

# Cracking the Temp Trap: Day Laborers' Grievances and Strategies for Change in Cleveland, Ohio

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## Abstract

This article examines the experiences of homeless workers within the day-laborer industry in Cleveland, Ohio and the multiple challenges they encounter in attempting to gain full-time employment. To provide a context for this study, we discuss the specific historical background of the day-labor industry in the city. We present the grievances day laborers raise within the categories of hours and wages, racial discrimination, gender discrimination, sexual harassment, worker safety, barriers to permanent employment, transportation, and retaliation. The article then explains the strategies developed in a series of focus groups with day laborers aimed at addressing the structural inequities of the day-labor market. Additionally, we address the subsequent efforts by the Day Laborers' Organizing Committee to implement these strategies, specifically focusing on the organization's work in establishing an alternative non-profit community hiring hall and lobbying for a municipal ordinance to regulate the day-labor industry.

## 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 (Ohio Bureau of Labor Statistics 1879, 25)

Outside of his presumption that the laborer was a male, the above statement by H.J. Walls, Commissioner of Ohio Bureau of Labor Statistics, 1879, is as appropriate today as it was 125 years ago. The plight of day laborers in Cleveland, which is documented in this article, makes it clear that day-labor agencies are not paying the true cost of labor. As a result, they are creating unnecessary hardships for their employees and incurring extensive costs for the larger community. If it were not for the largely publicly subsidized infrastructure that provides for the unmet needs of their workers (shelters, meal sites, drop-in centers, and health-care services available to the working poor), day-labor agencies would not be able to maintain their workforce. From the day-labor agencies' perspective, these social-service agencies function as warehouses of workers—literally in the case of the emergency shelters—that supply a ready pool of desperate and dependent warm bodies.

The nine-month study that this article is based on sought to identify the concerns and realities of homeless workers within the day-labor industry. The study developed from earlier findings of the Cleveland Homeless Oral History Project (CHOHP) from 1996-1999. To the investigators' surprise, they 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. At the same time, the homeless repeatedly identified the temporary day-labor industry as a primary cause of their situation. While homeless advocates and policy makers frequently argue that the lack of affordable housing causes homelessness, the homeless themselves invariably identify inadequate income as the most important factor.

After providing a brief background of the day-labor industry in Cleveland, this article considers the experiences of day laborers and the multiple challenges they encounter in attempting to gain full-time employment. Building upon these experiences and challenges, we then present the strategies that day laborers developed in the study's focus groups to address the structural inequities of the day-labor market. The Day Laborers' Organizing Committee, which has taken an active interest in this study, has since employed many of these strategies. In conclusion, we will discuss the impact these strategies have had on improving the working lives of homeless day laborers in Cleveland.

## Methodology

This article is based upon four focus group sessions and seventy-seven separate interviews with day laborers in Cleveland, Ohio. Early exploratory interviews conducted by CHOHP along with the first focus group meeting identified a series of troubling grievances that day laborers expressed. Following this research, CHOHP teamed with the Employment Law Clinic at Cleveland Marshall College of Law to develop a questionnaire that could determine how pervasive these grievances are among homeless day laborers. The questionnaire used for the individual interviews focused on demographic information, employment history, wages and hours issues, safety concerns, and possible discrimination and/or harassment instances.

The nine-month study was conducted from December, 2000 through August, 2001. All interviewees participated on a voluntary basis. A group of fifteen volunteers conducted the interviews in six different locations. Thirty-five people were interviewed at sites where free meals are served, thirty-six people were interviewed in the city's largest emergency men's shelter, and two people were interviewed at the Cleveland Mediation Center and the Northeast Ohio Coalition for the Homeless. In addition to the individual interviews, a series of four focus groups were held between December, 2000 and August, 2001 to identify key grievances of day workers and develop strategies for addressing these concerns. Between fifteen and twenty-five day laborers attended each of the focus groups. A total of 114 people participated in the overall study.

Of those interviewed, 88 percent were men and 12 percent were women. Sixty-two percent of the interviewees identified themselves as black, 31 percent identified themselves as white, 3 percent indicated they were biracial, and 4 percent remained unidentified. Seventy-nine percent of the interviewees were homeless, and 28 percent were veterans. The ages of interviewees ranged from twenty-two to sixty-three years, with a mean age of forty-three. While participants appear to represent a broad cross-section of the day-laborer population in Cleveland, it is important to note potential limitations presented by our sampling methods.

On the one hand, the large proportion of men in our study does not represent the day-laborer population as a whole, but reflects the fact that the women's shelter, run by Catholic Charities, refused to allow women interviewers access to their facilities. On the other hand, because recruitment occurred at sites frequented by homeless individuals and families, the sample is skewed toward over-representing homeless day laborers.

