

# Day Labor in San Rafael, California: The Feasibility of Uniting Contradictory Positions



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## Is There a Day Labor Problem in San Rafael?

Although it may seem naive to ask if San Rafael has a day labor problem, all of those affected by day labor in San Rafael need to be asked this very basic question—it is the foundation for this report. The answers given are key in analyzing the situation and the feasibility of the proposed solutions.

Day laborers are negatively affected by the present situation: they are facing substandard wages and critically low levels of work in an area with a high demand for their labor. Area businesses receive constant complaints from customers about the day laborers' presence as does the police department. The City also faces complaints, and the task of sorting out the problem from the rhetoric and the solution from attempts to manipulate the situation for personal gain.

Although it would seem that the perception of the problem and proposed solutions of those negatively affected by the day laborers' presence would be in contrast to those of the day laborers, San Rafael presented a very different dynamic: the city, police officers and officials, area business and day laborers' perception of the problems presented by the unorganized solicitation of day labor and proposed solutions *agreed* with each other for the most part.

In fact, the day laborers' consensus agreements and subsequent negotiations with the City produced a draft plan for a day laborer hiring hall, managed and funded by the day laborers themselves, that would seem to benefit all those affected by day labor in San Rafael.

Ironically, the only people *not* in agreement are area "activists" who apparently saw an opportunity for access to funding and airing of politics. While claiming to speak for the day laborers and to have their best interests at heart, they consistently positioned themselves against the day laborers' proposed solutions, actively worked against the alliance that developed between the day laborers and the San Rafael Police Department, and attempted to sabotage the successful negotiations that occurred between day laborers and the City of San Rafael.

The "activists" accusations and temper tantrums may have created an atmosphere that makes the day laborers' plan difficult to implement, yet the day laborers achieved a promise from the city manager that a day laborer center in San Rafael would be owned by *them* and organized according to *their* plan, or *not at all*. The "activists" may have won the race while not obtaining the prize.

Those mentioned in this study and can be divided into an Us and Them grouping, but it doesn't sort out as it appears at first glance—it isn't the day laborers versus the City, Business and Police Department, but rather those affected and those not affected by the day labor problem. Being affected or not affected obviously informs the way the problem is defined and the possible solutions.

At the end of the day, it appears that all of those affected by day labor in San Rafael agree that the present situation is a problem, and that the key to the solution lies with the day laborers themselves. It is not surprising that the “activists,” who are not affected by day labor, see things differently.

## History

The presence of day laborers on the streets in San Rafael prompted consideration of a day laborer center in the early 1990's. Due to intense opposition, the proposal was abandoned in early 1994 until the present.

Although the opposition to a proposed day labor center in San Rafael in 1993 was noisy and boisterous, there were fewer sources than it appeared at first glance. While these few sources were passionate, the number of those with a non-rhetorical, serious argument against the proposed center was even smaller. Those in opposition that must be recognized are the Marin County Republicans and the Canal Area Property and Business Owners Association.

There were many single voices that an expeditious mention of each will suffice in their consideration. The following is a list of those who voiced their opposition to a center:

- 1 **S.T.O.P.I.T.** The anti-immigration group S.T.O.P.I.T. (Stop The Out-Of-Control Problem of Immigration Today), founded by its president, Bette Hammond, is the group that later got Proposition 187 on the ballot. Their position regarding immigrants is that they, immigrants and especially undocumented immigrants, use scarce social services that “we” have to pay for.
- 2 **Special Agent Stephen Ramon**, Immigration and Naturalization Service Agent Ramon created a large number of problematic discourses by making outrageous statements regarding San Rafael and the proposed center. He spent a great deal of time talking with the other opposing groups (and even writing “letters to the editor”). After San Rafael requested the INS' official position, INS Director Ilcher responded by stating that what San Rafael was doing was fine even though the INS did not officially approve of the center. The INS apologized for Ramon's actions.
- 3 **AFL-CIO** The AFL-CIO's position in 1993 was that a day laborer center would create an underground economy and would, therefore, have an adverse impact on San Rafael's inhabitants.
- 4 **City of Orange** The City of Orange wrote to warn San Rafael that their center was a failure and said that other centers fail to produce enough work to justify the funds spent on such centers.
- 5 **Residents** In various “letters to the editor” residents stated their opposition

using similar arguments as those used by the Canal Area Property and Business Owners Association and the Marin County Republicans.

The main forces behind the 1993 opposition to a day labor center were the Canal Area Property and Business Owners Association and the Marin County Republicans. The arguments used by both of these groups are as follows:

- 1 “Illegal aliens” take money and services from “legal residents.” This includes an increased burden on the government by creating crime, burdening schools, medical providers and social service agencies. The notion behind this argument is that undocumented immigrants do not pay taxes yet benefit from the services that taxes provide
- 2 Undocumented workers take jobs from “legal residents”
- 3 Prompt deportation of undocumented immigrants will stop illegal immigration
- 4 There are too many undocumented workers looking for work and not enough jobs
- 5 The INS will raid a center if one is set up
- 6 A day labor center will provoke lawsuits
- 7 A day labor center will draw even more undocumented immigrants and its formation would show a blatant disregard for the law
- 8 Resources used on the center would be better spent providing food and healthcare for children (presumably non-immigrant children)

The arguments made by these two groups were addressed by the Salvation Army and a legislative assemblywoman at that time. The Salvation Army, whose services are available to assist undocumented immigrants, countered that the center would be a benefit for the workers and the community, and pointed out that the “increase in illegal immigrants” argument was used against the Salvation Army itself, yet the availability of services that the Salvation Army provides had not proven to draw more undocumented immigrants.

The data sent by the California assemblywoman contradicted the arguments opposing the center by showing that welfare is not swamped by immigrants and that, as a matter of fact, the undocumented immigrants were not eligible for almost all social services and yet many times they paid taxes to provide those services. Additionally, the data showed that undocumented workers did not take jobs away from documented workers, and that they actually foster the economy by creating jobs through spending.

# Present

## Demography of Day Labor in San Rafael

During the height of the day (8:00 a.m. to 8:30 a.m.), over 200 day laborers are present on street corners, in parking lots, and on sidewalks in San Rafael. Before and after this time of day still finds a large number of day laborers; in fact, late in the afternoon there are still significant numbers present (a sign of a grievously low level of work).

