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# Day Labor in Las Vegas

**Employer Indiscretions in Sin City**

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Director of the ¡Arriba! Las Vegas Worker Center. The mission of the Las Vegas Worker Center is to organize, educate, and empower worker and migrant communities to take action to defend their rights. Towards this aim, LVWC unites day laborers and other low-wage and migrant workers to fight for inclusion, dignity, and win justice for all. Bliss is a community organizer with more than ten years of experience around issues of worker and migrant rights. She completed a series of in depth interviews for this report.

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## Introduction: From Boomtown to Bust and Back Again

Las Vegas is back. A decade ago the city was seen as the epicenter of the 2007-09 Great Recession; its housing market had crashed, it led the nation with nearly one in ten homes in foreclosure, many major construction projects were scuttled, and the effects of plummeting consumer spending rippled through every sector of the local economy. According to the Department of Employment, Training and Rehabilitation, Nevada was “the hardest-hit state during the Great Recession, with employment impacts arriving later and lingering longer than in the U.S. as a whole.”<sup>1</sup> Even after the recession had officially ended, the Las Vegas-Paradise metropolitan area continued to shed jobs, with the unemployment rate climbing to 14.1 percent in September 2010.<sup>2</sup>

Eight years have passed since the end of the Great Recession and it finally can be said that the Las Vegas economy has recovered. By mid 2017 the unemployment rate had fallen to 4.8 percent, housing markets had stabilized, and several major construction projects were underway. There is even talk of labor shortages in the construction sector. Bob Potts, research director for the Governor’s Office of Economic Development, recently warned that labor supplies are insufficient to meet the demand for projects already in the pipeline, with an estimated shortage of 10,000 construction workers in southern Nevada.<sup>3</sup>

The construction sector is Nevada’s second fastest growing industry, and it has been central to the revitalization of the Las Vegas economy.<sup>4</sup>

Whether impending labor shortages will dampen growth remains to be seen, but industry leaders and labor unions are doing what they can to attract highly skilled craft workers to the region. Other workers also are being drawn into the economic recovery of the construction sector.

Though rarely acknowledged, informal day-labor markets are a key source of temporary workers who are employed on a just-in-time basis for various construction, landscaping, and moving jobs. Day laborers are hired by construction contractors, private households, landscaping companies, and other businesses to perform a range of short-term, manual-labor jobs. These jobs may last a few hours or a few days, though some projects can span several weeks or longer. The conditions of work also vary, with some day laborers earning decent wages for physically demanding work. Too often, however, workers’ rights are violated, wages are not paid, and day laborers are unduly exposed to work site hazards.

This report presents the findings from a survey of 188 day laborers seeking work at informal hiring sites in Las Vegas, documenting violations of labor standards, including widespread wage theft and health and safety problems on the job. The next section briefly describes the survey methodology. It is followed by an examination of employment and wages, the problem of wage theft, on-the-job injuries and illnesses suffered by day laborers, and the difficulties day laborers experience with local law enforcement authorities.





## Methodology

To document the employment conditions of day laborers in Las Vegas, the National Day Laborer Organizing Network implemented an in-person survey using a standardized survey instrument. The survey focused on workers' employment, wages, and on-the-job injuries. To determine employment rates and hourly wages by occupation, respondents were asked a series of questions for each day in the previous workweek:

- Did the worker look for employment at the hiring site?
- Was a job secured?
- If a job was secured; what was the occupation, total pay, and total hours worked?

This information was used to compute hourly wage and unemployment rates.

The research team used a time-location methodology in an effort to survey each day laborer who was looking for work at a hiring site on the day the survey was administered. In total, 188 surveys were collected.<sup>5</sup> Surveys were conducted in English and Spanish during the early morning hours at informal hiring sites. Each survey took approximately 15 minutes to complete. Respondents received a \$10 incentive for their participation.



## Employment and Wages

Day laborers are employed by construction contractors, landscaping companies, and other businesses, as well as by private households. In Las Vegas, they are hired on an as-needed basis for a range of manual-labor jobs, primarily those related to construction, landscaping, and moving. They are paid in cash and in most instances the terms of employment are hastily arranged at one of the 18 informal hiring sites in the city. These hiring sites are located along busy thoroughfares and outside building supply stores, nurseries, and truck-rental facilities. Some day laborers have employers who hire them regularly and, in a given week, some will have jobs that last for several days or longer.

