

**GAO**

**United States General Accounting Office**

**Briefing Report to the Honorable  
Charles E. Schumer, House of  
Representatives**

**August 1988**

## **“SWEATSHOPS” IN THE U.S.**

# **Opinions on Their Extent and Possible Enforcement Options**



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**GAO/HRD-88-130BR**

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Human Resources Division

B-231284

August 30, 1988

The Honorable Charles E. Schumer  
House of Representatives

Dear Mr. Schumer:

Citing concern over newspaper reports of a growing number of businesses that regularly violate wage, safety, and health laws, you requested that we study the sweatshop problem in the United States. We agreed to (1) describe the extent and nature of sweatshops nationwide; (2) describe federal, state, and local efforts to regulate them; (3) illustrate sweatshops and enforcement efforts in apparel manufacturing establishments and restaurants in New York City and Los Angeles; and (4) identify policy options that might help control the problem. This report summarizes our August 5, 1988, briefing to your office. It focuses on the nationwide perspective, while a second report will provide greater detail on conditions in New York City and Los Angeles.

Between January and May 1988 we surveyed over 100 federal and state officials nationwide. These officials included (1) state labor department directors and (2) regional administrators and district directors in federal agencies that have jurisdiction over labor laws that affect sweatshops—the Labor Department's Occupational Safety and Health Administration (OSHA) and its Wage and Hour Division and the Justice Department's Immigration and Naturalization Service (INS). We also sought information from headquarters officials of these agencies and other experts, investigated selected apparel and restaurant establishments, and analyzed Wage and Hour and OSHA inspection data.

Because sweatshops are not defined in federal statute or regulation, we developed a definition in cooperation with your office. We defined a sweatshop as a business that regularly violates both wage or child labor and safety or health laws. As synonyms we used the terms "chronic labor law violator" and "multiple labor law violator."

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## Sweatshops Exist Throughout the U.S.

Sweatshops exist throughout the United States, in the opinion of the federal and state officials we surveyed. Their judgments were based on their experiences as those responsible for enforcement of laws relevant to working conditions. However, no empirical data exist to support or refute their opinions, and we are not aware of an acceptable methodology for empirically measuring what is by its nature a hidden problem.

Three-fourths of the federal officials (40 of 53) said sweatshops were a serious problem in at least one industry in their geographical area. In

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combination, they believed multiple labor law violators were a serious problem in all but three states. Thirty-five state labor department directors also identified industries in their states in which either wage or safety and health violations were a problem, and seven identified industries in which they thought both kinds of violations were a problem.

The restaurant, apparel manufacturing, and meat-processing industries were those most often cited as having serious problems with multiple labor law violators, and Hispanics and Asians were said to be the ethnic groups most heavily represented among workers in these establishments. About half of the federal officials gave some estimate of either the number of businesses or workers in sweatshops, and these estimates suggest that many workers may be underpaid and working in unsafe or unhealthy conditions. For example, one respondent estimated that half of the approximately 5,000 restaurants in Chicago, with about 25,000 workers, were multiple labor law violators. Another estimated that a quarter of the approximately 100 apparel firms in New Orleans are violating multiple labor laws with about 5,000 workers. Overall, many thought the problem in apparel manufacturing and restaurants had not improved or had become more severe during the last decade.

Examples of violations found in these three industries have included failure to keep required records of wages, hours worked, and injuries; incorrect wages, both below the minimum wage and without overtime compensation; illegal work by minors; fire hazards; and work procedures that cause crippling illness.

Several factors cited as reasons for multiple labor law violations were similar to those that existed in the 19th century—a large immigrant work force and low profit margins in labor-intensive industries. But some federal and state officials also attributed the presence of sweatshops to such factors as too few inspectors and inadequate penalties.

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## Administrative and Legislative Factors Limit Enforcement Agencies' Ability to Regulate Sweatshops

Three factors may limit efforts to regulate multiple labor law violators. Two administrative factors are (1) limited coordination among enforcement agencies and (2) insufficient staff resources, given inspection priorities. A third factor is the inadequacy of penalties for wage and hour violations under present law.

First, the responsible federal agencies (INS, OSHA, Wage and Hour) in general put little emphasis on referring suspected violators to each other and rarely engage in joint enforcement efforts aimed at multiple labor law violators. For example, OSHA and WHD officials said their staffs

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rarely referred potential violators to the other agency, and referrals between OSHA and INS were also infrequent. However, more coordination was reported between Wage and Hour and INS officials, and that cooperation has increased since passage of the Immigration Reform and Control Act, which involves Labor participation in ensuring that employers hire only persons who are authorized to work in the United States.

State officials also reported limited coordination. For example, of the 19 directors who had responsibility for both wage and safety and health programs, only 2 said referrals between the two programs occurred as often as once a month. The 50 state agencies reported more referrals between themselves and federal agencies, especially Wage and Hour. Only one state, New York, identified enforcement efforts aimed at wage and safety violations. Its task force targeting the apparel manufacturing industry includes referrals of potential safety violations as well as inspections for compliance with state registration and wage laws.

Second, some federal and state officials said that insufficient staff resources and competing inspection priorities limit the extent to which enforcement efforts can regulate multiple labor law violators. For example, given the relatively small number of compliance officers, OSHA has chosen to target inspections to larger firms in hazardous industries. Thus it is likely—and probably appropriate—that OSHA would inspect only a small percentage of apparel manufacturing and restaurant establishments. Such firms are generally smaller and less hazardous than those in construction and some other manufacturing industries.

Finally, even when establishments are inspected, penalties provided by legislation are inadequate deterrents. In particular, federal officials cited the inadequacy of penalties under the Fair Labor Standards Act. In addition to setting minimum wage and overtime standards, the act requires employers to keep related payroll records, which are essential for compliance officers to determine whether other provisions of the act have been violated. Yet the act contains no provision for civil monetary penalties for minimum wage, overtime, or recordkeeping violations.

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## Policy Options

Those factors identified as limiting the regulation of sweatshops suggest a variety of policy changes. For example, increasing the number of compliance officers or changing enforcement priorities could be expected to improve enforcement. The benefits, however, would have to be balanced against resource costs or perhaps against reduced coverage of other, more hazardous work situations. Given the limited federal and state worker protection resources, it is unlikely that agencies can make the

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trade-offs necessary to have a quick or dramatic impact on the problem of multiple labor law violators. We identified another option, however, that could help enforcement agencies regulate sweatshops without placing a severe burden on their other activities. That option is to develop closer working relationships among enforcement agencies. A final policy option for congressional action is one previously recommended by GAO—amending the Fair Labor Standards Act to provide civil monetary penalties for violations.

Enforcement might be enhanced if Wage and Hour, OSHA, and INS worked more closely together and with the states through (1) an increased emphasis on referrals of suspected violators to other agencies and (2) joint efforts concentrating on problem locations or industries. Both of these actions were favored by many of the officials we surveyed.

In 1981 we recommended that the Congress amend the Fair Labor Standards Act to give the Department of Labor authority to assess civil monetary penalties of sufficient size to deter violations of the minimum wage, overtime, and recordkeeping requirements. The opinions of federal officials we surveyed indicate that this change is still needed.

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As requested by your office, we did not obtain official agency comments on this report. We did, however, discuss its contents with Wage and Hour, OSHA, and INS officials and incorporated their suggestions where appropriate. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report for seven days from its issue date. At that time, copies will be sent to the Secretary of Labor, the Attorney General, and other interested parties. Should you have any questions or wish to discuss the information provided, please call me on 275-5365.

Sincerely yours,



William J. Gainer  
Associate Director



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**Abbreviations**

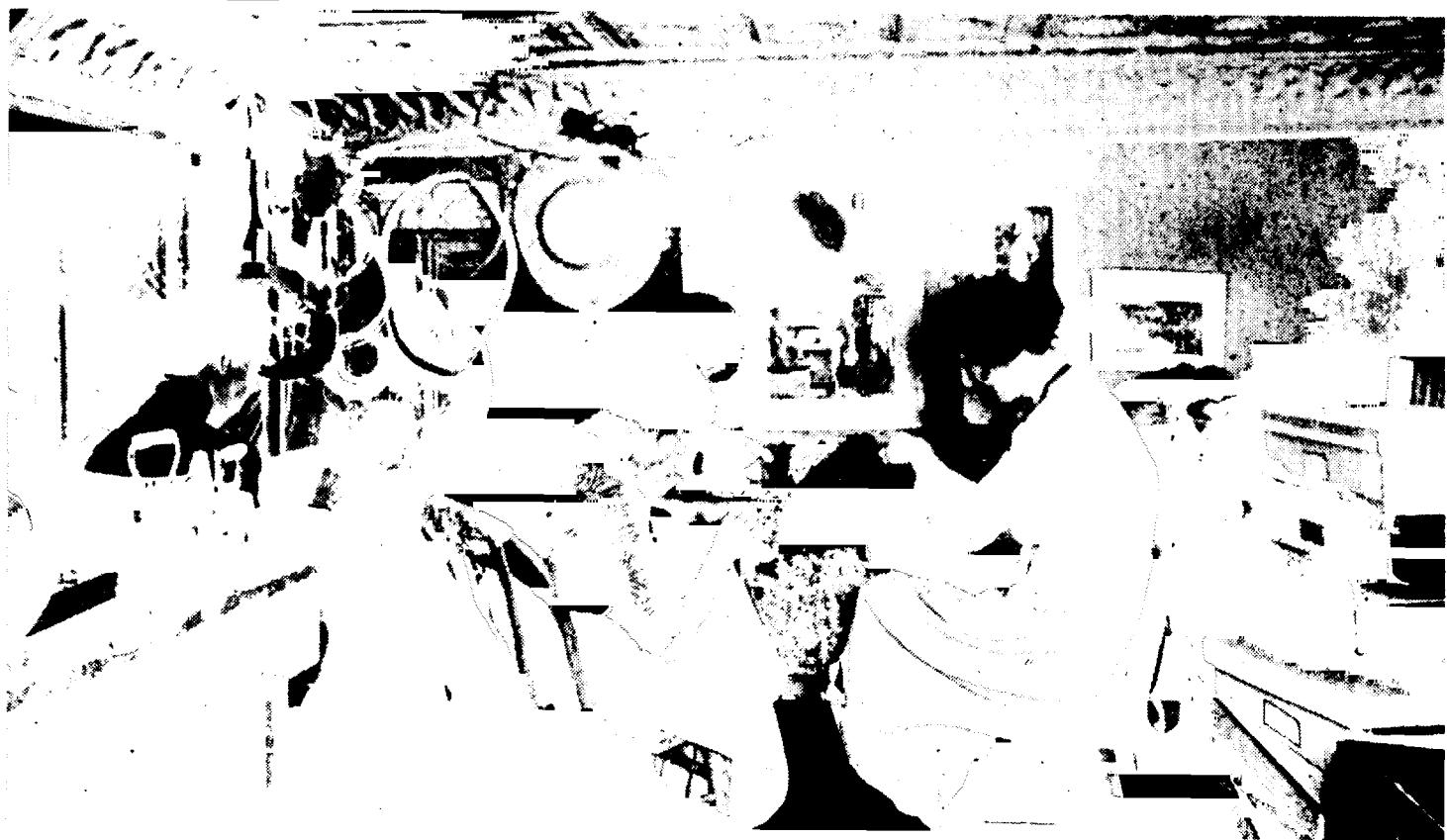
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|------|---|
| FLSA | Fair Labor Standards Act                      |
| GAO  | General Accounting Office                     |
| INS  | Immigration and Naturalization Service        |
| IRCA | Immigration Reform and Control Act            |
| OSHA | Occupational Safety and Health Administration |
| WHD  | Wage and Hour Division                        |

# “Sweatshops” in the U.S.: Opinions on Their Extent and Possible Enforcement Options

## Background

“Sweatshops” have been commonly described as establishments employing workers at low wages, for long hours, under poor conditions. The sweatshops of the 1880’s and 1890’s were typically located in small factories or crowded and dilapidated tenements where immigrant families lived and worked. One historian reported that “in the men’s clothing industry in New York City, overcrowding and sanitary conditions were probably at their worst in the 1880’s. The workers, all immigrants, lived and worked together in large numbers, in a few small, foul, ill-smelling rooms, without ventilation, water, or nearby toilets.”<sup>1</sup> Many immigrants slept on unswept floors that were littered with the work, and meals were eaten on the work tables. Factory inspectors reported similar findings in Chicago. Garment sweatshops were typically located in the worst tenement buildings, often in basements or attics, or over saloons or stables, and were frequently noxious with refuse. (See fig. 1.)