Although most homeless work in the temporary day-labor industry, all day laborers are not homeless. Yet, while participants in this study represent the working poor more generally, the connection between homelessness and day laboring is significant. Those day laborers interviewed who were not homeless frequently discussed the difficulty of maintaining housing as a result of the low wages and unstable employment they face. Many homeless day laborers argued that the day-labor industry is a major contributing factor to their homelessness. The majority of participants in this study are not, therefore, simply a unique subset of day laborers (the homeless day laborer), but they represent the typical positions that workers find themselves in after working in the industry for extended periods.

The findings of this study cannot be directly applied to employment staffing agencies that pay by the week and cater to workers who are in more stable economic positions. Unlike traditional employment staffing agencies, day-labor agencies do not send workers out to clerical or professional positions. They dispatch day laborers to assembly lines, construction sites, machine shops, warehouses, landscapers, hotels, restaurants, and sports arenas. Other staffing agencies that are not day-labor agencies, such as Area Temps and Manpower, also place workers in these positions, but they pay workers by the week rather than by the day, dispatch workers for longer assignments, and do not demand that workers report directly to the agency every day. All interviewees who worked for both types of agencies were adamant that the day-labor agencies were significantly more exploitative and abusive.

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

Not since the late nineteenth and early twentieth century have private employment agencies played such a dominant role in our economy. The rampant exploitation and abuse by what were then referred to as "employment sharks" led H.J. Walls and others like him across the country to regulate the industry and establish a system of free public employment agencies that marginalized private agencies by the mid-twentieth century. However, in the late 1960s and 1970s, the "employment sharks" re-emerged as a result of intensive lobbying and a redefinition of their services to employers. The Institute for Temporary Services, later known as the National Association of Temporary Staffing Services, led a drive that successfully deregulated the industry and undermined public employment services across the country. Meanwhile, agencies, led by Manpower Inc., moved away from charging fees for placing workers into the employ

of companies. Or perhaps more accurately, as George Gonos has argued, they disguised these fees by paying the workers wages directly and then leasing their labor to other companies. This service allowed client companies to lease workers at a moment's notice and to let them go without worrying about workers compensation, unemployment insurance, and benefits (Gonos 1997; Gonos 2001; *Cleveland Press* 1976; Patterson 1999).

The deregulation of the staffing industry and the erosion of federal support for public employment bureaus that began in the early 1970s opened the door for the expansion of the private agencies. Through 1968 the staffing industry in Cleveland had virtually no placements in the industrial sector. Between 1968 and 1971 the three day-labor agencies most frequented by the participants in this study opened their doors—Minute Men Inc., AmeriTemps, and Lakeland Labor. A recession in the early 1980s prompted further attacks on organized labor—corporate downsizing, outsourcing, and what became known as flexible management. Buttressed by these developments, AmeriTemps quadrupled the number of workers it dispatched per day within a two-week period in 1983 (Patterson 1999, O28). With cutbacks in general assistance and welfare reform increasing the pool of workers, the day-labor industry continued to grow throughout the 1990s. As the industry expanded, organized resistance to the day-labor agencies re-emerged. In 1992 a group of homeless men and women in Cleveland started a job pool in an effort to bypass the commercial agencies. Before succumbing to internal conflicts, the job pool sought to directly place workers with companies. Father Bob Begin, a key participant in the project, argues that the job pool ultimately failed to compete with the dominant leasing model of the commercial firms (Begin 2001).

### **Day Laborers' Grievances**

Recent developments in the day-labor industry have created an interrelated and systematic set of problems for day laborers. In portraying the multiple problems confronted by day laborers, we consider seven specific categories of grievance: hours and wages, racial discrimination, gender discrimination and sexual harassment, worker safety, barriers to permanent employment, transportation, and retaliation.

#### ***Hours and Wages***

The day-labor industry is characterized by long days and low wages. Typically workers wake at 4:00 A.M., go to the agency office, and wait to

be assigned at 5:00 A.M. They may not be sent out until 8:00 A.M. and will often travel to the outer-ring suburbs to work for machine shops and plastics manufacturers. They may start working around 9:00 A.M., finish at 5:00 P.M., wait for a return ride (if it ever shows up), and not arrive home until 7:00 P.M. After the agency deducts standard fees for transportation, safety equipment, and check cashing, workers will, in most cases, have between \$28.00 and \$30.00 in their pockets for approximately fourteen hours of working, traveling, and waiting—less than \$2.15 an hour. Accordingly, the principal concern of all day laborers interviewed was that they were not paid fairly for their work.

