

New Scholars

**LA BARDA: DOCUMENTING CONDITIONS AND
EXPLORING CHANGE AT SANTA BARBARA'S
LABOR LINE**

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ABSTRACT

Although immigrant workers contribute significantly to the labor market in California, they are at a disadvantage in terms of income level, job security, and prestige. Day laborers are one of the most vulnerable populations as they lack the stability, wages, and conditions associated with more traditional forms of employment. Sociologists have examined the economic contributions of day laborers and estimated their overall demographics, yet there is very little longitudinal, ethnographic data on the day labor population to date. This paper provides a case study of the day labor line in Santa Barbara, California, known as "La Barda." It uses a variety of qualitative methods including: a two-year longitudinal profile of one worker, 15 in-depth interviews, and a review of existing day labor centers. The overall goal of this research is to examine current conditions involved in waiting for and obtaining work and to explore solutions to the primary problems day laborers face.

INTRODUCTION

Day labor is a form of nonstandard, contingent, or casual work (Bartley & Roberts, 2006; Kalleberg, Reskin, & Hudson, 2000; Smith, 2008). Those who pursue this form of employment typically do so because they lack the educational and social capital to obtain more stable work or because they value the flexibility it affords

(Purser, 2009). Undocumented immigrants are clearly in the former category, as day labor is one of the few forms of employment they can legally access. Despite its possible benefits, day labor also comes with significant risks including: harassment (Kornzweig, 2000), citations from local police (Varsanyi, 2008), exposure to health and safety hazards (Buchanan, Nickels, & Morello, 2005, and nonpayment or underpayment (Bartley & Roberts, 2006; Kerr & Dole, 2005). Although daunted by the risks they face (Ochsner et al., 2008), day laborers also view their work as a source of pride in terms of skill level and autonomy (Purser, 2009).

This article uses ethnographic data to explore current conditions at the labor line in Santa Barbara, California, known as “La Barda,” and offers a unique longitudinal profile of one worker over a two-year period. I examine seasonal fluctuations in work and conditions on the job and waiting for employment. Fifteen in-depth interviews are used to supplement longitudinal data and focus specifically on legal issues of concern to workers. Current literature on day labor focuses on on-the-job conditions (Buchanan et al., 2005; Theodore, Valenzuela, & Meléndez, 2006), population demographics (Valenzuela et al., 2006), legality of employment (Deleon-Vargas, 2008; Kornzweig, 2000; Smith, 2008; Varsanyi, 2008), the relationship of day labor to other forms of contingent work (Bartley & Roberts, 2006; Kalleberg et al., 2000; Kerr & Dole, 2005), worker attitudes, needs, and concerns (Ochsner et al., 2008; Purser, 2009; Turnovsky, 2004), and possible solutions to the problems day labor poses for workers, employers, and city officials (Day Labor Research Institute, 2004; Theodore & Martin, 2007). Below I review existing literature on day labor and follow this with a discussion of the data I collected, the similarities and differences between my research and previous studies, and possible solutions to the problems day labor poses.

Researching day labor, particularly among undocumented immigrants, is hampered by high population fluctuation as well as questionable legal status. Laborers are not always willing to come forward, and due to the scattered and fluid nature of labor sites, they are difficult to access. Despite these hindrances, the most comprehensive data to date come from the National Day Labor Survey conducted in 2006 (Valenzuela et al., 2006). This study uses survey data from 264 hiring sites in 139 municipalities to offer a snapshot of the day labor workforce. It estimates that day laborers number 117,600 nationwide, with the greatest concentration in the West (42%), followed by the East (23%), the Southwest (18%), the South (12%), and the Midwest (4%) (Valenzuela et al., 2006). The majority of day laborers are undocumented and were born in Mexico and Central America, with less than 10% born in the United States (see Turnovsky, 2004, and Kerr & Dole, 2005, for a discussion of nonimmigrant day laborers).

Laborers work at a variety of construction and household jobs and are primarily employed by renters, homeowners, and construction contractors (Valenzuela et al., 2006). The search for work is a full-time job although the hourly wage for day labor typically exceeds minimum wage. The inconsistency of the work, however,

frequently brings monthly earnings below full-time minimum wage employment (Ochsner et al., 2008). In addition, the risks that workers face include abuse by employers, wage theft, workplace injuries, lack of medical care to treat injuries, and targeting by merchants and police (Valenzuela et al., 2006). Although the majority of day laborers surveyed are relatively new arrivals in the United States, working in the market for less than three years, many remain connected to their families and use day labor as a means of support.

According to the Migration Policy Institute, in 2007 the largest foreign-born population nationwide came from Mexico (30.8%), and California was home to the largest number of Mexican immigrants, both documented and undocumented. The Immigration and Naturalization Service (INS) estimates from 2000 also show that California and Texas had the largest unauthorized immigrant populations, at 2.2 million and 1.0 million, respectively. Although there are between 20,000 and 22,000 workers in Los Angeles, day laborers statewide make up only .2% of the total workforce, a relatively small percentage (Gonzalez, 2007). The legal status of day laborers is part of what catapults them into the public eye as a potentially problematic presence. California's hostility toward undocumented or "illegal" immigrants is embodied in the 1994 ballot initiative Proposition 187, known as the "Save our State" initiative, which proposed denying illegal immigrants public education, social services, and health care. In short, immigrants are seen as dangerous, particularly as competitors with native-born workers and as posing a threat to native-born citizens (Turnovsky, 2004; Valenzuela & Ong, 2001). Massey, Durand, and Malone (2003) discuss two of the most popular tropes for describing immigration, the hydraulic trope and the trope of war. Under the first, immigration is described as a "rising tide," with workers arriving in "waves" to create a "sea" of foreigners. The second uses border control to symbolize "holding the line" and defending the United States against alien "invaders." Day labor lines that exist on city streets feed into these stereotypes because they visually symbolize the desperation that characterizes the search for low wage work. The "swarming" effect that occurs when workers rush to surround the cars of waiting employers adds to the overall sense of danger and desperation involved in street corner solicitation by immigrant day laborers (Valenzuela, 2000).

The questionable legality of day labor also complicates the process of hiring laborers, seeking work, regulating and policing labor lines, and finding solutions to the problems such sites create. Hiring workers is not in fact illegal, but it is unregulated and cash based and is in somewhat of a grey area with respect to immigration law. The Immigration Reform and Control Act (IRCA) of 1986 requires that employers verify the eligibility of those they hire by filling out form I-9, yet exceptions to this law exist. Independent contractors, casual workers performing domestic tasks on a sporadic basis, or workers provided by a third party can avoid the I-9 verification (Gonzalez, 2007). As Smith (2008) explains, determining workers' rights with respect to wage-and-hour laws, health and safety

laws, discrimination laws, and the right to organize and collectively bargain depends on how “employee” and “employer” are defined.

The Fair Labor Standards Act (FLSA) defines employees as those the employer “suffers or permits” to work, thereby guaranteeing a minimum wage and a right to overtime pay for work in excess of 40 hours per week (Smith, 2008: 200). Although exceptions exist for agricultural workers, domestic workers, and home health care workers, the definition remains relatively broad. Determining worker protection under the Occupational Safety and Health Act (OSHA) is more complicated, as the responsibility for meeting health and safety standards may fall to more than one employer (Smith, 2008). Further complicating matters, workers typically do not know of available protections and lack access to legal counsel for assistance in pursuing issues of noncompliance. Collective bargaining and the right to organize trade unions are guaranteed under the National Labor Relations Act (NLRA), although once again, exceptions exist for agricultural and domestic work.