**Figure 1: Milliners on a Balcony Above the Store, New York City, Early 1900’s.** (Photograph by Lewis W. Hine. Source: Mary Van Kleeck, A Seasonal Industry. New York: Russell Sage, 1917.)



<sup>1</sup> Joel Seidman, Needle Trades. New York: Farrar and Rinehart, Inc., 1942, pp. 56-58.

Working hours were unlimited, and people worked until they fell asleep from exhaustion. Quite common was a working day of 15 or 16 hours, from 5 in the morning until 9 at night, with a break of 3 to 15 minutes for lunch. During the busy season they worked all night. It was reported that a fair average wage for a New York cloak maker was \$9 a week, for six working days of 14 or 15 hours each. Pants makers were paid even less. Their weekly wages were reported to average \$5 to \$7, working 14 to 16 hours daily. As illustrated in figure 2, children also worked in these conditions.

Tenement shops, by far, posed the most serious sweatshop problems, and production in tenement houses was extremely widespread. In 1901, there were a minimum of 20,406 apparel shops in tenements with at least 50,381 employees in New York City.<sup>2</sup> Diseases such as smallpox and tuberculosis and the danger of fire were among the hazards that plagued the tenements. Unsafe working conditions were highlighted by industrial accidents, such as the Triangle Shirtwaist Factory Fire of 1911 in New York City, which claimed the lives of nearly 150 women.

Literature on sweatshops links their origin and proliferation to the presence and interaction of three factors—an exploitable, mainly immigrant, labor supply; labor-intensive industries; and the practice of subcontracting.

The industrial expansion that occurred after the Civil War increased the need for labor, which in turn powerfully stimulated immigration. Between 1866 and 1915, about 25 million foreigners entered the United States, mostly from southern and eastern Europe. Immigrants willing to work hard for low wages concentrated in cities, where new jobs were being created by expanding industry. Over 8.5 million European immigrants, including about 67,000 tailors and their families, settled in New York City and other large cities from 1875 to 1898. By the late 1800's immigrants were heavily represented in several urban areas. In 1890, the foreign-born population of Chicago almost equaled the total population of the city 10 years before. At that time, a third of all Bostonians and a quarter of all Philadelphians were immigrants, and four out of every five New York City residents were either foreign born or the children of immigrants.<sup>3</sup>

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<sup>2</sup>This was the number of shops registered under a New York law designed primarily to safeguard the health of those using the manufactured items, as reported in Thomas Sewall Adams and Helen L. Sumner, Labor Problems. London: Macmillan, 1985.

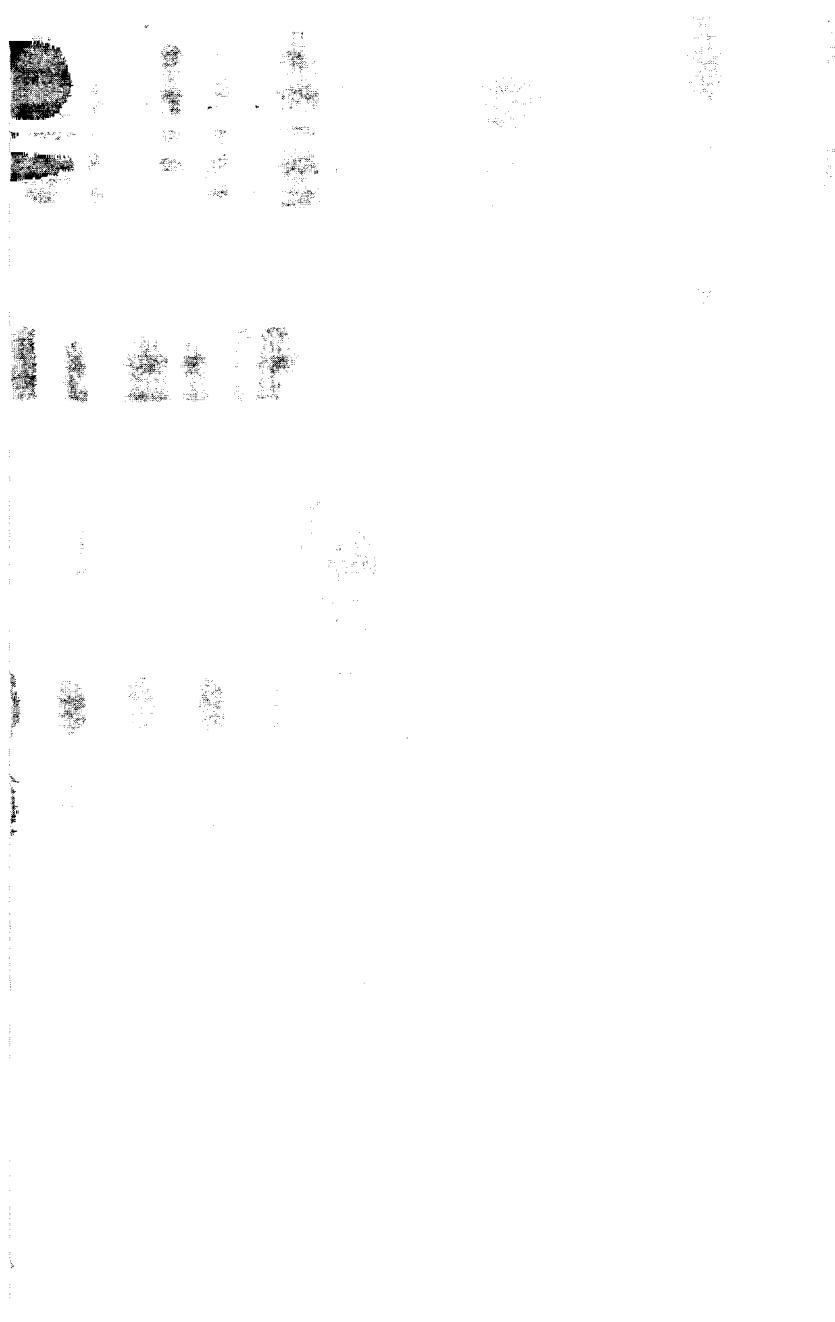
<sup>3</sup>John A. Garraty, The American Nation: A History of the United States. New York: Harper & Row, 1975.

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**"Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options**

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**Figure 2: Child Cotton Mill Spinner, Turn of the Century.** (Photograph by Lewis W. Hine. Source: Still Picture Branch, National Archives)



The immigrants worked in establishments where production was labor intensive. The “sweating” of workers was reported in various labor-intensive industries, such as cigar-making, shoe-making, and the making of artificial flowers and other decorations. However, according to the House Committee on Manufactures’ 1893 report on the sweating system, sweatshops were most widespread in the apparel industry.<sup>4</sup> The large number of sweatshops corresponded to the industry’s high labor intensity, on which the immigrants had a significant impact. The immigrant tailors changed the method of production in the apparel industry by introducing the “task system.” This system subdivided the manufacture of garments into separate tasks suitable for the unskilled workers whom the tailors employed in small shops, usually operated in tenement houses.

Subcontracting of tasks to different groups of workers was the typical approach used in the tenement shops of the 1880’s and 1890’s. The term “sweating” originally described a subcontract system in which middlemen earned their profit from the margin between the amount they received for a contract and the amount they paid workers with whom they subcontracted. This margin was said to be “sweated” from the workers because they received minimal wages for excessive hours worked under unsanitary conditions.

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### Enforcement of Wage, Safety, and Health Standards

In response to abuses in the workplace, federal legislation was passed to regulate wages, hours of work, child labor, and worker safety and health. Current federal legislation most relevant to controlling working conditions in “sweatshops” or the supply of workers vulnerable to such abuse includes the following.

- **The Fair Labor Standards Act of 1938 (FLSA)** and applicable regulations set standards for minimum wage and overtime pay and require employers to keep records of employees’ hours worked, earnings, wages, and deductions. They also set child labor standards designed to protect the educational opportunities and well-being of minors, generally restricting employment in certain occupations and regulating hours worked according to age. The act authorizes no civil monetary penalties for violations of the minimum wage, overtime, or recordkeeping provisions, but it does authorize a maximum penalty of \$1,000 for each child labor violation. To obtain unpaid back wages for employees, employees or Labor can

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<sup>4</sup>U.S. House of Representatives, Committee on Manufactures, Report on the Sweating System, 1893, p. IV.

bring suit to obtain those wages and an equal amount as liquidated damages.

- The Occupational Safety and Health Act of 1970 was intended to assure "every working man and woman in the Nation" safe and healthful working conditions. It authorizes the establishment of standards and their enforcement by the federal government (or approved state programs), and requires employers to maintain records of employee injuries and illnesses. Employers who violate safety or health standards or the record-keeping requirements are subject to civil penalties ranging from \$1,000 to \$10,000 for each violation.

**Figure 3:**

## **GAO Enforcement Responsibilities**

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|                |   |
|----------------|---|
| <b>Federal</b> | <ul style="list-style-type: none"><li>• Wage and Hour Division (Labor)</li><li>• Occupational Safety and Health Administration (Labor)</li><li>• Immigration &amp; Naturalization Service (Justice)</li></ul> |
| <b>State</b>   | <ul style="list-style-type: none"><li>• Wage enforcement programs</li><li>• Safety &amp; health programs</li></ul>  |
| <b>Local</b>   | <ul style="list-style-type: none"><li>• Health departments</li><li>• Fire departments</li><li>• Building code departments</li></ul>   |

- 
- The Immigration Reform and Control Act of 1986 (IRCA) includes sanctions for employing workers who lack documents authorizing them to work in the United States. (These workers are particularly vulnerable to exploitation by employers because of their illegal status.) For a first violation, penalties range from \$250 to \$2,000 for each unauthorized employee.

Figure 3 shows the organizations charged with enforcement of federal legislation. It also shows the state and local enforcement responsibilities relevant to working conditions.

Within the Department of Labor, the Wage and Hour Division (WHD) administers and enforces FLSA and related statutes with an estimated 985 compliance officers and supervisors in 10 regional offices and 64 area offices. In fiscal year 1988, it was funded at about \$82 million for national enforcement of FLSA and several other statutes.

Also within Labor, the Occupational Safety and Health Administration (OSHA) administers and enforces the act after which it is named. In fiscal year 1988, about 1,100 compliance officers were assigned to 10 regional offices and 78 area offices. During fiscal year 1988, OSHA enforcement funding for federal activities is about \$235 million, which includes almost \$41 million in grants to the 20 states and 2 territories that operate OSHA-approved state safety and health plans.

As of August 1988, the Immigration and Naturalization Service (INS) within the Department of Justice operated its Investigations Division with about 1,150 officers in its four regional offices and 33 districts. The fiscal year 1988 budget for the Investigations Division is about \$83 million.