Respondents were asked a series of questions to document the type of work they completed, the number of hours worked, and the pay received for each day in the previous week. This approach generated a data-set of 870 workdays that can be used to analyze hourly wage rates and other aspects of employment.

On average about half (49%) of day laborers seeking employment on a given day find work. Moving (37%) and landscaping (31%) jobs were most common, followed by construction (11%) and cleanup (8%) jobs (Figure 1). Moving jobs are likely over-represented in the sample, while construction jobs and other occupations are underrepresented, because the survey was conducted at the end of the month when the number of moving jobs increases substantially.

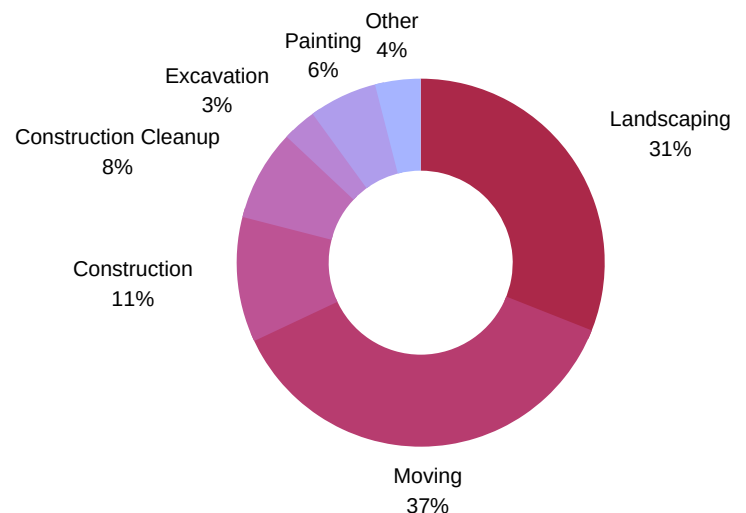


Figure 1 Day Labor Occupations in Las Vegas

The average hourly wage across all hours worked by day laborers in the week prior to the survey was \$20.33 while the median wage for all day labor jobs was \$20.00 (Table 1). Moving jobs had the highest average hourly wages (\$24.72), followed by construction activities (\$23.81). The average hourly wages of painting and landscaping jobs were \$19.82 and \$18.83, respectively. Cleanup and excavation jobs paid the lowest, with average hourly wages of \$14.73 and \$13.66, respectively.

Table 1 Hourly Wages by Occupation

Occupation	Average Wage	Median Wage
Moving	\$24.72	\$23.33
Construction	\$23.81	\$17.50
Painting	\$19.82	\$16.67
Landscaping	\$18.83	\$19.00
Cleanup	\$14.73	\$14.50
Excavation	\$13.66	\$15.00
Miscellaneous Occupations	\$11.61	\$10.00
<b>All Occupations</b>	<b>\$20.33</b>	<b>\$20.00</b>

Overall, average hourly wages for most day laborer jobs in Las Vegas are adequate. However, many workers are employed for less than a full day, resulting in poverty-level earnings. The median hours worked on moving jobs is just three, while on landscaping jobs it is five and on cleaning and painting jobs it is six. Only construction and excavation jobs provide median hours of eight. To a certain extent, variable hours are a defining characteristic of day labor work. However, the impact of low and variable hours on workers' earnings is exacerbated by the widespread problem of wage theft, an issue to which we now turn.



## Wage Theft

Wage theft – the nonpayment of wages for work completed – is a common problem in day-labor markets.<sup>6</sup> Day laborers in Las Vegas report that wage theft is frequent and widespread. One-third (33%) of respondents reported that in the two months prior to the survey they had experienced at least one instance of wage theft. During this period, the average amount of the most recent instance of nonpayment was \$223.49 (the median amount was \$160 and the maximum amount was \$2,000).

Employers use various tactics to withhold wages:

- The outright refusal to pay workers' wages.
- Evading responsibility for wage payments.
- Making false promises to pay workers at a later date; and
- Requiring workers to perform additional, unpaid tasks in order to obtain wage payments.

Often an unscrupulous employer will employ several of these tactics to extract additional unpaid labor or avoid payment as agreed upon, and these violations of employment laws maybe accompanied by threats of immigration-based retaliation.