Although the demography appears to be changing very quickly, at the time of this study the majority of the day laborers are indigenous Guatemalans, and some are indigenous Mexicans, meaning that they speak a “dialect” (an Indian language) and likely learned Spanish in kindergarten, or from older brothers and sisters, as a second language. Two smaller groups are Central American non-indigenous Latinos (mostly from El Salvador), and Mexican non-indigenous Latinos. The different groups segregate themselves fairly strictly when waiting for work, with the largest group, the indigenous Guatemalans standing in the central location (the Marin Square Shopping Center).

Previous surveys indicate that the Guatemalans are new to San Rafael (previously the majority were workers from El Salvador). The day laborers support this previous data: at one gathering of over 100 indigenous Guatemalan day laborers early in the morning on the street corner, only one worker raised his hand to the researcher’s question “who has been here for more than one year?” All of the others reported being here for less than a year, and many had arrived in the last six months.

While this mix of Latino and indigenous workers is not unusual, that the indigenous workers are the majority is unusual and presents an interesting contradiction. Indigenous Guatemalans and indigenous Mexicans face a discrimination similar to that faced by those from Oklahoma and Arkansas arriving in California during the depression. All manner of ignorance and backwardness is attributed to the indigenous in Guatemala and Mexico, and making fun of Indian cultures and languages is common and accepted. Being the majority in San Rafael presents these workers with a strong voice and a power in numbers that they do not usually enjoy, and that is sure to make the non-indigenous workers uncomfortable.

San Rafael was 23% Latino at the time of the 2000 census—double the percent Latino county-wide. One San Rafael census tract (tract 1122 in the canal district) had over 8000 of Marin County’s 27,000 Latinos in the 2000 census. This tract was over 70% Latino.

The average size rental household in San Rafael is 2.5. In contrast, Latino day laborer households reportedly average 8, and range from 2-12 per



bedroom. With an average vacancy rate for rentals of less than 2% combined with high rents, the day laborers clearly have little choice but to endure the overcrowded conditions as long as wages and levels of work remain low.



## Definition of problem

### Activists:

One line of thought, often expressed by community “activists”, is that day labor is not a problem. In a public meeting this June 5th with the county supervisors to discuss why over 200 day laborers are still in San Francisco’s streets, the day laborer program director, Renee Saucedo, passionately and eloquently stated the “activist” position. The *police* are the problem, the *residents* of the neighborhood where the day laborers stand are the problem, the *city* is the problem, but the day laborers are not the problem. The day laborers “have the right” to look for work on the streets and sidewalks, and if all the “racists” would just accept that, then there wouldn’t *be* any problem.

### Business:

San Rafael businesses that are directly affected by day labor were surprisingly compassionate in the assessment of the situation. While admitting that the day laborers are a problem for local business (frequent customer complaints, the loss of customers, trampling of sprinklers, shrubs and grass, littering, and urinating on sides of buildings), most managers and property owners mentioned that the day laborers are merely looking for work and probably do not mean to cause these problems. It appears that most businesses affected by day labor in San Rafael have negotiated a sort of cease-fire with the day laborers: businesses and day laborers co-exist, but there is the feeling that

things could worsen at any time, and that the present situation continues to be problematic.

### **City:**

While the city faces daily complaints about the day laborers from local residents and businesses, the memory of past opposition is a damper on dialog about solutions. Today, amidst different “activist” groups and individuals vying for imaginary city funds to open a day laborer center, accusations of a racist city and police department that have “ordered” imaginary INS raids and arrests of all day laborers, and calls for real INS raids and arrests from anti-immigrant groups and individuals, the city has maintained a calm, low-key refrain of “We are waiting to find out what the day laborers want. We will do what the day laborers want.” In other words, the city of San Rafael is willing to step back and let those most affected by the problem, the day laborers themselves, decide what to do about it. While the present day labor situation is a problem, those “advocating” for the day laborers and those vocally opposed to immigration appear to be causing more havoc than the present day labor situation.

### **Police Department:**

Although both police officials and officers could list the complaints received in calls about day laborers, meaning that day laborers are a problem for police, they maintain that the day laborers are not a “police problem” but rather a “social problem.” The complaints include day laborers creating traffic problems, leaving trash, loitering, and making noise in residential areas when not working, urinating in public, rushing cars of potential employers in parking lots and frightening customers of local businesses. These complaints are common in areas where laborers congregate in most cities.

What is unique in San Rafael is the police attitude toward the day laborers. Surprisingly, the San Rafael police department had a much broader spectrum of concerns than complaints about day laborers. Other concerns that they rated as important as the typical concerns generated by calls about day laborers were living conditions, unpaid wages, and the easy targets day laborers make for criminals (including employers who refuse to pay wages earned by these workers).

Police officers reported that rents for a one bedroom apartment commonly run \$1,500 or more per month, and that as many as 15 men are forced to share an apartment in order to survive financially. Officers spoke of day laborers sleeping in shifts so that their apartment would not be overcrowded at any given time (overcrowding often results in the whole group being evicted). The day laborers that are not inside often wait in carpools, garages, or surrounding areas, which generate complaints about noise from talking or music, and complaints that the groups of men waiting are an eyesore. Drinking on sidewalks outside these apartments also causes concern and police calls, and appears to be related to the overcrowding—drinking must be done outside away from the women and children in the apartments.

### **Day Laborers:**

San Rafael’s day laborers are very clear that the present situation is a problem for them. After making great sacrifices to immigrate to the United States (both documented and undocumented), day laborers are met with seemingly insurmountable barriers to their

goals. In order of most repeated and most emphasized as critical, the problems cited by the day laborers are 1) lack of sufficient work, 2) substandard wages, 3) crime (including employers who take them to work and then refuse to pay), and 4) exploitation (by groups and individuals who take advantage of their shaky position, reluctance to call police, and with some day laborers, their undocumented status).

### Lack of Work

Although summer is the busiest season for day laborers, these day laborers are averaging one day a week of work. About 15% are getting two or more days of work per week, and about 2% are getting five or more days of work per week. All of the day laborers reported wanting to work at least five days a week, and many said that they wanted "as much work as possible."

### Low wages

Day Laborers estimate that employers are offering an average of \$7 an hour for unskilled work. This is much lower than the wage needed for the most basic standard of living in San Rafael, and is considerably lower than the wage they feel is fair and deserved.