The case of *Hoffman Plastic Compounds v. NLRB* (2002) put the right to organize under NLRA to the test. In this case, worker José Castro was fired for conducting a union-organizing campaign at his place of employment. The firing was deemed illegal by the National Labor Relations Board (NLRB) because Castro was explicitly fired for unionizing, and back pay was ordered. During an administrative hearing to determine the amount of the award, Castro testified that he had submitted false immigration documents to secure employment. Under the IRCA, as indicated above, it is illegal for employers to knowingly hire undocumented immigrants and also illegal for employees to falsify documents to establish employment. This called the remedy of back pay into question: although the firing was still deemed illegal, could back pay be awarded to an unlawfully employed worker?

In the Supreme Court’s 5-4 opinion on this case, Justice Rehnquist indicated that back pay was not to be awarded because deference to the NLRB is deemed inappropriate where the board chooses a remedy that “trenches upon a federal statute or policy outside the Board’s competence to administer” (*Hoffman Plastic Compounds v. NLRB*, 2002: 138), such as those relating to federal immigration laws, namely, the IRCA. In a related case (*Southern S. S. Co. v. NLRB*, 1942), an employee sought back pay but was found guilty of illegal conduct in connection with his employment; thus none was awarded. In other cases involving undocumented workers, *Sure-Tan, Inc. v. NLRB* (1984) and *Del Rey Tortilleria, Inc. v. NLRB* (1992), the remedy of back pay was deemed contingent on the employee’s being lawfully employable. The Castro decision is similar because it explicitly deals with IRCA mandates that stipulate the legality of employment as a precedent for enforcing the remedy of back pay.

The Castro case raises at least two important questions: whether or not undocumented workers are protected by the laws that protect U.S. citizens and whether or not employers are encouraged or discouraged in hiring undocumented

immigrants. In the dissenting opinion on this case, Justice Breyer argued that back pay acts as a deterrent to employers who seek to hire and exploit undocumented immigrants; "in the absence of the back pay weapon, employers could conclude that they can violate labor laws at least once with impunity" (*Hoffman Plastic Compounds v. NLRB*, 2002: 154). Denying the remedy of back pay not only leaves undocumented workers vulnerable to exploitative practices, but it makes their legal right to unionize even more precarious.

Worker vulnerability is significant not only because day laborers lack basic legal protection but also because employers often take advantage of such laborers' undocumented status via nonpayment, underpayment, threats of deportation, and exposure to dangerous conditions. In addition, the lack of benefits, including health insurance and pension, union and labor law protection, and employment insecurity, puts day labor in the "bad jobs" category (Kalleberg et al., 2000). This means not only that day laborers in general lack the economic and social benefits of standard employment but also that those who are undocumented will lack access to these benefits in the long term and remain in "bad jobs."

In a qualitative study of 21 day laborers in Chicago, Buchanan et al. (2006) found that 52% had been injured in the previous year. Although the injuries included lacerations, contusions, back pain, puncture wounds, and fractures, only 3 of 11 workers missed work as a result of the injury and only 2 sought medical attention. Ochsner et al.'s (2008) study of day laborers in New Jersey reports similar although slightly less damning findings, showing that approximately one fourth of 43 focus group participants suffered job-related illness or injury. Although only five workers reported an injury serious enough to require medical attention, it also seems likely that workers will only seek medical attention as a last resort, either because they don't want to miss a day's work or because they lack health insurance to cover the costs. Ochsner et al. (2008) also report that exposure to on-the-job hazards is common and that employers frequently fail to provide appropriate safety equipment and training. The nationwide study carried out by Valenzuela et al. (2006) corroborates state level findings, showing that one in five day laborers suffers an injury while on the job and two thirds have missed work following an injury. In addition to injuries, hazardous conditions also include exposure to toxic chemicals and health and safety risks (Buchanan et al., 2006; Valenzuela et al., 2006).

Workers are also subject to dangerous conditions while seeking employment. Varsanyi's (2008) research shows that day laborers experience various forms of harassment and enforcement that explicitly target their undocumented status. According to national findings (Valenzuela et al., 2006), forms of harassment while waiting for work include verbal insults, threats or acts of violence, intimidation, and being photographed or videotaped (Varsanyi, 2008). Local police officers, private security guards, and merchants are the primary perpetrators of these forms of abuse, although anti-immigrant citizen groups also intimidate and threaten workers. In Varsanyi's (2008) estimation, the ordinances used to regulate

day labor target the status of laborers: who they are rather than what they are doing. The issues involved in policing day labor sites include regulating the activity of soliciting work, targeting the appearance and status of job seekers, and curtailing the use and occupation of public space. Kornzweig (2000) argues that solicitation is a form of commercial speech protected under the First Amendment, yet blocking traffic and otherwise posing a nuisance to the surrounding community are enforceable offenses. The irony of this is that, although problematic, remaining visible and being the first to arrive at the car door are the only ways to compete for work at street sites.

Thinking about solutions to the problems that day labor poses involves explicitly tackling the issue of workers' rights and the form and location of the solicitation site. Day labor sites take on three basic forms: sites that are *connected* to particular industries and locations although they may exist on city streets; *unconnected* sites that are located on city streets or in heavily trafficked areas; and *regulated* sites that are formal hiring sites run by a city- or community-based organization that provides a place to gather (Theodore et al., 2006; Valenzuela, 2000). Although varied in nature, unconnected street sites are the most controversial, as they exist on public streets and are deemed a public nuisance. Yet as indicated above, such sites are often defended on the basis of First Amendment protections and in the absence of other alternatives, they may be the only option for undocumented immigrants to secure employment. One of the ongoing issues involved in developing solutions to the day labor problem is that even when formal hiring sites are developed, street sites often exist in tandem with them. Worker centers therefore do not always solve the problems associated with street sites, including blocked traffic, illegal activity, and community opposition. The threat of deportation also looms large for undocumented workers, who often feel powerless to challenge exploitation.

Ideally, developing worker centers eases the process of connecting worker and employer, provides constructive activities for workers waiting for employment, offers employer accountability, and can lead to increased employment. Worker centers provide support to low wage workers as "community-based mediating institutions" that offer service delivery, advocacy, and organizing (Fine, 2006: 2). Given the problematic legality of worker organizing as discussed above, worker centers struggle to enforce standards, raise wages, improve working conditions, and normalize the immigration status of the workforce (Fine, 2006). Centers also attempt to engage in leadership development among the immigrant workforce and work with local and governmental advocates to ensure the protection that informal sites lack.

In a study of 290 day laborers in the New York metropolitan area, Theodore et al. (2006) found that workers at informal sites sometimes set informal wage rates but that they did not connect with community organizations, workers' rights advocates, or social service agencies. As a result, many of workers' primary concerns regarding workplace conditions and basic needs went unaddressed. By contrast,

the Workplace Project on Long Island opened a legal clinic to assist undocumented immigrants in securing minimum wage. Garnering the support of small business associations, religious organizations, unions, central labor councils and community organizations, and legislators proved successful in a bid in 1997 to pass the Unpaid Wages Prohibition Act. The act stiffened penalties for employers guilty of wage offenses by maximizing civil penalties, making repeat violations a felony rather than a misdemeanor, and prohibiting settlements of less than 100% of the wages due to workers (Fine, 2006). These contrasting cases demonstrate the efficacy of community organizing through worker centers. Given the harsh legal climate that undocumented immigrants face, engaging with worker centers offers a unique avenue for collective action.

A study of Chicago's Albany Park examines the role of nonprofit organizations in creating a worker center for migrant workers. Although the city of Chicago never formally sanctioned the center, with the help of community organizations and citizen support, local nonprofit organizations mobilized and raised funds for a formal worker center designed to protect workers' rights and their legitimacy as community stakeholders (Theodore & Martin, 2007). Citing the National Day Labor Organizing Network (NDLON) as the leader in developing formal hiring sites, Theodore et al. (2006) view these sites as improving both the supply and demand sides of this precarious market. Like Theodore and Martin (2007), Theodore et al. (2006) also point out the crucial role of worker centers in providing a voice for undocumented day laborers within the larger community. Although formal sites vary in the services they offer, ideally they provide more than just a hiring hall; they also organize workers' rights activities and foster workers' incorporation into the formal economy (Theodore & Martin, 2006).