## Outright refusal to pay wages

The most obvious form of wage theft occurs when employers refuse to pay workers any of the wages owed for work completed. Amounts may vary, ranging from a day's pay (approximately \$100) to wages for several days or more. In other cases, employers flatly refuse to pay workers the agreed upon wage rate, instead offering a lower amount. Workers may reluctantly accept the lower wage because they fear that if they protest too vociferously they will be paid nothing at all. This usually results in wage theft amounts of \$50 or less. Omar, who has more than 10 years working as a day laborer, explained:

*"You make an agreement with someone looking to hire you. For example, you agree on \$20 per hour, but they end up paying you \$10 per hour. And they tell you it's because they know you don't have papers to work."*

Miguel explained how a work crew he was part of was forced to leave a job-site without pay:

*"On that day, four of us were working together to move a four-bedroom house, including a full garage. We had an agreement with the owner for each of us to be paid \$150. We had been working more than three hours when one of the other workers accidentally dropped a box and broke something. It was an accident. Of course, no one wants to break something during a job. But the homeowner got upset and told us all to leave. Even though we had already done half the work, he refused to pay us anything. We didn't have a written contract. What could we do?"*

Juan has been working in Las Vegas for more than 23 years, shared his most recent case of wage theft:

*The agreement we made with the employer was \$120 each for a moving job, and that included the use of my truck. When it came time to settle up he only gave us \$50 each. This employer spoke Spanish. When I complained about the lack of payment, he told me "You're on the corner to work, not to make faces at someone more educated than you."*

The employer then threatened to call a friend who is a police officer, and so the two workers left. They each were still owed an additional \$70 based upon the initial agreement.





Employers may also abandon day laborers at work-sites, tell workers they can only pay with a personal check (which turns out to be faulty), claim that clients have not paid for the work completed, or falsely tell workers they will employ them the next day at which time wages will be paid in full. Such wage theft can reach \$80 to \$120. In September 2016, Armando experienced his first case of wage theft. He and another day laborer accepted a job with a homeowner who had rented a U-Haul truck for a move. They agreed on \$120 each for the job, and at the request of the employer, climbed into the truck leaving their own vehicles in the parking lot. They spent the morning fully loading the 27' truck with beds, sofas and boxes. On the way to the second location, the homeowner stopped at a gas station, and while he pumped gas he told the workers to run in a get some lunch. They went into McDonald's for takeout. When they returned, the U-Haul and driver were gone.

*"At first, we waited, in case he was coming back. After a while it was clear that he had left us there on purpose. I lost the whole day. I wasn't paid, I had to pay for bus fare, and it took hours to get back to my car. I bet he went to another corner and did it all over again with other workers."*

The practices of repeat offenders who avoid payment are well known among workers, and it is not uncommon for workers to report that an employer who stole their wages also owed payment to other day laborers at the same hiring site.

## Evading responsibility for wage payments

A second tactic to avoid paying workers' wages is to cast doubt on who is responsible for making the payment. Although by law the employer is the person who hired the worker, contractors frequently tell employees that they themselves were not paid for the work. Rodolfo explains how he was denied his wages for several days of work.

*"The last time I didn't get paid, I felt like a ball the homeowner and contractor kicked back and forth."*

In July 2017, he was recruited from an informal hiring site in front of a Home Depot to remove and replace tiling. After agreeing on the scope of the job, the contractor agreed to pay Rodolfo \$1,500, plus expenses for materials.