### Targets for criminals (including criminal employers)

Researchers met a young man with finger shaped bruises on his neck and a scraped and bruised face at the first large group meeting with the day laborers. He reported that thieves had assaulted him after work because "they know we come back from work with money in our pockets and so they always wait for us." He proudly told us that he had not given them the money, but he obviously suffered for his bravery.

Day laborers reported that employers were often worse than the thieves that prey on them. Employers avoid paying the workers the wages they have earned by failing to pick them up after a day's work, telling them to wait while they leave to supposedly visit an ATM for cash to pay them (and never returning), and even pushing workers out of their vehicle after work and driving off without paying them.

### Targets for those trying to exploit them

At the first contact that researcher Svensson had with the San Rafael day laborers, they showed her a flyer that had been distributed to them (see below).

The flyer, with a photo of Cesar Chavez on the back, reads:

"ATTENTION.

DANGER! DANGER! DANGER!

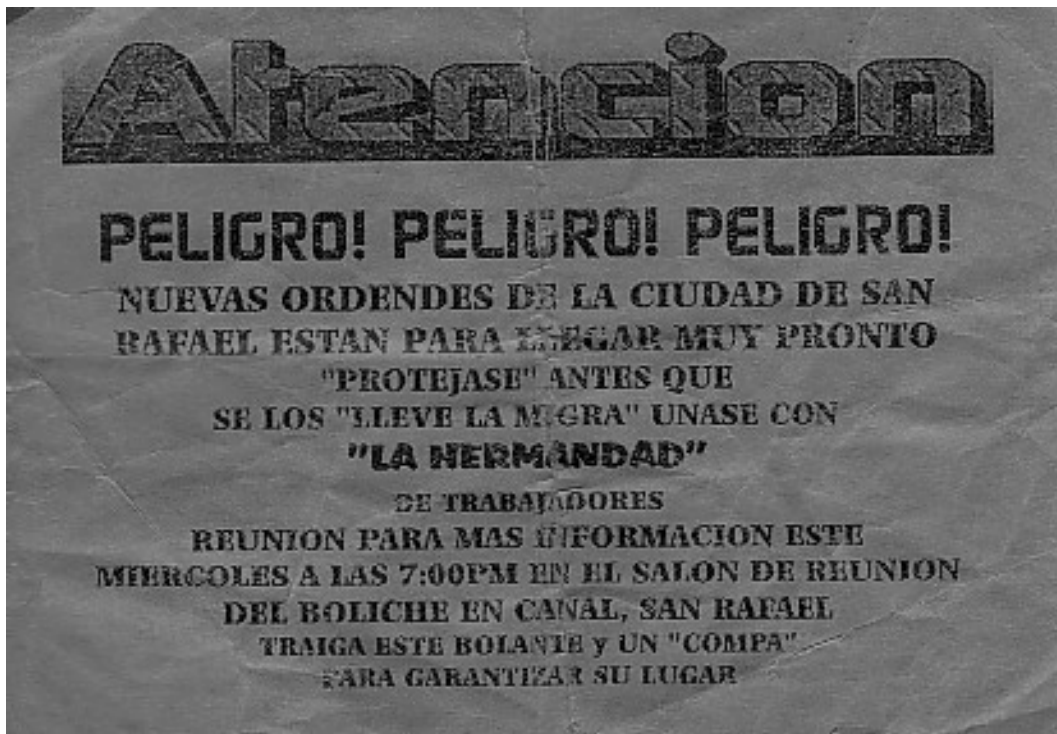
VERY SOON NEW ORDERS FROM

THE CITY OF SAN RAFAEL WILL ARRIVE.

"PROTECT YOURSELVES" BEFORE



THE I.N.S. TAKES YOU AWAY! UNITE  
YOURSELVES WITH THE "BROTHERHOOD" OF WORKERS.  
MEETING FOR MORE INFORMATION  
THIS WEDNESDAY AT 7:00 PM IN THE MEETING ROOM  
AT THE BOWLING ALLEY IN CANAL, SAN RAFAEL.  
BRING THIS FLYER AND A "BUDDY" TO ASSURE YOUR PLACE



The day laborers were understandably upset and frightened by the flyer, and abandoning all other topics, asked the researcher if she could find out if it was true that there would be an INS raid aimed at getting rid of the day laborers. They were angry that the city and police department would attempt to get rid of them in this violent manner, and repeated many times that they were "people" and "adults" and that if the city and police department saw them as a problem that they could come and talk to them about it and that something could be worked out.

After much discussion about who would have the answers, the day laborers decided to ask the San Rafael chief of police to hold a meeting with them on the street corner and answer their questions. The researcher was asked to contact the chief and set up the meeting for the next week, early in the morning, when all of the day laborers could be present. While the chief was unavailable for the meeting (on vacation), a captain of police did meet with the laborers to reassure them that an INS raid had not been ordered by the city. He also informed the day laborers that there was a group (apparently the same group responsible for the flyers) that had contacted the city and was claiming to

speak for the day laborers. The day laborers took advantage of this meeting to clearly state that no one speaks for them but themselves, and that they wanted to form an alliance with the police to work together and look for solutions to the current problems (for example, the day laborers asked for more patrols in the area to curb the gang members and thieves that prey on the day laborers—the police did provide more patrols after this meeting).

This flyer and the group responsible for it symbolized to the day laborers once again their appearance as easy targets to those wanting to exploit them. Their initial anger at the city for the threatened raid quickly turned to anger at the flyer. Although they proved over and over again in the following days that they are capable of defending themselves against this group, they were offended at the violence of using fear to attempt to convince the day laborers to attend meetings and participate in what was clear to the day laborers a business opportunity for those organizing the meetings. There were many theories about what this group had to gain from having them meet, but the two prominent theories were that they were trying to sell cell phones and sign them up for cell phone plans (to call each other in the case of a raid!) and that this group wanted the city to pay them to set up and run a San Francisco style day laborer center.

When day laborers were asked directly about conditions, they reported going hungry, crowded living conditions, homelessness (many times without even blankets to wrap themselves in a night), feeling marginalized and powerless, and feeling like outsiders. Interestingly, it appears that the day laborers deliberately minimized their reports of difficult conditions. Moreover, these were cited as merely the result of not having enough work and of enduring low wages. In other words, none of the day laborers broke an apparent but unspoken rule—none confused what they see as symptoms of the problem (living conditions) with what they see as the problem (not enough work and substandard wages).