In the workshops, day laborers unanimously agreed that it is impossible to live with dignity on this income. In an early CHOHP interview one day laborer, Gaylon Wright, argued:

I'm going to tell you now, it's hard to make a living in Cleveland, Ohio. The jobs out here they give you, they give you Minute Men, AmeriTemps, which all the homeless people work. Some of these jobs that they got right now should be more than minimum wage... How can you help somebody and how can somebody help themselves if they come back after eight hours of work and only see \$25.00 to \$30.00 on their check and they're homeless. That's impossible! And with the rent here in Cleveland, it's nothing!

(Wright 1996)

In a separate interview, Robert Best protested the unfairness built into the day-laborer arrangement:

These places like AmeriTemps, Minute Man, Area Temps, they are like nation wide. They are making tons of money. All they are doing is just sending. . . . You're the one doing all the work. They don't produce nothing. They don't train for anything. They just send you to work. All you do is make money for them. It's like they are pimping you really. And what you are getting paid is below poverty level. You can get food stamps with your paycheck. I know guys that are getting social service relief with their checks here. And you are working everyday. You are working hard too.

(Best 2000)

While Best compared the relationship to prostitution, Anthony Ball saw it as more akin to slavery:

The only places I can get a job with quickness is the slave labor, which is the temporary agencies. You can't get housing with them

folks, because you don't get paid enough. After Uncle Sam gets your money and the temp agency gets your money, you ain't got nothing left. (Ball 1999)

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

Fifty-eight percent of the workers interviewed were paid less than the price quoted to them when they were hired by the temporary day-labor agency. The large majority of these cases occurred when a labor agent recruited off the premises of the labor agency in shelters and meal sites. Day workers not only reported that agencies lied to them about wages; they also said that the agencies did not give them the raises that the client companies offered them.

Nearly half of day laborers (46 percent) complained that the company did not let them work the number of hours the agency quoted them when they were hired. Since day laborers spend a great deal of time in transit, as we will discuss below, having one's hours cut while on the job site results in a day of uncompensated travel and little pay. A forty-eight-year-old man reported that he left the agency at 7:30 A.M. for a work site, worked one hour, and then was sent back, returning at 10:30 A.M. As a result of its contract with the day-labor agency, the client company was charged for four hours of work (at ten dollars per hour). Even though the day laborer spent three and one-half hours between working and traveling, the day-labor agency paid him for one hour only. The client paid the agency \$40.00 on that day, but, after the worker's fees were subtracted, he received \$2.85.

Others complained about agencies sending more than the necessary amount of workers to a job site or advertising for a larger number of workers than they actually needed. John Underwood described AmeriTemps recruitment practices:

They have a sign down there now, as you walk in AmeriTemps. They have this place called the IX Center by the airport. Every week they need so many amount of people. They will print this sign out, need 100 people, need 90 people. They get all these people hyped up to come down there, just to make sure they are going to have enough, and then tell you that the order got cut. So if it was 90, it goes down to 35, 36. (Underwood 2000)

One woman similarly reported being sent with forty-seven others to a site, where upon arrival they learned only thirty-seven were needed. In cases such as this, workers are still charged the four to six dollar transportation fee and then find themselves stranded. Another woman, after using the last of her money for the bus to the temporary labor agency, waited three and one-half hours at a work site before being sent back to the agency. She received no pay and thus could not afford a return bus ticket.

Strikingly, fifty-six percent of day laborers interviewed report working over forty hours in one week but receiving no overtime pay. Agencies 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 approach the forty-hour limit at one work site, they are inexplicably transferred elsewhere. One black male, for example, reported that at least two temporary-labor agencies follow this as standard policy, and he has fallen victim to that policy on several occasions.

Workers' checks are significantly reduced by the standard deductions the agency applies—for transportation, safety equipment, and check cashing. After these deductions, most workers' pay falls well below the minimum wage limit. For instance, if a laborer works an eight-hour shift at the minimum wage and then the agency deducts \$4.00 for transportation, \$1.50 for gloves, and \$1.50 for cashing the check, the worker's hourly wage—not counting waiting time—falls to \$4.28. Additionally, workers are commonly charged for equipment. One man explained that although the company for which he worked supplied gloves for its workers, the day-labor agency nonetheless charged him a fee for gloves.

Temporary day-labor agencies claim to provide unskilled work, but it is common to find day laborers working at jobs that are traditionally considered skilled. Clarence Dailey expressed dismay at the audacity of the day-labor agencies: "They want to pay you \$5.15 to weld. You have guys welding for \$6.00, \$8.00 an hour. When I came back to Cleveland in '85, I was making \$26.00 an hour" (Dailey, 2001). Additionally, day laborers often worked at jobs well above the skill level advertised at the agency. One man described being sent to do general warehouse work at a plating company, but then found himself assigned to clean acid vats without being provided a respirator, rubber gloves, or boots. Another worker said he was told he would operate a punch press at the temporary agency, but at the work site he was put on a precision-grinding machine and given a paper mask. Robert Molchan relayed the following story:

Three and a-half years ago I was making parts for nuclear reactors—the main part that stands up in a nuclear reactor as a temp. I was making six bucks an hour. The man next to me that was on the payroll was making eighteen bucks an hour. No difference in what we were doing, except I was a temp and he was on payroll. I still had to mic it; I still had to use the verniers; I still had to go by the blueprints. (Molchan 2001)

In fact, Robert Molchan, along with two other workers, reported working as supervisors and training permanent workers. Rather than there being a lack of skill among day laborers, James Battle argues, “There has been a meltdown of the worker and his wages” (Battle 2000).