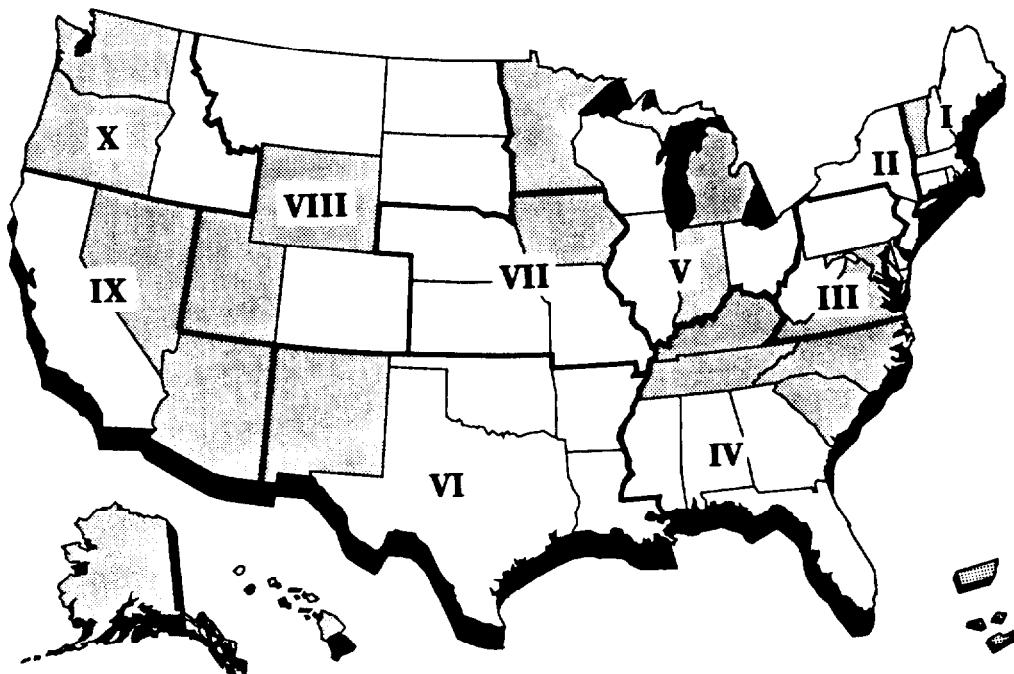
In addition to federal labor standards, states have enacted laws that set standards for either minimum wages, overtime premiums, child labor, or

wage payment collection.<sup>5</sup> State departments of labor typically have divisions of labor standards that enforce a variety of labor statutes. In addition, the 20 states shown in figure 4 operate OSHA-approved safety and health programs for private sector employees.

Local responsibility for wage, safety, and health standards differs from one location to another. In the two places we visited, New York City and Los Angeles, there were separate building permit, fire, and public health department inspection programs. Labor standards enforcement within the two cities is the responsibility of the state and federal governments.

Figure 4:

## GAO State-Operated Worker Safety and Health Programs



Note: Roman numerals denote Department of Labor Regional Offices.

<sup>5</sup>Wage payment laws regulate the frequency, medium, and time of payment to employees.

## Objectives, Scope, and Methodology

Newspaper articles in the last few years have reported that the number of "sweatshops" is on the rise. They state that working conditions in hundreds of establishments in the New York City garment industry have become similar to those tolerated by workers almost a century ago. They describe a growing number of businesses that regularly violate federal and/or state wage, safety, and health standards.

Concerned about these reports of sweatshops in New York City and elsewhere in this country, Congressman Charles E. Schumer asked us to study the problem of sweatshops in the United States and enforcement efforts to control them. In response to his request, we defined our objectives as shown in figure 5.

Figure 5:

### GAO Objectives

- |            |   |
|------------|---|
| Describe   | <ul style="list-style-type: none"><li>• Extent and nature of sweatshops nationwide</li><li>• Relevant federal, state, &amp; local enforcement efforts</li></ul>   |
| Illustrate | <ul style="list-style-type: none"><li>• Sweatshop conditions and enforcement efforts in:<ul style="list-style-type: none"><li>• New York City, Los Angeles</li><li>• Garment shops, restaurants</li></ul></li></ul> |
| Identify   | <ul style="list-style-type: none"><li>• Enforcement actions likely to reduce number of sweatshops</li></ul>   |

We agreed to provide a national perspective on what is known about sweatshops in the United States and enforcement efforts intended to regulate them. A closer look at two cities, New York City and Los Angeles, and two industries, apparel manufacturing and restaurants, would allow us to provide a different, more detailed, perspective as well. In addition, we hoped to identify—based on our own analysis or the opinions of others—changes in enforcement practices that might help reduce the number of sweatshops. This report focuses primarily on the national perspective. A second report will provide greater detail on conditions in New York City and Los Angeles.

**Figure 6:**

## **GAO Definition of "Sweatshop"**

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**A business that regularly violates BOTH safety or health AND wage or child labor laws**

**Synonyms:**  
"Chronic labor law violator"  
"Multiple labor law violator"

**Excluded:**  
Construction, farms, work done in employee's home

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To accomplish these objectives, we needed a working definition of "sweatshop" for the purpose of this study because the term is not defined in federal statute or regulation. We discussed and reached agreement with Congressman Schumer's office on the use of the definition shown in figure 6. That definition was developed through our literature review, consultation with experts, and preliminary development of our data collection approaches with federal and state government officials. Because we considered the working conditions as well as the wages paid to be part of our definition, we sometimes used "chronic labor law violator" or "multiple labor law violator" to be synonymous with "sweatshop."

We excluded from our study industries such as construction and agriculture that typically perform activities outside of enclosed structures, or "shops." Our study also excluded the issue of industrial homework in the apparel industry (manufacturing in the home).

Figure 7 summarizes the methodology used to address our objectives. Interviews and documents we reviewed helped us plan our study and develop our definition of a sweatshop, and they were the primary means through which we obtained information about legislation and enforcement efforts. Surveys were mailed to all 50 states and the District of Columbia; we received responses from all except Oregon, where the state Bureau of Labor and Industries was undergoing personnel changes. We used structured telephone surveys to obtain information from federal officials in all the regional and district offices: 10 WHD regional administrators, 10 OSHA regional administrators, and 33 INS district directors. The mail questionnaire and telephone surveys covered the same topics, which were industries in which sweatshops were a "serious problem" in their state, region, or district; enforcement activities; and approaches that might reduce the number of sweatshops. Most of these surveys were conducted between January and May 1988.

The investigations of possible sweatshops, made between January and August 1988, were of two kinds. First, WHD selected and inspected 10 establishments in New York City (5 each in apparel and restaurants) and 8 in Los Angeles (4 each in apparel and restaurants) thought likely to be multiple labor law violators and referred them to OSHA for inspection if safety or health hazards were noted. After the WHD and OSHA inspections, we received copies of the results. We then visited 3 of the 12 establishments where investigations had been completed and violations found, and we interviewed either the manager or owner to obtain information on employment practices and to observe working conditions.

Second, we obtained from the New York State Department of Labor's Garment Registration Task Force the inspection results on seven apparel firms investigated during June 1987 through June 1988. These firms were ones found in violation of several New York State labor laws and referred to the New York City Fire Prevention Bureau for safety inspections. We visited three of these firms and interviewed two of the owners who were willing to talk with us.

**Figure 7:**

## **GAO Methodology**

- 
- |   |  |
|---|--|
| <b>Interview:</b>                       | <ul style="list-style-type: none"><li>•Federal, state, local officials</li><li>•Researchers</li><li>•Union &amp; management expert</li></ul> |
| <b>Survey:</b>                          | <ul style="list-style-type: none"><li>•State labor departments</li><li>•WHD, OSHA &amp; INS officials</li></ul>                              |
| <b>Investigate possible sweatshops:</b> | <ul style="list-style-type: none"><li>•New York City</li><li>•Los Angeles</li></ul>  |
| <b>Analyze:</b>                         | <ul style="list-style-type: none"><li>•Federal inspection data</li></ul>   |

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We chose New York City and Los Angeles to illustrate multiple labor law violators and enforcement efforts because of their size, immigrant work force, and newspaper reports of working conditions. We chose the apparel industry on the basis of the considerable literature about sweatshops there in the past and discussions with experts and agency officials that indicated a strong likelihood of current problems in the industry in both locations. Our choice of the restaurant industry was also made on the basis of discussions with experts, influenced by the high percentage of legal and illegal immigrants employed there. We later found that these two industries were the most frequently cited in our surveys as ones where sweatshops were a serious problem. We obtained information about working conditions and enforcement activities in these locations not only through the visits to selected establishments but also through literature reviews, discussions with experts and government officials, and discussion with other employers and employees in these industries.

The analysis of inspection data from WHD and OSHA provided information on (1) the agencies' overall enforcement activities, (2) the number of inspections relative to total number of apparel manufacturing establishments and restaurants, and (3) the frequency with which WHD and OSHA inspected the same places between fiscal years 1983 and 1987 in five large cities.

We discussed the telephone survey results and various enforcement statistics and trends with WHD, OSHA, and INS officials and included their comments and observations in the report where appropriate. We performed our review in accordance with generally accepted government auditing standards.

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## **Sweatshops Exist Throughout the U.S.**

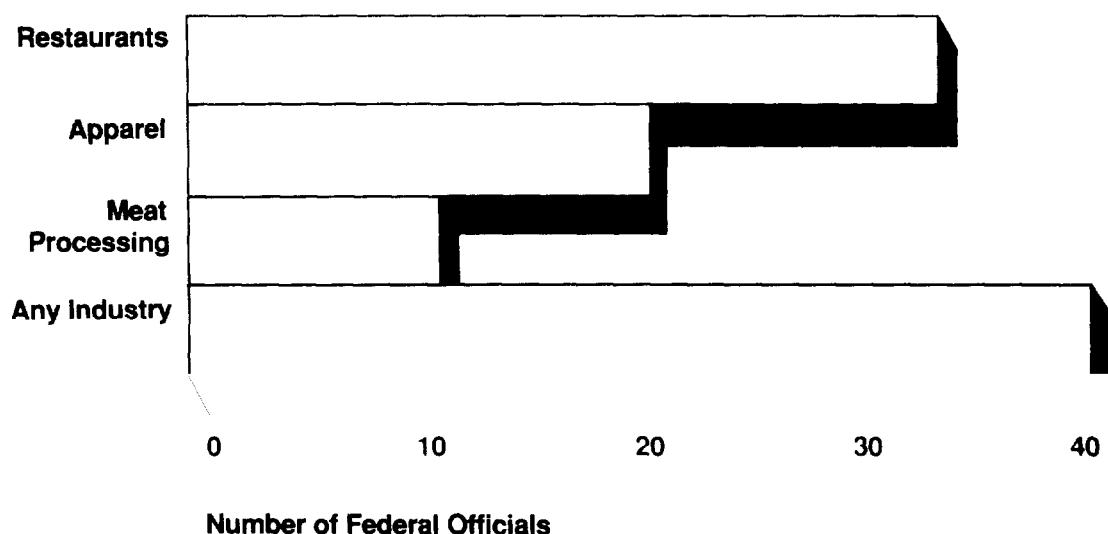
The information we present about the existence and reasons for sweatshops throughout the United States comes from over 100 federal and state government officials. These were the most objective and knowledgeable individuals we could identify to report on working conditions throughout the country. Their judgments are based on their experiences as those responsible for enforcement of laws relevant to working conditions. No empirical data exist to support or refute their opinions, and we are not aware of an acceptable methodology for empirically measuring what is by its nature a hidden problem.

Our review of the extent and nature of violations of wage, child labor, and safety/health laws shows the following:

- The restaurant, apparel, and meat-processing industries are believed to have the most serious and widespread problems with multiple violations. Forty of the 53 federal regional officials surveyed said that violations are a serious problem in their areas in at least one of these three industries.
- In the past 10 years, they believe the severity of violations in the restaurant, apparel, and meat-processing industries has either remained about the same or become more severe.
- Hispanics and Asians are the ethnic groups thought to be most heavily represented in establishments where multiple violations are a problem in these three industries, having the largest percentages of workers in sweatshops in those industries, according to those we surveyed.

