes being sent specifically to a given work site because he was a white male. In this regard, the temporary day labor agencies are often complicit with companies in their racist hiring practices. A thirty-one-year-old black male, for example, describes arriving at another work site to learn that the company had said they did not want any African-American laborers. Although he completed his shift, he was forced to work in a very uncomfortable climate.

In addition to racial discrimination in hiring and job placement, many respondents experienced racist language and discriminatory verbal harassment. The forty-seven-year-old self-described biracial male mentioned above, for example, was told to "sit his black ass down" at one temporary day labor agency. Furthermore, a forty-five-year-old black woman reports workers being referred to as "niggers." Another forty-two-year-old black male also experienced and witnessed "verbal assaults" that were plainly targeted at the African-American day laborers at a particular work site.

### 5.3 Gender Discrimination and Sexual Harassment

Laborers commonly complained about gender-based discrimination in the hiring and assignment of jobs at temporary labor agencies. While 16% of all the day laborers interviewed complained about this, a much larger percentage of women, 33%, had experienced or witnessed gender discrimination (Table 6). The common complaint is not that women and men are being sent to gender appropriate jobs, but that there appears to be no logic to what type of person is sent to which jobs. One work site may only be assigned male punch press operators, while at another it makes no difference if the worker is male or female.

Table 6.

#### Reports of Gender Discrimination

#### By Gender

	YES		NO		Totals	
	Count	Percent	Count	Percent	Count	Percent

Male	13	19.1%	55	80.9%	68	100.0%
Female	3	33.3%	6	66.7%	9	100.0%
Total	16	20.8%	61	79.2%	77	100.0%

For example, one fifty-year-old woman was told by an agency that a woman cannot operate a punch press. At the same time, frequency tables of the types of jobs women are sent to show one brake press operator, one parts grinder, one parts catcher/thrower, three drill press operators, four machine operators, and, interestingly, six punch press operators. Punch press operator is in fact the most common job to which women are sent to, with 66% of the women at some point or another working as a punch press operator.

In any case, workers recognized few gender specific jobs. At the same time we have a forty-nine-year-old woman complaining about not being sent out on a job she can do and a forty-year-old man complaining how men are more frequently forced to do harder work than women. Furthermore, as with racial discrimination, we see temporary labor agencies working in complicity with companies in gender discrimination. A thirty-one-year-old man, for example, explains how particular work sites (Custom Graphics and Renaissance) take only women, requests to which temporary agencies readily comply.

Other instances of gender discrimination came in the form of favoritism toward women by male temporary labor agency employees. In addition to a forty-six-year-old male's account of a dispatcher giving preference to day laborers based on physical attraction, a fifty-four-year-old woman describes being pressured to accept flirtatious behavior by agency dispatchers if she wanted to be sent out on a job assignment. On another occasion, a twenty-two-year-old male witnessed women go behind the dispatcher's counter and be paid for "sexual services." Similarly, a forty-eight-year-old male has witnessed supervisors on work sites giving easy jobs to female day laborers if they provide sex. Female day laborers also frequently complained of being sexually harassed. In addition to instances of being pressured into accepting flirtatious advances, a fifty-nine-year-old female day laborer describes being "overwhelmed" by one of the agency drivers while in the van. She did not complain for fear of losing the job.

#### **5.4 Worker Safety**

Besides grievances over the pay day laborers received, one of the most discussed topic was the condition of the work sites. An astounding 70% of day laborers interviewed reported unsafe work environments (Table 7, Figure 4). Workers repeatedly enumerated a range of work site dangers and addressed the insufficient training (if any is received at all) workers receive. Furthermore, 39% of day laborers interviewed reported receiving a work site injury (Table 7, Figure 4).

Table 7.

Day Laborers Reporting Unsafe Work Sites

	YES	NO	Total
Frequency	54	23	77
Percent	70.1	29.9	100.0

The forms of unsafe conditions at work sites were troublesome. First, respondents listed the following items as lacking at many work sites: hand straps, guards, gloves, safety glasses, appropriate breathing apparatus (e.g., respirator), ear plugs, eye flush stations, and back support belts. Additionally, day laborers complained of inadequate training, lack of manuals, as well as inadequate and outdated machinery.

A thirty-nine-year-old male, for instance, worked at a site containing hazardous chemicals that lacked ventilation, had a non-functioning eye flush station, and had a malfunctioning sprinkler system. He was given neither a mask nor gloves while working. Another day laborer, a forty-one-year-old male sent to a paint shop, worked alongside permanent workers with industrial respirators while he was given no protection. Another worker was only given a paper mask. A fifty-year-old worker was sent to a heat treating firm and asked to clean an acid bath with only a paper mask. At a notorious garbage disposal company, a forty-eight-year-old worker describes how despite stickers on the garbage truck warning employees not to ride on the back of the truck for more than 1/4 mile and at over 5 mph, he spent an entire day (10.5hrs) on the back of the truck and traveled at speeds upward of 40mph during the winter. Additionally he was provided neither gloves, rain gear, nor the red vest garbage workers are legally required to wear. Furthermore, despite freezing temperatures, he was not allowed into the cab of the truck to warm himself.