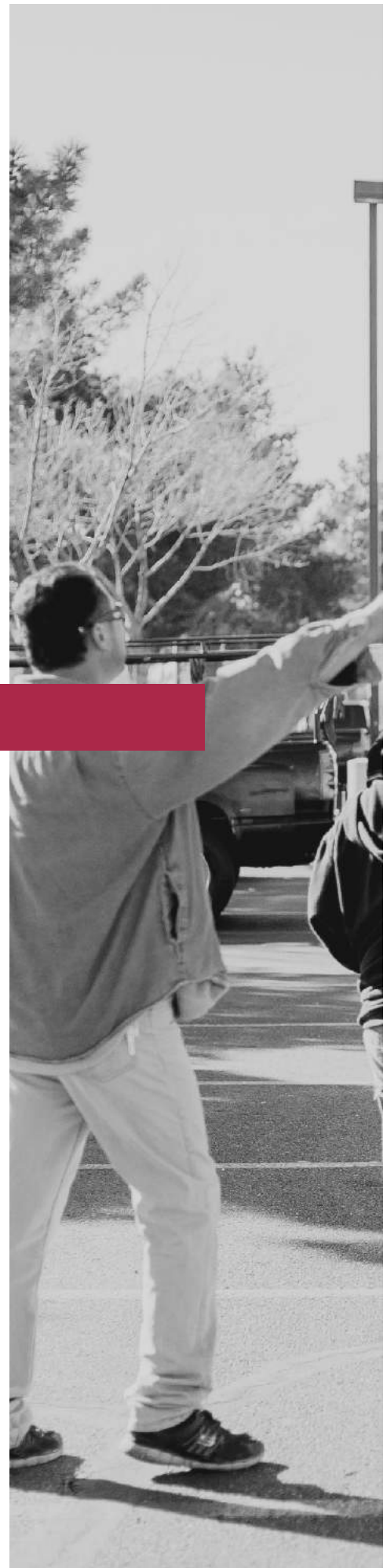
Rodolfo rented a jackhammer from Home Depot and started the project. After removing the tile, a full two days of work, the relationship between the contractor and the homeowner deteriorated. The contractor left the job-site, telling Rodolfo to “figure it out with the homeowner.” The contractor told Rodolfo that he had not been paid for the job, and when Rodolfo approached the homeowner for his wages, she told him the contractor had already been paid.

*She offered me \$100 to leave, but I was owed \$120 for the jackhammer rental alone. The value of the work I completed was at least \$500. When I pressed, asking to be paid for my work, she threatened to call the police. I was furious that day, but I didn't react. I didn't want any problems, so I decided it would be better to lose my time and money rather than end up in some kind of trouble.*

## False promises to pay workers at a later date

In cases where wage theft occurs over several workdays or longer and unpaid wages rise to hundreds or even thousands of dollars, employers may begin by paying workers a partial amount. Day laborers return to work the following day with the expectation that the previous day's wages will be paid in full along with payments for the current day's work. The longer this continues, the greater the amount of cumulative unpaid wages and the more costly it becomes for the day laborer to walk away from a job and an employer without being paid for work completed. Under such a scenario the day laborer is in a bind; either risk the further accumulation of unpaid wages by continuing to work for an employer or count whatever wages remain unpaid as a loss and seek alternative employment. Because day labor employment, by definition, is unstable and because of the economic insecurity that accompanies this employment relationship, to say nothing about the illegality of wage theft practices themselves, workers are loath to simply refuse continued employment with a business that owes them money, even though this means that wage theft amounts may increase substantially.

Francisco was employed by a construction contractor offering steady work. At first, he was paid daily and everything seemed fine. Then suddenly the contractor stopped making daily payments and switched to monthly payments.



This continued until the final month of work, when the contractor failed to make an agreed-upon payment of \$4,000. Francisco made several attempts to resolve the situation,

*"I went to the Labor Commission, and they told me ... that they couldn't help. So, I took him to small claims court. But he hired an attorney and I didn't. In the end, he offered me just \$800 of the \$4,000 he owed me."*

## Requiring workers to perform additional tasks

In addition to the outright nonpayment and underpayment of wages by employers, day laborers often are required to undertake tasks for which they are not paid. While the survey did not quantify these amounts, it is clear that the practice of assigning workers additional duties is widespread. Sixty percent of day laborers reported that while working in Las Vegas they were required to complete tasks beyond what was agreed to without receiving additional pay. Workers frequently feel compelled to perform work that is beyond the scope of the tasks initially described to them because if they refuse they risk not being paid for work they have already completed.

On July 8, 2017, Jose accepted a job to move boxes from two locations to a FedEx store so they could be shipped. He agreed to load and unload the boxes, and he provided use of his truck. He then followed the employer to several locations, first to load boxes into the truck and then to another location where there were boxes, but no items had been packed. He explained that he had been hired to load and unload boxes, not to pack them. The employer appeared not to understand, and left him alone with the items. After a while he began to pack the various items since he had already invested time and gas money in the job. After the packing and loading was completed the employer returned, and Jose followed to the FedEx store for shipping. Upon arriving at the store, FedEx staff asked that the boxes be repacked. Again Jose stated that it wasn't his job. One of the FedEx staff was bilingual and served as an interpreter between Jose and the employer. The employer held up the \$100 they had agreed upon, but insisted that Jose repack the boxes if he wanted his pay. Thoroughly frustrated, Jose stated again that this was not the agreed upon arrangement. The employer responded by threatening to call immigration authorities and get Jose, a Honduran, "deported to Mexico." Seeking to avoid conflict, Jose left. After he departed, they employer called him and asked him to return to tape the boxes. When he refused to do so the employer accused him of stealing her keys, and said she would file a police report. After several promises to pay Jose for the work completed, the employer can no longer be located.