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 co-workers. Workers, for instance, commonly described policies whereby the slightest infraction resulted in the worker receiving minimum wage, despite the quoted wage. One male, for instance, maintained that all of his co-workers had their wages trimmed, ostensibly because they did not report him for smoking a cigarette in a no-smoking area. Other workers described receiving pay cuts for going to the bathroom. Many of these penalties resulted because companies provide little or, at times, no breaks for day laborers. One male, for example, received only a thirty-minute lunch and no other breaks during an eight-hour shift. The same person worked ten hours at another site, doing extremely heavy labor, and received one fifteen-minute break and one thirty-minute lunch. In all of these cases, complaining was not a realistic avenue for expressing grievances, as we will consider more fully in the final section.

### ***Racial Discrimination***

Racial discrimination in the hiring practices of temporary day-labor agencies appeared recurrently in the course of both focus groups and interviews. Forty percent of black workers reported personally experiencing discrimination. This discrimination took many forms: black workers were not given jobs; white workers were sent out more quickly than blacks; black workers were sent to more difficult jobs, or black workers were verbally harassed.

Most commonly, day laborers who complained about racial discrimination emphasized the disproportionate rate at which white workers were given jobs. One white male described, for example, how a particular

agency sent out three to four white workers while upwards of four-dozen black workers, most who had arrived before the white workers, waited. A self-described biracial male explained that a particular company would send back workers for the third shift if there were too many black workers, and then request more white laborers. In this regard, the temporary day-labor agencies are often complicit with companies in racist hiring practices.

Racial disparities were also seen in the types of jobs to which black day laborers were sent. As several day laborers explained, black workers are frequently sent to the dirtiest and most physically strenuous jobs. One black male explained that he was repeatedly sent to work along with white day laborers to one work site. The client company assigned him, without gloves, to clean oil off machinery or to wipe oil from parts. The white workers were given easier janitorial or shipping jobs. Racial discrimination so pervades the temporary day-labor industry that, as a black male described, it is common knowledge amongst black day laborers that they will not be sent to specific work sites. Several interviewees also reported that some client companies had suddenly shifted their entire labor force from black and white day laborers based in Cleveland to Latino or Filipino workers from Lorain, Ohio.

Many white day laborers could not help but notice the discrimination experienced by black workers at the temporary day-labor agency and at the companies to which they were sent. One white male was convinced that if we could obtain a comprehensive list of the wages, skill sets, and race of all workers dispatched by day-labor agencies, we would find that white workers received a substantially higher wage than black workers at the same skill level.

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

### ***Gender Discrimination and Sexual Harassment***

Laborers commonly complained about gender-based discrimination in the hiring and assignment of jobs at temporary-labor agencies. Thirty-three percent of women day laborers experienced or witnessed gender discrimination. While workers in general recognized few gender-specific

jobs, temporary-labor agencies often did. A fifty-year-old woman, for example, reported that the agency told her that women are not capable of operating punch presses. At the same time, a frequency table 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, with 66 percent of the women at some point working as punch-press operators. Far more commonly, however, interviewees reported multiple instances in which manufacturing companies accepted women workers only. As with racial discrimination, we thus find temporary-labor agencies working in complicity with companies in gender discrimination.

Other instances of gender discrimination came in the form of favoritism toward women by male employees at temporary-labor agencies. One man told of a dispatcher who gave preference to day laborers based on their physical attractiveness, and a woman reported that she was pressured to accept sexual advances by agency dispatchers if she wanted to be sent out on assignment. On another occasion, one male witnessed women going behind the dispatcher's counter and being paid for "sexual services." One interviewee witnessed supervisors on work sites giving easy jobs to female day laborers if they provided sex. Moreover, female day laborers 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 described being "overwhelmed" in the van by one of the agency drivers. She did not complain for fear of losing the job. Renee Lavechia stressed that this behavior also took place at the client company:

They sent me out to work in Lorain County. I didn't even last there long. I demanded that they call that van and pick me up and take me back. I was sexually assaulted out there. The supervisor on second shift was messing with me. (Lavechia 2000)

### ***Worker Safety***

Besides grievances over the pay day laborers received, one of the most discussed topics was the condition of the work sites. Disturbingly, 70 percent of day laborers interviewed reported experiencing unsafe work environments. Internal dynamics within many companies appear to lead them to use day laborers for the dangerous jobs that permanent workers do not want. Yvonne Schell, a permanent worker at Northstar Plastics,

explained that the company turned to day laborers for its least desirable work:

We used temps too—a lot of them. Because like I said, it is hard to get people to stay. Who is going to stay there when you are burning your hands; your skin is coming off? You know, that's unreal. That's unreal. (Schell 2000)

Companies thus find it easier to call day-labor agencies rather than seek to make the work less dangerous.