In addition to numerous instances of working with hazardous fumes, a common complaint amongst day laborers was the degree to which they were not informed about the nature of the job they were being sent to. A thirty-seven-year old worker, for instance, was sent to crush barrels without being told what was inside. While crushing them, the barrels emitted unidentified noxious fumes. He was provided no respirator or information as to what the contents of the barrel were. At another site, when the same worker asked a supervisor about safety equipment, the supervisor said there was none and later refused to hire him back. Lastly, a forty-six-year old worker explains the precariousness of the situation when describing how working at many jobs that involved acid required him to buy new clothes, thus negating what little income he had received.

Not surprisingly, such unsafe circumstances frequently lead to work place injury (Figure 5). In addition to numerous cut fingers, broken bones, strained muscles, and burns, day laborers frequently reported more serious injuries. A forty-five-year-old female, one instance of many, describes inhaling noxious fumes and soon becoming dizzy and sick to her stomach. A forty-eight-year-old describes having a leg broken and then being sent to the company doctor where it was treated as if it were a simple sprain. The doctor gave him Epsom salts for his injury. In terms of medical care, a forty-eight-year-old male explained his fear of reporting an injury because he knew that the temporary day labor agency had its own clinic and paid its own doctor. He felt that he could not trust them. This distrust is not surprising when considering the several cases which reported temporary labor agencies either pressuring workers to not file a workers compensation claim or companies' attempting to force workers to sign forms immediately following accidents which relinquished the worker's right to sue.

Still more disturbing were work place injuries that were left untreated and unreported for fear they would not be paid. For example, a sixty-one-year-old male cut his finger on a saw blade but did not report it because he wanted to finish his shift. A thirty-three-year-old worker who broke her ankle when she slipped on a greasy floor attempted to file a worker's compensation claim but changed her mind when they told her it was not worth it and threatened her with "Get a lawyer, see what we'll do." Reflecting well the priorities of the temporary day labor agency, one worker, a fifty-seven-year-old male, after being seriously injured when a bar rolled over his hand, was still charged for his safety equipment. Additionally, repeated interviews chronicle day laborers' witnessing co-workers' fingers being cut off, hands being mangled, pins shooting through hands, and even the electrocution of one of the day laborer's son.

## **5.5 Reassignment**

A major obstacle in temporary laborers acquiring full time employment is often the temporary agencies themselves. Each of the day labor agencies makes its client companies sign a contract which requires the client company to pay the labor agency a fee of up to one month's worth of wages if they hire a worker sent to them from the labor agency before he or she has worked ninety continuous days. 16.9% of the day laborers, more than 1 out of every 6 workers, reported that they had personally been arbitrarily either not sent out or reassigned to another position as they approached the 90 day limit (Figure 6). These actions resulted in each of the day laborers starting all over at day one on the time clock.

A thirty-four-year-old day laborer, for example, was just two days short of reaching his 90 day limit when the temporary agency arbitrarily stopped sending him. In addition to numerous such examples, some workers even report this happening twice. Day laborers have no recourse in addressing such abuses. For example, one thirty-seven-year old day laborer was switched at his 89th day. When he complained about this, he was not sent out. In effect, he quickly moved from having nearly stable employment to being completely unemployed. Another worker reports a similar story. After complaining he was not sent out for 10 weeks.

## **5.6 Transportation**

A common practice of temporary day labor agencies is the provision of transportation to the work site in exchange for a fee ranging from \$3.00-6.00, roundtrip. Although not all companies require workers to use this transportation, many do. As one worker explained, "I could have walked or taken the bus, but I had no choice." One worker, a sixty-one-year-old male, even had his own car but was nonetheless forced to take the agency's vehicle and pay the requisite \$4.00. In addition to general complaints about such mandatory use of company vehicles, the cost of which is immediately deducted from a workers check, respondents specified particular problems with the tardiness of drivers, the safety of the vans, and the qualifications of the drivers.

In many instances, drivers were late in either bringing workers to job sites or picking them up. In cases where drivers were late to the job site, some workers reported losing the job. More frequently, however, drivers are late in picking up workers from the job site. It is not uncommon to hear about a day laborer waiting 4-6 hours for a van after completing their day's work. In many instances as well, day laborers have been stranded in distant suburban areas with no means of return. In neither case are workers compensated for their time. Similarly one finds several stories of workers being sent out to a work site where they are not hired and nonetheless are still charged for transportation fees. A forty-eight-year old man describes being sent out for a full days work, returning after two hours of work, and having a transportation fee deducted from his check.

More troubling however are reports regarding the state of the transportation vehicle or the qualifications of its driver. A forty-two-year-old male laborer reports, for instance, being picked up by a van whose driver was intoxicated and whose 12 seat capacity was more than doubled with 25 passengers. A forty-one-year-old laborer complains about drivers with no license or insurance being pulled over and arrested. A thirty-one-year-old laborer recounts a similar story, with the entire van full of workers being stranded far from the agency. In both cases, the workers had to find their own way home. They all duly had their transportations charges deducted from their checks. A fifty-four-year-old female day laborer similarly describes being sent to a job site where she was not needed. She had to wait eight hours before the van returned – an entire days work – and in the end found herself in debt to the temporary labor agency.

## **5.7 Complaining and Retaliation**

Based upon all of the problems with the temporary day labor agencies that we have examined thus far, the most obvious proposal by some would be for the day laborer to complain. As has been mentioned several times thus far, however, complaining regularly results in either the laborer not being sent out or being sent to the most difficult jobs. Interviews and focus groups make clear that the treatment of the day laborer by temporary labor agencies is almost always up to the whim of the agency staff. Actual retaliation or fear of retaliation by agency staff leaves the worker largely defenseless in rectifying improper treatment or conditions.