Figure 8:

## GAO Sweatshop Problems in Some Industries



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- Federal officials identified violations throughout 47 of the 50 states and in metropolitan areas of an additional state.
  - Thirty-five directors of state labor departments identified industries in which labor violations were a serious problem. Twenty-eight of them said the problems were either mainly wage or mainly safety/health, and seven of them said that both wage/hour and safety/health violations were a serious problem in either the restaurant, apparel, or meat-processing industries.
  - Examples of violations found in these industries have included failure to keep required records of wages, hours worked, and injuries; incorrect wages, both below the minimum wage and without overtime compensation; illegal work by minors; fire hazards created by combustible materials and blocked exits; and work procedures that cause crippling illness.
  - Federal officials believe the immigrant work force and the labor intensiveness and low profit margins of certain industries are major factors responsible for violations. The research literature similarly identifies these factors as fostering labor law violations.

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### **Federal Officials' Opinions About Chronic Labor Law Violations**

We asked federal officials about industries having a "serious problem" with sweatshops, or chronic labor law violators, letting them define "serious." As figure 8 shows, 40 of the 53 federal officials said that sweatshops were a serious problem in some industry. The three most frequently cited industries were restaurants (33 officials), apparel manufacturing (19 officials), and meat processing (9 officials). Other industries cited were hotel and motel maid services, security agencies, footwear, and supermarkets.<sup>6</sup> An official in Los Angeles said sweatshops are a serious problem there in many industries, including electronics, furniture, and footwear manufacturing along with apparel and restaurants.

Commenting on the relative severity of the sweatshop problem over the last 10 years in the restaurant and apparel industries, survey respondents most often thought it had remained about the same or had become more severe within their regions or districts, as shown in figure 9. Of the nine officials who cited multiple violations in the meat-processing industry, only five felt they could comment, and three of them thought the problem had become more severe.

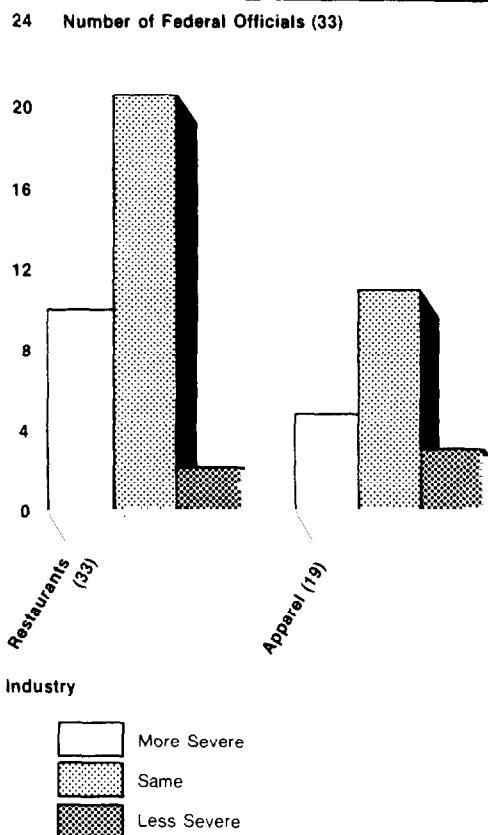
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<sup>6</sup>Construction, landscaping, and agriculture were also identified but had been excluded from our study as outside of our definition of sweatshop.

About half of the federal enforcement officials gave some estimate of either the number of businesses they considered to be sweatshops or the number of people working in them. These estimates suggest that many workers may be underpaid and working in unsafe or unhealthy conditions. For example, one respondent estimated that half of the 5,000 restaurants in Chicago are chronic labor law violators, employing 25,000 workers. Another estimated that a quarter of the 100 apparel firms in New Orleans are violating multiple labor laws with 5,000 workers. In

Figure 9:

## GAO Change in Sweatshop Problem in Last 10 Years

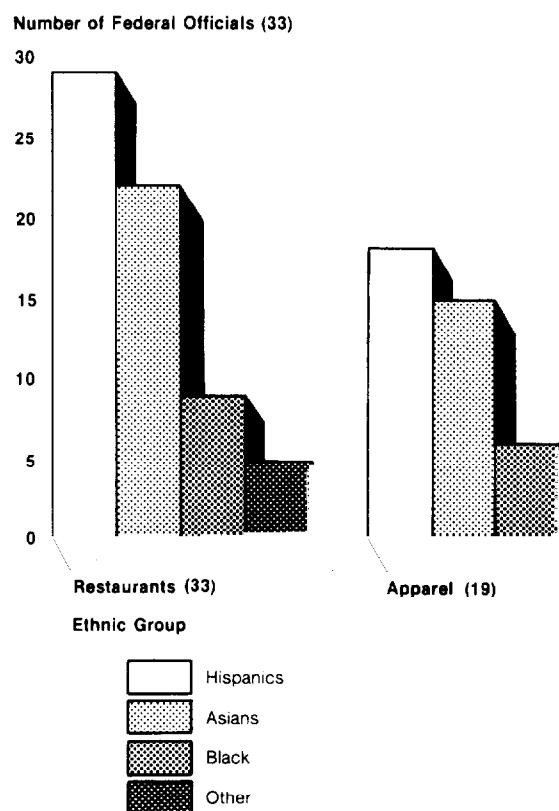


New York, estimates of the number of sweatshops in the apparel industry over the last 18 years have ranged from 200 to 4,500. The most frequently cited estimate of 3,000 sweatshops employing 50,000 workers originated from a series of investigations conducted by the staff of New York State Senator Franz S. Leichter during the late 1970's. In Los Angeles, estimates that ranged from 300 to 2,700 apparel shops were given to us by public and private sector officials.

Hispanics and Asians are thought to be the groups most heavily represented in restaurants and apparel manufacturing establishments that are multiple labor law violators, as shown in figure 10. For example, 30

Figure 10:

## GAO Ethnic Groups Heavily Represented in Sweatshops

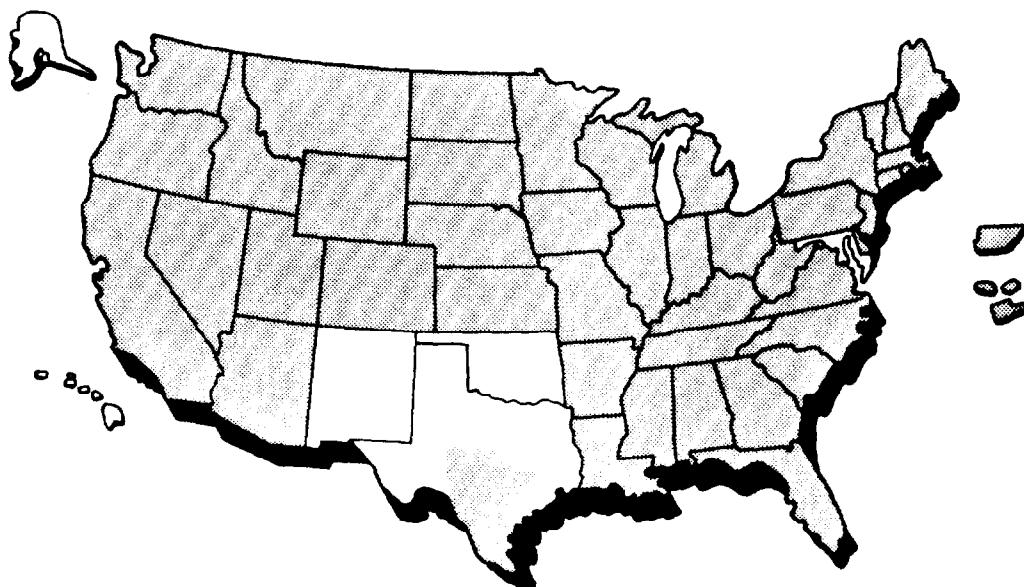


and 18 officials, respectively, said Hispanics, in their opinion, were "heavily represented" in the restaurant and apparel manufacturing industries. Hispanics were said to represent from 25 to 98 percent of the workers in restaurants that are sweatshops (an average of 53 percent) and 30 to 95 percent (an average of 60 percent) of the workers in apparel manufacturing shops that violate multiple labor laws. Comparable figures for Asians were 5 to 60 percent (an average of 25 percent) in restaurants and 5 to 70 percent (an average of 35 percent) in apparel.

We asked the 40 officials who reported serious problems with sweatshops whether (1) the problem exists throughout their regions or districts or (2) it is confined to specific states or local areas. Combining all

**Figure 11:**

## GAO Areas Believed to Have Sweatshops - Restaurants

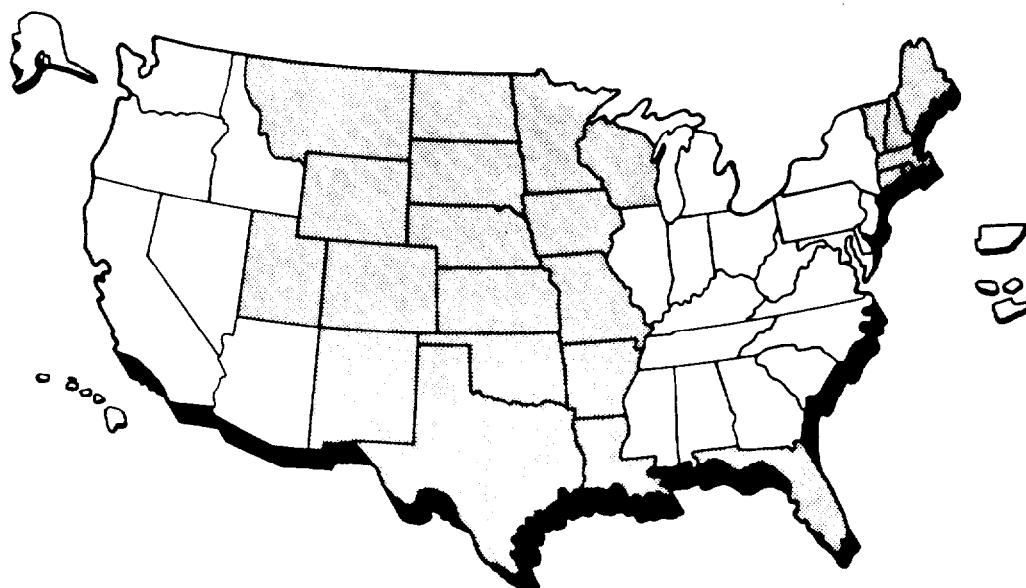


their responses shows reports of multiple labor law violators in some industry throughout all but three states. Alaska and Hawaii were the only states in which none of the respondents believed sweatshops existed. In Maryland, problems were cited in the metropolitan areas rather than throughout the state.

In restaurants and meat-processing, the officials most often reported that the problem existed throughout their area. Figures 11 and 12 show the areas where one or more respondents said there was a serious problem with both wage or child labor and safety or health violations in those industries. In addition to the areas shaded for restaurants, officials also cited the metropolitan areas of Maryland, especially Baltimore.

**Figure 12:**

## GAO Areas Believed to Have Sweatshops - Meat Processing



In apparel manufacturing, officials most often reported that establishments violating multiple labor laws were confined to specific areas, especially urban ones. In addition to the states of New York and California, areas cited were parts of New Jersey; Chicago and other metropolitan centers in Labor's Region V (Illinois, Indiana, Ohio, Michigan, Wisconsin, and Minnesota); Philadelphia; Metropolitan D.C. area; Miami and South Florida; New Orleans and other cities along the Gulf Coast; El Paso, San Antonio, and other areas in Texas; and Portland, Oregon.