San Rafael's day laborers are not unaware of the image they have in the community, and have a sophisticated understanding of how other members of the community attribute problems to their presence. They report that store owners and managers say that they throw garbage around, bother customers and scare women, drink and smoke crack, and ruin the grass and shrubs by standing on them while waiting for work. Most readily admit that some of this is true—that some of the day laborers do some of these things and worse, and that others who are not day laborers, but are Latino, do some of these things where the day laborers stand (therefore being mistaken for day laborers by these complainants). All of the day laborers agreed that they are all paying the price for the practices of some people.

Unlike other cities with a long history of day labor, the only negative thing that the San Rafael day laborers had to say about the police was that they ticket employers who stop in traffic to attempt to hire them, which drives employers away. The day laborers feel caught between the street (where stopping in traffic or a red zone may result in a ticket) and the parking lots (where store and restaurant managers and owners do not want hiring going on). Some areas have security guards that chase day laborers and employers away—security personnel take employers' licenses (according to the day laborers this is so that the police can send them a ticket for hiring day laborers in the parking lot).

# Solutions

## History of solutions

In the last ten years there have emerged two models of day laborer programs—what we will call the social service agency model (the traditional model that Los Angeles and San Francisco based their programs on) and the day laborer designed model. Although both are day laborer centers, the two are as different in purpose and function as a soup kitchen and a union hiring hall.

The social service agency model is widespread and although there is some variation, the centers set up on this model have certain features in common. Typically the city funds these programs year after year and the workers do not contribute to the funding (although workers may be charged for an ID card).

Although when the centers are being planned the dialog is about ending the presence of day laborers in the city's streets, the purpose of the programs quickly turn into provision of "services" for day laborers when day laborers continue to look for work outside the centers. These centers typically include a myriad of "services" including English as a Second Language classes, free coffee and donuts in the mornings, free food and used clothing, gardens and soccer teams, political schools and peoples theater. A city in Texas offered art therapy at its day laborer center, and handed out lunches to the 70% plus that did not obtain work each day.

Nearly all cities with social service agency model programs have a continuing and large presence of day laborers who refuse to participate in the programs and that often stand near the centers or close by and wait for work on sidewalks and in parking lots as before (both Los Angeles' Hollywood day laborer program and San Francisco's program, for example, have over 200 day laborers each day refusing to attend the centers and opting to stay in the streets). These non-participants often sign up at the center in the morning and then go outside to look for work.

The social service agency model' staff typically become apologists for the very phenomenon that the centers are meant to eliminate (unorganized day labor on the streets). Renee Saucedo, director of San Francisco's program says, "We see the street as an extension of our program," she said. "They have a right to stand on the street and look for work if our service can't help them."

Although the two programs often use the same words to describe what they do, the words usually mean completely different things. For example:

- 1 Union
- 2 Organize
- 3 Minimum wage

Social service agency model centers often call their day laborer's organization a *union* (for example CHILRA/IDEPSCA in Los Angeles, and San Francisco's program), but their mission statements describe something distinctly un-unionlike: an organization meant to

further human rights, bridge divides, provide social experiences that promote communication among day laborers (such as soccer teams, workshops and conferences). Fair wages through refusing to work for less, and enough work for day laborers are not a part of this definition (see appendix 2: Comparison of Program Models). The day laborer designed model uses the word *union* in the traditional sense: an organization meant to assure workers' rights and fair wages (and in this case, a high level of employment).

To the Social service agency model centers, *organize* means "outreach" to non-participating day laborers, and/or "consciousness raising." Outreach is performed to non-participating day laborers who are told that the center is better than in the streets because of the free coffee and donuts, bathrooms, etc. Day laborers often call these *locales de pan dulce y café* (coffee and donut centers). Consciousness raising means popular education, these "activists" version of Paulo Freire's idea of liberatory education (for example comic books and people's theatre to present ideas in a format that day laborers can relate to). It appears that in the day laborer designed model, consciousness comes from practice (earning higher wages), as in the Marxist definition of the word; the day laborer designed model certainly makes no effort to do consciousness raising as the social service agency model does. Again, the day laborer designed model uses the word *organize* in the traditional union sense: organize the workers to agree to refuse to work for less than the chosen minimum wage (which, in theory, will force employers into paying the wages asked for). While in traditional unions this is accomplished through strikes or threats of strikes, day laborer designed centers are effectively constantly on strike and the workers will refuse to go out for less than their chosen minimum.

The workers feel that it is a human right to earn a fair wage, have good working conditions, and have enough work, and feel that it is *irresponsible* to work for less than the chosen minimum wage—day laborers who insist on going out to work for less than the chosen minimum will be sanctioned by permanent suspension (the only unforgivable sin in day laborer designed centers). At the Social service agency model centers, *minimum wage* does not mean that a day laborer who insists on working for less will be sanctioned, rather, these programs maintain that workers have the right to work for any wage.

In four years of Day Labor Research Institute' research, several thousand day laborers surveyed were asked the open question: What do you most want? 98% answered "work." None answered soccer teams or English classes, nor free food or clothing, and none answered theatre groups, social activities or consciousness raising. When day laborers design their own centers, their model is based on work.

As consensus reaching is the kind of decision making these workers use in everyday life, in the day laborer designed model, decisions (policy and rules) are made through consensus in meetings held early in the morning (when as many workers as possible are still present) on busy days. The result is a very different kind of program than the social service agency model where the practice is to entertain day laborers "suggestions and insights" toward policy, but not real policy-making. Social service agency model programs hold meetings at night and away from the street corner and there elect a decision making board.

In function, the day laborer designed model most resembles a union hiring hall. Possibly

because their focus is almost solely on work and wages, day laborer designed programs typically achieve an average of over 80% employment for the day laborers attending each day, while Social service agency model centers, focused on provision of services, the average hovers at 30% (according to San Francisco's director Renee Saucedo, her center's average placed daily is 15% of the 100 day laborers that sign up daily). The average wage is usually two dollars or more above the chosen minimum at day laborer designed model centers where the peer pressure is strong to not accept work without negotiating well first.