In some cases, day laborers are able to partner with labor unions to improve conditions by standardizing wage and hiring requirements, allowing day laborers to receive formal training, and reducing the competition between the two groups. Although the overall goal of worker centers involves social change as much as employment, trade unions focus primarily on economic outcomes (Fine, Grabelsky, & Narro, 2008). The primary differences between worker centers and trade unions include membership exclusivity, overall focus, and organizing framework. Worker centers are typically unable to secure ongoing relationships with specific employers or consistently increase the supply of jobs and are therefore limited in their capacity as labor market intermediaries (Fine, 2006; Fine et al., 2008). Given the relative power that unions have over worker centers, why collaborate? The primary reason is that "both worker centers and building trades unions have a shared interest in establishing, enforcing, and maintaining decent industry standards" (Fine et al., 2008: 32). Without such collaboration, employers can hire undocumented workers for lower wages and expose them to dangerous conditions.

To examine the characteristics of union-day labor collaboration, Fine et al. (2008) present case studies of carpenters and painters. In the case of carpenters, the collaboration between unions and worker centers had four long-term goals: to

raise the wage floor, eliminate unscrupulous contractors, enforce labor law compliance, and expand wage laws (Fine et al., 2008). Although day laborers were brought into apprenticeship programs and forgiven union dues and education requirements, only 75 day laborers were employed over a 10-year period. Similarly, a project in Los Angeles launched a collaboration between the Institute of Popular Education of Southern California (IDEPSCA) and the International Union of Painters and Allied Trades. Forty workers were trained as worker leaders and were eventually admitted to an apprenticeship program and granted employment. Although these collaborations assist workers, they may only be “creaming the crop” of day laborers, accepting the most skilled, articulate and/or fluent in English, and likely to succeed, leaving the masses unassisted.

In the following sections I examine conditions on the job and waiting for work at La Barda, an unconnected street site in Santa Barbara, California, with the overall goal of examining possible solutions to the problems day labor poses, primarily for workers but also for citizens and employers.

BACKGROUND AND METHODOLOGY

Clustered in the agricultural and construction trades, Mexican laborers have been a feature of Santa Barbara’s downtown thoroughfares since the 1920s (Camarillo, 2005). The current day labor site, known as La Barda, is an unconnected site that exists along a public street in the industrial area, close to the city’s two emergency homeless shelters. It is legally sanctioned via a city ordinance that allows laborers to solicit work on the south side of Yanonali Street, in an area approximately 170 feet in length marked by signs on either side of the area. Although some efforts have been made to organize a formal workers center, to date the unregulated site continues amid controversy involving blocked traffic, regulation of solicitation, drug activity, a lack of employment, and nonpayment.

To examine these issues in detail, I provide data on one worker for a two-year period and offer extended interviews with 15 additional laborers. All interviews were conducted in Spanish and translated into English. Other studies incorporate survey and interview data, but none provide a longitudinal look at the type of work, frequency of obtaining work, wages per hour, and conditions both on the job and waiting for work. Rather than using point in time estimates, which rely on the worker’s memory of what he did over time, taking a daily inventory allows for more consistent and reliable data. This project is also informed by participatory research (see Ansley, 2002) and it employed current day laborers to conduct 5 of the 15 interviews. Laborers were provided with sample interview questions and recording equipment and were paid \$10 per hour for the time they worked. Laborers who agreed to be interviewed were familiarized with the questions they would be asked and the overall purpose of the research. They were also given the choice of being identified by first name only or pseudonym. Many men elected the former, noting that it was a source of pride for them to be referred to by their given

names (see Duneier, 2001, on using subjects' real names). Several men also noted that there were many men with the same or a similar name at the site and that finding them would be nearly impossible. For further protection, I do not indicate the men's choices in the text. The primary questions guiding data collection are as follows: What are the current conditions involved in waiting for and obtaining work? What are the primary problems day laborers face? I use ethnographic data, described below, to answer these questions, and follow with a review of hiring centers.

During the first phase of this project, I collected data on one worker, José, for a two-year period. Each day, he filled out a questionnaire asking whether or not work was obtained. If it was, José answered a series of questions on the type of work, the number of hours, the location of the work, and wages per hour, and open-ended questions about working conditions. If work was not obtained, he answered questions about the labor line, including how many hours he waited for work, how many others were waiting, and how many cars passed by, and open-ended questions related to daily use of the labor line. To supplement the longitudinal data, I worked with day laborers to conduct extended interviews with a set of 10 additional workers. Questions in these interviews addressed experiences and conditions both on the job and waiting for work, wages, type of work, and the most problematic issues of day-to-day life at La Barda.

Although I initially set out to collect video data, after conducting preliminary fieldwork, I elected to redesign this phase. Workers were reluctant to be filmed, regardless of who was operating the camera. It was also difficult to gain the trust of the initial set of workers whom I asked to conduct interviews and to convince those at La Barda that we were not associated with police or immigration authorities. To mitigate these effects, yet still collect additional data, I employed members of the day labor pool to conduct five additional extended interviews. Each of the interviews was conducted at the labor line, and interviewees were compensated at \$10 per interview. Members of the day labor pool were also paid \$10 per hour for the duration of the project, trained in interview procedures, and familiarized with the overall goals of the project.

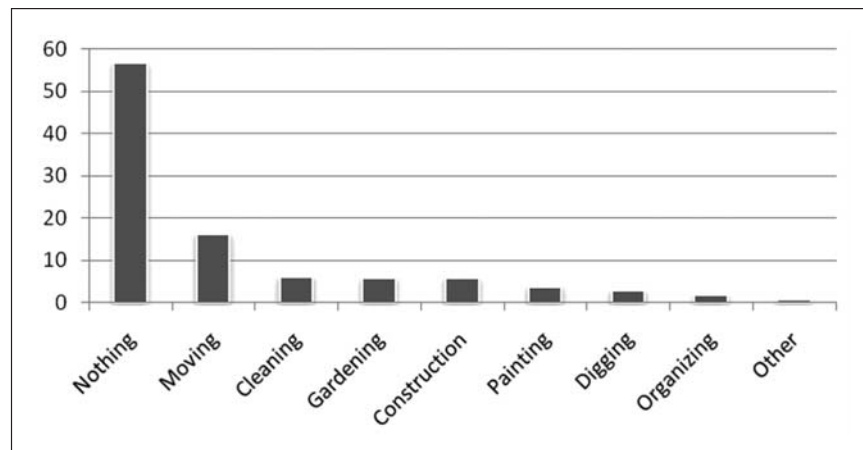
RESULTS

José is 30 and is from Mexico. He has been in the United States for 10 years and speaks English with moderate proficiency. Unlike many of the men at La Barda, José is not married, and while his immediate family lives in Mexico, he does not have a family of his own to support. José lives in a recreational vehicle (RV) approximately six blocks from La Barda, just down the street from Casa Esperanza, one of the city's emergency homeless shelters. He uses the shelter to shower and for an occasional meal, but does most of his cooking inside the RV or purchases food from *la lonchera*, the lunch truck, or at a local restaurant. In a typical week, José arrives at the labor line at 7 a.m. and spends five to six days

looking for work. He either waits or works for four to eight hours per day on average. Approximately 54% of the time, he does not find work at all. When he does, the most common types of work include *mudanza* (moving), cleaning, gardening, construction, and painting.