Figure 13:

## GAO States Reporting Serious Labor Problems

|                        | <u>Mainly wage/hour violations</u> | <u>Mainly safety/health violations</u> | <u>Both kinds of violations</u> |
|------------------------|------------------------------------|--|---------------------------------|
| <b>Restaurants</b>     | <b>30</b>                          | <b>1</b>                               | <b>4 (IA,MA,OH,DC)</b>          |
| <b>Apparel</b>         | <b>5</b>                           | <b>3</b>                               | <b>1 (NY)</b>                   |
| <b>Meat processing</b> | <b>3</b>                           | <b>8</b>                               | <b>2 (UT,OK)</b>                |

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### **State Officials' Opinions About Chronic Labor Law Violators**

Directors of state labor departments were asked whether various industries had a serious problem with establishments that regularly violated (1) mainly wage/child labor laws, (2) mainly safety/health laws, or (3) both types of laws. Officials in 35 states cited some industry as having serious problems. Twenty-eight cited industries with mainly wage/hour or mainly safety/health problems, and seven identified industries where multiple labor law violations were a problem. As figure 13 shows, four of the seven state officials cited the restaurant industry, two cited the meat-processing industry, and one cited the apparel manufacturing industry.

Opinions were mixed as to whether the severity of conditions has remained about the same, increased, or decreased over the past 10 years. The New York State director stated that the problem in the apparel industry has become more severe because of undocumented immigrants and increased competition from abroad. The problem was described as becoming less severe in Ohio's restaurant industry, where the change was attributed to the success of the Ohio school system and the state Wage Division in making more people aware of the Ohio labor laws for minors, leading to greater compliance with those laws. The problem in the restaurant industry in Iowa was also seen as becoming less severe, while problems in the District of Columbia and Utah were seen as staying about the same over the past 10 years.

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### **Description of Violations**

Our investigations of selected establishments in New York City and Los Angeles and conversations with employers and employees in those areas provided some indication of the kinds of violations occurring. For example, we met with a group of 10 Hispanic women, all of them undocumented aliens,<sup>7</sup> who work in apparel manufacturing shops in Los Angeles' downtown garment district. They gave numerous examples of poor working conditions. Many said they earn less than the \$3.35 an hour minimum wage. One said she works 12 hours a day, 6 days a week, in order to earn \$300 every two weeks (about \$2 an hour). Another

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<sup>7</sup>"Undocumented aliens" are non-U.S. citizens who lack the documents authorizing them to work in the United States.

takes work home in order to finish enough pieces of work to earn \$200 a week. Other complaints included physical abuse, unclean bathrooms, and lack of drinking water. Although they have tried to find work elsewhere, they found that conditions in other places willing to hire undocumented workers with little or no English skills were just as bad.

Figure 14:

## **GAO Wage Violations in Apparel Shops and Restaurants**

- No records of wages and hours worked
- Overtime not paid
- Child labor violations
- No salary; paid only by tips
- Paid less than \$3.35/hour

Figures 14 and 15 list some of the violations found in the selected establishments we examined.

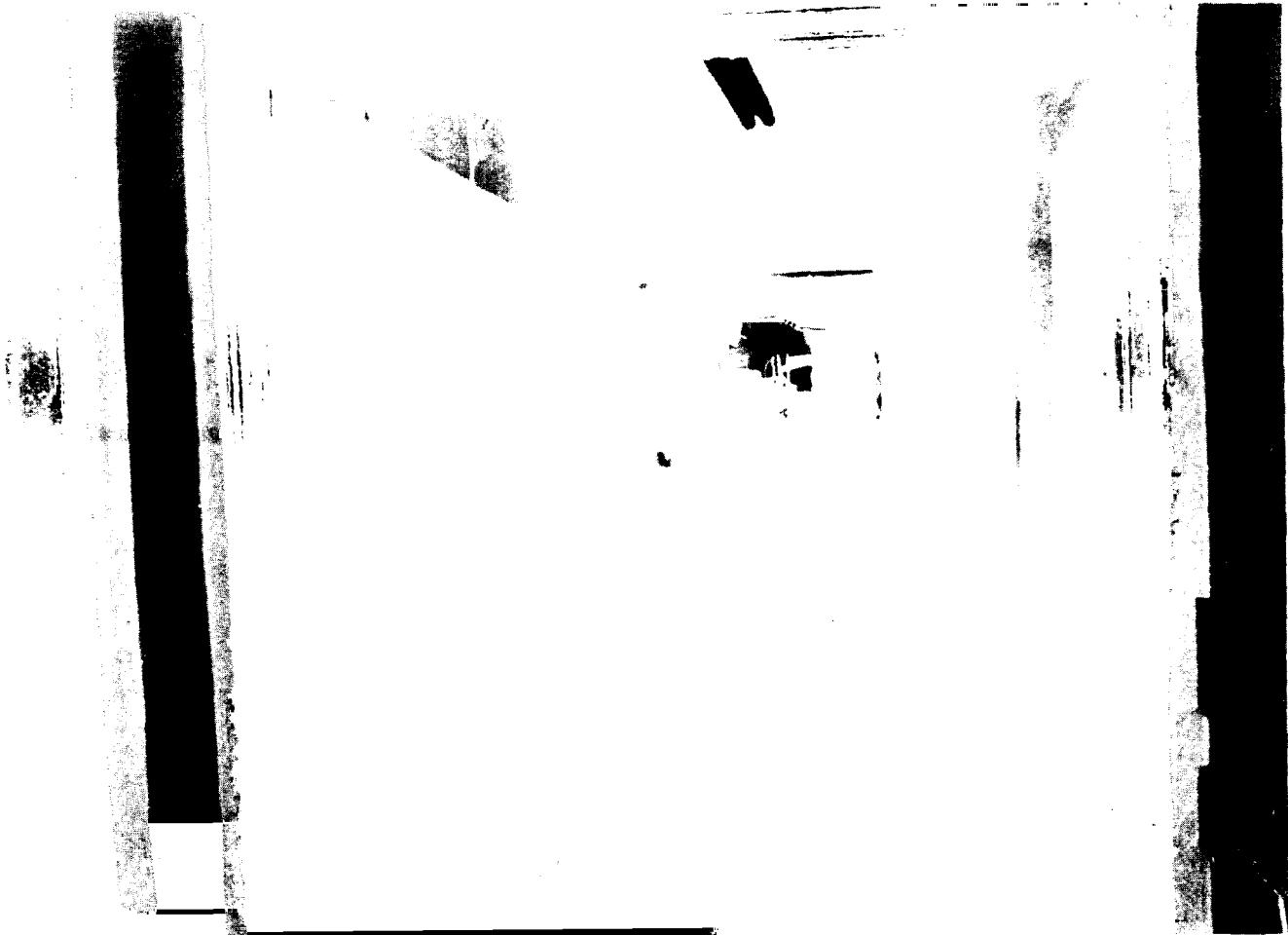
**Figure 15:**

## **GAO Safety/Health Violations in Apparel Shops and Restaurants**

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- Blocked exit
- Fire extinguisher inoperative
- Flammable materials stored improperly
- Rubbish stored on premises
- Work stations too close to exposed wires
- No first aid kit
- No record of employee injuries

**Figure 16: Blocked Exit From Apparel Shop**



Figures 16 and 17 show the appearance of some places we visited.

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**"Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options**

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**Figure 17: Debris on Floor of Apparel Shop**



Problems in the meat-processing industry have been described in recent hearings before the Employment and Housing Subcommittee of the House Committee on Government Operations and in a March 1988 report of the committee.<sup>8</sup> The case of IBP, the nation's largest meatpacker, provides an example of not only alleged safety and health violations but also alleged violations of FLSA.

In May 1988, OSHA proposed \$3.1 million in penalties against IBP for willfully ignoring a serious health hazard which has injured hundreds of employees. According to OSHA, IBP has known about the occupational illness (cumulative trauma disorder, a sometimes crippling injury caused by repeated hand, wrist, and arm motion on the job) but done nothing to prevent it. In a previous action in July 1987 OSHA cited the company for underreporting injuries and illnesses and proposed a \$2.59 million penalty.

WHD has also filed a complaint in a U.S. district court alleging that IBP violated the overtime and recordkeeping provisions of FLSA in 10 of its meatpacking facilities. The suit seeks to enjoin the firm from alleged violations and to recover back wages for employees.

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## Factors Believed to Be Responsible for Sweatshops

Our information about factors believed to be responsible for sweatshops comes from two sources. First, we asked federal officials what they thought were the "major reasons" why there were sweatshops in each industry in their region. We asked their opinion about each item on a list of possible reasons obtained from our literature reviews and discussion with experts, but we also asked if there were any other reasons about which we did not specifically ask. Second, we examined the literature for any consensus on reasons for sweatshops historically and at present.

Figure 18 shows the responses of the 40 federal officials who identified some industry in which there was a serious problem with multiple labor law violators. They most often described the immigrant work force, labor intensiveness, and low profit margins as major factors responsible for sweatshops in some industries. Certain enforcement-related factors, such as too few inspectors, inadequate penalties, and weak labor statutes, were also cited. In the restaurant industry, weak or nonexistent unions were also seen as a reason for sweatshops.

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<sup>8</sup>House Committee on Government Operations, Here's the Beef: Underreporting of Injuries, OSHA's Policy of Exempting Companies from Programmed Inspections Based on Injury Records, and Unsafe Conditions in the Meatpacking Industry, March 30, 1988, H. Rept. 100-542.

Figure 18:

## GAO Major Reasons for Sweatshops Cited by Federal Officials

| <u>Factor</u>            | <u>In some industry<br/>(N = 40)</u> | <u>Apparel<br/>(N = 19)</u> | <u>Restaurants<br/>(N = 32)</u> | <u>Meat Processing<br/>(N = 9)</u> |
|--------------------------|--------------------------------------|-----------------------------|---------------------------------|------------------------------------|
| Competition from abroad  | 15                                   | 12                          | 1                               | 3                                  |
| Low profit margin        | 31                                   | 14                          | 23                              | 4                                  |
| Labor Intensiveness      | 34                                   | 15                          | 26                              | 8                                  |
| Organized crime          | 3                                    | 1                           | 3                               | 0                                  |
| Immigrant workforce      | 35                                   | 17                          | 28                              | 6                                  |
| Weak labor statutes      | 17                                   | 6                           | 12                              | 0                                  |
| Too few inspectors       | 30                                   | 14                          | 26                              | 7                                  |
| Inadequate penalties     | 22                                   | 9                           | 18                              | 4                                  |
| Weak non/existent unions | 26                                   | 4                           | 23                              | 4                                  |

Through our review of research studies, discussion with experts, and examination of statistical data, we found that three factors historically linked to the existence of sweatshops continue to interact as major contributors to their existence today. These factors were similar to those cited by federal officials. They were the

- available supply of legal and illegal immigrants, especially concentrated in urban areas;
- the reliance of labor-intensive retail and manufacturing industries on low skilled and low wage labor, usually provided by immigrant workers; and
- growing trend toward the use of small subcontractors in labor-intensive industries, with accompanying competition and low profit margins.

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#### **Exploitable Labor Supply of Immigrants**

Immigrants often provide the labor for sweatshops. We were told that illegal immigrants are especially vulnerable to exploitation because of the implicit or explicit threat of being reported to INS if they object to wages or working conditions. Even legal immigrants are vulnerable to the extent that language barriers and other obstacles limit their work options.

Concentrations of exploitable workers are present in urban areas following large flows of legal and illegal immigrants to the United States. Legal immigration into the country, and especially into large urban centers such as Chicago, Los Angeles, and New York City, increased substantially after the passage of legislation beginning in the 1960's that permitted larger numbers of immigrants. Census Bureau data show that from 1924 until 1965, the average annual number of legal immigrants admitted to the country was 191,000. In contrast, from 1966 through 1981, the annual average was 435,000 immigrants. The national composition of post-1965 immigration also changed. The predominantly European immigration of the past contrasts with recent flows, which brought increasing numbers of Latin American, Asian, and Caribbean immigrants to the United States. Over 7.3 million immigrants from these groups entered the country between 1965 and 1981. Together, they comprise 76 percent of total immigration between 1965 and 1981.