Unsafe conditions at work sites took many troublesome forms. Respondents listed items of equipment that were lacking at many work sites: hand straps, guards, gloves, safety glasses, appropriate breathing apparatuses (e.g., respirators), ear plugs, eye-flush stations, and back-support belts. Additionally, day laborers complained of inadequate training (if any at all), lack of manuals, as well as inadequate and outdated machinery. Thirty-nine percent of interviewees reported that they were injured at work sites.

One male worked at a site that contained hazardous chemicals but lacked ventilation and had a non-functioning eye-flush station and a malfunctioning sprinkler system. He was given neither mask nor gloves. Another was sent to a paint shop where he worked alongside permanent workers who had industrial respirators, but he was given no protection. One worker was seriously injured when a bar rolled over his hand, but he was still charged for his safety equipment.

Meanwhile, at a notorious garbage disposal company, a forty-eight-year-old laborer worked on a garbage truck posted with stickers warning employees not to ride on the back for more than one-fourth mile and to go no faster than five MPH. He spent ten and one-half hours on the back of that truck, traveling at speeds upward of forty MPH during the winter. Additionally, he was not provided the gloves, rain gear, or red vest that garbage workers are legally required to wear. Despite freezing temperatures, he was not allowed into the cab of the truck to warm himself.

In addition to numerous complaints about working with hazardous fumes, day laborers commonly reported that the agencies did not inform them about the nature of the jobs they were sent to. One worker was sent to crush barrels, which, as they were crushed, emitted unidentified noxious fumes. The company did not provide him with a respirator and they did not tell what was in the barrels. 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.

Several interviewees reported cases in which temporary-labor agencies pressured injured workers not to file workers compensation claims, required workers to be treated by agency-hired doctors, or, immediately following accidents, attempted to force workers to sign forms that relinquished the worker's right to sue. One worker said that after his leg was broken he was sent to the company doctor where the break was treated as a simple sprain, with Epsom salts. A forty-eight-year-old male explained that he was afraid to report an injury because he knew that the temporary day-labor agency had its own clinic and doctor. Many work-place injuries were unreported and untreated because workers feared they would not be paid. One worker broke her ankle when she slipped on a greasy floor. She attempted to file a worker's compensation claim but changed her mind when the agency threatened, "Get a lawyer. See what we'll do."

### **Barriers to Permanent Employment**

The temporary agencies themselves often provide major obstacles to temporary laborers trying to acquire full-time employment. As standard practice, each day-labor agency makes its client companies sign contracts that require client companies to pay the agency fees of up to one month's wages if the clients hire workers before they have completed ninety continuous days. Seventeen percent of the day laborers reported that they were not sent out anymore or were reassigned to another position as they approached the ninety-day limit. In each case, by reassigning the worker who approached the ninetieth day, the agency increased its chances of receiving a fee from the client company and, conversely, decreased the worker's opportunity of gaining full-time employment.

One day laborer was just two days short of reaching his ninety-day limit when the temporary agency arbitrarily stopped sending him. There are numerous such examples, and some workers experienced this repeatedly. Day laborers have no recourse in addressing such abuses. One worker was not sent out for ten weeks after complaining about being reassigned at his eighty-ninth day. In effect, these workers quickly move from having nearly stable employment to being completely unemployed.

### ***Transportation***

Temporary day-labor agencies commonly provide transportation to and from the work site in exchange for a fee ranging from three to six dollars. 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.” Another worker said that even though he had his own car, he was given one job at an outlying factory only if he agreed to take the agency’s vehicle and pay the requisite four dollar fee. In addition to general complaints about such mandatory use of company vehicles, the cost of which is immediately deducted from a worker’s check, respondents specified particular problems with regard to 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 lost the job. More frequently, however, drivers were late in picking up workers from the client company. Five interviewees complained about having to wait over four hours for a van after completing their day’s work. Day laborers have been stranded in distant suburban areas with no means of return and no compensation for their time. Similarly, several workers reported being sent to a work site where they were not hired but were nevertheless charged for transportation fees. One female day laborer found herself in debt to the temporary labor agency after being stranded for eight hours at a work site where she was not needed.