Day laborer designed centers limit participation to day laborers. While the day laborers are out in the street it is obvious who they are, and just as obvious to them that a day laborer center is for day laborers. Opening participation to non-day laborers is seen as allowing the center to become over-burdened with too many workers—non-day laborers would take work meant for day laborers, and day laborers would return to the streets. Social service agency model centers don't distinguish between day laborers and non-day laborers, but rather accept all workers wanting to apply. If the day laborers object, "activists" typically start talking about not "limiting" participation, and "shutting people out."

As they typically see government funds as a form of "welfare" (that limits their power to decide in their centers) day laborers opt to fund their own programs through dues that they vote in (usually \$1 a day). They also almost always prohibit any kind of organized charity at their centers (such as free food or clothes). They unanimously worry that provision of charity will attract undesirables to their center, and that it will give them a bad image with employers, although they do provide for newly arriving day laborers among themselves (giving them food and clothes and putting them first on the list).

Over 80% employment daily versus 30% employment is enough explanation for why day laborers participate in huge numbers at a day laborer designed hiring halls (leaving less than 10% in the streets) and boycott social service agency model centers, although day laborer ownership of the day laborer designed program also helps.

One problem for a social service type model is how to deal with the indigenous day laborers that speak dialect. These day laborers are marginalized by the majority rule form of decision-making, as well as the elected board, of the social service agency model where the majority may have a prejudice against Indians (versus the consensus reaching form of decision making favored by day laborers in the day laborer designed model). In San Francisco, for example, a flood of indigenous day laborers are leaving the city and moving to Concord, where indigenous day laborers have grown to clearly dominate the center politics.

### Jobs Versus Cost of Program:

A comparison in the Bay Area shows the very different results of a day laborer designed model and a social service agency model when analyzing cost of day laborer programs versus jobs generated. According to the center's coordinators, San Francisco's day laborer program sends out an average of 15 workers a day (of 100 signing up). This means that the city's funds of \$400,000 a year for their program are spent as follows: each job going out of this center costs the city an average of \$88 (more than most of these jobs earn). (This has led to San Francisco's day laborers' tongue in cheek suggestion that the city merely pay \$88 each day to 15 randomly chosen day laborers to

stay home). Concord's day laborer designed center presently costs that city \$60,000 a year. At their average of 60 going out to work each day (a 90% average for the last year—this center is open 365 days a year), this costs the city less than \$3 a job.

## Measures

The points of difference between the two programs are outlined in some detail in Table 1, Appendix 3, but a one important point of difference is worth discussing here: Measure of Results. Social service agency model programs often measure their results for reports and requests for funding by counting people served (meals, ESL classes, counseling, etc). Day laborer designed model programs count jobs (fulltime, long term and daily) level of wages, and number of day laborers left in the streets. Social service agency model day laborer programs don't do what they set out to do—neither providing the high level of work and fair wages that the workers want, nor ending unorganized day labor in the streets. They forget the original reason for the center—having no more day laborers on the streets and redefine the purpose to fit the results. Day laborers have proven to know what is best for themselves and consistently develop programs with high levels of work and wages and few or no day laborers left in the streets.

## **San Rafael: Present**

### **Activists:**

Although “activists” deny the problem, they are quick to jump on the bandwagon for a solution: day laborer programs are big business. The city of Los Angeles spends close to \$900,000 a year on their six programs, and San Francisco spends over \$400,000 a year. Similarly, Austin, Texas was spending \$300,000 a year on Austin's failing program before it was reorganized. San Rafael “activists”, together with staff from San Francisco's day laborer program, want to implement the same failing model here.

What distinguishes San Rafael's group is the ambitious laundry list of services they would offer day laborers, the star of which is a swimming pool (much to the amusement of the day laborers). This is one example of how those setting up the social service agency model put level of work and wages far down on the list of needs, while day laborers put them first.

### **Business:**

In many other cities, businesses have an acrimonious relationship with day laborers that provokes business to be day laborers worst enemy, wanting them to disappear but not willing to allow them to open a hiring hall. In contrast, San Rafael local business, according to interviews, is willing to let the day laborers “give it a try.” It appears possible that local business may be an ally in this case, and may even provide a place for the hiring hall to open.

### **City:**

The city of San Rafael has responded admirably to the day labor problem. The City manager, for example, met twice with the day laborers on the streets, in the early morning, at their request and listened seriously to their presentation. He showed

willingness on the part of the city to not just “take into consideration the day laborers’ suggestions” (as many city officials opt for) but to honor their consensus agreements as the solution to the current problem, respecting their right and ability to make this decision.

In response to the day laborers’ concern (voiced in the meeting with the captain of police) that an outside group or persons might convince the city that they speak for the day laborers and thus might obtain permission and funds to open a San Francisco style day laborer center, the City Manager solemnly promised the day laborers that only they would be given the right to open and run a day laborer center in San Rafael, not any other group or persons claiming to represent the day laborers.

In what was probably the most poignant moment of these observers’ time in San Rafael, he said, “I know who the day laborers are—I’m standing right here with them right now at 8:00 in the morning in this parking lot. No one represents you—you speak for yourselves, and I respect that.” There was complete silence for a moment, and then the day laborers spontaneously broke out in applause.

### **Police Dept:**

Again, San Rafael police officers and officials were surprisingly hopeful that a solution that benefits all could be achieved. They qualified this by stressing that a day laborer hiring center could solve San Rafael’s day labor problem if the impetus came from the day laborers themselves—if the day laborers were allowed to design and run their own center. None of the officers or police officials suggested a social service agency model, such as San Francisco’s day laborer program. The consensus was that a center with a high level of work and fair wages would solve all of their concerns about the day laborers’ welfare.

### **Day Laborers:**

After the day laborers opened the dialog by bringing the Captain of police to ask about the INS raids’ flyer, the day laborers were asked by the Captain of police and by the City Manager, “What do you want?” In response, they referred back to their definition of the problem (unorganized labor resulting in low levels of work and low wages) and agreed that what they want is to solve the problem by opening a hiring center run by the day laborers themselves. They met three times to hold consensus reaching meetings (see Appendix 2 for a detailed description of how these meetings were run) and agreed that a hiring hall should be opened and agreed on a draft plan for a day laborer run and funded hiring hall, including a draft anti-solicitation ordinance. (see Appendix 1 for complete translations of their consensus agreements).

Perhaps foreseeing problems with people like Evelina (the main San Rafael “activist” behind the INS flyer—she uses her first name only on business cards) who might say that they hadn’t really reached consensus, or that these were not really the real day laborers, the day laborers had the captain of police sign their agreements as witness each time. The foundation of their consensus decisions and plan is that *only they* speak for the day laborers.