The Census Bureau estimates that 6,578,000 legal aliens and 3,188,000 undocumented aliens were counted in the 1980 census for standard metropolitan statistical areas. Both legal and illegal immigrants are concentrated in the urban areas of California, New York, Illinois, Florida, Texas, and Washington, D.C. Sixty-three percent of all legal aliens and 82 percent of all undocumented aliens counted in the 1980 census were

in those six areas. California had 1,753,000, more than half, of the undocumented aliens. The Los Angeles-Long Beach area alone had 1,158,000 undocumented aliens, over one-third of all undocumented aliens counted in the 1980 census.

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#### **Labor-Intensive Establishments**

Establishments in labor-intensive industries often rely substantially on the low wage labor of legal and illegal immigrants. U.S. census data show that immigrants represent a significant percentage of the work force in nondurable manufacturing, retail trade, and personal services. Studies conducted in the restaurant, apparel, electronics, and shoe-making industries also provide illustrations of employers' reliance on legal and illegal immigrants in labor-intensive industries. Some of the studies report that Asians, Hispanics, Mexicans, and Haitians are among the immigrant groups that occupy low-skilled entry-level positions. According to some of the studies, the employers' preference for immigrant workers is based in part on the low wages accepted by immigrants and their willingness to slowly work their way up to higher wage and skilled jobs.

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#### **Subcontracting**

A growing number of small, specialized subcontracting establishments in labor-intensive manufacturing industries employ large numbers of legal and illegal immigrants. The increased use of subcontractors to reduce labor costs and production risk is part of a trend toward small-scale manufacturing that reflects a response by industry to the intense foreign competition of recent years. This trend is readily seen in the apparel industry, which experienced a rapid increase in import share. To illustrate, in 1959, imports represented 6.9 percent of women's and men's clothing, but in 1984, 50 percent of these garments were made abroad.

There has been a rapid growth of subcontractors in the apparel and electronics industries nationally. Between 1977 and 1982, the number of contractors with between 1 and 19 employees (those likely to be subcontractors) increased by 51 percent in the women's and misses' outerwear sector—the largest component in the apparel industry. Ongoing studies of the electronics industry in New York City and Southern California also report an extensive network of subcontractors among the growing number of small establishments. In electronic components and accessories, the largest sector of the domestic electronics industry, the number of establishments with 1 to 19 employees more than doubled from 1972 to 1982, from 1,431 to 2,990.

## **Administrative and Legislative Factors Limit Enforcement Agencies’ Ability to Regulate Sweatshops**

Federal laws and regulations do not define “sweatshops,” nor do they require federal agency enforcement efforts to be directed against employers who violate combinations of wage and hour, child labor, and safety and health laws. As such, to assess enforcement efforts relevant to sweatshops, or multiple labor law violators, it is necessary to consider the whole array of federal, state, and local efforts and how well their combined efforts address violators of multiple labor laws. To provide this information, we examined the federal organizations with jurisdiction in these areas—WHD, OSHA, INS—and 50 state departments of labor.

Our examination of enforcement efforts showed several limiting factors, as shown in figure 19.

**Figure 19:**

### **GAO Factors Limiting Enforcement Efforts**

- Limited coordination among multiple enforcement agencies
- Insufficient staff resources, given competing inspection priorities
- Inadequate penalties for violations

The following two administrative factors lead to inspections that rarely address both wage and safety or health violations:

- Three federal organizations separately enforce different laws regulating the work force and working conditions, and in general they (1) place limited emphasis on informing each other about potential violations of laws they enforce and (2) rarely engage in joint efforts aimed at multiple labor law violators. The same limited emphasis on sharing information about potential violations and on joint enforcement efforts exists at the state level as well.
- Insufficient staff resources and enforcement priorities that allocate staff elsewhere limit the extent to which enforcement efforts are directed at sweatshops.

A third, legislative, factor is that penalties for employer violations are inadequate to serve as effective deterrents. Each of these factors is discussed in greater detail in the following sections.

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**Limited Coordination Among Responsible Enforcement Organizations**

While WHD, OSHA, and INS have responsibility for enforcing some laws related to wages, work by minors, safety and health conditions, and availability of illegal immigrants, in general, limited coordination relevant to violators of multiple laws has taken place among them. The limited coordination among organizations can be seen in their (1) putting little emphasis on referring likely violators to other organizations having jurisdiction and (2) rarely engaging in joint enforcement efforts aimed at multiple labor law violators. Similarly, this lack of coordination occurs at the state level.

**Little Emphasis on Referrals**

With the exception of an agreement between OSHA and WHD to coordinate enforcement activities for manufacturers of fireworks and excavation operations, OSHA has no general statement of policy on making referrals to other government agencies. According to a senior OSHA official, the agency does have a practice of requiring its compliance officers to make referrals to other government agencies when violations are observed. However, the official believed that OSHA's compliance officers rarely make referrals to agencies like WHD and INS. As figure 20 shows, the regional administrators agreed with this assessment in that only one of the 10 said referrals to WHD occur as often as once a month.

WHD, on the other hand, has a written policy of encouraging investigative staff to refer violations of laws applicable to OSHA and INS for investigation. The WHD Field Operations Handbook encourages compliance officers to note apparent hazardous and/or unsanitary conditions observed during establishment tours. The conditions observed are to be reported to the area director for referral to the appropriate OSHA office.

A senior WHD official stated, however, that compliance officers infrequently refer potential safety and health violations to OSHA. The regional administrators agreed with this observation when, as shown in figure 20, only 1 of the 10 indicated that referrals were made to OSHA at least once a month.

**Figure 20:**

## GAO Wage and Hour Coordination With OSHA, 1987

| <u>Activity</u>                       | <u>WHD to<br/>OSHA (10)</u> | <u>OSHA to<br/>WHD (10)</u> |
|---------------------------------------|-----------------------------|-----------------------------|
| • Referrals at least once a month     | 1                           | 1                           |
| • Recent cross-training on violations | 2                           | 0                           |

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On the basis of our discussions with WHD officials, we believe referrals are made infrequently because (1) WHD does not emphasize through policy directives or other means the need for such action on a routine basis and (2) compliance officers have for the most part not been trained to recognize violations of OSHA's safety and health standards, thus making it difficult for investigators to make referrals. For example, only two WHD regional administrators told us that in fiscal year 1987 their staff attended meetings or seminars where they were trained to recognize potential violations of safety/health laws. As a result of this lack of emphasis on referrals, compliance officers usually confine their investigative activities to detecting violations of FLSA.

Coordination between WHD and INS is more extensive than that between WHD and OSHA or between INS and OSHA. As figure 21 shows, WHD and INS referrals and cross-training were more frequent than that shown in figure 20 for WHD and OSHA. This closer working relationship is due in part to established working relationships under the Special Targeted Enforcement Program, established in 1982. The program's objective is to use labor standards enforcement to remove the economic incentives for employers who would exploit undocumented workers.

The program involves WHD's targeting some inspections to industries and locations where undocumented workers are likely to be employed. WHD may obtain the names of employers from INS in one of two ways: (1) INS may report the names of employers whom apprehended, undocumented workers alleged have paid them unfairly or (2) WHD staff may interview undocumented workers being held in INS detention centers. Targeting can also be based on certain industries or locations rather than identified employers. In other words, WHD could determine that many undocumented workers are in those industries or locations and direct its inspection activities accordingly.

Targeting investigations to industries rather than to specific employers also allows the program to count more investigations as targeted. For example, the Los Angeles WHD area office director explained that whenever his office investigates industries prone to hire illegal aliens, such as the apparel, restaurant, hotel, landscaping, and construction industries, these investigations are automatically labeled as Special Targeted Enforcement Program cases. This is done regardless of whether the investigator went in response to a complaint or on the office's own initiative. According to the director, if the area office director believes a firm is employing or is likely to employ unauthorized workers, an investigation is considered part of the targeted program.

As figure 21 shows, the extent of coordination between WHD and INS has also increased since the passage of IRCA. IRCA requires employers, upon request, to show Labor Department officials the employee verification forms employers must have for all employees hired after November 6, 1986. (These forms confirm that employees have proper documents to work legally in the U.S.) INS and WHD have a memorandum of understanding that provides that WHD compliance officers, when they are at a workplace, will not only perform their investigative work regarding wages but also inspect those forms and report what they find to INS.

Figure 21:

## GAO WHD & INS Coordination Before and After IRCA

| <u>Activity</u>                       | <u>Before</u>             | <u>After</u>              |                           |                           |
|---------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
|                                       | WHD to<br><u>INS (10)</u> | INS to<br><u>WHD (33)</u> | WHD to<br><u>INS (10)</u> | INS to<br><u>WHD (33)</u> |
| • Referrals at least once a month     | 6                         | 13                        | 9                         | 32                        |
| • Recent cross-training on violations | 2                         | 6                         | 4                         | 24                        |

Thus, referrals from WHD to INS have increased. According to an INS headquarters official, the increase in referrals from INS to WHD may be, in part, due to INS agents' greater familiarity with WHD and its responsibilities since WHD has begun sending them the results of employer visits.

#### Few Joint Efforts

Federal officials in regions and districts throughout the country reported few joint efforts concentrating on problem locations or industries. Nationally, Labor has not made sweatshops an enforcement priority for almost a decade, according to information from WHD and OSHA officials in Washington.

During our telephone survey, we asked federal officials to identify task forces or other special activities in their region in the last 5 years that address the problem of sweatshops or chronic labor law violators. Of the 53 officials, 21 identified special efforts that addressed wage, safety/health, or immigration issues in the industries included in our definition of sweatshops. WHD and OSHA officials described various special emphasis activities within their own agencies, but only one multi-agency inspection effort was described. That effort was the nationwide joint WHD and OSHA inspections of fireworks manufacturers a few years ago. Eight INS officials described joint enforcement efforts with other federal agencies (the Department of Health and Human Services, OSHA or WHD) and state and local agencies, and two of them, in El Paso, Texas, and Portland, Oregon, included an emphasis on safety as well as wage and immigration issues.

Nationally, Labor did launch a high-visibility "strike force" effort against sweatshops in the early 1980's that included the Secretary of Labor's accompanying WHD compliance officers to some New York apparel shops. WHD established special task forces in 1979 and 1980 in Houston, Dallas, Los Angeles, Miami, eastern Massachusetts, and New York State. Investigations were conducted in such industries as apparel, restaurant, construction, hotel and motel, retail, agriculture, and manufacturing. Labor reports significant results achieved by these efforts, with close to 2,000 investigations identifying more than \$6.5 million in minimum wage and overtime underpayments. According to Labor, employers agreed to repay close to \$3.2 million to workers affected. The strike forces also found child labor, recordkeeping, and safety and health violations in many of the establishments and referred apparent violations to OSHA for investigation.

The strike forces of this period identified the same barriers that seem to hamper enforcement efforts today. Labor reported that most of the workers were foreign born and undocumented and are reluctant to complain to federal or state authorities for fear of losing their jobs or facing deportation by INS.

**State Efforts Also Limited**

Enforcement of wage, safety, and health standards is also carried out by separate agencies within state departments of labor. As with the federal agencies, there is the same limited coordination among agencies and a general absence of joint enforcement activities addressing sweatshops.

In the 19 states with responsibility for both wage/hour and safety/health programs, the pattern is similar to that at the federal level.<sup>9</sup> They rarely inspected the same establishments. None of the state directors said this happened as often as once a month, on average. Referrals and training on how to make appropriate referrals were also infrequent. Only two state directors said referrals happened as often as once a month. Three of them reported training safety/health staff on how to detect and refer potential wage/hour violations, and four reported training wage/hour staff on potential safety and health problems in fiscal year 1987.