One worker told of arriving at the agency office at 5:00 A.M., being sent out at 2:00 P.M., clocking in on the job at 3:20 P.M., working until 11:40 P.M., and finally returning at 1:00 A.M. He was paid for 7.75 hours of work. Another afternoon, after working from 2:00-10:00 P.M., the return vehicle was so late that he did not arrive back at the agency until 3:45 A.M. He slept on the bus until the office opened at 5:00 A.M., finally receiving his check at 10:00 A.M. On another occasion, he was sent to do landscaping work but was dismissed after one hour because too many workers had been dispatched to the site. From there he was sent to do garbage disposal until 3:30 P.M. By 5:00 P.M. no return ride had materialized, and he had to pay his own transportation home.

Troubling as well are reports regarding the conditions of the transportation vehicles or the qualifications of the drivers. One laborer reported that the van driver was intoxicated and that the van’s twelve-seat capacity was more than doubled with twenty-five passengers. One laborer complained that drivers were pulled over and arrested because they had no license or insurance. In one such instance an entire van full of workers was stranded far from the agency. They had to find their own way home, but the agency deducted transportation charges from their checks.

### ***Complaining and Retaliation***

Based upon all of the problems with the temporary day-labor agencies that we have examined thus far, day laborers have ample reasons to complain. As mentioned before, a laborer who complains is regularly either not sent out or is sent to the most difficult jobs. Interviews and focus groups make it clear that day laborers are treated according to the whims of the agency staff. Workers are largely defenseless against improper treatment or conditions because agency staff either retaliate or at least create the fear of retaliation.

Forty-eight percent of interviewees reported experiencing retaliation after complaining about even the most inconsequential matter. 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 fact that injured laborers do not file workers compensation claims because they are afraid. One day laborer simply explained, "I need to work."

Participants in workshops unanimously felt powerless in expressing grievances to agency employees. By all accounts, temporary-agency staffs have created an air of fear in their offices, where workers are afraid to speak up. A black male recalled a staff member yelling, "Sit your ass down or you won't go anywhere." Another worker described the public chastisement workers received for complaining. Any sort of dissent, however justified, commonly resulted in retribution. Workers who simply declined dangerous jobs were penalized by not being sent out for a long time. Workers captured the general sentiment well when they quoted agency staff as saying dismissively: "Like it or leave it." "If you don't work there, you can sit around here for awhile." "Go to work, or don't." "You ever pissed in the wind?"

Many workers reported that if there is any issue that is as close to the importance of not being paid fairly, it is the general disrespect and abuse that workers face daily. Older black men bristled at having a young white male dispatcher treat them like ignorant children. Nearly all complained of the pervasive atmosphere of fear that the agency staff maintains. Several said that if an alternative agency provided grievance procedures it would be enough for them to leave the agency they work for.

### **Strategies for Change**

In each of the focus sessions, groups spent time thinking about and developing strategies for changing the abusive and exploitative practices

that are rampant in the day-labor industry. All focus groups came to the same conclusion—current day-labor agencies should be driven out of business and an alternative non-exploitative means should be developed to help place people in jobs. However, given the current entrenchment of the for-profit agencies, there was significant debate over how realistic it is to imagine a future without them. Others feared that these agencies would vehemently oppose any efforts to transform the industry, potentially resorting to violence. Many believed that organized crime runs the agencies. In spite of these fears, all believed that something could and should be done.

A range of strategies were discussed and prioritized. Potential strategies included boycotts, strikes, work slow-downs, lawsuits, legislative remedies, press coverage to increase public awareness, coalition-building with like-minded groups, the development of a non-profit hiring hall, and petition drives to break the cozy relationship between social-service facilities and day-labor agencies. Given that day laborers were afraid of the potential violence that could develop if there was a direct challenge to the power of the day-labor agencies, strategies that relied on less face-to-face contact with the owners and managers of the agencies were given higher priority.

The day laborers developed two top strategies. First, they elected to establish an alternative non-profit community hiring hall. Second, they chose to lobby for a municipal ordinance to regulate day-labor agencies. It was recognized that a community hiring hall would succeed if it could replicate the leasing model of the for-profit companies. Under the plan, the money that once went toward company profit would instead go towards higher wages, benefits, and training programs for workers. The municipal-ordinance proposal was based upon the reasoning that many of the community groups and public officials that helped support the successful passage of a living-wage ordinance would support an ordinance similar to ordinances passed in Chicago and Atlanta regulating the day-labor industry. While these two objectives were given priority, the focus groups decided that they needed a public-relations campaign to support these strategies in addition to an immediate campaign to undo the close relationship between the shelters and the day-labor agencies. This latter effort would simultaneously help publicize the organizing efforts of the Low Wage Workers' Union (LWWU), garner support for the hiring hall from the staff of social-service agencies, and boost morale by providing a relatively easy win. Even before the study was completed, the LWWU began moving on these campaigns.

