

GAO

Report to the Chairman, Subcommittee
on Commerce, Consumer and Monetary
Affairs, Committee on Government
Operations, House of Representatives

November 1994

GARMENT INDUSTRY

Efforts to Address the Prevalence and Conditions of Sweatshops





United States
General Accounting Office
Washington, D.C. 20548

**Health, Education, and
Human Services Division**

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The Honorable John M. Spratt, Jr.
Chairman, Subcommittee on Commerce, Consumer
and Monetary Affairs
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

As illustrated by the Triangle Shirtwaist Fire of 1911 and other tragedies, garment industry sweatshops have long been a mainstay of American work life. This report responds to your request that we determine the prevalence of sweatshops¹ in the U.S. garment industry. More specifically, you were interested in knowing whether the acknowledged “widespread existence” of sweatshops we reported on in the late 1980s had changed and, if so, you wanted to know the factors contributing to that change.² You also asked that we identify actions that the Department of Labor’s Wage and Hour Division (WHD) has taken to coordinate efforts for enforcing labor laws in garment industry sweatshops.

To answer your request, we reviewed the economic and sociological literature on the structure of the U.S. garment industry and the characteristics of sweatshop working conditions in that industry. To collect information on the prevalence of sweatshops and Labor’s coordination efforts, we interviewed over 50 experts, including academics; federal and state labor enforcement officials; representatives from local and international garment worker unions, community organizations serving immigrants, and garment industry organizations; and garment retailers, manufacturers, and contractors.

Our review focused on the garment industry centers of El Paso, Los Angeles, Miami, and New York City. We chose New York and Los Angeles because these are two of the industry’s largest production centers, according to Labor data, and because our past work focused on these areas. We chose El Paso and Miami because these are areas of rapid

¹We define a sweatshop as an employer that violates more than one federal or state labor law governing minimum wage and overtime, child labor, industrial homework, occupational safety and health, workers’ compensation, or industry registration.

²In 1988 and 1989, GAO reviewed the nature and prevalence of sweatshops in *Sweatshops in the U.S.: Opinions on Their Extent and Possible Enforcement Options* (GAO/HRD-88-130BR, Aug. 30, 1988) and *“Sweatshops” in New York City: A Local Example of a Nationwide Problem* (GAO/HRD-89-101BR, June 8, 1989).

growth in garment industry manufacturing and help to show the variation in state regulation of sweatshops. We visited three of these centers—Los Angeles, Miami, and New York City—but did not verify the data collected. These visits included accompanying WHD and state labor department enforcement officials on unannounced investigations of six garment contractor shops, where we photographed working conditions.

We conducted our work from May 1994 to October 1994 in accordance with generally accepted government auditing standards.

Results in Brief

Although national data are unavailable, the sweatshop problem in the garment industry has not improved over the last 5 years, most experts believe, primarily because of legislative, resource, and economic factors. Legislative factors include weaknesses in the Fair Labor Standards Act (FLSA) such as the lack of penalties for recordkeeping violations and other limitations of the “hot goods” provision. Regarding the resource factors, since 1989, WHD has 17 percent fewer enforcement resources for all of its regulatory objectives, 6 percent more employers to cover, and additional laws to enforce. Regarding the economic factors, experts believe that the intense price-competitive dynamics of the garment industry continue to foster a willingness among manufacturers and contractors to break labor laws.

Although Labor has acted to coordinate its enforcement efforts, legal and administrative limitations continue to constrain these actions. For example, although WHD officials say that they refer some cases to the Internal Revenue Service (IRS), they report receiving little information in return because the IRS Code generally prohibits IRS from sharing information.

WHD coordination with state labor departments varies widely, depending on the emphasis the state has placed on combating sweatshop working conditions. For example, in California, WHD and the California Department of Labor Standards Enforcement (DLSE) conduct joint investigations in the garment and agriculture industries. In contrast, WHD has established far less coordination to combat sweatshop operations with Florida and Texas, two states with less stringent labor standard legislation than the FLSA.

