

**TEMPORARY COMMISSION
ON
DAY LABORER JOB CENTERS**

FINAL REPORT

APRIL 16, 2009

INTRODUCTION

A significant segment of New York City's workforce is the day laborer population. According to a New York study, it is estimated that the day laborer population in the greater metropolitan area is between 5,831 and 8,283. Employers typically hire day laborers for short-term jobs in construction, landscaping, home renovation, and domestic work. For workers, day labor is often their only option when they cannot find long-term and permanent jobs to support themselves and their families.

In New York City, day labor has been a longstanding, informal industry that began sometime in the 1800s as a key means of earning a living for many New Yorkers. Largely driven by employers in the construction industry, day labor has become a nationwide phenomenon and a significant part of the American informal economy with approximately 120,000 workers.

The concerns arising from New York City's day laborer population, including widespread occupational health and safety concerns, allegations of workers' rights and labor law violations, and quality-of-life issues for neighborhoods where employers connect with day laborers, have warranted the attention of the city government. This report evaluates those concerns and makes recommendations that align with the City's current efforts of the new Scaffold Safety Team at the Department of Buildings, which was implemented as a result of the 2006 work of the City's Scaffold Safety Taskforce, as well as those efforts of the New York City Center for Economic Opportunity to reduce poverty throughout the City.

THE TEMPORARY COMMISSION

The Temporary Commission on Day Laborer Job Centers ("the Commission") was established by Local Law 91 of 2005 to examine the feasibility of public/private partnerships to develop and implement job centers for day laborers. According to the U.S. Government Accountability Office: "'Day laborers' is a term that generally refers to individuals who work and get paid on a daily or short-term basis. To find work, day laborers often congregate on street corners and wait for employers to drive by and offer them work." The law's passage by the City Council was prompted by concerns about the conditions under which day laborers in New York City often work.

Commission Members

Chaired by Commissioner Guillermo Linares of the Mayor's Office of Immigrant Affairs, the Commission was comprised of sixteen members from the private and public sectors, including representatives from city agencies, social service and religious organizations, academia, philanthropy, and the immigrant day labor community. A complete list of Commission members is attached as Appendix A.

Work of the Commission

The Commission reviewed research, held a number of a public hearings and an expert forum, and made site visits to day laborer hiring sites and job centers in New York City and Westchester County. Through these activities, the Commission received input from a cross-section of individuals, including service providers, creators of job centers, day laborers, union members, regulators, private citizens, elected officials, legal advocates, and philanthropic foundations.

DAY LABOR IN NEW YORK CITY

The availability of published studies on the day laborer industry, particularly in New York City, is very limited. A 2003 report by Edwin Meléndez and Abel Valenzuela is a main source of documented information. Anecdotal information gathered from interviews and testimonies has helped the Commission further understand the characteristics and issues of day labor in New York City.

Early estimates count up to 8,283 day laborers living and working in the New York metropolitan region. However, local organizations working with day laborers estimate that this population now totals over 10,000 men and women. Composed overwhelmingly of young Latino men (the average age is 32), the remainder of New York City's day labor population generally comes from a variety of other places including Eastern Europe, East and South Asia, the Caribbean, and Ireland. A number are also U.S. born.

According to Valenzuela and Meléndez, in the greater New York area workers and their employers converge at an estimated two dozen informal hiring sites, which are largely concentrated in Brooklyn and Queens. New York City's experience is consistent with a national trend in which many communities are seeing the rise of day laborers offering their services for a wide variety of industries. Male day laborers generally work in construction jobs, especially renovation, carpentry, painting, and landscaping, while female laborers are typically hired for house cleaning, laundry work, and other domestic services or as garment workers.

Day laborers, however, are often reported to be working in unsafe and unregulated conditions, without the benefit of proper safety instructions, training on special equipment, or basic protection such as hard hats, work goggles, cloth masks, and fall protection when working at heights. Day laborers, especially those men who work in construction, manage hazardous tasks, work on hanging scaffolds, handle heavy equipment and dangerous materials, and perform demolition, trenching, digging, and carpentry. Men and women day laborers also report being regularly exposed to toxic chemicals and hazardous materials. As a result, day laborers can be considered to be one of the most vulnerable segments of America's workforce.