The LWWU officially formed in November 2000 at a meeting held at the emergency men's shelter one month prior to the onset of this study. Participants in the Cleveland Homeless Oral History Project had a year earlier decided to support the Cleveland Living Wage Campaign, which passed in June of 2000, with the understanding that the ordinance might not have a direct impact on the working lives of day laborers. The group decided that the principle of a "living wage" was worth supporting. However, they also committed to form a group that would directly focus on their needs as workers. This study was designed in part to help facilitate the LWWU's efforts at strategic planning.

In January 2001 the LWWU began a petition drive in the emergency men's shelter, seeking to establish a code of conduct for all labor agents that recruited workers on the premises. The code of conduct was designed to address the grievances raised in the first focus group session and would later serve as a template in drafting the municipal legislation. Over two hundred signatures were collected from the three hundred residents, and after a series of negotiations the Salvation Army agreed to ban all labor recruiters from the shelter. While the ban has not always been effectively enforced, the director of the shelter has since become very cooperative in the efforts to establish an alternative to the day-labor agencies. The women's shelter no longer allows labor recruiters on site and has also developed a close relationship with the advisory board of the community hiring hall. Other successful efforts have been made to end Cuyahoga County's referral of welfare-to-work participants to the day-labor agencies and the Food Bank's collaboration with these agencies. While the relationship between the day-labor agencies has been disrupted, the day-labor agencies continue to try to cultivate ties with organizations serving those in poverty. One day-labor agency, Minute Men Staffing, still has managers that sit on the local advisory board for the Salvation Army and the Food Bank.

As expected, the petition drive enlarged day laborer's support for the LWWU. The drive also caught the attention of local reporters working for the alternative weekly press, the National Public Radio affiliate, and the daily *Plain Dealer*. A city councilman agreed to sponsor hearings on the day-labor industry, which drew further interest from the press. The hearings were held on September 4, 2001, at Cleveland City Hall and were attended by 125 day laborers. Eighteen day laborers testified about the abuses and exploitation they faced in the day-labor industry and an early report based on this study was publicly released. Those who testified called for the establishment of an alternative community hiring

hall and a municipal ordinance regulating the industry. By this time, three exposés of the industry had appeared in the local press and two separate articles were written about the hearings (O'Malley 2001a; O'Malley 2001b; Greene 2001). While the events of September 11, 2001, quickly eclipsed the public's interest in this issue, the hearings galvanized many local organizations to come together and form an advisory board for the community hiring hall.

The LWWU determined that if it was going to successfully establish a community hiring hall, it would need to do it in a coalition with more established organizations that could help secure resources. Unlike the local effort to establish a labor pool in the early 1990s by Father Bob Begin's group, a community hiring hall that directly paid its workers would need a significantly larger amount of capital investment. Money would be needed to hire a full-time staff, meet payroll obligations, transport workers, develop marketing materials, and acquire office space. Non-profit organizations such as the Community Re-entry (a program for ex-offenders), the Empowerment Center (formerly known as the Welfare Rights Organization), Jobs With Justice, the United Labor Agency and Goodwill Industries agreed to participate. The church-sponsored organizations Lutheran Metropolitan Ministry and the Catholic Commission on Community Action also agreed to join the board. While there were no representatives from the city, a representative from the Cuyahoga County job-training program signed on. Finally, three labor leaders were asked to join the board.

Just prior to the hearings, the LWWU agreed to change its name to the Day Laborer's Organizing Committee (DLOC) in order to alleviate concerns by organized labor that the group sought to establish an independent union. The study this article is based on revealed that a large number of shops where day laborers' worked had union contracts. The leadership of the DLOC took this information to the head of the local AFL-CIO in hopes of enlisting their support for a community hiring hall. From these discussions, union leaders indicated that they could negotiate collective bargaining agreements that mandated all temp workers in their shops come from the community hiring hall. Furthermore, unions such as the Service Employees International Union Local 47 and Hotel Employee Restaurant Employee (HERE) Local 10 saw the potential for unionizing the day laborers who cleaned the sports arenas if these contracts could be obtained by the community hiring hall. While the president of HERE 10 fully supported the project and began to immediately negotiate collective bargaining agreements to support the hiring hall, the AFL-

CIO president and SEIU 47 president cautiously supported the project and joined the advisory board.