Since about 1992, Labor has tried to supplement its enforcement by fostering voluntary oversight of contractors by garment manufacturers. These efforts involve educating the garment manufacturers on their own

employment-related responsibilities and those of the contractors who depend on the manufacturers' production orders. WHD reports some initial success with this effort.

Background

FLSA is the federal law regulating minimum wage and overtime, as well as child labor, in the United States. WHD of the Employment Standards Administration (ESA) enforces this law through workplace inspections of employer payroll records. In the garment industry, WHD typically targets workplaces for inspection based on complaints received from workers and other sources, as well as case referrals from local, state, and other federal government agencies. Depending on the violation, WHD may assess civil monetary penalties or use injunctions and other legal actions to deter noncompliance and recover back wages owed by employers. An additional tool is FLSA's "hot goods" provision, which prohibits the production and sale of goods produced in violation of the minimum wage and overtime provisions of FLSA. The Secretary of Labor can enforce this provision by seeking injunctions stopping the employer from producing, transporting, delivering, and selling goods until employer compliance is achieved. WHD is also responsible for monitoring employer compliance with the employment verification requirements of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986.

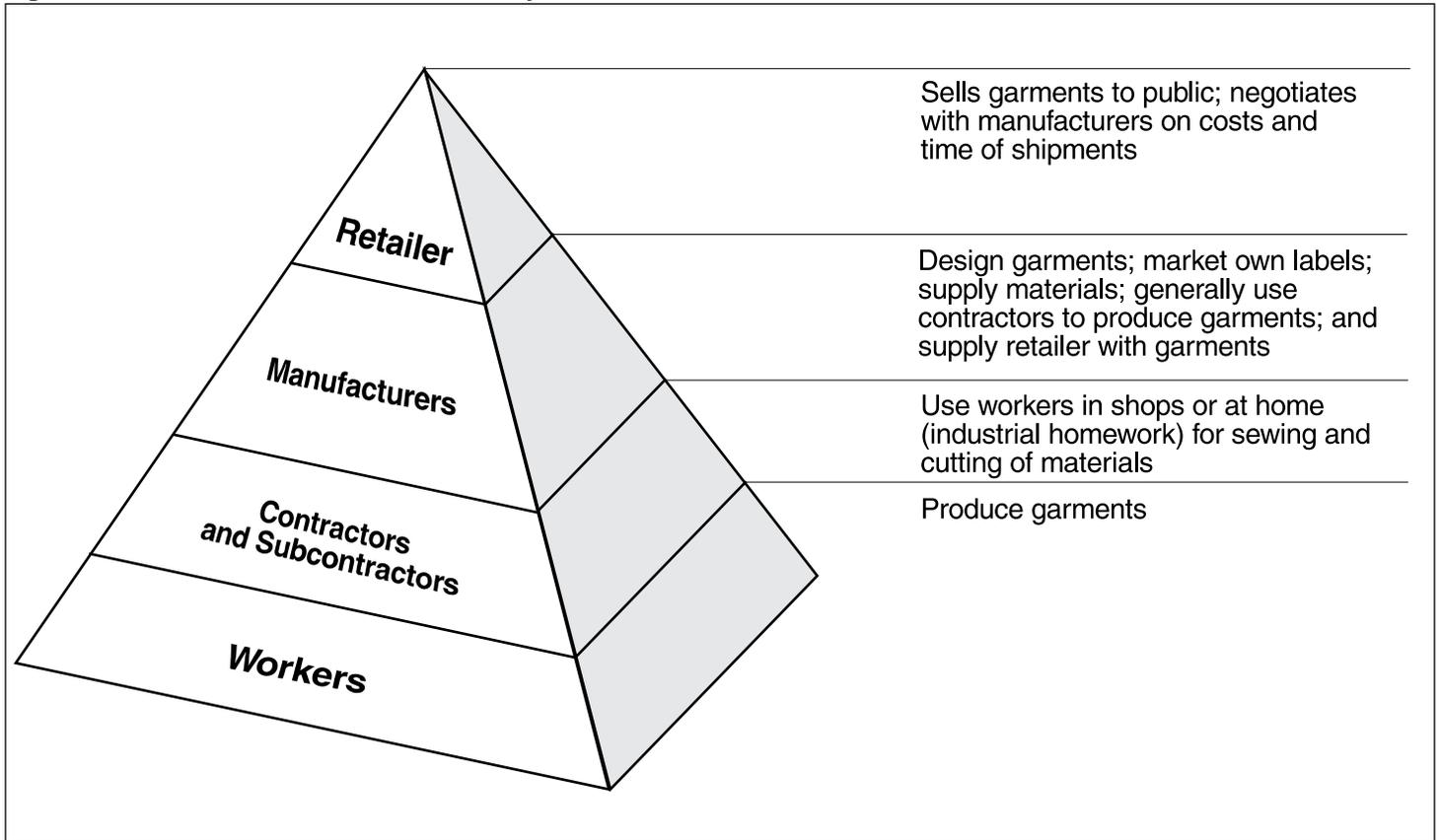
Many states also have legislation that supplements federal laws and regulations governing the payment of minimum and overtime wages, as well as the use of child labor. In addition, states generally require most employers to maintain workers' compensation insurance and to pay unemployment insurance and other state taxes. Some states require the registration of employers in particular industries, like garment manufacturing.