Based on testimony from day laborers, employers, and advocates, the Commission believes that the high incidence of worker injuries and fatalities is due largely to violations of occupational health and safety laws. From this testimony, the Commission concluded that a failure to adhere to health and safety standards by employers and day

laborers alike may be attributed to: (1) ineffective communication of worker safety information; (2) limited English proficiency among day laborers; and (3) fear among workers to report employer violations. In late 2006, the City convened a Scaffold Safety Taskforce to address concerns about the safety of workers on hanging scaffolds after a series of fatalities in which workers, who were not wearing required safety equipment, fell to their deaths. Upon recommendation from the Taskforce, the City Council later passed Local Laws 16 and 17 of 2007, and Local 24 of 2008 addressing scaffolding safety.

The Taskforce, like the Commission, recognized the importance of enforcing worker health and safety for construction and scaffold workers, many of whom may be day laborers. Accordingly, the Taskforce has implemented a comprehensive plan to enhance worker safety on suspended and supported scaffolds through enforcement, training, and outreach. Given the Taskforce's work in this area, and the interconnected nature of its work and that of the Commission's, the Commission believes that a coordinated citywide response to reduce worker injuries and fatalities in the construction industry needs to continue as a whole. Indeed, the Taskforce's work has been helpful to the Commission in developing its proposals.

WORKER ISSUES

Health & Safety

Construction work may present a host of dangerous situations, and it is reported that day laborers in this industry experience a higher incidence of workplace injury. As testimony by workers, advocates and City officials has revealed, employers need to better ensure that they effectively safeguard work sites and provide workers with essential protective gear. Also, many day laborers lack proper training and possess limited English skills, which can make it difficult for them to communicate with the employer, depending on the employer's language, and understand and access job safety information.

According to testimony from the New York Committee on Occupational Safety and Health (NYCOSH), 40% of New York City's construction fatalities in 2004 were among Latino or Asian workers. In 2006, there were five deaths (and 19 accidents) among immigrant workers related to scaffolds. However, since the Scaffold Safety Task Force began its work, suspended scaffold fatalities have declined significantly from six in 2006 to one in 2007, and the number of suspended scaffold-related accidents has dropped by 40% since 2006. In addition, the 2003 New York Day Labor Survey revealed that 83% of local day laborers suffered workplace injuries, and their ability to access proper medical treatment is of concern. Although the City is aggressively taking steps to prevent these workplace injuries, it is limited in its jurisdiction under law to establish labor or workplace safety standards, since it is the primary responsibility of the State or the federal Occupational Safety and Health Administration (OSHA) to enforce workplace safety issues for laborers.

Wage Violations & Other Exploitations

As a segment of the informal economy, the day labor job market experiences considerable employer violations of both worker rights and essential state and federal labor standards. In its study of unregulated work industries in New York City, the Brennan Center found that “small residential projects (construction, renovation and landscaping) drive much of the demand for low-wage, non-union workers.” Some employers also intentionally misclassify their workers as independent contractors in order to evade their legal obligations, including minimum wage and workers’ compensation. The report found that employers who violated one workplace law were often violating other laws as well.

The New York Day Laborers Survey found that almost 85% of workers experienced some type of employer violation, and nearly half of all day laborers reported that they had been denied payment for work recently completed. In addition to wage theft, other incidents cited in testimony before the Commission included receipt of pay checks that cannot be cashed due to insufficient funds, abandonment at the work site, denial of water and meal breaks, and no access to restroom facilities. Women day laborers also reported being sexually harassed by employers.