While for many it was the first time that the divide between organized labor and social service agencies was bridged, conflicts developed when money the city had promised to hire a development director failed to materialize. In the summer of 2002, organized labor agreed to grant thirty thousand dollars to the project under the stipulation that the hiring hall board would recognize a union if over 50 percent of its employees signed cards requesting one, that the hiring hall would adopt a provision in its bylaws stating that it would not violate the collective bargaining agreements or undermine the organizing drives of any union, and that the United Labor Agency would become the fiscal agent for the project. While the DLOC fully supported the proposal, the Northeast Ohio Coalition for the Homeless became anxious over what it believed to be a union take-over. After months of negotiations, all parties agreed to the proposal and the unions involved in the project assured the board that its autonomy would be recognized. In early 2003 a full-time development director was hired.

After nearly two years of planning, the community hiring hall dispatched its first workers in July 2003 to a hotel organized by HERE 10. It successfully secured a line of credit for over one hundred thousand dollars, funding from four local community foundations, and subsidized office space from the Machinists Union. Despite the city council hearings, however, neither the city nor county has provided any significant material support to the project. While this is in part attributable to the fiscal emergency the public sector has faced as a result of a national economic recession, it is also clear that public officials have yet to make a serious commitment to improving the lives of day laborers.

In the face of this indifference, the DLOC has continued to work with the Employment Law Clinic to draft a municipal ordinance to regulate the day-labor industry. The ordinance, modeled after the Chicago's day labor ordinance, would require that all day-labor agencies be licensed and that they abide by basic guidelines or face misdemeanor charges and a revocation of their license. These guidelines would prohibit agencies from providing misleading or deceptive information to day laborers or charging day laborers fees for essential safety equipment, check cashing, or transportation. It would prevent them from charging any deductions that would bring a worker's wages below the minimum wage. It would mandate that agencies provide complete job descriptions that include any information on job hazards, compensate for time spent traveling from the

agency to a work site, and pay overtime even if a day laborer is sent to multiple work sites. Motor vehicles and drivers used to transport day laborers would have to be properly insured and licensed. All forms of retaliation for reporting violations of the ordinance would be prohibited.

While it appears that passing the ordinance will not be easy, the DLOC feels that if the community hiring hall is able to compete in the long term and pay its workers living wages, the for-profit agencies will have to be prohibited from engaging in practices that result in their workers getting paid significantly less than the minimum wage. But it appears that the community hiring hall will not in the immediate future be able to displace the for-profit agencies. The majority of the day-laboring population will have to continue to rely on these agencies. The campaign to enact the ordinance, it is hoped, will continue to raise awareness among the community at large of the abuses going on in the industry and increase community support for the hiring hall. And finally, after two years of mind numbing meetings and discussions that were necessary to help establish the community hiring hall, the DLOC believes it is necessary to go back to the grassroots with its campaign drive for the municipal ordinance.

Ongoing discussions at DLOC meetings in the summer of 2003 reveal that the day laborers involved in the group believe that with the hiring hall in place and the municipal ordinance on the way, the next step is to develop a direct action strategy. Pressure could then be placed on appropriate government regulatory agencies to do their jobs and client companies to break their relationship with for-profit agencies and curtail any abuses they themselves might be engaging in. Finally, day laborers are discussing the possibility of directly confronting the day-labor agencies with pickets and boycotts. Unlike the widespread and justified fears over directly confronting the day-labor agencies expressed in initial focus groups, many day laborers are feeling more emboldened to act now that the community hiring hall has been established and the ability of the day-labor agencies to economically retaliate has been reduced.

## **Conclusion**

Returning to H.J. Walls' prescient observation that opened our discussion, it is clear that the day-labor industry is not paying the true cost of labor. Moreover, it relies heavily upon government and charitable subsidies to house and feed its pool of dependent and desperate workers. As this study has illustrated, this has produced a systematic set of conditions that bar workers from securing full-time employment paying a living

wage and actively prevents them from gaining the material basis from which they can live with dignity and respect. Importantly, however, this study was designed and implemented as a means of not only identifying and documenting abuses within the day-labor industry, but also of developing strategies for addressing the exploitative working conditions day laborers experience. The guiding principle was to thus develop connections and common cause amongst those most directly affected by exploitation—day laborers—and to implement sustainable alternatives. As the project unfolded, links developed across previously divided groups and, through a series of collective negotiations, conflicting interests were addressed and incorporated into specific plans of action. While we feel that such developments as the community hiring hall, the proposed city ordinance, a code of conduct, and a grievance hotline can (and should) be reproduced in other cities, our approach emphasizes the importance of a grass-roots, collaborative model that emerges from the experiences, concerns, and strategies of day-laborers.

#### Notes

- 1 In all instances where quotations or information in this article includes workers' names, this material has been drawn from the CHOHP interviews.
- 2 Of those interviewed solely in mixed gender settings, the percentage of women in the sample *increases* from 12 percent to 22 percent.

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