In this regard, 48.1% of day laborers interviewed report experiencing retaliation after complaining about even the most inconsequential matter (Table 8, Figure 7). In reality, this number under-represents the seriousness of the situation. Many workers do not complain for fear of retaliation. A similar effect can be seen in the number of workers compensation claims that are not filed for fear of the same retaliation. As one day laborer simply explained, "I need to work."

Table 8.

Day Laborers Who Have Experienced Retaliation

	YES	NO	Total
Frequency	37	40	77
Percent	48.1	51.9	100.0

Respondents roundly felt powerless and at the whim of the agency employees when they had grievances. By all accounts, temporary agency staff have created an air of fear in their offices, where workers are afraid to speak up for fear of punishment. A forty-two-year old African-American male, for instance, recalls a staff member yelling to him, "Sit your ass down or you won't go anywhere." A twenty-two-year-old worker describes loud public lectures one is submitted to for complaining. He too describes how he was offered dangerous jobs and if he turned them down he would not be sent out. Running throughout the interviews are many more similar phrases, such as "like it or leave it," "if you don't work there, you can sit around here for awhile," or "you ever pissed in the wind." When a forty-six-year-old laborer complained about unsafe work conditions, he was flippantly dismissed with "go to work, or don't."

Retaliation also frequently came in the form of either not being sent out or being sent to the least desirable jobs. A fifty-four-year-old female day laborer, for instance, was not sent out for a week after complaining and only then to the least desirable jobs. We in fact saw similar stories in our discussion of workers being reassigned at the 89th day, one having sat for 10 weeks after complaining about being reassigned. At times, retaliation took more serious tones. A thirty-three-year-old day laborer, for example, was made to work so hard after complaining that he eventually ripped a muscle in his lower back.

In the focus groups, many workers reported that if there was any issue that was as close to the importance of not being paid fairly, it was the general disrespect and abuse that workers face on a daily basis. Older African-American men bristle at having a young Euro-American male dispatcher treat them like ignorant children. Nearly all complain of the pervasive atmosphere of fear that the staff at the agencies try to maintain. Several have said that if a grievance procedure was included in an alternative agency, it would be enough for them to leave the agency they now go to. But it is clear that we need to do more.



## **6. Policy Prescriptions**

### **6.1 A Community Hiring Hall**

The workshops and individual interviews have revealed that the first priority among Cleveland day laborers' in addressing their present situation is to establish a non-profit community hiring hall. The most significant advantage of a non-profit agency would be that all the money that is currently going to profits in the day labor industry would go to the worker in the form of higher wages and benefits. Furthermore, a non-profit agency would not have a vested interest in keeping workers permanently in the day labor pool.

This agency would not create unnecessary barriers, in the form of ninety day contracts, to prevent workers from gaining full time employment with the client companies they are sent to. These companies would be able to hire a worker sent to them from the community hiring hall at any point without any negative repercussions. Furthermore, the community hiring hall would work as a collaborative agency with other non-profits, organized labor, the city, county, and the Veteran's Administration to ensure that workers had access to skill training and skill recognition programs.

The Community Hiring Hall will need to have the capacity to pay by the day if it will be able to effectively compete with the current day labor agencies. However, there should be built in incentives so that workers can be paid by the week. Workers who are given a steady ticket should also be provided the opportunity to report directly to the work site rather than the community hiring hall's office. All fees related to transportation, safety gear, and check cashing should be eliminated to whatever extent possible. The hiring hall, furthermore, could help facilitate workers access to banking services.

The Community Hiring Hall should open its doors to all workers who are currently fit to work at the day labor agencies. If workers are presently fit to pick up garbage at the downtown sports arenas, than they should be provided the opportunity to do so through the hall. The hall should not attempt to skim off the best workers, but would be at its best if it strives to serve even those workers who are the most down and out. By placing workers in a setting with dignity and respect and by paying them fair wages, the agency will do quite a bit towards raising the living conditions and morale of all workers.

The Community Hiring Hall will need clear grievance procedures to address and prevent any mistreatment of workers by any of the staff in the agency or at the client companies that it contracts with. Clear rules and codes of conduct drafted with the help of current day laborers will structure the way the Community Hiring Hall does business to ensure the staff of the hall does not engage in favoritism or discriminatory behavior. The hiring hall will need to inspect companies that it contracts with to ensure that it does not place workers in unsafe conditions. Workers need to be provided with clear written information detailing what types of work they are agreeing to do and what the wages and hours are that they are agreeing to accept.

The Community Hiring Hall needs to actively solicit the participation and input of organized labor to ensure that it in no way undermines the position of workers who are presently organized. It will need to have clear provisions that forbid it from violating collective bargaining agreements. The community hiring hall should establish portal

relationships with organized labor to provide a stepping-stone by which workers could gain entrance into union jobs. The hall would also need to make a commitment that it would not violate the rights of workers to collectively organize - this would include the recognition of the rights of its own employees to organize into a union if they chose to do so.