## Day laborers' Plan

The day laborers agreed on a draft plan for a hiring hall that is based on work and wages, and that would be entirely planned and developed by the day laborers themselves through consensus reaching meetings. The hiring hall would be funded and managed by the day laborers. The minimum wage at the center (for regular, unskilled work) would be \$15 an hour.

In the case that a center was achieved, the day laborers asked the city to adopt an ordinance to take affect at the time of center's opening that "prohibits looking for work or workers anywhere in San Rafael that is not the hiring center." The sanctions for violating this ordinance are different for employers and day laborers (something not seen in any other ordinance of this type). "Employers will be given one warning and then will be fined according to this schedule: 1) \$250, 2) \$500 3) \$1000. Workers will be given one warning and then will be fined by being given community service according to this schedule 1) one day of community service, 2) two days, and 3) one week."

This proposed ordinance, according to the day laborers, is about workers' rights (to a fair wage) rather than freedom of speech (often mentioned in anti-solicitation ordinances). They see their ordinances as a law that would help them in the same way as laws that help other workers earn a fair wage and work safely—it would help them charge a fair wage and have safe working conditions and to work with dignity (the thinking was that the ordinance would force employers to use the center rather than look for cheaper labor in the streets).

The day laborers saw immediately that their point of negotiation with the city was their own presence (and their power to remove that presence) on San Rafael's streets; an anti-solicitation ordinance would also be a help in keeping the streets day laborer free.

They developed a sophisticated but simple measure of success—as the back door to the ordinance (i.e., if the center is not successful, according to our measure, we will return to the streets and should be left in peace). The measure reads: "given that the workers achieve a hiring center that is based on their consensus agreements and successful (defined as at least four days of work per week per worker at a minimum of \$15 an hour within a reasonable amount of time [based on other similar hiring halls' experiences]," then the ordinance will stay in effect.

Is there enough work in San Rafael for these day laborers to meet their expectations and have "as much work as possible"? Their present lack of work does not point to a future lack of work—on the contrary—all indications point to the abundance of work for these day laborers once they organize. Looking at a similar city, Concord's day laborers have enjoyed a dramatic increase in work since opening their day laborer designed hiring center. In the summer prior to opening Concord's center, the count of day laborers still on the streets at 10:00 a.m. (generally seen by day laborers as the end of the busy time for hiring each day) hovered constantly between 100 and 125. This means that by 10:00 a.m., 100 to 125 day laborers had not found work each day. When their worker designed/ worker run hiring center opened in August (the end of the busy season for day laborer jobs), the average number of workers out on jobs by 10:00 a.m. was 90, leaving only 10-20 workers not yet hired by this hour.

Not only did Concord's day laborers achieve a much higher level of employment, they



also managed to significantly raise their wages by implementing a minimum wage of \$10 an hour for unskilled, regular jobs, and by refusing to send out workers for less (turning away employers who insisted on paying less—essentially constantly on strike). Their control of the areas previously known for hiring day laborers, with the help of the anti-solicitation ordinance, meant that employers either hired them at the wages they asked for, or they went away without workers. San Rafael shows every sign of supporting even more work and higher wages for its day laborers

## Policy Recommendations

“Activists,” who are removed from the negative affects of San Rafael’s day labor problem, say that there is no problem and have a solution that does not solve the real problem and benefits only them. They claim to know what is best for the day laborers, which gives them the assumed right to speak for them.

This begs the question, who does speak for the day laborers? The day laborers have answered a resounding and unmistakable “Only we do!” Who should be listened to? It seems obvious that those affected by the day labor problem have the right to be heard.

Since the others affected by day labor, the city, police, and business, seem to be in agreement with the day laborers’ proposed solution, implementing their solution should be easier than in cities that have organized opponents to the day laborers. Unfortunately, it is not that simple. Paradoxically, the strongest opponent to the day laborers’ solution is the group of “activists.”

Evelina and a small group of supporters showed up uninvited to the meeting the day laborers had scheduled with the city manager to present their draft plan for a possible day laborer hiring hall and an anti-solicitation ordinance. As the day laborers and city manager tried to talk to each other, Evelina literally drowned them out by screaming. After more than a half an hour of this, the meeting disintegrated without the day laborers having presented their plan. While she was at the meeting, the day laborers took the opportunity to confront her with the flyer threatening INS raids. She denied that the flyer meant anything like that, and continued drowning out speakers by screaming. One explanation for this odd behavior is that, seeing that their plan to draw a large crowd to their meeting (so that they could ask for city funds on the part of the day laborers) by frightening the day laborers had not had the expected results, these “activists” decided to get even with the day laborers by disrupting their all-important meeting with the city manager to present their draft plan.

Evelina continues to attempt to force the issue by holding Union de Trabajadores del Canal meetings with groups of supposed day laborers, holding protests and press conferences, giving interviews and passing around petitions for funding of her day laborer center. In their first meetings, Evelina and supporters told the attendees that they were creating a “day laborers’ union” and held elections to elect a board and choose a name for the “union.” They then claimed that this Union de Trabajadores del Canal was what the day laborers had chosen for themselves. In effect, they created an imaginary association (on the social service agency model) that later served as a weapon against the spontaneous but real alliance the real day laborers made the San Rafael Police Department, and the dialog the day laborers established with the City.

Using the same worn out rhetoric, these “activists” use words like *exclusionary* and *controversial* to slander the day laborers’ policies, including their draft ordinance. They talk about scabs’ rights to continue to look for work in the streets, the right to work for any wage at the center, the right to not pay dues (this is traditional anti-union rhetoric—see Appendix 4 for an example of this rhetoric in a document from Los Angeles’ CHIRLA/IDEPSCA groups that run the Los Angeles day laborer programs for the city of L.A. and work together with social service agency model programs in the Bay area.) Although day laborers in day laborer designed hiring halls universally see anti-solicitation ordinances as a labor laws that protect and enforce day laborers’ right to charge a fair wage, the “activists” focus on the scab workers who are the only workers affected negatively by an ordinance.

While these “activists” claim to be working for the good of the day laborers, ultimately they are denying the day laborers their right to organize.