As shown in Figure 1, moving and cleaning are his most common jobs, followed by gardening, construction, painting, digging, and organizing. “I have to be ready for anything,” José says, although he carries no tools of his own and employers often fail to provide tools or proper safety equipment including gloves, safety glasses, hard hats, face masks, and so forth. In addition, approximately 25% of the time, employers do not provide food or lunch for the workers and do not offer water or breaks throughout the day. After a 12-hour day cleaning and moving heavy furniture, José wrote: “These people are *caciques* (tight with their money, stingy) because they didn’t even offer us water, just thanks for the hard work.” It is difficult to stay positive amidst these conditions, yet without being positive, energetic, and above all flexible, finding constant work is even more difficult.

During the study period, José obtained work primarily in the city of Santa Barbara (26.8%), followed by the neighboring towns of Goleta (6.1%), Montecito (4.3%), and Summerland (2.5%). He did not provide his own transportation, so unless the job was in walking distance, he relied on his employers, who typically did not include transportation time as part of the work hours. Employers were either individuals or contractors and varied greatly in terms of income level. In fact, two of José’s regular employers were famous actors, living in Montecito and Santa Barbara. Regular employers were less common than new employers, and regular work was typically short term, lasting two weeks at most. Although rates



Note: Source - Survey data.

Figure 1. Type of work by percentage—José.

of pay vary for workers at La Barda, from as low as \$6 to \$8 per hour to as high as \$12 or \$13, José rarely accepted a job that paid less than \$10 per hour.

On average, José earned \$602 per month, with a low of \$270 and a high of \$960. He spent an average of 24 days per month waiting for work, excluding holidays, Sundays, injury time, sick days, and occasional days off. He found work on average for 13 of the 24 days and worked an average of five hours per day or 60 hours per month. Although these are averages, José's hours varied dramatically from a low of one hour per day to a high of 12. Out of José's average earnings of \$602 per month, he spent approximately \$25 per day on gas, food and water, and other expenses, leaving his total monthly earnings at \$277. José's busiest months clustered around the holidays, in October, November, December, and January, followed by May and July. Like other workers, José sometimes received small bonuses for a job well done, or a higher rate of pay for particularly difficult work. Below I include data on the other interview subjects to corroborate the longitudinal data and focus on the frustrations and dangers of waiting for work and soliciting employment.

The other workers interviewed for this project range in age from 24 to 45 and all are from Mexico. The amount of time each has been in the United States varies widely, from four months to over 10 years. English proficiency also varies, although many men, like Raul, age 30, report that they learn the essential communication skills to negotiate the terms of employment. Unfortunately, this is not always enough, as there are frequent misunderstandings between workers and employers. As José summarizes: "Everyone says that they can speak English, but the reality is that many cannot. Some understand it but cannot speak it and others just know a few words and will say anything to get work." Salvador, age 45, agrees with José, stressing the importance of setting the terms of employment up front: "There are good employers and bad ones. If they don't pay by the day for work, you never know if they will show up at the fence [La Barda] again." Misunderstandings are varied and often mean low or unpaid wages, few to no breaks, and issues regarding transportation, tools, and hours.

Most men arrive at the labor line at approximately 7 a.m. and, like José, wait until mid-afternoon before giving up. On average, workers secure work between two and four days a week, but the length of time on the job varies. In many cases, the men spend more time waiting for work than actually working. The rate of pay also varies from \$8 to \$10 per hour, depending on the type and frequency of work. Although employers do arrive at La Barda offering \$6 or \$7 per hour, as Luis, age 45, indicates, "No one goes with them unless they are new. . . . for most of us \$8 is the minimum." Others hold out for higher wages. Andres, age 38, says, "The minimum for me is \$10 or \$12 per hour." In José's estimation, the type of work sets the pay rate: "For roofing or masonry, you have to get more, otherwise it's not worth it. We're working in the hot sun for, say, 10 hours per day." Although none of the men interviewed reported working for less than \$8 per hour, when pressed on this issue, José said, "It's true that some will go for \$7 per hour if they are

desperate or haven't worked in a long time." It is this mix of pride and financial need that drives the type of job and the hourly wage that workers are willing to settle for.

Flexibility and perseverance are two of the key requirements for surviving in the field of day labor. All of the men interviewed report that although they specialize in particular jobs, they have to be ready for anything. Luís Antonio, age 24, specializes in carpentry: "I know how to cut all kinds of wood, to make a fence, all types of carpentry. The only thing I do not know how to do is draw plans." Andrés, age 38, also reports that his specialty is roofing but that he does all kinds of work, depending on what employers need. The ability to meet the conditions and accept the type of employment are key priorities in this high-turnover industry. José's jobs ranged from cleaning and sweeping to heavy construction, with no predictability. Although employers prefer workers who specialize in the type of work they offer, as Raul, age 30, indicates, "People will say anything to get work, even if they don't really know how to do it." The mismatch between worker specialty and job type that comes with "first-come, first-served" employment can lead to misunderstandings and dangerous conditions. The risks involved in setting the terms of employment are explored further below.

For times when work was not obtained, survey and interview data provide information on the conditions and activities involved in waiting for work. Estimates of the numbers of men waiting for work ranged from a low of 45 to a high of 180 and were recorded in the morning, when the numbers were likely to be higher than later in the day. An average of 90 people waited for work each morning, with an average of four cars passing per day. Because of this competition, two things happen: (1) workers swarm around the cars that arrive; and (2) workers wait all along the street and not just in the designated area. Both of these are competitive strategies whose sole purpose is to make workers more readily available to employers so that they get chosen first. Both are also dangerous for workers, as they can result in injury and citations for solicitation. Several men reported minor injuries as a result of getting crushed in the rush to obtain work. José describes the scene:

When a car arrives and stops in the middle of the street, they block traffic and everyone rushes the car. The car is immobilized and other cars have to stop. Many times people push each other and fight to get the attention of the person inside. Workers will try anything to get the employer's attention. There is no way for the employer to choose, so it is usually those closest to the car who get work.

Strategies used to contact employers include demonstrating the ability to speak English, waiting on the corner instead of in the designated area, and yelling or otherwise attracting the employer's attention. Employers are also particular, as some want workers with clean attire and others want those who look as if they have been working. Some want men who look big and strong and others do not want men who look too intimidating.

All workers indicated that they wait a minimum of four to five hours and often do not get any work. So what do they do? José describes it as a toss-up between distracting oneself by playing cards, talking, or listening to music, and remaining attentive in case a car passes by. As Raul, age 30, indicates, the *ambiente*, ambiance, or feeling at the line is one of “frustration, sadness, desperation.” After several hours waiting, José reports that it is difficult to remain attentive, particularly in the midday sun, and yet he notes, “You need to be vigilant for cars, security, police.” Nevertheless, as the day wears on, many of the men retreat to the shade and turn their attention away from the empty street. Some turn to drugs and alcohol for escape or to supplement low or absent wages. As Luis explains, “There are people there who can’t work, those that don’t find work, and people who just want to drink, smoke, or do drugs. They don’t have another way to distract them.” Arguments also break out, largely due to frustration. The presence of security guards and police officers only heighten feelings of fear and desperation, turning attention away from employment. As the day wears on and no work is found, people get anxious.

When workers are actually hired, the work is typically physically grueling and/or dangerous. In the first year in which José recorded his experiences, he suffered many minor injuries and two more serious ones. In one instance he hurt his thumb so badly that it required surgery. In another case, he was crushed under the weight of a heavy piece of furniture during a moving job, and was never examined. In all, he lost over two weeks of work because of these injuries, and some merely lingered, exacerbated by continued physical exertion. None of the employers offered to assist with medical costs and, in fact, were probably unaware of the extent of his injuries. Unlike the situation in traditional wage labor, job safety and workmen’s compensation are nonissues for most employers contracting day laborers and for day laborers themselves. Survey data also show that it is not uncommon for an employer to fail to provide water, food, breaks, or even proper safety or other equipment for workers. Yelling at and degrading workers is also common, as is cheating them out of all or part of the agreed upon wages. These problems, in addition to the sporadic nature of employment, undermine the relatively high wages that day laborers are paid in comparison with minimum wage employment.