The Community Hiring Hall would be enormously attractive to workers, but would also provide real benefits to employers. First and foremost, they would be sent workers with a higher morale since they would be earning wages that would allow them to access housing and the other basic amenities of life that the current wages of day labor agencies do not provide for. Also they would benefit by being able to more easily bring in workers that they tested through the agency into permanent employment. The community hiring hall would charge them competitive rates for workers but would provide a better option for both the client company and the worker. Most of the public and religious organizations that currently use day laborers (see **Appendix, Exhibit A**) will likely be quick to switch over their contracts to the Community Hiring Hall. This switch will likely also occur with the civic minded private companies on this list.

Any current public subsidies that the predatory day labor agencies are currently receiving should be redirected towards the non-profit Community Hiring Hall. Public officials at all levels of government can actively help the establishment of this hiring hall by identifying funding streams that could be tapped into for the establishment of this hall. These funding streams should not be taken from necessary human services. Also public officials could help determine what sorts of in kind assistance could be provided to the Community Hiring Hall. This could include, but not be limited to, office space, computers, phone lines, transportation services, training services, public insurance rates, etc. Public officials could also help play a role in securing contracts from any local firms that have benefited from significant public subsidies in the past – principally the downtown sports arenas. Public officials could ensure that any city owned facilities or public programs contracted with the Community Hiring Hall rather than the predatory labor agencies.

Prompt movement on this issue is an absolute priority. Day laborers are currently being abused and exploited by the day labor agencies. They are living in desperate conditions and cannot afford to wait indefinitely. Furthermore, many of day laborers who are actively organizing to improve their conditions have taken enormous risks in speaking to the press and agreeing to stand-up and testify at City Council. A goal that the Community Hiring Hall should strive to meet is to be in place and running by late winter/early spring 2002. This will help facilitate the hiring hall's ability to win one of the biggest local contracts: Jacobs' Field.

Immediately following the hearings at Cleveland City Hall on September 4, 2001, a taskforce should be formed that can move on this proposal. The taskforce should include day laborers, representatives from public departments that supply employment services, representatives from non-profit agencies providing employment related services, representatives from organized labor, representatives from local foundations and community funds, representatives from the Greater Cleveland Growth Association, prominent clergy members, and interested elected public officials. This taskforce should have two committees: one to form a budget and to secure resources, and the other to draft the by-laws, operating rules and policies of the hiring hall. This taskforce could evolve into an advisory committee for the hiring hall.

Due to the need for prompt action on the hiring hall, it will be necessary to identify a fiscal agent as soon as possible. Due to the potential size of this organization, it may be necessary for the hiring hall to become an independent non-profit agency as soon as possible. Agencies who are currently wary of becoming a fiscal agent for this project, may become more amenable to the idea if a clear timeline is established when the Community Hiring Hall will become an independent organization. Local foundations and community funds may be reluctant to support the establishment of a new non-profit agency. However, the fact that the community hiring hall has the potential to grow into a largely self-funded organization by the very nature of its mission, will be a key selling point. The development of a board that consists of experienced, dependable members with significant track records in the community will be of the utmost importance. The board should also provide a substantial voice for current day laborers.

While the tasks required of us to set-up a Community Hiring Hall are large, the long-term benefits make these efforts well worth it. A workforce that makes enough to afford housing and the amenities necessary for independent living is what we should in the very least be striving for when we discuss economic and neighborhood development. The trends towards increased shelterization and desperation among Cleveland's working poor are untenable and undesirable. A Community Hiring Hall would break the trap currently preventing many workers from raising themselves out of poverty.

## **6.2. A Community Hiring Hall in the National Context**

Dr. Barrie Peterson of Seton Hall University estimates that there are at least 125 alternative hiring halls currently in operation in the United States that provide better

wages, benefits and working conditions than the commercial day labor firms. A survey of the national news, however, suggests that many of these hiring halls have sprung from significantly different circumstances than those we face in Cleveland.

Cleveland is unusual in that it does not have labor corners where day workers gather on sidewalks and parking lots and are picked up by employers. These arrangements have typified the day labor market in East Coast cities, and in cities in the South and West. Day laborers in each of these regions typically work in landscaping and construction. Hiring halls have been set up or are in the process of being set up in San Francisco, Los Angeles, Mesa, Phoenix, Austin, Texas, Houston, Atlanta, Silver Springs, Maryland, and Mount Kisco, New York. In every case mentioned above, the plans to establish hiring halls were drawn in response to racially charged campaigns to ban Latino day laborers from the streets. The principal public goal in most instances has been to contain and control unregulated labor corners in response to local homeowners and business concerns. Advocates for day laborers have fought against punitive legislation that bans day laborers from the streets and have sought to establish the hiring halls as a compromise. These advocates have hoped that the hiring halls could curb many of the abuses that day laborers are subjected to by employers that pick-up workers on the street corners - failing to abide by their promises. While most of the centers require employers to pay living wages (the City and County of San Francisco Day Labor Program requires employers to pay between \$10 and \$15 an hour), they primarily operate in the fashion of the labor pools of old - people and companies needing the workers pay the day laborers directly. No hiring halls have been identified by the authors that use the employee leasing model. Unlike the commercial day labor pools, most of the hiring halls that have been set up do not charge fees - taking a cut of the pay. A few, such as one in Orange County, California, have sought to charge contractors a small fee for the use of the hall to cover their operating expenses, however, many of these halls are entirely publicly funded.