## Missing Resources for the Recovery of Wages

Wage theft directly reduces the earnings of day laborers and contributes to their economic insecurity. When wage theft is not redressed through the wage-recovery activities of workers, enforcement agencies, or workers' rights organizations, it can depress wages and working conditions across the construction and landscaping labor markets.

A major obstacle to the reduction of wage theft and the effective recovery of unpaid wages is the lack of information about redress mechanisms. Eighty percent of day laborers indicated that they do not know where to report the nonpayment of wages or other workplace abuses. In Nevada, the Office of the Labor Commissioner is responsible for administering and enforcing the state's wage-and-hour laws. However, given the prevalence of wage theft reported here and the large number of workers who indicate that they do not know where to report wage-and-hour violations, it is clear that the Office of the Labor Commissioner must do more to ensure that day laborers are receiving employment protections.

Furthermore, worker interviews indicate that simply expanding outreach to informal hiring sites will not be enough to effectively address the problem of wage theft. Day laborers reported various experiences with the Office of the Labor Commissioner. Although some reported successfully resolving wage theft cases through the Office of the Labor Commissioner, these cases mainly involved work for larger, licensed companies that are required under Nevada law to have a surety bond.<sup>7</sup> Those employed by smaller construction contractors, homeowners, or unlicensed businesses, however, have encountered major obstacles. The experiences are similar to those of other workers:

"People told me about the Labor Commissioner, so when I had an employer who refused to pay, I went. They asked me for all kinds of proof that I didn't have. That's not how this industry works. We have very little time in this industry to gather the kind of information they were looking for. I had the basic information: what I was owed, the time I had worked, phone number, name, license plate number, and the address where I worked, but that wasn't enough. When you've only worked for someone for two or three days, you don't know about their business license, for example. Not only that, but when I went to the office, they told me it would have had to have been a week or more of work in order for them to act. That's not how this industry works."

Marco's experience was similar:

I did try going to the Labor Commissioner. A few years ago, I had worked one day for a homeowner removing old tile and he didn't pay. When I went to the Labor Commission, they asked me for a pay stub. I didn't have one, and that was that. I didn't bother to go back.





Even in cases where written employment agreements existed, the Office of the Labor Commissioner is not often unable to recover unpaid wages. For example, Carlos was recruited from an informal hiring site by a local contractor. He began working regularly for this employer, performing a variety of jobs, ranging from tiling to landscaping. Over time the employer fell behind on the payment of wages. Carlos addressed the situation in a forgiving manner, and he met with the employer to negotiate a payment amount and payment plan. Carlos and the employer both signed a note of payment due totaling \$1,842. When the employer failed to make any payments, Carlos went to both local the Las Vegas Metropolitan Police Department (LVMPD) and the Office of the Labor Commissioner. He submitted documentation to the Labor Commissioner, including the signed payment note; work logs with hours, dates, the types of work performed, and location of the jobs; as well as text message exchanges with the employer who was promising to pay back wages. Nevertheless, the agency declared there was insufficient evidence to make a ruling.

In cases where the Office of the Labor Commissioner rules in favor of a day laborer, workers report that judgments rarely result in actual wage collections. Following the completion of the survey, several workers provided documentation of cases filed with the Office of the Labor Commissioner that had been in collections processes for years. When a case is placed in collections, it is transferred to the Nevada Attorney General for collection and possible prosecution of a delinquent employer. One worker who provided documentation of his case stated:

"The Labor Commission awarded me \$5,955. They told me to call every week for an update. I have called almost every week since I filed the case in 2013 but there is never any new information."

The limited authority of the Office of the Labor Commissioner to enforce decisions further reduces the likelihood that workers will report wage theft when it occurs, and that wages will be recovered after receiving judgments in their favor.