Historically, organized labor has expressed concerns about day laborers depressing wages and taking away jobs from U.S. citizens. Since 2000, however, the AFL-CIO has become an advocate for immigrant workers, including day laborers, and has voiced serious concerns about potential employer mistreatment of workers. It should be noted that in August 2006, the A.F.L.-C.I.O. announced a partnership with the National Day Labor Organizing Network to improve wages and conditions for day laborers and other immigrant workers. Announcing the agreement, the President of the A.F.L.-C.I.O. stated that exploitation of day laborers “hurts us all because when standards are dragged down for some workers, they are dragged down for all workers.”

SUMMARY OF TESTIMONY

Community-Based Organizations Serving Day Laborers

The Commission heard testimony from staff, volunteers, and workers at four community-based organizations currently operating day laborer job centers: 1) El Centro del Inmigrante in Staten Island; 2) the Bay Parkway Job Center in Brooklyn administered by the Latin American Workers Project; 3) Neighbor’s Link in Mount Kisco; and 4) Westchester Hispanic Coalition in Portchester. Though the centers varied in size and scope, organization representatives testified about the importance of monitoring wage, health, and safety issues. All centers cited various funding sources used to operate the centers, including monetary contributions from private citizens, in-kind contributions, and public funding to the extent it is available. The Commission found that both New York City centers offer social services and/or worker education, and connect with the entire family at these centers, but cannot fully meet the needs of the day laborer population given their limited resources. El Centro del Inmigrante operates out of a store-front space in Port Richmond, Staten Island, which typically accommodates 10-30

day laborers each day while 300-400 day laborers gather daily in the nearby streets waiting to be hired by employers. The Bay Parkway Job Center, housed off the Belt Parkway in a stationary trailer within a commercial parking lot, accommodates an average of 15-20 workers per day. Given the trailer's small capacity and lack of bathroom facilities, hundreds of workers and employers continue to connect in the residential areas much to the consternation of some residents.

City Council Members

Four members of the City Council testified before the Commission and highlighted: (1) the importance of immigrants' rights to education and social services regardless of their immigration status; (2) concern for protecting the workers from exploitation; (3) the need for cooperation from community members, City agencies, and immigrant groups in order to meet the needs of day laborers and the community; and (4) the establishment of a more formalized system to serve day laborers.

Employers

Several private contractors also testified before the Commission. They stated that they believed workers identified at day labor centers are more reliable and available on shorter notice. The Chair of the National Association of Hispanics in Real Estate and Construction testified that centers should have a mechanism for monitoring health and safety laws for the protection of workers. Employers identified the need for English classes to facilitate communication with workers and proposed routine on-the-job safety checks.

Health Officials and Legal Advocates

A Department of Health and Mental Hygiene representative testified that day laborers often lack the proper training needed to perform their jobs safely, and have language and cultural barriers that prevent them from accessing job safety information. The representative noted that day laborer job centers can help reduce work-related fatalities by providing formal skills development, job training, and education on workplace safety and the prevention of job-related illnesses. Outlining the rights of immigrant workers, legal advocates affirmed that the establishment of new worker centers could help stop the abuse of day laborers and protect workers' rights.

Private Citizens

The Commission heard from ten private citizens who objected to the growing immigrant population in New York City and the provision of services for them. They also expressed concerns regarding the convergence of workers and employers in their neighborhoods, which they say is not in keeping with their community image.

CONCLUSION AND RECOMMENDATIONS

Based on the foregoing, the Temporary Commission on Day Laborer Job Centers believes that collaboration between the public, private and philanthropic sectors and community-based organizations (CBOs) to address issues arising from day laborers in the City is feasible. To that end, the Commission recommends that the City work with CBOs to guard against worker fatalities and injuries by improving workplace safety, and to minimize disruption caused to communities by day laborers seeking employment. This recommendation includes continuing to evaluate and support programs and services that provide worker health and safety training, English classes, and other services needed by low-wage and immigrant workers. Such programs and services would uphold the City's commitment to strengthening all communities as well as its longstanding tradition of assisting those people who seek to become self-sufficient and fully integrated into the American economy. Consideration of the Commission's recommendations, as set forth in detail below, should be undertaken by the City's Departments of Youth and Community Development, Buildings, and Health and Mental Hygiene, and should also be aligned with the Scaffold Worker Safety Taskforce's efforts as well as those efforts of the New York City Center for Economic Opportunity to reduce poverty throughout the City.