State agencies report more exchange of information between themselves and federal agencies, as shown in figure 22. Referrals are most frequently between the state and WHD. About half the states reported referrals between themselves and WHD at least once a month in fiscal year 1987.

We also asked state labor department directors to identify task forces, studies, or other special programs that address problems in industries at high risk of having chronic labor law violators. Ten directors identified such activities ongoing or completed within the last 5 years, but only one, New York, involved enforcement efforts directed at wage and safety and health violators. The state has a task force targeting the apparel industry that emphasizes referrals, such as potential fire hazards, along with inspections for compliance with state registration and wage laws.

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<sup>9</sup>Twenty states operate worker safety and health programs, but one of them (Oregon) was the only state not responding to our survey.

**Staffing Shortages and Inspection Priorities**

As we noted earlier, federal officials cited several enforcement-related reasons for the existence of sweatshops in their regions. They included too few inspectors, inadequate penalties, and weak labor statutes. We also asked them to identify any problems that hamper their agencies' ability to address the problem of chronic labor law violators. Of the 53 officials, 40 described at least one problem, and the most frequently cited one (by 27 of the 53) was lack of staff.

More than half of the 33 INS district office directors commented during our survey that staff shortages hamper their ability to address the

**Figure 22:**

**GAO State & Federal Agency Referrals (50 State Officials)**

| <u>Activity</u>                             | <u>WHD</u> | <u>OSHA</u> | <u>INS</u> |
|---|------------|-------------|------------|
| • State referral to agency at least monthly | 31         | 10          | 3          |
| • Agency referral to state at least monthly | 21         | 6           | 3          |

problem of chronic labor law violators. One INS official, for example, said he has two agents to cover two states in the employer investigations program. According to INS statistics, before IRCA, the service had a significant reduction of officers from 1976 through 1986. During that period the service investigative staff declined from 935 on-duty officers to 696, about a 25-percent reduction over the 10-year period, but since the passage of IRCA in 1986, staffing levels have begun to increase.

The concern with staff shortages, as it was described to us, includes not only the overall number of inspectors or compliance officers but also enforcement priorities that commit inspectors to industries other than those thought likely to be violators of multiple labor laws. In OSHA, for example, safety inspections are targeted to construction and manufacturing industries that are considered "high hazard"—ones in which occupational hazards are thought most likely to exist. Industries are defined as "high hazard" on the basis of their lost workday injury rates—that is, the average number of injuries that led to days away from work per 100 workers. In fiscal year 1988, high-hazard industries are those with a rate above 3.4. Since the 1986 rates for the apparel and restaurant industries nationally were 2.6 and 3.0, respectively, those establishments would, in general, be given safety inspections only in response to a fatal accident or catastrophe, a written employee complaint, or a referral from another agency.<sup>10</sup> Similarly, health inspections are targeted to industries with a high rate of past serious health-related violations, which are rare in the apparel and restaurant industries.

Many sweatshops may also be exempt from inspection by OSHA because of their small size. OSHA's policy is to exempt from targeted inspections establishments employing 10 or fewer employees. The Census Bureau estimated in 1982 that over 40 percent of the apparel manufacturing shops in the United States employ nine or fewer workers, and in the restaurant industry 50 percent employ fewer than 10 workers.

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#### Few Workplaces Inspected by More Than One Enforcement Organization

The effect of the two administrative factors just discussed (limited coordination and staff resources) can be seen in the limited number of inspections likely to detect multiple violations of labor laws. We asked WHD, OSHA, and INS officials how often they inspect the same workplaces either together or on separate occasions. None of the WHD and OSHA regional administrators said that in fiscal year 1987 inspections of the same establishments occurred as often as once a month. Regarding inspecting the same places, the OSHA and INS officials we interviewed reported this rarely happened in fiscal year 1987. However, 17 of the 43

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<sup>10</sup>OSHA's priorities for enforcement are as follows: imminent danger, catastrophic and fatal accidents, employee complaints and referrals, programmed (targeted) inspections.

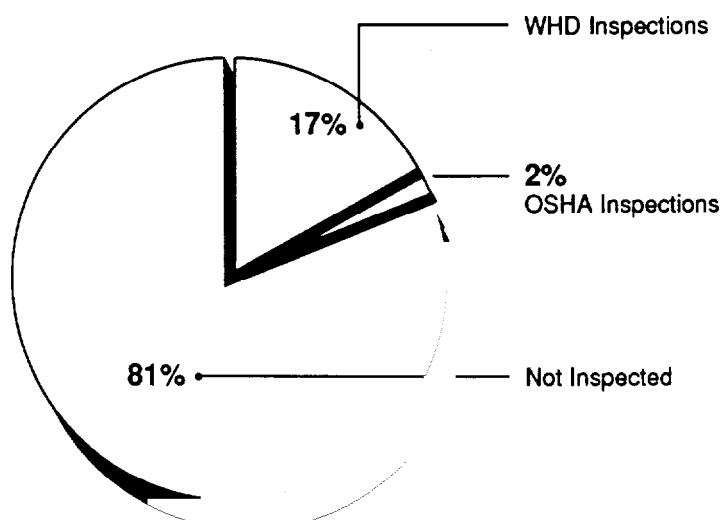
INS and WHD officials reported inspecting the same place at least once a month after the passage of IRCA.

National data in the apparel and restaurant industries also illustrate the limited federal enforcement efforts to detect multiple labor law violators. Our analysis of WHD and OSHA enforcement statistics over a 5-year period shows that the agencies (1) investigated a small number of firms relative to the number of firms operating in each industry even though they found substantial numbers of violations when inspections were made and (2) rarely investigated the same establishments in five major cities with large concentrations of legal and illegal aliens.

Figure 23 shows the percentage of apparel and restaurant firms inspected by WHD and OSHA between fiscal years 1983 and 1987. With a

**Figure 23:**

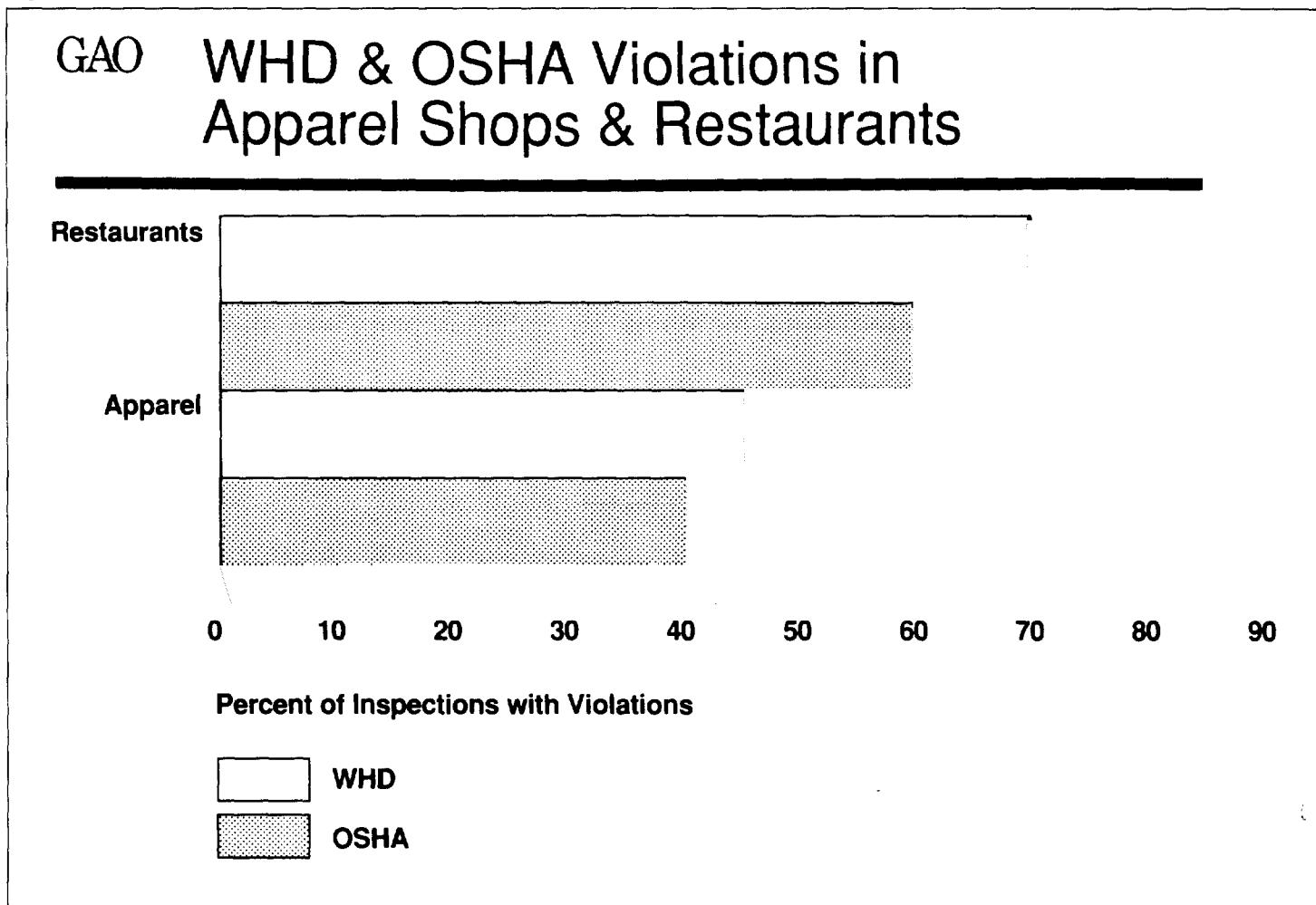
## GAO WHD & OSHA Inspections in Restaurants & Apparel



Note: Total during 1983-1987.

total of 344,264 apparel and restaurant establishments counted in the 1982 Census of Manufactures (24,391 apparel and 319,873 restaurants), WHD conducted inspections in 3,976 apparel firms and 53,321 restaurants over the 5 years, a total of 57,297, or 17 percent, of all establishments.<sup>11</sup> OSHA conducted 3,385 inspections in apparel and 2,813 in restaurants, for a total of 6,198, or less than 2 percent, of all establishments. Looking at the figures in another way, WHD inspected about 16 percent of apparel shops and 17 percent of restaurants; OSHA inspected 14 percent of apparel shops and less than 1 percent of all restaurants.

Figure 24:



<sup>11</sup>This comparison assumes that each inspection was of a different establishment. Although that is unlikely to be true, making that assumption sets an upper limit to the percentage of establishments inspected.

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Although WHD and OSHA conducted investigations in a relatively small proportion of establishments in the apparel and restaurant industries, each agency found a significant number of violators. WHD found 45 and 70 percent, and OSHA found 40 and 60 percent, respectively, over a 5-year period, as shown in figure 24.

We also found that WHD and OSHA rarely inspected the same establishments within the apparel and restaurant industries during fiscal years 1983 through 1987. We selected five cities that might be likely to have a serious problem with sweatshops because they are home to over 2 million of the estimated 9.8 million legal and illegal aliens counted in the 1980 Census. In these five cities—Chicago, Dallas, Miami, New York City, and Washington, D.C.—we compared WHD and OSHA enforcement data to identify establishments inspected by both agencies. In the 5-year period fiscal years 1983-87, WHD conducted 5,878 inspections in restaurant and apparel establishments in these cities, and OSHA conducted 158. But only 18 apparel and restaurant establishments were inspected by both organizations. Eleven of the joint inspections were apparel shops in Chicago, Dallas, Miami, and New York City. The seven restaurants inspected by the two agencies were in Chicago, the District of Columbia, Dallas, and Miami.