San Rafael’s day laborers have a fine, well thought out plan for a day laborer hiring hall that has a good chance of success. The Day Labor Research Institute recommends that the City of San Rafael allow the day laborers to implement their plan. It appears that the San Rafael day laborers best hope is to attempt to open their hiring hall early next year since this summer’s process was sabotaged by “activists.” We all hope that the city, police department and local business continues to support the day laborers in their endeavor—they will need that support when standing up to continuing attacks by groups that want to co-opt the funds the city might have for the day laborers.

# Appendix 1: Translation of San Rafael Day Laborers' Consensus Decisions

6/5/2001

All of us on the streets of San Rafael look for work.

1. We decided to represent ourselves alone and those who came in the past days, everything that they said were lies but today on this date the señores, Police agents, said that this is a lie. And, those who are saying all of this should not be believed and anything that happens here shall be reported to the police by us, ourselves. Because we are looking for work and are not offending anyone and the person who says that he/she represents us is a liar. And, every decision that is decided somewhere else [not on the street corner] shall not be accepted because it is a lie and invalid.
2. All of us decided to make an alliance with the police and if anyone comes from somewhere else to tell us lies we should not believe them because we represent ourselves and on this same paper the Señor Police agent is witness to this and this same witness shall sign this paper.

6/11/01

San Rafael

All of us that are on the street corners of San Rafael (*parada*)

We agreed on these things that follow:

1. Organize ourselves to improve our work
2. Open a hiring center. Administrate it by ourselves. Avoiding manipulation by other persons.
3. We propose that the hiring center be open every day from 5:00 a.m. to 8:00 p.m. or longer when required.
4. We agree to make a plan for how to run this hiring center.

All of this was agreed upon in the presence of the chief of police of the City and the Captain of Police, who is representing the chief of Police.

The City Manager promised to speak to the owner of the Ross commercial center.

He made clear that he will only give permission to the day laborers to have this hiring center—to no other person.

Witness: I am witness to everything written on this document.

Signed

as a witness to what was written June 11, 2001

6/18/2001

San Rafael day laborer meeting on the street

Present: Police Officials and Lynn Svensson

We shall present this basic plan for the day laborer center to the city manager of San Rafael on 6/25/2001.

We all agree that:

- 1 Hiring center will be based on *work*—not anything else, not social services nor help nor counseling, etc.
- 2 The minimum wage for jobs for an entire day, that require no experience, shall be \$15
- 3 Hours of operation: sunup to sundown
- 4 Those that have the right to attend the hiring center: San Rafael day laborers and newly arriving workers who move to San Rafael that would look for work on San Rafael streets as day laborers if not for the hiring center.
- 5 NO other services shall be offered at hiring center.
- 6 Rules: no drunks or drug addicts, no drugs or alcohol or attending hiring center under the influence, work center for workers [looking for work] only—no free loaders, beggars, vagabonds, thieves, professional homeless, and no aggressive people who tend to want to fight.
- 7 We all agree that if we are able to achieve a hiring center like we want (defined as at least four days of work per week per worker at a minimum of \$15 an hour within a reasonable amount of time [based on other similar hiring halls ' experiences in other cities], we propose that the City write an new ordinance or law that would take affect at the time of center's opening that would prohibit looking for work or workers anywhere in San Rafael (on any sidewalk or parking lot or street, etc.) that is not the hiring center. Employers shall be given one warning and after ignoring this warning shall be fined according to this schedule: First time: \$250, Second time: \$500, and third: \$1000. Workers shall be given one warning and after ignoring this warning shall be fined by being given community service according to this schedule: First time: one day of community service, Second time: two days, and third: one week.
- 8 The Police chief or the city manager should to ask the INS to ignore the hiring center.
- 9 All other consensus agreements regarding policies and rules, including the amount of dues we shall charge ourselves to pay for the center's maintenance and costs, will be reached through consensus reaching meetings held shortly before center opens, according to the process already decided on in past agreements, and shortly after the center opens

according to the same process (for example, we shall have the meeting in the morning on the street corner and all will have the opportunity to attend and participate and argue and not one agreement will be accepted unless everyone is in agreement, not just the majority, and the Police official shall be present as a witness to our agreements).

## Appendix 2 Description of San Rafael Day Laborers' Consensus Meetings

### **How day laborers were informed of the meetings:**

The day laborers decided at the first meeting to inform all of the other day laborers present at the time of the meeting by sending several volunteers with the Captain of Police to drive around to all the areas day laborers wait for work in San Rafael. Both the volunteers and the Captain told the other day laborers that a meeting was about to take place down the street, and told them what the meeting was about (the flyer that was warning them of an INS raid). After telling the other day laborers, the day laborers at the meeting site waited for the others to arrive for about 20 minutes. Several hundred day laborers attended this meeting. The announcement of the subsequent meetings was handled the same way (volunteer day laborers driving around with the Captain to let the other day laborers know about the meeting). Also, each meeting was scheduled at least a week ahead and the day laborers were to inform their companions about the coming meeting.

### **How meetings were run:**

All subjects were introduced by the day laborers. The mediator (in this case Lynn Svensson) asked the day laborers what they wanted, and the subjects were introduced in this manner. The mediator, City manager and Captain of Police asked questions of the day laborers at times, but did not introduce subjects or make suggestions. Meetings were run according to a loose application of Roberts Rules: wait your turn to talk, stick to the subject, introduce a new subject and get approval for it, call for a vote, etc. The day laborers decided immediately that decisions should be consensus decisions rather than majority decisions, and showed a consensus by voting. When it was an obvious consensus, the day laborers wrote the decision down. When the decision had more than several detractors, the meeting continued until a consensus was reached (or the subject was dropped).

### **How decisions were documented:**

At each meeting a different day laborer was asked to be the "secretary" who wrote down all consensus decisions (with the help of meeting participants), developing a document of consensus decisions for each meeting that was dated, read back to the group several times for their approval, and signed by the "witness" (the Captain of Police each time) to prove that it had been a real consensus, and to prove that they were real day laborers (a concern from the beginning was that someone might say that non-day laborers had made these decisions, rendering them invalid).

### **What were done with consensus agreements:**

After each meeting the decisions were given to the Police Officials to take to City Hall

and to turn them over to the City manager. The last consensus decisions' document was to be presented to the City Manager at the last meeting (to be held a week after the decisions were made), but this document was never presented as the meeting was disrupted and disintegrated after about 45 minutes.