Because the hiring halls in these cities have sought to replace traditional labor corner arrangements, they have been able to function in a manner similar to the old fashioned labor pools in Cleveland. In this city, however, we face a significantly different circumstance. Employers who hire through the labor agencies have in many cases done so in order to avoid the hassles of paying their workers directly. These hassles include worrying about workers compensation, unemployment insurance, and benefits. Because of the way the day labor industry is structured in Cleveland, the traditional labor pool set up in the early nineties by homeless advocates was unable to sustain itself. The Cleveland setting necessitates at this point a Community Hiring Hall that charges client companies fees and pays it workers by the day.

The City of Cleveland is in a unique position that could potentially put it at the forefront nationally in addressing the needs of day laborers and the working poor. Rather than approaching this issue with the concerns of angry property owners in mind, Cleveland has been prompted to address the needs of day laborers. Rather than seeing the problem as one of social control, Cleveland can approach the problem as one of social justice. If the potential collaborative effort sketched above comes to fruition, Cleveland will be at the national forefront of real economic and neighborhood development that we can all be proud of.

### **6.3 Regulations Against Abuses within the Day Labor Industry**

While it is fundamentally important to establish an alternative to the for-profit day labor agencies, it is also necessary that we take proactive measures to ensure the abuses that are currently taking place in the industry do not continue. This will require that those regulations that are currently in place, in particular safety regulations and federal overtime laws, are actively enforced. All possible legal remedies for the injustices that have already occurred should promptly be pursued in as many fronts as possible. In addition to the vigilant enforcement of current laws, the regulations that formerly affected the employment placement agencies need to be updated to specifically address the employment leasing industry. This effort should draw both from historical precedent as well as from legislation that is already in place in other cities and states.

The municipal regulation passed in Cleveland in 1927 required placement agencies to issue in writing, in the language of the worker, a description of the company a worker was being sent to, a description of the job that he or she was being asked to perform, a list of the wages that would be paid, a description of the minimum hours that were being offered, and a list of all fees that would be charged. These provisions should also be mandatory for the employee leasing industry. In addition, since the principal fee taken by the leasing firms is the difference between the hourly rate they are charging their client companies and the hourly rate they are paying the worker, it should be mandated that these companies notify the worker in writing what they are charging the client company per hour of labor the worker is providing. Finally, the licensing and bonding requirements in the 1927 legislation for placement agencies should be extended to include employee-leasing firms to ensure that they are capable of meeting their responsibilities. Provisions should allow for these licenses to be revoked for multiple violations of these municipal regulations.

Georgia Code 34-10-1 contains numerous provisions that would, if enacted in Ohio or at the municipal level, immediately improve conditions within the day labor industry. These provisions prohibit charging workers transportation fees or any fees for equipment or safety gear necessary to perform the work they are being hired for. The code forbids day labor companies from charging a fee for cashing their own checks. It also requires the day labor agency to inform a worker of any hazardous chemicals that they may be exposed to at a work site and mandates that the agency obtain a signed consent form prior to sending a worker out on such an assignment. Violations of any of these provisions are misdemeanors and allow for civil action by the person damaged.

In California, construction workers performing labor on a project are considered employees of the company or person they are sent to work for. By clearly designating who is responsible for workers compensation, the legislation eliminates much of the confusion that typifies the leasing industry on this issue. The confusion makes accessing workers compensation for day laborers significantly more difficult. Also the legislation makes it much more likely that companies will hire permanent employees since one of the principal benefits of the day leasing industry has been eliminated. A bill currently being considered in California (A.B. 1679) would prohibit licensed contractors from performing any work with employees who are not supervised by that contractor or a licensed subcontractor on the job site. This legislation could effectively bar temp staffing agencies from sending workers to the high-risk construction industry.

Other statewide efforts that have been effective in addressing day labor abuses have been the broadening of unemployment compensation laws to include temporary, seasonal, or part-time work. Reforms to unemployment compensation laws have also stated that workers who do not report to their temporary agency at the completion of a job and who fail to take any job offered by that agency are not classified as having voluntarily quit and therefore being disqualified. This would end the abuses that result from workers having to spend entire days in an agency waiting for jobs to qualify for unemployment. Typically these workers are sporadically offered the least desirable jobs available by the agency in an effort to make sure they do not collect anything in terms of unemployment compensation.

Finally, The Day Laborer Fairness and Protection Act (H.R. 2755) introduced by Congressman Luis V. Gutierrez and co-sponsored among other by Congressman Dennis Kucinich, provides regulations that should be supported by the entire Congressional delegation from northeast Ohio. The legislation provides that day labor agencies must pay a wage rate equal to the wage rate received by the permanent employees engaged in comparable work at the site where the day laborer is sent. The legislation forbids any agencies from charging fees for cashing their own checks. Transportation fees cannot

exceed three percent of a day laborer's daily wages. Agencies failing to pay overtime wages are held criminally liable. Any waiting time over one half hour, under this legislation, would have to be paid for at least at the rate of minimum wage. Any retribution, harassment or discrimination towards employees for complaining or testifying in an investigation is subject to fines.

While the federal legislation that has been introduced presents a fairly good model, it is important that municipal, county and state efforts to regulate these day labor firms are promptly engaged in. A local working committee should be formed as soon as possible to explore these possibilities and propose specific municipal regulation as soon as possible. The National Employment Law Project is an organization that can provide significant technical assistance in this process.

## **7. Conclusion**

By helping to bring about these hearings, the Day Laborers' Organizing Committee has provided us with the opportunity to create structural changes that will provide a solid foundation for real economic and neighborhood development. If as a community we do not seize this moment, the increasing desperation of our population will only get worse. It is for us to decide what kind of future we want for ourselves and for our children.