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#### Inadequate Penalties for Violations

Federal and state officials described inadequate penalties for violations, especially recordkeeping violations, as severely hampering WHD enforcement efforts. In Los Angeles, for example, WHD regional and area office officials asserted that the recordkeeping violations that are prevalent in the apparel and restaurant industries are a major reason why investigations in these industries are less productive than those in other industries. And these violations persist, in part, because the inadequate penalties fail to provide any effective deterrent.

FLSA requires employers to keep records on wages, hours, and other items, and those records are essential to determine whether other provisions of the act have been violated and what illegally withheld back wages are owed to employees. As described previously, however, FLSA provides no civil monetary penalty to employers for these recordkeeping violations or for violations of the minimum wage and overtime provisions.

Employers often violate these recordkeeping requirements. For example, the 1980 federal "strike force" in Los Angeles is reported to have found that 95 percent of the firms it investigated had recordkeeping violations. A 1985 GAO review found recordkeeping violations in 46 of 53 (87 percent) of the cases examined, and in 27 of the 46 cases the inadequate records affected Labor's ability to obtain the full amount of estimated back wages.<sup>12</sup>

**Figure 25:**

## GAO Policy Options

- Develop closer working relationships among enforcement agencies
- Amend the Fair Labor Standards Act so that Labor can assess penalties for violations

<sup>12</sup>The Department of Labor's Enforcement of the Fair Labor Standards Act (GAO/HRD-85-77, Sept. 30, 1985).

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## Policy Options

Sweatshops are not just a historical problem or one confined to apparel shops in New York City. Rather, many knowledgeable federal and state officials believe there are serious problems in industries and locations across the United States. Only speculative estimates of the number of sweatshops and people working in them exist. However, the problem is believed by most enforcement officials nationwide to have either stayed about the same or increased in severity over the past decade.

Our analysis and discussions with over 100 federal, state, and local enforcement officials identified factors that we believe limit enforcement agencies' ability to regulate sweatshops and some actions that might lead to more effective enforcement. For example, administrative changes could be made in the agencies' working relationships, number of compliance officers, or enforcement priorities. However, the benefits of implementing these changes would have to be balanced against the cost of doing so—cost not only in terms of staff and other resources but also in reduced coverage of other, possibly more hazardous or more unfair, work situations. The limited federal and state worker protection resources suggest that the trade-offs necessary to have a quick or dramatic impact on this problem are unlikely. We identified a policy option, however, that enforcement agencies may wish to consider as a way to regulate sweatshops without placing a severe burden on other enforcement activities. That option is to develop closer working relationships among enforcement agencies. A second policy option for the Congress is one previously recommended by GAO—that the Congress amend the Fair Labor Standards Act so that Labor can assess civil monetary penalties for violations (see fig. 25).

**Developing Closer Working Relationships Among Enforcement Organizations**

Enforcement might be enhanced if federal, state, and local agencies worked as partners to address multiple violations. Figure 26 suggests organizations that might work more closely together and some administrative actions they might take to better limit sweatshops or chronic labor law violators. WHD, OSHA, and INS could work more closely with each other and with state labor departments and local agencies. Two kinds of actions that might be helpful are (1) an increased emphasis on referrals and (2) specific joint agency efforts concentrating on problem locations or industries. We recognize, however, that taking these actions would require reallocating available resources.

**Figure 26:**

**GAO Working Relationships Among Enforcement Organizations**

- |                 |   |
|-----------------|---|
| <b>Agencies</b> | <ul style="list-style-type: none"><li>• Among OSHA, WHD &amp; INS</li><br/><li>• Among federal, state, and local agencies</li></ul>                       |
| <b>Actions</b>  | <ul style="list-style-type: none"><li>• Increased emphasis on referrals</li><br/><li>• Joint efforts on problem industries &amp; establishments</li></ul> |

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### Emphasis on Referrals

Enforcement efforts might be improved by a greater emphasis on exchanging information about employers thought to be violating other laws. These referrals might be especially useful in industries, such as the restaurant, apparel, and meat-processing industries, that employ large numbers of immigrants or in other industries at high risk of multiple violations. WHD and INS have formal agreements to coordinate activities under the Special Targeted Enforcement Program and under IRCA, and the latter is expected by INS officials to have an especially significant impact on wage and immigration violations. However, the agencies do not have specific agreements with OSHA to exchange information about violators.

If a greater emphasis is to be placed on referrals, compliance officers may need additional training on how to detect likely safety, health, wage and hour, or immigration violations. We discussed this possibility with headquarters officials of all three federal agencies, and senior officials at each agreed that such training would be helpful. An OSHA official, however, observed that resource constraints might limit their ability to provide such training. We also asked federal officials how effective they thought such training would be in alleviating the problem of chronic labor law violators. Their responses are shown in figure 27.

Opinions on receiving training from other agencies differed significantly. Opinions were divided almost evenly among the 10 WHD regional officials on whether WHD staff should receive training to recognize violations of safety/health and immigration laws. Commenting unfavorably about cross-training, one WHD regional administrator stated that this activity would inundate WHD compliance officers with training and that the complex OSHA and INS laws would not be retained months after the training. Seven of the 10 OSHA regional administrators indicated that receiving training to recognize violations of labor and immigration laws would not be particularly effective. Most of the INS district office directors, however, indicated that receiving training in labor and safety/health laws would be beneficial.

Most of the officials thought that training for other agency inspectors to recognize violations of their agencies' laws would be beneficial. Half or more of all officials believe that providing training to the other agencies could be at least somewhat effective. But expressing some concern about cross-training, one administrator stated that by cross-training OSHA, WHD, and INS, "you get mediocrity when you put too much on a person's plate." Taking a different view, another OSHA administrator liked the idea of cross-training but expressed reluctance because of thinking that

OSHA needs to concentrate on its own training before receiving training in other agencies' laws.

The concerns raised by some of the OSHA regional officials have merit. We believe intensive training in each agencies' laws would be inappropriate. However, the agencies could provide basic training so that compliance staffs could make informed referrals when obvious violations are observed. Each agency could also stress the importance of referrals through policy directives.

Figure 27:

## GAO Opinions on Cross-Training Staff to Identify Violations

### Effectiveness in alleviating the problem of chronic labor law violators

|                                  | <u>Very</u> | <u>Somewhat</u> | <u>Not particularly</u> |
|----------------------------------|-------------|-----------------|-------------------------|
| <b><u>WHD Officials (10)</u></b> |             |                 |                         |
| Train OSHA or INS                | 3           | 2               | 5                       |
| Be trained by them               | 3           | 4               | 3                       |
| <b><u>OSHA Officials (9)</u></b> |             |                 |                         |
| Train WHD or INS                 | 1           | 4               | 4                       |
| Be trained by them               | 0           | 2               | 7                       |
| <b><u>INS Officials (33)</u></b> |             |                 |                         |
| Train WHD or OSHA                | 20          | 7               | 6                       |
| Be trained by them               | 14          | 14              | 5                       |

- 
- Joint Agency Strike Forces** A second action to help regulate sweatshops would be joint enforcement agency efforts concentrating on problem locations or industries. In our telephone survey, several INS district office directors called for increased coordination among the staff of WHD, OSHA, and INS. Commenting on joint strike forces, one district office director stated that the three agencies should "all hit the same place at the same time." Most of the INS district officials indicated that joint strike forces would be desirable, as shown in figure 28. About half of the WHD and OSHA regional administrators also thought joint WHD, OSHA, and INS task forces would be somewhat effective, but the remaining officials of both agencies either thought this

**Figure 28:**

## GAO Opinions on Joint Strike Forces Against Sweatshops

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### Effectiveness in alleviating the problem of chronic labor law violators

|          | <u>Very</u> | <u>Somewhat</u> | <u>Not particularly</u> |
|----------|-------------|-----------------|-------------------------|
| WHD (10) | 0           | 5               | 5                       |
| OSHA (8) | 0           | 4               | 4                       |
| INS (33) | 19          | 12              | 2                       |

activity would not be particularly effective or were undecided. As noted earlier, Labor advocated and used strike forces during the early 1980's as an effective approach for combating sweatshops, but has conducted none in recent years.

**Amending the Fair Labor Standards Act to Assess Civil Monetary Penalties for Violations**

In 1981 we recommended that FLSA be amended so that it could better deter violations of the act's minimum wage, overtime, and recordkeeping provisions, as noted in figure 29.<sup>13</sup> The opinions of federal officials we surveyed indicate that this change is still needed.

**Figure 29:**

## **GAO Amending the Fair Labor Standards Act**

- Act lacks civil monetary penalties for violating
  - minimum wage
  - overtime
  - recordkeeping
- In 1981 GAO recommended adding penalties to the Act
- Amendments still needed

<sup>13</sup>Changes Needed to Deter Violations of Fair Labor Standards Act (GAO/HRD-81-60, May 28, 1981).

FLSA requires that employees be paid (1) a minimum hourly wage, set at \$3.35 since January 1, 1981, and (2) at least 1-1/2 times their regular rate of pay for work in excess of 40 hours in a workweek. In addition, employers are required to keep records of wages, hours, and employment practices, including (1) personal employee information, such as name and address; (2) an employee's regular rate of pay and hours worked; and (3) amounts of regular and overtime pay.

WHD's compliance officers have authority to investigate and collect data on wages, hours, and other employment conditions or practices to determine compliance with FLSA. Compliance officers not only identify FLSA violations, but also estimate the wages that should have been paid to comply with FLSA's minimum wage or overtime standards (back wages), and they try to get employers to pay the back wages voluntarily.

As noted previously, Labor has no authority to assess penalties against employers or require them to pay back wages when found violating FLSA's minimum wage and overtime standards. However, to seek compensation for employees Labor may (1) sue for back wages and an equal amount in liquidated damages on behalf of employees and (2) seek an injunction against future FLSA violations and recovery of back wages and interest. Employees may sue employers to recover back wages and liquidated damages unless Labor has already initiated legal action for back wages. Moreover, criminal actions may be brought against employers by the Department of Justice, upon the recommendation of Labor's Office of the Solicitor, for willful violations of the act, including those related to minimum wage, overtime, and recordkeeping provisions.

In our 1981 report, however, we noted that these civil and criminal sanctions are ineffective and rarely used. We recommended that the Congress authorize the Department of Labor to

- assess civil monetary penalties of sufficient size to deter violations of the act's minimum wage and overtime requirements and
- assess civil monetary penalties of sufficient size to deter recordkeeping violations.

No congressional action has been taken on our 1981 recommendation. In September 1982, the House Committee on Education and Labor considered H.R. 6103, which would have amended the act to provide civil penalties for willful recordkeeping violations and minimum wage and overtime violations. No action, however, was taken by the 97th Congress on that bill. Since September 1985, when we reviewed Labor's enforcement of FLSA and reiterated the need for amending the act to adopt our recommendations, similar legislation has not been introduced.

Officials with responsibility for enforcing the provisions of FLSA told us that their efforts are hampered by its weak penalty provisions. The amendments we recommended would provide the more adequate penalties needed.







# Related GAO Products

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The Fair Labor Standards Act: Back Wage Case Management,  
GAO/HRD-88-110, July 28, 1988.

OSHA's Resumption of Private Sector Enforcement Activities in California, GAO/T-HRD-88-19, June 20, 1988.

The Fair Labor Standards Act: Enforcement of Child Labor Provisions in Massachusetts, GAO/HRD-88-54, April 28, 1988.

OSHA's Monitoring and Evaluation of State Programs, GAO/T-HRD-88-13, April 20, 1988.

Illegal Aliens: Influence of Illegal Workers on Wages and Working Conditions of Legal Workers, GAO/PEMD-88-13BR, March 10, 1988.

Immigration Reform: Status of Implementing Employer Sanctions After One Year, GAO/GGD-88-14, November 5, 1987.

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