Specifically, the Commission makes the following recommendations.

- **New York City Government should encourage and assist the development of appropriately located and configured community facilities where low-wage immigrant workers, including day laborers, can receive the critically needed job-related programs and services outlined in these recommendations.** Now more than ever with the City's economy facing tremendous challenges, low wage immigrant workers will confront the same or greater threats of joblessness and potential reductions in community based services. Proper collaboration between City government, CBOs, other enforcement agencies and social services organizations can provide a source of stability and security for this vulnerable population.
- **New York City government should foster the development of critical safety and related programs that serve day laborers.** Organizations that have demonstrated knowledge and experience working with immigrant workers and the day laborer population should be encouraged by the City to develop and expand programs and services to address safety, as well as health, education, and community concerns related to day labor practices. In addition, employers should be similarly encouraged to do so to fully achieve the goals of their legal requirements. CBOs wishing to expand their constituent base to include day laborers could tailor and/or expand traditional programs such as economic opportunity, wage equity, and the integration of workers into the mainstream workforce. Existing providers serving the day laborer population should be encouraged to augment their service delivery offerings to include safety training programs and other support services. Access to these health and safety programs and services should be facilitated in a safe and dignified setting that ensures minimal disruption to all communities.

- **New York City government should evaluate and support critical programs and services that serve day laborers.** Specifically, the City should continue to fund CBOs to develop and/or expand three program areas: workplace health and safety, the monitoring of labor, wage, and hour laws, and English as a Second Language (ESL).

According to Census data, there is a strong correlation between poverty and English language proficiency. And the lack of proficiency in English is also highly correlated with workplace injuries. Therefore, a glaring need exists for English language classes among the population of low-income immigrant workers.

Creating sector-specific ESL training should be a core component of the services provided by CBOs serving the day laborer population. For day laborers, workplace accidents and fatalities occur primarily because occupational health and safety standards are violated. By providing job safety training, CBOs will play a critical role in protecting day laborers from on-the-job injuries and fatalities.

- **New York City government should encourage collaboration and cooperation among community groups, including those that serve the day laborer population, and public entities that may include OSHA, the State Department of Labor, NYPD, or other appropriate agencies.** Critical to the success of these endeavors is the ability of government authorities and service providers to work together to enforce labor, human rights, traffic, criminal and health and safety laws and regulations. Community groups can assist government agencies in delivering essential services (or articulating its regulatory authority) to hard-to-reach workers and employers while providing worker education and job safety training and social services. They should also inform the authorities of any criminal conduct that takes place as well as report any alleged labor law and/or civil rights violations. Other agencies that have a stake in the protection of workers' rights include the NYC Department of Health and Mental Hygiene, and the Human Rights Commission.

**APPENDIX A –
COMMISSION MEMBERS**

Guillermo Linares, *Commissioner, Mayor’s Office of Immigrant Affairs (Chair)*

Héctor Cordero-Guzmán, *Professor, Baruch College, City University of New York*

Howard Feuer, *Community Representative*

Kilder Fuentes, *Community Representative*

Martin García, *Community Representative*

Chung-Wha Hong, *Executive Director, New York Immigration Coalition*

Raymond Kelly, *Commissioner, NYC Police Department*

Gonzalo Mercado, *Executive Director, El Centro del Inmigrante*

Edwin Meléndez, *Director, Center for Puerto Rican Studies, Hunter College*

Jesus Mendez, *Community Representative*

Jeanne Mullgrav, *Commissioner, Department of Youth and Community Development
(Advisor)*

Oscar Paredes, *Executive Director, Latin American Workers Project*

Jane Stern, *New York Community Trust*

Beatriz Diaz Taveras, *The Archdiocese of New York*

Rev. Terry A. Troia, *Executive Director, Project Hospitality*

Robert Walsh, *Commissioner, Department of Small Business Services*

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