

Widespread abuse of day laborers shows gap in legal aid

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February 11, 2006, 10:00 AM EST

KINGSTON, N.Y. -- Sergio de la Cruz says the abuse began when he was picked up at a day labor site in Yonkers.

He was taken to a construction site in the Bronx, where he says his boss took his Mexican identity papers and locked him in at night. For four months, de la Cruz says he was locked into three separate sites, most of the time sleeping on a plank bed and defecating into a plastic bag.

As America's use of day labor grows, legal aid experts say this is one of the more striking complaints. But just as striking, they say, is de la Cruz didn't know someone could help him.

In the first national survey of day laborers, released last month, nearly half of 2,660 workers interviewed said they'd been cheated out of pay in the past two months. Almost 45 percent said they hadn't been given food and water. More than one-fourth had been abandoned at a work site.

And 70 percent said they didn't know where to report such abuse, or how.

The survey illustrates a key problem in the story of day labor: About three-quarters of the estimated 117,000 day laborers in the United States are here illegally. What happens when they say they're treated illegally as well?

"Most people don't know employment law applies despite their immigration status," says Tricia Kakalec, co-founder of the Kingston-based Workers Rights Law Center. "They want the jobs, you know what I mean? They just want to get paid."

The center is one of a growing number that offer legal help to day laborers. The National Legal Aid and Defender Association in Washington, D.C., says there's no good estimate of such legal aid centers in the United States, but the national survey found 63 day labor worker centers offering legal or other services in 17 states.

But finding and educating day laborers still isn't easy, says Laura Stack, managing attorney in the



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northern Virginia office of the Virginia Justice Center. Outreach workers make regular early morning visits to day labor sites, but there's a lot of turnover, Stack says. "There are definitely people we're not reaching."

Most cases come by word of mouth, and sometimes quite late. Stack last week met a Bolivian man who said he'd worked on a suburban construction site for two-and-a-half months without pay.

"We tell them that if you're not paid in two weeks, be very, very afraid," Stack says.

"They expect once a month someone not to pay them," says Salvador Reza, who works with the National Day Labor Organizing Network in Phoenix. "It's gotten to a point where they see it as a business loss."

Reza says the local day labor center takes down the license plate numbers of employers' vehicles, and workers are told to write down as much information as possible, such as names and addresses. But people hesitate to report abuse to police because they think they'll be deported, he says.

On the Mississippi Gulf Coast, the Mississippi Immigrant Rights Alliance says it's sometimes difficult finding workers even to repay them for their lost wages. The group has distributed thousands of educational leaflets to day laborers rebuilding after Hurricane Katrina, and it has filed 20 complaints so far with the U.S. Department of Labor on behalf of hundreds of workers over wage violations.

"Without exception, they did not know about the Department of Labor or their right to be paid," says MIRA president Bill Chandler.

De la Cruz waited months before slipping out of the construction site. A year and a half later, in late December, the Workers Rights Law Center helped him file a lawsuit against his employer in U.S. District Court.

De la Cruz, 36, says getting help was a long journey.

"I didn't know I had rights," he explains in Spanish through a translator.

After begging money from people _ "It was embarrassing, but it was the only way I could do it" _ de la Cruz made his way back to Yonkers and told his friends what happened. Word eventually was passed to employees at a Yonkers community center, Casa Juan Diego, which gives aid to day laborers. Staff there sent de la Cruz to Kingston.

The Workers Rights Law Center opened in mid-2004 in response to the population growth, and its related labor jobs, moving up the Hudson Valley from New York City.

Since then, co-founder Dan Werner says the center has worked with about 300 day laborers on abuse issues. "And these are the ones who have the guts to call us," he says.

Almost all cases involve nonpayment of wages. Less than half have recovered money, usually because the employers, often a network of contractors and subcontractors with just cell phones and first names, can't be found.

The Workers Rights Law Center has started a community outreach campaign in the nine counties it covers to tell workers about their rights.

Saturday night, coordinator Geovanny Trivino visited one church in nearby Brewster for a session and was surprised by the response.

"I only brought like 30 fliers," he says. "But there were like 200 people there."

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On the Net:

Day labor survey: <http://www.sscnet.ucla.edu/issr/csup/pubs/papers/item.php?id31>

National Day Labor Organizing Network: <http://www.ndlon.org/>

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