Contracting day laborers involves negotiating the terms of employment, including pay rate, type of work, how many workers are needed, and how long they are needed, underscoring the importance of English proficiency. It is not simply a verbal contract between employer and employee: in cases where more than one worker is needed, employers place on one worker the additional burden of requiring him to invite two or three friends to work with him. Thus, one worker acts as an informal contractor in charge of negotiating the contract and securing employees. Such a worker is therefore accountable to both employers and coworkers, as failing to invite one’s friends can have negative repercussions, as can hiring workers that prove unacceptable to employers to employers. Yet this

kind of secondary contracting also reflects the distinction between friends and coworkers, a line that is often blurred at La Barda. As Luis indicated earlier, there are men who arrive at La Barda and pass the time there but are not interested in working or perhaps cannot work. As José explains, it is not always easy to find men who are known to be good workers from among a sea of 80 faces. “If you go with people you have never worked with and [who] don’t know how to work, it is hard to be able to work well.”

As an example of secondary contracting and the difference between friends and coworkers, José describes a job he did with two other men, digging holes for trees to be planted. José secured the job, and the employer asked him to bring two men with him. José invited Cuba, age 48, and Juan, age 42, to work with him. This was the first time José worked with Cuba, whom he primarily considers a friend. In contrast, José also invited Juan, whom he has worked with previously and describes as “a good person, a good worker. I’ve known him since San Diego, since the border. He’s from Michoacan.” The work lasted three hours, although Cuba left after two. The employer was described as rude and demanding, yet he paid all three workers for their time: “They paid Cuba \$16 for two hours, \$30 to Juan for three, and I got \$40.” The employer in this case was in his mid-40s and was known at the labor line for being demanding and offering very hard work. He also frequently tried to whittle down the price to \$7 or \$8 per hour without breaks or lunch. Cuba left early because the man yelled at him, which further angered the employer. José explained that “Cuba can’t take that and he doesn’t like to do very hard work so I usually don’t invite him, but there was no one else.” After that, when this employer arrived at the line looking for workers, he either hired only José or threatened him with nonpayment if he did not bring good workers with him. Although this arrangement worked well for José, because he was seen as a good worker and was paid more than \$10 per hour, it can also backfire if the others do not work well or if there is competition among the workers. Given the importance of reliability and familiarity in this high-turnover industry (Bartley & Roberts, 2006), such conflicts can be particularly costly for workers.

Negotiating the terms of employment and waiting for work are two of the most difficult aspects of life at La Barda. Although on-the-job conditions are also hazardous, even grueling work is welcomed by most workers. Yet nothing at La Barda is predictable. Grueling work can be followed by nonpayment of wages or reduced wages, and secondary contracting can result in disputes or discontinued employment. Merely waiting for work can result not only in depression and frustration but also in potential conflicts with police, security guards, and other workers. The primary problem in contesting unpaid work is that workers do not know their legal options, and those who do know these options report that protesting wage theft is a futile enterprise. The primary problem involved in conflicts between workers and police is that workers feel preyed upon and again do not know their legal options when they receive citations or feel that protesting is futile. These issues present significant barriers to attempts to solve the problems

associated with unconnected street sites like La Barda. I discuss these issues in detail below, using ethnographic data, and then I examine how they can be effectively addressed.

Wage Theft

In some cases, employers will greatly underestimate workers' wages, attempt to pay less than the amount originally agreed upon, or withhold wages completely. Employers who withhold wages often pay something up front for one or two days' work, and then promise to release the balance when the job is finished. Salvador, age 43, describes working with a man who was in the business of "flipping" houses. Salvador did construction, painting, and gardening for the man for four months. The employer paid him for the first few weeks and then promised that when the house was sold, Salvador would receive the money owed. When the house finally did sell, Salvador called the employer, but received no answer. When he persisted, the man answered and told Salvador to report to the job site. Salvador did so and the man offered him a fraction of the amount owed. Salvador took the money but asked the Labor Commission to pursue the rest of the payment. No one at the Labor Commission spoke Spanish, however, and several meetings were required to pursue the case. Salvador eventually gave up because he reasoned that he would lose more work pursuing the case with no promise of payment. Luis, age 45, reports that he too has had experiences with nonpayment but does not think that the Labor Commission can or will assist him. He has never heard of anyone winning a case and getting the money. Andrés, age 38, agrees and says he went to the Labor Commission once to pursue a case of nonpayment but they wanted to set up meetings with him and, like Salvador, he did not want to lose more work pursuing the case.

One of the worst and most detailed cases of abuse I documented involved a 35-year-old man named Raymundo, who worked for a construction contractor for a five-month period. The man hired Raymundo and 8 to 10 others for a period of three months, during which they built a roof for the man's house and remodeled other houses in Montecito. All were paid \$10 per hour, and Raymundo's pay rate was raised to \$14 per hour after two months. After three months, the contractor said that the owner of one of the houses had not paid him and that the men would have to wait another week. After a second week without pay, Raymundo stopped reporting to work and went looking for the employer to ask for the money, saying that he needed to pay his rent. He could not find the employer and finally called him at his home. The man apologized for giving him the runaround and asked him to return to work, but Raymundo refused. In all, Raymundo estimates that he worked approximately 80 unpaid hours, amounting to just over \$1,000 in lost wages.

Raymundo doggedly pursued his case with the Labor Commission. He was asked to document all interactions with the employer and to document all unpaid

wages. After he did so, the Labor Commission contacted the employer. The employer wrote a letter to the Labor Commission in which he denied hiring Raymundo and instead suggested that he had loaned Raymundo money and that Raymundo was working for the employer to pay him back. Twice in his letter the man wrote that Raymundo “is an illegal alien that has no phone, no permanent address, or family in the U.S.” In part because of his legal status, Raymundo had little recourse in this situation unless the man admitted to hiring Raymundo and to nonpayment of wages, and offered to pay the amount owed. The last time I spoke with him, Raymundo had been to the Labor Commission several times and still had not received payment or a decision in his case.

Waiting “Stings”

The legality of day labor is contested, as is the location in which it is legal to wait for work. Santa Barbara is famous for its antihomeless ordinances, which restrict the parts of the city that homeless people are entitled to frequent (Wakin, 2008). Similarly, the regulations concerning day labor single out day laborers as a potentially problematic group. As Varsanyi (2008) notes, it is not unusual for cities to adopt new ordinances or enforce existing ones in an effort to regulate the day labor population. The difference in Santa Barbara is that there an ordinance was created to *allow* for legal day labor solicitation, yet the site has become a magnet for law enforcement and for the enforcement of antisolicitation ordinances in particular. Table 1 shows the primary ordinance under which day laborers are cited.

Workers are typically cited for violating Title 9, Chapter 9.140.020, of the Santa Barbara Municipal Code (City of Santa Barbara, 2008), which regulates the solicitation of employment, business, or contributions on the streets. It targets solicitation in a public right-of-way, whether on foot or from a vehicle, although an exception is granted for the labor line area. This area is on the south side of Yanonali Street, marked by signs, and is approximately 170 feet in length. Although it is legal to solicit work in the designated area, it is not legal to step off the curb and into the street, even if cars do not pull over. In order to issue citations, local police conduct sting operations in which plainclothes officers arrive in unmarked vehicles and park in the street to contact workers. Once workers are inside the vehicle, they are driven out of the immediate area; officers then reveal their badges and issue citations for illegal solicitation, that is, for stepping off the curb or waiting outside the posted area. Although this is merely an infraction, the citations carry a hefty fine of \$320 and turn into arrest warrants if the accused fails to appear in court. Because of the size of the fine and fear of deportation, failure to appear is common. As Garcia, age 36, noted, “They give you a ticket for \$320, so all week if you’re lucky enough to find work, you’re working for the ticket.”