The garment industry, one of the largest manufacturing industries in the United States, is dominated by less than 1,000 manufacturers who parcel out production to about 20,000 contractors and subcontractors, all of whom enter and exit the industry easily. Analysts have long identified the labor-intensive U.S. garment industry as one characterized by extreme price competition, low wages, an immigrant workforce, and a vulnerability to sweatshop working conditions.

A typical garment manufacturer often has production orders with smaller contracting or subcontracting shops. These contractors may be responsible for such operations as cutting, sewing, or completely

assembling the garment. The finished work is either returned to the manufacturer or shipped directly to the retailer (see fig. 1).

Figure 1: Structure of the U.s. Garment Industry



Principal Findings

Sweatshops Have Increased in Most Major Garment Centers Reviewed

On the basis of expert opinion, garment industry sweatshop operations appear to have increased since 1989. Experts we spoke with, however, could not provide nationwide data on the number of sweatshops because of the underground nature of these workplaces.

In three of the garment centers included in our study, federal, state, and local labor law officials; academics; employers; and representatives of

union and community groups generally believe that garment sweatshops have increased since 1989. The one exception was New York City, where the Chief of the New York Apparel Industry Task Force reported that, while sweatshops remained a widespread and serious problem, the severity of the 1990-91 recession had forced many shops into bankruptcy, significantly shrinking both the number of sweatshop and nonsweatshop garment operations in the city.³ On the other hand, WHD officials in New York City believe the problem of sweatshops in the garment industry remains the same as in 1989.

In 1989, GAO reported that 4,500 of the 7,000 garment shops in New York City were sweatshops; in 1994, one expert estimates that 2,000 of the 6,000 garments shops in New York City are sweatshops. Other estimates of garment sweatshops that experts provided were 50 of 180 (El Paso); 4,500 of 5,00 (Los Angeles); and 400 of 500 (Miami).

Experts Report Deplorable Working Conditions in Garment Sweatshops

Many of the experts we spoke with believe that sweatshop working conditions in the garment industry continue to be poor or have worsened in recent years. While accompanying federal and state labor law investigators in Los Angeles and in New York City on raids of garment sweatshops, we found deplorable working conditions (see figs. 2 and 3).

³The task force in New York City provided the most precise estimate on the prevalence of sweatshops. Representatives of community groups said the number of sweatshops has increased, although they could not provide estimates.