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U.S. General Accounting Office, *Contingent Workers: Income and Benefits Lag Behind Those of the Rest of Workforce* (June 2000).

## 9. Appendices

### **Exhibit A: Companies Where Day Laborers Report Being Sent to Work**

AAA Stamping Inc.

A-Bright

Action Business Interior

Adelphia Coatings

Adelphia Screw

AJ Plastic

AJ Rose Mfg. Co.

Albion Industries

Alloy Welding & Fabricating Inc.

Aloway Welding

Alpha Heating & Cooling

American Binding

American Rubber

Apex Welding Inc.

Aramark

Area Advanced

Areway Inc.

Atlas Heat

Atlas Plating Inc.

Atlas Tech

Avi Food Systems

Bardons And Oliver Inc.

Bay Insulation Of Ohio

Black Oxide (Cleveland And Wickliffe)

Blue Coral

Bostik

Box It Production

Braden Sutphin Inc Co.

Bradleys Inc.

Budget Furniture Rentals

Budget Rental Car

Bula Forge Incorporated

Calvary Cemetery

Card Pak

Cbf Industries

Century Products

Cgi Silvercoate Inc.

Champion Plating

Charity Hospital

City Of Brecksville

City Of Euclid

City Of Euclid Hts

City Of Independence

Cleveland Browns Stadium

Cleveland Business Furniture

Cleveland Hopkins Airport

Cleveland San Jose Ballet

Cleveland Screw Products

Cleveland State University

Cnc Technologies

Color Matrix

Color Process Inc.

Columbia Metal Stamping

Com Steel

Commercial Movers Inc.

Custom Products

Davro Ltd.

Dedicated Distribution/Transport

Dirt Devil By Royal

Dots Inc.

Dreison International Inc.

Eagle

Efficient Tool And Mold

E-Plus Ltd.

Euclid Industries

E-W

Excel Manufacturing

Executive Caterers

Fence Warehouse And Fence Connection

G and S Metals

Gas Technics

Godfried And Wing

Great Lakes Mall

Grover Musical Products

Gund Arena

Handl-It Inc

Hexagon Industries Inc.

Hillside Nuts

Holy Cross Cemetery

Honey Baked Ham

Hy-Level Industries Incorporated

ICP

IJB

Indiana's Yard Waste

IX Center

Jacobs Field

**Exhibit A: Continued**

John Carroll University

Johnson Graphics Inc.

Key Bank

Kiernan Landscaping Company

Kronheims Furniture

L J Tool And Die

Lakewood Sanitation Department

Lawn Lad Inc.

Lincoln Foundry

Madison Press Inc.

Manufacturing Inc.

Marriott Hotels

Marshall Enterprises

Medina Blanking Incorporated

Mega Cards

Milrose Industries

Model Box Co.

Mr. Coffee

Nido Italia

Normandy Electronics

Northern Cross Steel Co.

Northern Stamping

Oatey Co.

Ohio Sealants Company Inc.

Orbit Industries

Orlando Baking Company

Pacific Tool And Die

Paint Co.

Paramount Metal Stamping

Pastex

Patron Plastics

Penton Press (Now R.R. Donnelley)

Peterson Nut Co.

PHD

Phoenix Tool And Thread Grinding

Plastipak Packaging

Precision Metal In Willoughby

Produce Packaging Limited

R.R. Donnelley And Sons Co.

Richmond Mall Food Court

Rubbermaid Incorporated

Sarc Service Steel

Sardis

Satellite Plastics

Scottish Industries

Seaway Foods Inc.

Sensical Inc.

Sentry Products

Sequentia Inc.

Service Stamping

Shaker Hts Country Club

Shamrock Steel Svc

Shear Service Inc.

Solon Companies

Spiral Technical Service Inc.

Springco Metal Coatings

Stacee Manufacturing

Standard Plating Works

Standby Screw Machine Products

Stouffer Corporation

Sueck And Son

Superior Manufacturing

Superior Roll Forming Co.

Swagelok Company

Tavern Box Co.



Techniplate Inc.  
The Cleveland Clinic  
The Kelly Plating Co.  
The Mazel Co.  
The Triad Metal Products Co.  
The Triangle Stamping Co.  
Three D Metals  
Titanium Industries Inc.  
Tri Craft  
Universal Grinding Corp.  
Universal Plating  
Vega Recycling  
Vendors Exchange Intl Inc.  
Victory White Metal  
Vinyl Graphics Unlimited  
Waste Management  
World Color Of Northern Ohio  
Wyras Aluminium Industries

**Exhibit B: Types of Work Day Laborers Have Performed  
Ranked in Order of Frequency**

Types of Work

### Number of Interviewees

who report they were sent to do this work

### Percent of Interviewees

who report they were sent to do this work

### Typical Day Labor Wages Reported

for Each Type of Work

See Exhibit C

Punch Press Operator	47	65.3	5.50
Assembler	45	62.5	5.50
Plating	33	45.8	5.25
Shipping And Receiving	33	45.8	5.50
Manual Labor	32	44.4	5.25
Machine Operator	28	38.9	6.00
Drill Press Operator	25	34.7	6.00
Tow Motor Operator	25	34.7	6.25
Dishwasher	23	31.9	5.50
Parts Grinder	23	31.9	5.15
Light Assembly	22	30.6	5.50
Spot Welder	21	29.2	6.00
Plastic/Injection Molding	20	27.8	6.00
Stocking Parts/Inventory	20	27.8	5.50
Disassembler	18	25.0	5.50