Two of the men interviewed for this project reported similar sting operations, in which men waiting outside the designated area were issued citations for soliciting

Table 1. Primary Ordinance Under Which Day Laborers Are Cited

9.140.020	Prohibition of solicitation in public right-of-way
A. Solicitation by Pedestrians	It shall be unlawful for any person, while located in any portion of the public right-of-way . . . to solicit or attempt to solicit employment, business or contributions of money or other property from any person traveling in a vehicle along a public right-of-way including, but not limited to, a street, roadway, sidewalk, parkway, alley or driveway.
B. Solicitations from a Vehicle	It shall be unlawful for any person, while the occupant of any vehicle, to solicit or attempt to solicit employment, business or contributions of money or other property from a person who is located within a public right-of-way including, but not limited to, any street, roadway, sidewalk, parkway, alley or driveway.
C. Yanonali Street	This section shall not apply to that portion of the south side of Yanonali Street (approximately 170 feet in length) between the Laguna Channel and the west gate driveway entrance to the City's Corporation Yard Annex at 401 East Yanonali Street, as such area is more specifically designated on signs posted at that location.

Source: City of Santa Barbara, 2008: 227-7.

work, regardless of what they were actually doing. In one interview, Juan Carlos, age 32, says he was sitting in the shade with his friends when the police officer arrived: "He gave us a ticket for nothing more than sitting down talking after lunch. He arrived and started to laugh and said, 'Stay there, I'm going to give you a ticket.' I asked him 'What for?' and he said, 'For being in an illegal area.'" Yet, Juan Carlos contends, he was not soliciting work at the time of citation. This calls into question the legality of citing day laborers for solicitation on the basis of appearance, behavior, or both. If they can be cited anywhere on the street in which La Barda is located, regardless of what they are doing, then the site itself becomes a magnet for repeated citations.

The Santa Barbara police department has a special unit called the Tactical Patrol Force, which consists of a sergeant and four officers charged with policing "special problem areas" in the city and keeping the downtown area "alive and vital." While I was involved in an informal interview with the sergeant, one of the officers known for conducting sting operations came in to report. Not knowing who I was or why I was there, the officer proudly approached the sergeant and said, "Got six at the line today; by the end of the month I'll have 30." This officer is known for arriving either on a bicycle or in an unmarked car and is

notorious among the men at La Barda for performing daily sting operations. As testimony to this, a man named Juan Rene, who did not give his age, was issued two citations in two days by the same officer. In the first case, he reports receiving a call from his employer:

My employer called my cell phone to tell me she had work for me and would pick me up at 9:20 a.m. on the corner of Garden and Yanonali Streets. I was waiting there when the police gave me a ticket. My employer arrived and asked what the problem was, but the police gave me the citation anyway.

On the following day, Juan Rene was sitting with Juan Carlos and others, eating lunch in the shade beside the legal day labor area. Although neither Juan Rene nor Juan Carlos was actively soliciting work, they were issued citations for being outside the designated area. Five of the men interviewed for this project were victims of waiting stings and filled complaint forms with the Santa Barbara police department. They have yet to receive responses or have their cases reviewed.

DISCUSSION AND SOLUTIONS

Presenting both longitudinal and interview data offers an ethnographic profile of La Barda, but there are limitations to this approach. Although filling out daily questionnaires for a two-year period was a demanding task for José, it would be useful to collect similar, more extensive data on a larger pool of workers. It is impossible, for example, to determine seasonal fluctuations in employment on the basis of one worker's experiences and estimates of the number of waiting workers. In addition, although again this would be demanding, it would be beneficial to add a short interview component to the questionnaire, in which workers could elaborate on their daily experiences on the job and waiting for work. Despite the limitations of this study, however, the data collected here reveal the daily experiences that José and other workers deem important and that characterize the search for work at La Barda. In addition to the ongoing search for employment, workers must also battle each other, wage theft, waiting stings, and the desperation that results from a lack of work.

This project corroborates previous research by detailing wages and on-the-job conditions (Valenzuela, 1999) but offers more detail on the difficulties and dangers involved in waiting for work. It also offers more detail on the process of contracting other members of the day labor pool and the issue of accountability to both one's employer and one's peers. Examining on-the-job conditions and worker earnings at La Barda reveals the risks involved in relying on street sites for employment. This study also provides a unique look at one worker's earnings and expenses over a two-year period and details other abuses suffered on the job. Survey and interview data show that workers' undocumented status makes them vulnerable to exploitation both on the job and while waiting at La Barda. Examining worker efforts to contest these conditions demonstrates the barriers to

seeking assistance and provides important clues for developing effective solutions to the problem of worker exploitation.

While other studies have examined city ordinances that exclude day laborers (Varsanyi, 2008), none have provided explicit detail on the complicated relationship between the legality of labor lines and the right to a city's public spaces. Although Santa Barbara allows the labor line to exist on a public street, workers are still cited for soliciting outside the legal area, regardless of what they are doing when cited. Although Kornzweig (2000) argues that the mere appearance of day laborers constitutes a solicitation for work, La Barda demonstrates the danger of this claim. If laborers, by their mere appearance on a public street, are a visible symbol of solicitation, then they can be cited for this violation because of who they are and how they look, regardless of what they are doing or where they are doing it. The case of La Barda shows the negative effects this can have on workers, who receive citations when they are not actively soliciting work. The issue of blocked traffic is more complicated, as there is clear motivation for both workers and employers to wait on the street and for workers to rush toward waiting cars. Any solution to the problem of unregulated labor sites will have to take this into account.

To explicitly address the problems associated with the legality of day labor, including the contested definition of public space and the legality of employment, I examine existing labor sites in search of solutions that apply to workers, employers, and city officials. Much of the existing research on labor centers focuses on a diverse population that includes U.S. citizens, homeless workers, and undocumented immigrants. This section focuses exclusively on undocumented day laborers who seek work at unconnected street sites like La Barda, and measures how well existing approaches fit this population. The labor centers targeted for review are concentrated in the western states of California, Texas, and Oregon. All have shown varying degrees of success in reducing the day labor problem, but only two overarching models have emerged in the literature: the Social Service model and the Day Laborer Designed model. These exist in tandem with street sites. For this reason, any solution to the problems day labor poses must weigh the pros and cons of each site and of the sites that coexist.