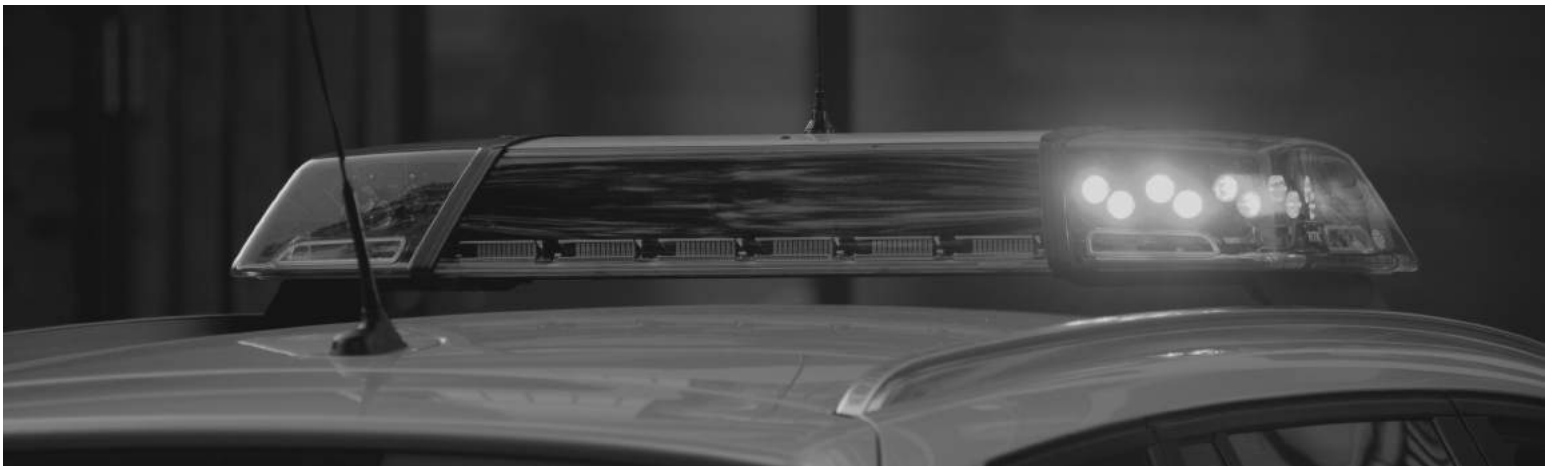


## On-the-job Injuries and Illnesses

More than one-quarter (28%) of day laborers report that they have been injured on the job in the last 12 months and nearly one-third (31%) report they have become ill in the past year because of conditions on the job. These figures are similar to those found in other surveys of day laborers.<sup>8</sup> However, 74 percent of those who were injured or became ill on the job did not receive medical attention for these injuries and ailments. Antonio describes the injuries he sustained on the job:

I was doing a landscaping job at a local wedding chapel, trimming more than 30 palm trees. I was not provided with a harness or bungee [cord] for safety. When I got to one of the trees in the back, I called over an employee of the chapel, and said I was uncomfortable going up the tree. It looked to me to have a section that was rotted. He just told me to “get up there.” Just as I feared, I fell more than 15 feet from a rotted section of the palm near the top of the tree. My hand and wrist were swollen for more than a week. I had splinters in my hands, arms, and legs that became infected. When I reported the incident to my employer, I was provided with a safety harness, although I was still not provided with a respirator or hardhat. [...] At no point was I asked to make a report, offered support with healthcare costs, or offered a workers' compensation claim. This landscaper still has not paid me for the time worked...

Seventy-one percent of day laborers report that they have not received health and safety training that could help them remain safe on the job. Of those who were injured on the job, 81 percent report that they have not received health and safety training. Less than one in five day laborers (18%) report that they have received the basic 10-hour training course designed by the Occupational Safety and Health Administration (OSHA) for entry-level construction workers. Of those workers who suffered injuries on the job, 87 percent reported that they have never participated in OSHA 10 training.