Landscaping	18	25.0	6.00
Parts Catcher/Thrower	17	23.6	5.15
Racking/Deracking	16	22.2	5.15
Band Saw Operator	15	20.8	6.00
Painting	15	20.8	5.50
Construction	14	19.4	6.25
Shear Operator	14	19.4	5.75
Prep Cook	11	15.3	6.25
Scrap Yard Sorter	11	15.3	5.15
CNC	10	13.9	6.25
Quality Control	10	13.9	6.25
Brake Press Operator	9	12.5	6.00
Roofing	8	11.1	6.00
Overhead Crane Operator	7	9.7	6.00
Precision Grinder	7	9.7	5.50
Cook/Line Cook	7	9.7	
Customer Service	6	8.3	6.50
Organizer	6	8.3	
Boring Mill Operator	5	6.9	6.50
Mig Welder	5	6.9	6.50

### **Exhibit B: Continued**

Types of Work Number Percent Typical Wage

Tap And Die	5	6.9	6.50
Chop Saw Operator	3	4.2	6.50
Industrial Spraying	3	4.2	7.50
Lathe Operator	3	4.2	6.50
Masonry	3	4.2	7.00
Roll Form Machine Operator	3	4.2	6.00
Truck Driver	3	4.2	
Cleaning/Housekeeping	3	4.2	
Foundry Core Room	3	4.2	
Packing/Unpacking	3	4.2	

Straightening Titanium Bars	3	4.2
Caulk Machine Operator	2	2.8
Radius Bender Operator	2	2.8
Garbage Disposal	2	2.8
Stacking	2	2.8
Warehouse Supervisor	2	2.8
Forge Hammer Operator	1	1.4
Buffing	1	1.4
Food Service	1	1.4
Garbage Collection	1	1.4
Garbage Recycling	1	1.4
Heat Treating Metals	1	1.4
Mover	1	1.4
Packaging	1	1.4
Porter	1	1.4
Print Machine Operator	1	1.4
Production Line Supervisor	1	1.4
Screw Machine Operator	1	1.4
Soldering	1	1.4
Collating	1	1.4
Other	7	9.7

Note: Typical wages were not determined for all types of work.

### **Exhibit C: Types of Work Women Day Laborers Do**

Type of Work

Number of Women

Who Report Doing Work

## Percent Women

### Who Report Doing Work

Punch Press Operator	6	66.7
Assembler	5	55.6
Light Assembly	4	44.4
Machine Operator	4	44.4
Disassembler	3	33.3
Drill Press Operator	3	33.3
Manual Labor	3	33.3
Plastic/Injection Molding	3	33.3
Prep Cook	3	33.3
Shipping And Receiving	3	33.3
Spot Welder	3	33.3
Dishwasher	2	22.2
Plating	2	22.2
Cook/Line Cook	2	22.2
Brake Press Operator	1	11.1
Customer Service	1	11.1
Masonry	1	11.1
Organizer	1	11.1
Parts Grinder	1	11.1
Parts Catcher/Thrower	1	11.1
Quality Control	1	11.1
Roll Form Machine Operator	1	11.1
Scrap Yard Sorter	1	11.1
Shear Operator	1	11.1
Stocking Parts/Inventory	1	11.1
Racking/Deracking	1	11.1
Collating	1	11.1

**Exhibit D: Temporary Day Labor Agencies Day Laborers Use**

TEMPORARY LABOR AGENCIES	Count	Pct of Cases
Ameritemps	54	71.1
Minute Men	53	69.7
Lake Land Temp	47	61.8
All American Staffing	25	32.9
Labor Ready	21	27.6
Tandem	7	9.2
Area Temps	3	3.9
Olstem Staffing	3	3.9
Addecco	2	2.6
Man Power	2	2.6
Snyder And Blake	2	2.6
Spot Temp	2	2.6
Adia	1	1.3
Complete Personnel Mngmt	1	1.3
Dawson	1	1.3
Employ Works	1	1.3
Express	1	1.3
Flex Tex	1	1.3
GPC Inc.	1	1.3
Hours Inc. (now Area Temps)	1	1.3
Interim	1	1.3
Labor World	1	1.3
Priority Staffing	1	1.3
Remedy	1	1.3
Reserves Network	1	1.3
Tab	1	1.3
Technical Consults	1	1.3

Temp World	1	1.3
Personnel Plus	1	1.3
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	238	313.2

**Exhibit E: Low, High, and Typical Day Labor Wages**

**Reported for Different Types of Work**

Type of Work

Low Wage

Reported

High Wage

Reported

Typical Wage

Reported

Assembler	5.15	7.50	5.50
Band Saw Operator	5.15	7.00	6.00
Boring Mill Operator	6.00	9.00	6.50
Brake Press Operator	5.15	8.00	6.00
Chop Saw Operator	6.00	9.00	6.50
CNC	6.00	8.00	6.25
Construction	5.15	12.00	6.25
Customer Service	5.15	8.00	6.50
Disassembler	5.15	7.25	5.50