Even when regulated hiring sites are developed, it is difficult to contain the public space problem, as workers continue to congregate on public streets. Inherent in any solution to this problem is the fundamental question of rights: Do workers have the right to solicit work on public streets? Do they forfeit this right when they block traffic or otherwise interfere with commerce and tourism? If a formal labor center cannot attract workers and thereby eliminate the public space problem, the center may choose instead to defend workers' rights to stand on the street and solicit work. This is the stance taken by the Social Service model, in which local residents and businesses, the police, and city officials are urged to allow street solicitation in the name of free speech. In contrast, the Day Laborer Designed model sees unregulated street sites as a problem for workers because

Table 2. Comparison of Three Models of Day Labor Programs

	Street sites	Social Service model	Day Laborer Designed model
Site examples	La Barda, CA; Labor Connections, TX	Centro Cultural, OR; Monument Futures, CA	Temporary Skilled Workers Center, CA; El Monte One Stop Worker Center, CA
Job Distribution	First to arrive at employer's car, referral according to speciality	Lottery/referral	First to arrive, did not work the previous day.
Success Rate (% finding work daily)	Varies. Similar to Social Service model sites.	30%	80% or more
Wages	Idiosyncratic	Idiosyncratic	Fixed minimum wage approximately \$10 per hour.
Relationship to Street Sites	Some street sites are connected to particular stores/industries.	Perform outreach, support street sites.	No street solicitation, heavy sanctions
Organizational Model	Varied, sporadic.	Consciousness raising, outreach	Union style organizing
Decision Making	Varied, sporadic.	Staff and board of directors, worker suggestions and surveys	Collective decision making, "consensus" among day laborers with some facilitation by ethno-organizers.
Services Offered	Employment/referral list, security, benches, bathrooms.	ESL, GED, food and clothing, gardens, soccer team, political schools, people's theater.	"No charity" rule established in most centers. Social and educational activities developed through consensus. New workers given food, clothing, and priority in job searches.
Funding	City and/or nonprofit, Estimated annual expenses \$69,061.	Nonprofit or agency funding. Estimated annual expenses \$350,000	City or nongovernmental source for startup funding; worker dues. Estimated annual expenses \$97,000

Note: Adapted from Day Labor Research Institute (2004: 31).

these sites interfere with the search for legitimate employment and perpetuate the negative stereotypes associated with day labor.

Table 2 uses the comparison between the Social Service model and the Day Laborer Designed model developed by the Day Labor Research Institute and examines how street sites fit into this typology. Including street sites ensures that the unique issues encountered at informally organized work sites are a part of the discussion about possible methods of improving conditions. For these purposes, the term "street sites" is used to refer to sites that exist on city streets whether they are connected (to particular stores or industries) or unconnected. The table compares job distribution at each site as well as the overall success rate in linking workers and employers and negotiating wages, the organizational model and decision-making process, the services offered, and the funding source. These categories represent the key issues involved in measuring the viability of possible solutions.

As the case of La Barda demonstrates, street sites may offer a fenced off or covered area. Services, if available, are limited to restrooms, security, and an employment or referral list. Like La Barda, Labor Connections is a day labor pick-up site in Austin, Texas (City of Austin, 1998). It is located on a city-owned property on a public street. Labor Connections offers restrooms on site as does La Barda, but Labor Connections also offers a covered seating area with benches, where workers congregate to wait for employment. The area is fenced off, with entry gates around the perimeter, separating day laborers from those not seeking work or those who present security concerns. Covered seating also prevents workers from sitting on the ground or leaving the waiting area in search of shade.

Even these small structural differences that distinguish Labor Connections from La Barda help reduce the sprawl that occurs when a site is uncontained. The need for security is also reduced, as there is a clear distinction between those legally waiting for work and those outside the perimeter. In 1998, Labor Connections also introduced a referral system to pair laborers with employers. Employers register their names and addresses with a day labor coordinator. Laborers must also sign in and purchase identification cards. They are then matched with workers on a first-come, first-served basis or according to the skills needed by the employer. This innovation has improved the operations of Labor Connections and eased the referral process. Labor Connections can now track the number of workers served and the number of employers who register with the site. In a one-month period, 700 day laborers were assisted and 283 employers registered with the program.

Despite these innovations, the security of the site and cases of nonpayment are still problematic. In an on-line description of the site, workers and employers are cautioned that conducting business at the site is done "at your own risk." Although a task force has been established to examine how to address the above-mentioned concerns, solutions have not yet emerged. Day laborers are not members of the task force, but surveys have been conducted to summarize their concerns. This is one of the key differences between decision making and organizing at street sites

as against Social Service and Day Laborer Designed sites. The latter allow for some worker representation on a board of directors or otherwise establish consensus among workers. Street sites organize and make decisions in a sporadic and ad hoc way, often involving smaller groups of workers and pertaining to a particular job rather than to overall hiring practices.

Despite the problems associated with Labor Connections, this site, in comparison with La Barda, still offers several notable resources, which reveal the differences in resources among street sites. In addition to the provision of a protected, shaded waiting area, the requirement that workers must register helps reduce the swarming effect that typically occurs at unregulated sites. In addition, although no formal legal entity is in place to pursue cases of nonpayment, the requirement that employers must register provides some accountability. In comparison with Social Service and Day Laborer Designed centers, street sites are inexpensive. The total annual cost of running Labor Connections is \$69,061, including the cost of security and the provision of a salaried site coordinator.

Sites that fall under the Social Service model are more expensive to run because they provide additional resources designed to improve the overall quality of life as well as the rate of employment. In some cases, services supersede employment and are or become the primary focus of the center. Centro Cultural is a program operating out of Cornelius, Oregon. The center was founded in the early 1970s and was designed as a community center for immigrant families. As such, family and community-building activities are its central focus and its general programs include English as a second language (ESL), Spanish literacy, high school preparation, basic adult education, community organizing, online education, technology classes and workshops, art and cultural activities, family support services, and a community kitchen (Centro Cultural, 2006). While Centro Cultural was running a day labor program, support was provided through the provision of space, amenities, information, education, and a referral coordinator.

From its inception, Centro Cultural had difficulty implementing its day labor program alongside other services and separating day laborers from the general population. As a recent newspaper article about Centro Cultural's day labor site indicated, problems involved drinking, fighting, and harassment at the site, although the newspaper did not explicitly connect these problems with day laborers. Because of these problems, however, Centro Cultural eventually discontinued its day labor program, although workers are still allowed to stand on the property from 6 a.m. until noon daily and solicit work. Anti-immigrant sentiment also fed into the site's official closure, as some residents felt that "day labor sites are nothing but an easy way to connect unprincipled bosses with undocumented workers" (Perkowski, 2006).

The Day Labor Research Institute (DLRI) reviewed a Social Service model program in Concord, California, called Monument Futures. The institute estimates that "the average rate of employment at social service agency centers is *not* higher than day laborers find in unorganized street side hiring" (Day Labor Research

Institute, 2004: 16). In fact, Concord's program estimates that it sends workers out on 450 jobs per month, just over half of the number assisted by Labor Connections.

If there is not a significant draw in the form of employment and better wages and conditions, the provision of services is not enough to stop unregulated sites from coexisting with more organized ones. Services are also expensive to fund and staff. The site in Concord, California, estimates that its worker to staff ratio reaches a high of 18:1, with an annual operating budget of over \$350,000 (Day Labor Research Institute, 2004). The two primary problems with Social Service model sites are a lack of worker representation and ongoing competition with street sites. Social Service model sites typically have a governing board and staff members who make decisions related to center operations. If workers are consulted, it is typically through a task force or by administering surveys to a sample of workers. This top-down approach runs the risk of leaving day laborers voiceless with respect to their service and employment needs.

Although labor centers vary depending on the particulars of the local community, Day Laborer Designed centers have the following principles in common: focused objectives, organization and control, reduced liability concerns, cost control, elimination of the public nuisance, and generation of high levels of employment; also they are worker designed (Day Labor Research Institute, 2004). The focus on employment over services is a key feature of these centers, although some do have targeted services focusing on improved communication and job skills. Workers at these sites also reject the assistance of charitable institutions, as they want to work to pay for their necessities and feel that free food and goods will attract those less interested in employment. Although a facilitator may be hired to convene meetings and establish consensus among laborers, it is the laborers who establish the rules and decide how the center should function. Workers establish hours of operation and a minimum wage and are required to sign in daily and contribute approximately \$1 per day in dues to the center. Workers also actively separate themselves from non-day laborers, from those who continue to wait on street sites despite the center's operation, and from those uninterested in working.