## Appendix 3: Comparison of Program Models

Table 1: Comparison of Day Laborer Program Models

Model:	Social Service Agency Model	Worker Designed or Union Model
<b>Purpose</b>	Provision of services	<b>Workers:</b> raise wages and level of work by forcing employers to use center, payment of wages  <b>City and PD:</b> end presence of day laborers in streets and parking lots
<b>Cost</b>	\$100,000 to \$350,000 a year	\$35,000 to \$60,000 first year (\$60,000 to \$80,000 a year overall cost)
<b>Funding</b>	100% outside funding	City or other outside source provides startup funding, day laborers vote in dues to continue to fund center.
<b>Decision making</b>	Elect a decision making board  Democracy—majority rules	No elections  Consensus agreements
<b>Minimum wage</b>	Not enforced  Right to work for any wage	Enforced—workers violating the minimum wage permanently suspended
<b>Level of work</b>	Average 30% of those signing up daily	Average 85% of those signing up daily
<b>Services offered</b>	Coffee, donuts, used clothes, lunches, ESL classes, social events (soccer teams, theatre groups, conferences, workshops, political schools)	“Anything free” prohibited by day laborers’ rules  New workers given food, clothing and first place on list by fellow workers
<b>Rules against looking for work on streets</b>	No—no sanctions.  Right to look for work on streets	Yes—members permanently suspended for looking for work on streets. Workers still in street seen as scabs
<b>Media</b>	Coverage solicited	Often turn down interviews
<b>Organization model</b>	Consciousness raising	Union style organizing
<b>Days and hours of operation</b>	M-F, sometimes Saturday, closed Holidays, 6:00 a.m. to 2 p.m.	365 days a year, sun-up to sun-down, mirrors hours day laborers are present on streets
<b>Who can attend?</b>	Anyone	Only day laborers
<b>Allies</b>	No allies	Police, organized labor
<b>Enemies</b>	Racist police, City, neighbors, community	“Scabs”  Employers of “scabs”
<b>Numbers left on street</b>	More outside center than inside—often 2/3 outside	Zero to 10% of the number present at the center

## Appendix 4: Advantages and Disadvantages of Unions

(According to Social Service Agency Model "Activists") [scanned in document in printed version]

### Ventajas de un sindicato

- Seguridad en el trabajo y protección de derechos.
- Contrato de salarios y beneficios
- Sistema para resolver pleitos con empleadores
- Existe la posibilidad de reunirse para resolver problemas.
- Hay un esfuerzo colectivo para confrontar empleadores en problemas de trabajo.
- Un sindicato puede fácilmente ser parte del movimiento de derechos al trabajador.
- Un sindicato puede ser una fuerza política muy efectiva.
- En este país ha sido el único método de organizar a los trabajadores.
- El nombre (unión) tiene mucho poder en la sociedad.
- Las uniones reciben muchos fondos de confederaciones.
- Las uniones ofrecen programas educativos para sus afiliados.

### Desventajas de un sindicato

- A veces los representantes de las uniones no se dedican a proteger a los empleadores.
- En la práctica no incluyen lo que ofrecen en los contratos.
- Cobran dinero/porcentaje de salario.
- En muchas ocasiones se es parte de un sindicato involuntariamente (ya sea como requisito).
- Las uniones utilizan a veces el recurso de la huelga para objetivos que no son importantes.
- A veces se sacrifican el derecho de una persona para salvar al resto.
- Piensan mucho en número o cantidad de trabajadores en vez de tomar en cuenta a cada uno como persona.
- En época de elecciones se pueden manipular para conseguir votos entre los miembros.
- Los sindicatos no se pueden afiliar a otro tipo de organizaciones que no sean de él derecho a los trabajadores.
- Muchas veces se malversan los fondos que recibe el sindicato.
- En casos de dar opinión para la unión muchas veces se suprime la opinión de una persona por el resto.



CHIRLA/IDEPSCA document used in workshops for day laborers

Translation:

Advantages of Unions

**Work security and protection of rights**

**Wage contracts and benefits**

**Grievance system to resolve fights with employers**

**The possibility exists to meet to resolve problems**

**There's a collective force to confront employers with problems at work**

**A union can easily be part of the workers' rights movement**

**A union can be a very effective political force**

**In this country it has been the only method to organize workers**

**The name "union" has a lot of power in society**

**Unions receive a lot of funds from confederations**

**Unions offer educational programs for their members**

Disadvantages of Unions

**Sometimes union representatives don't dedicate themselves to protect employees**

**In practice, they don't include what they offer in the contracts**

**They charge money/a percentage of wages**

**Many times one is forced to be a part of a union involuntarily (because it is required)**

**Unions sometimes use the resource of strikes for unimportant objectives**

**Sometimes they sacrifice the rights of one person to save the rest**

**They think about numbers or quantity instead of taking into account each person as a person**

**At the time of elections, they may manipulate members to get votes**

**Unions can't affiliate with other organizations that are not workers' rights organizations**

**Many times they embezzle the funds they receive for the union**

**In cases when people give their opinions, many times the union suppresses one person's opinion in favor of the rest**

## Appendix 5: Contributors

The Day Labor Research Institute is made up of researchers and consultants from a broad variety of backgrounds including day labor, academic, organized labor, police, law and government. Those who collaborated on this research project were Officer Ron Gillman of the Glendale Police Department (who spent time with the San Rafael Police Department), April Godbe (lawyer and amateur photographer), and Lynn Svensson (organizer and researcher). Wilbert Huchin (a Mayan day laborer/researcher) and Samuel Cruz (a Salvadoran day laborer/researcher) were dropped off in San Rafael with instructions to find shelter and work as day laborers while recording data on wages, levels of work, and individual histories of their fellow day laborers. Each spent a week sleeping outdoors (Samuel in a park and Wilbert with a group of Mayan day laborers who shared their blanket and spot under a bridge with him and fed him when he was robbed of all his money the first day there) and standing on the street corners and in parking lots with their fellow day laborers. The data they provided included a hand-drawn map of the canal area, and counts of different Mayan dialects spoken by the day laborers.

Both ethnographic methods and traditional interviews were used in this research, as well as surveys. Almost as important as the ethnographic data were the consensus agreements of the day laborers (although the researchers had not planned on holding consensus reaching meetings, the day laborers' request to meet with the chief of police about the INS raid flyer developed into a series of consensus reaching meetings).