Dishwasher	5.15	8.00	5.50
Drill Press Operator	5.50	8.00	6.00
Industrial Spraying	6.50	9.00	7.50
Landscaping	5.15	7.00	6.00
Lathe Operator	5.50	8.25	6.50
Light Assembly	5.15	6.50	5.50
Machine Operator	5.15	7.25	6.00
Manual Labor	5.15	6.00	5.25
Masonry	5.15	9.00	7.00
Mig Welder	6.00	7.50	6.50
Overhead Crane Operator	6.00	8.00	6.00
Painting	5.15	8.50	5.50
Parts Grinder	5.15	6.00	5.15
Parts Catcher/Thrower	5.15	8.00	5.15
Parts Raker	5.15	7.00	5.15
Plastic/Injection Molding	6.00	8.00	6.00
Plating	5.15	7.50	5.25
Precision Grinder	5.15	5.50	5.50
Prep Cook	6.00	6.50	6.25
Punch Press Operator	5.15	6.00	5.50
Quality Control	5.15	8.00	6.25
Racking/Deracking	5.15	5.15	5.15
Roll Form Machine Operator	6.00	8.00	6.00
Roofing	6.00	9.00	6.00
Scrap Yard Sorter	5.15	5.25	5.15
Shear Operator	5.15	6.00	5.85
Shipping and Receiving	5.15	8.00	5.50
Spot Welder	5.50	7.00	6.00
Stocking Parts	5.15	6.00	5.50
Tap and Die	6.25	6.75	6.50
Tow Motor Operator	6.00	7.00	6.25

**Exhibit F: DLOC Codes of Conduct for Labor Agents**



The Salvation Army's principal concern is for the well being of the homeless men and women that rely on its shelter facilities and social services. Jobs that pay a living wage can play an important role in helping our clients develop both economic independence and dignity. However, it is also true that other jobs can foster desperation and hopelessness. A growing number of for-profit temporary labor agencies have used our facilities to recruit workers, and there is a growing number of complaints from our clients pertaining to abuse and mistreatment by these labor agencies. At our clients' request, we have established a code of conduct that must be signed before any labor agent representing a temporary labor agency recruits on the premises of any facility operated by the Salvation Army. The code is as follows:

1. Labor agents must truthfully relay what the actual wages, fees and working conditions will be for the jobs that they are offering to the workers.
  
2. The agency the labor agent represents will provide a written job description before each new assignment detailing:
  - The name of the supervisor and place to report.
  - The hours, days, holiday schedule and anticipated assignment duration.
  - Tasks to be performed and any training required.
  - The rate client employers are paying the agency for the assignment and the rate the agency is paying the temporary worker for the assignment.
  
1. Temp workers can get copies upon request of all documents they sign – including applications and agreements, plus copies of all of their own personnel files – in whatever form they are kept.
  
2. Temp workers will not be given or refused assignments based on gender, race, age, national origin, religion, sexual orientation, size or physical ability.
  
3. Labor agents will treat the workers they send out with dignity and respect.

4. The agency the labor agent represents will provide optional free transportation to job sites – in properly registered and insured vehicles as per state law.
5. All federal overtime laws will be obeyed. Regardless of how many different workplaces a laborer is sent to by a temporary labor agency, if he or she works over forty hours a week, he or she will be paid time and a half for the hours over and above the fortieth hour.
6. Labor agents will not place workers in any unsafe working environments. The workers will be provided with comparable safety equipment to that of permanent employees at the same site and appropriate training for the jobs they are asked to complete. The agency the labor agent represents will not require workers to pay for safety equipment, tests or training required for an assignment nor will the agency deduct such costs from the workers pay.
7. The temp agency will provide workers information about state and federal employment laws and information about what to do if they experience discrimination or a health and safety violation at a client company.
8. If workers are recruited and sent to a job that turns out to be non-existent, the labor agency will pay each worker for four hours at the wage rate he or she was quoted when recruited, as compensation of the workers' time and inconvenience.
9. The temp agency will not require temp workers to register with only one agency or prohibit temp workers from accepting a job directly with a client company.
10. The temp agency will not require client companies to pay an additional fee for hiring a temporary employee as a permanent employee.
11. Labor agents will only offer jobs that pay a living wage as defined by the City of Cleveland's living wage ordinance passed in June 2000.

12. The temp agency will provide group rate health insurance. Eligibility requirements and costs associated with accessing health care benefits should be reasonable in regard to the health care insurance industry's current standards and the feasibility of a worker to pay.

If a grievance committee with client representation set up by the Salvation Army determines that any labor agent who has signed this code of conduct has violated any of the fourteen points of this code, the labor agent as well as all labor agents working for the same temporary employment agency will be prohibited from recruiting workers on any facility operated by the Salvation Army. This ban on recruitment will continue for at least one month after the first violation and six months for each subsequent violation and until the labor agency can satisfactorily demonstrate to the Salvation Army's grievance committee that they have provided adequate reparations to the injured worker or workers and have taken ample steps to ensure that any such violations will not happen again in the future. Labor agents will have the ability to address any charges made against them either in person or in writing before the committee prior to any determination. The Salvation Army will furnish an annual report documenting all grievances and determinations to the office of the Northeast Ohio Coalition for the Homeless in order to assist monitoring the conditions of low wage workers in Greater Cleveland.

I have read the labor agent's code of conduct and agree that I will abide by these codes in my efforts to recruit workers at the Salvation Army.

Printed Name: \_\_\_\_\_

Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Agency Phone Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_