When workers at Day Laborer Designed centers persist in seeking work at street sites, they are sanctioned by suspension from the center. In some cases, center volunteers also patrol street sites and hand out flyers to warn potential employers that they are breaking the rules established by the center and that the workers they pick up are, in essence, "rogue" workers. Employers are then directed to the center to hire workers. This not only acts as a deterrent to unregulated hiring but also increases the number of employers who turn to the center to find laborers. Interestingly, although Social Service model programs defend workers' rights to solicit work at unregulated sites, day laborers themselves feel that such sites undermine the consensus regarding fixed wages and shift the focus away from working to less productive activities.

The cities of Glendale and El Monte, California, have established Day Laborer Designed centers to reduce the number of laborers congregating on the streets and

in connected sites adjacent to stores like Home Depot (Day Labor Research Institute, 2004). In Glendale in particular, the Temporary Skilled Workers Center encountered legal problems when it attempted to restrict laborer solicitation to the center and prohibit street solicitation. The problem stems from a district court opinion in which the Coalition for Humane Immigrant Rights in Los Angeles (CHIRLA) filed suit against the County of Los Angeles. The 2000 ruling states that regulating the solicitation of employment violates First Amendment rights unless an alternative avenue is offered. The alternative avenue of expression is not legally viable if day laborers must pay for the right to use it (*CHIRLA v. Burke*, 2000). Up to this point, the City of Glendale effectively enforced its antisolicitation ordinance and restricted day labor solicitation to the center. Once the city was prevented from enforcing the ordinance, street sites again became a problem. To solve it, the City of Glendale allocated money from its general fund and Community Development Block Grant (CDBG) to fully fund the operation of the center, estimated at \$97,000 annually. By doing this, the city was once again able to enforce its antisolicitation ordinances and restrict laborer solicitation to the center.

The rate of employment at Day Laborer Designed centers is estimated at 80% or more. One of the reasons for the success of the Day Laborer Designed model is that it is geared toward worker investment and participation rather than food and respite. Workers regulate the presence of unwanted or problematic laborers, eliminate problematic street sites, and exclude employers who refuse to pay the established minimum wage. These centers are not without problems, however, as the case of Glendale illustrates. Many sites also report a lack of employers or workers. In fact the labor center in El Monte eventually closed because there were not enough workers reporting in for employment. Nonpayment of wages is also a problem, as is continued long-term funding.

Sites run according to the Day Laborer Designed model understand that in order to serve the community of day laborers, not only must solutions take the laborers' opinions into account but the laborers must decide on the center's organizing principles. If consensus is established, workers are more likely, literally and figuratively, to buy into the center, including paying their dues, enforcing rules including minimum wage, and preventing solicitation at unregulated sites. Seeking labor in a location where swarming is less likely to occur clearly benefits both workers and employers. Recording minimal information on potential employers also offers some accountability in cases of nonpayment. The time and money saved in reduced policing of unregulated sites is also substantial, as such sites are associated with violence and drug dealing, and laborers are liable to be prosecuted for trespassing, loitering, and solicitation offenses. Limited hours of operation also free laborers from the frustration of endless waiting without work.

Social Service model sites benefit social service agencies, and street sites benefit employers, but both remain problematic for workers and city officials. Although Social Service model sites are designed to benefit workers, the services

offered at these sites and their defense of unregulated solicitation clash with workers' primary needs and interests. Street sites, while perhaps beneficial to employers, are clearly perilous for workers and result in unnecessary and costly attention from law enforcement. Although hiring security guards can benefit workers, it is also costly and can lead to increased problems as guards clash with workers, resulting once again in increased enforcement. At a minimum, shelter from the sun and a physical barrier provide protection for the day labor population, and a referral process eases the connection between worker and employer. These provisions can also cut down on swarming, which creates a public space problem.

Although services are not emphasized at Day Laborer Designed sites, some connection with a legal entity designed to pursue cases of nonpayment would clearly benefit workers, as would basic ESL. As the case of Glendale demonstrates, ongoing funding through worker dues may prevent the enforcement of antisolicitation ordinances, thereby undermining these sites. Yet the alternative, relying on city dollars, is also risky. If Day Laborer Designed centers are able to establish nonprofit status and work is plentiful enough to make worker dues feasible, they are not as vulnerable to changes in the political climate that could result in funding cut offs.

CONCLUSION

The case of La Barda illustrates the issues day laborers face regarding on-the-job and waiting conditions, legality, and public space. While immigration reform is by far the best way to address workers' legal status and insure their integration into the formal economy, the protection of their safety and wages is a step in the right direction. As is clear from the above discussion of day labor models, the legitimacy and longevity of labor centers are intimately tied to how well they reduce the public space problem. Without the assurance of a long-term city buy-in, solutions to the exploitation that takes place at La Barda must work within its existing limitations as a street site that is problematic whether laborers are waiting or working.

Waiting workers at La Barda find themselves in the difficult position of remaining in the legal area, where employers fear swarming by workers, or risking enforcement if they move to a more promising location or step off the curb. Day Laborer Designed sites reduce the problems associated with unregulated sites, mainly with regard to traffic and enforcement, and they do so through a laborer buy-in, which requires intensive organization among workers. As the case of Glendale shows, city ordinances can also parallel the creation of city-funded worker centers, so that those who continue to congregate at street sites are issued citations. This can be risky, however, and should come with a long-term financial commitment by the city to ensure that workers have an adequate, ongoing alternative to street solicitation, as the Day Laborer Designed solution does not advocate the coexistence of worker centers and street sites. Another limitation of

Day Laborer Designed sites is that there are few organized services offered to assist with ESL, cases of nonpayment, or workers' rights. Given the complexity of the laws surrounding day labor and the frequency of nonpayment and other forms of exploitation, legal services are desperately needed.

Creating a resource for "illegals" is controversial, as cities are reluctant to spend money on noncitizens, particularly when they are considered a public risk. Ironically, groups acting in the interests of workers have placed them in a catch-22 situation, in which they are prevented from contributing to centers they control and cities are forced to foot the bill or allow street solicitation. Neither street sites nor Social Service sites have demonstrated that they benefit a majority of actors. The primary problems with Social Service model centers include high cost, lower rates of employment, and the continuation of street sites. Although Social Service model centers see themselves as promoting a larger civil rights agenda, their overall success is questionable, given the minimal representation of day laborers in the decision-making process. It is clear, however, that laborers need legal assistance in cases of nonpayment and to ensure that their labor rights are not violated. Social Service centers provide the most support in these key areas.

Street sites are less expensive than either Social Service or Day Laborer Designed sites, yet they are dangerous for workers whether they are working or simply waiting for employment. At a minimum, separating day laborers from those involved in other activities or unwilling to work, offering basic structural improvements, facilitating the referral process to connect workers and employers, and offering job-related services are the most important improvements advocated by all three types of sites and offer the most useful advice for implementing positive reform. As is true in the case of La Barda, developing an organizational model and decision-making process is difficult in the face of a high-turnover population and competitive, inconsistent working conditions. Although some of the men at La Barda would favor a more formally organized site, others would resent efforts to formalize and would be skeptical about having to answer to a referral coordinator or other entity in charge of connecting employer with employee. In addition, there are those who see La Barda as a site for social activity and would resent efforts to formalize it.

In the absence of the consensus that needs to be built to establish Day Laborer Designed centers or the community support that needs to be in place to support Social Service centers, La Barda would benefit from structural improvements that would ease the process of waiting and solicitation. These minimal improvements would make the site more orderly without increasing the threat of additional policing. Working toward consensus, community support, and immigration reform is also important and in the long term would benefit a majority of actors. Important first steps include providing minimal work-related services; exploring the components of an on-site referral coordinator; and establishing legal assistance to address wage theft and waiting stings. There is no easy solution to the issues raised by street sites like La Barda. Yet these suggestions involve little in the way

of a long-term financial buy-in and instead favor strategies that minimize the immediate danger and exploitation associated with the site. They represent the first in a series of reform measures that will formalize La Barda's operations and improve conditions for workers.

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