## Difficulties with Local Law Enforcement Authorities

A substantial segment of the day laborer workforce indicated that they have experienced problems with the police while looking for work in Las Vegas. Thirty percent of respondents indicated that they have been insulted or harassed by police while looking for work, 60 percent have been forced to leave a hiring site, and 17 percent have been arrested. Among foreign-born day laborers, more than one in 10 (12%) indicated that police inquired about their immigration status while they were looking for work. The policy of the LVMPD is to ask for a Social Security number in order to ascertain a person's identity, though the Department publicly states that officers do not inquire about an individual's immigration status during routine stops. For many immigrants, however, asking for a Social Security number is tantamount to asking about one's immigration status. In other cases, workers reported that some officers directly ask for information concerning their immigration status.

Rosendo shared one such instance. After a theft was reported at a nearby store, four police officers approached a group of day laborers at an informal hiring site:

"I provided my license when asked. The officer was looking at my license, and he asked me for my Social Security number. When I told him I didn't have one, he accused me of lying, and began to interrogate me about how I got a license without a Social Security number."

The day laborer workforce is comprised largely of immigrants (94%), and the problems day laborers experience with police are exacerbated by police involvement in federal immigration enforcement. The LVMPD has signed a memorandum of agreement with U.S. Immigration and Customs Enforcement (ICE) through which ICE delegates authority to LVMPD to pursue a range of immigration-enforcement activities.<sup>9</sup> Such policies have been found to increase the "social distance" between local police and Latino residents.<sup>10</sup> This also is the case in Las Vegas. When asked whether they are worried that if they report a crime police officers would use this point of contact to ask about their immigration status or that of someone they know, 47 percent of immigrant day laborers responded in the affirmative. Fear of reporting information to the police undermines public safety and erodes the trust that immigrant workers have in law enforcement authorities. It also negatively impacts a range of crucial worker support systems, from accessing wage-recovery assistance in the event of wage theft to receiving medical care for on-the-job injuries.<sup>11</sup>

The background of the page is a grayscale photograph of a desk. On the left, there is a white coffee cup on a saucer. In the center, a laptop is partially visible. On the right, a newspaper is open, showing a headline that reads "BUSINESS" and a photograph of construction workers. At the top, there are some papers and a small bar chart. A dark red horizontal bar is positioned at the top of the page, containing the word "RECOMMENDATIONS" in white, uppercase letters.

## RECOMMENDATIONS

**This report has documented a range of violations of employment laws in day-labor markets in Las Vegas. We conclude by offering a set of recommendations that serve as first steps towards improving conditions in the informal economy.**

- First, the State of Nevada should increase funding to the Office of the Labor Commissioner so that it can increase outreach to Spanish-speaking workers at informal hiring sites to ensure they know their rights and understand procedures for filing wage claims.
- Second, in cities across the US, government agencies are entering into strategic partnerships with worker centers to engage in the co-enforcement of employment protections. Because of their industry expertise, deep connections with at-risk workers, and knowledge of high-violation firms, worker centers can be valuable resources that enable enforcement agencies to more efficiently and effectively address violations of labor standards. The Office of the Labor Commissioner should explore ways to partner with the ¡Arriba! Las Vegas Worker Center to improve enforcement of wage and hour laws in high-violation industries.



## RECOMMENDATIONS

- Third, the Nevada Legislature should strengthen worker protections that make the recovery of wages feasible for vulnerable workers and deter the nonpayment of wages through increased penalties for violators. Strengthened statutory mechanisms for collection upon final determination of wages owed, such as mechanisms to garnish wages or impound assets, would greatly improve the remedies available to day laborers and other low-wage workers.
- Fourth, to enhance public safety, it is important for the Las Vegas Metropolitan Police Department to foster a constructive relationship with workers at informal hiring sites. It is essential to draw clear and legible separation between local policing and federal immigration enforcement. Current procedures that call for asking for an individual's Social Security number as a form of identification is akin to inquiring into one's immigration status, and should be adjusted accordingly. In order to build trust in the community, LVMPD should terminate its 287(g) agreement with federal authorities, develop a noncompliance policy for immigration detainers, and develop penalties for officers who use national origin as a pretense for racial profiling and discriminatory policing.
- Fifth, the newly established ¡Arriba! Las Vegas Worker Center is a resource for the defense of workers' rights and a vehicle for delivering OSHA 10 training and other programs. In addition, the worker center will help mediate community conflicts that may arise between day laborers and other stakeholders. ¡Arriba! is a community center and a civil-rights organization, and it should develop partnerships with other local organizations to ensure that the rights of all workers are protected.

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