Figure 2: Exposed Electrical Wiring and Unsanitary Bathrooms

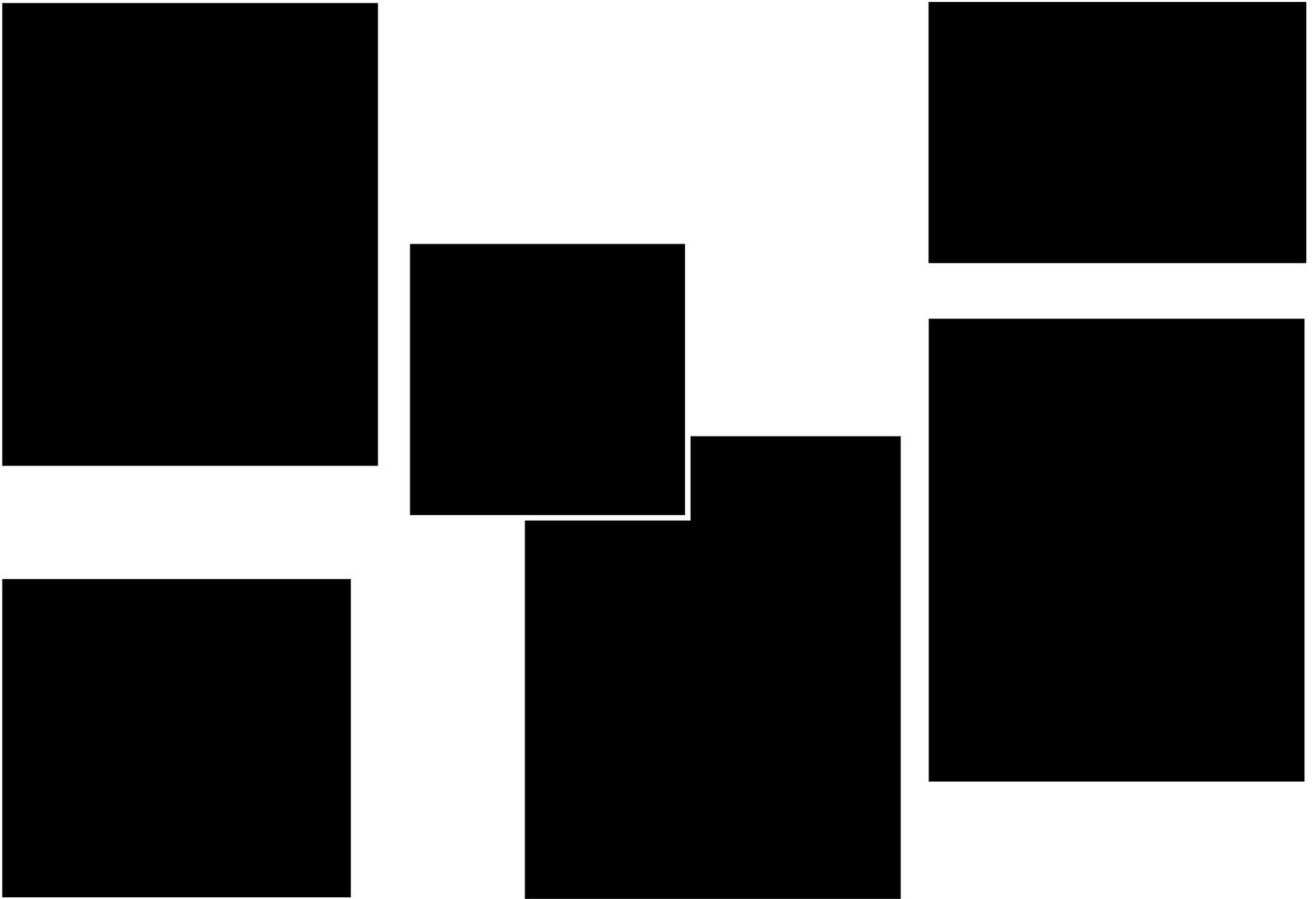
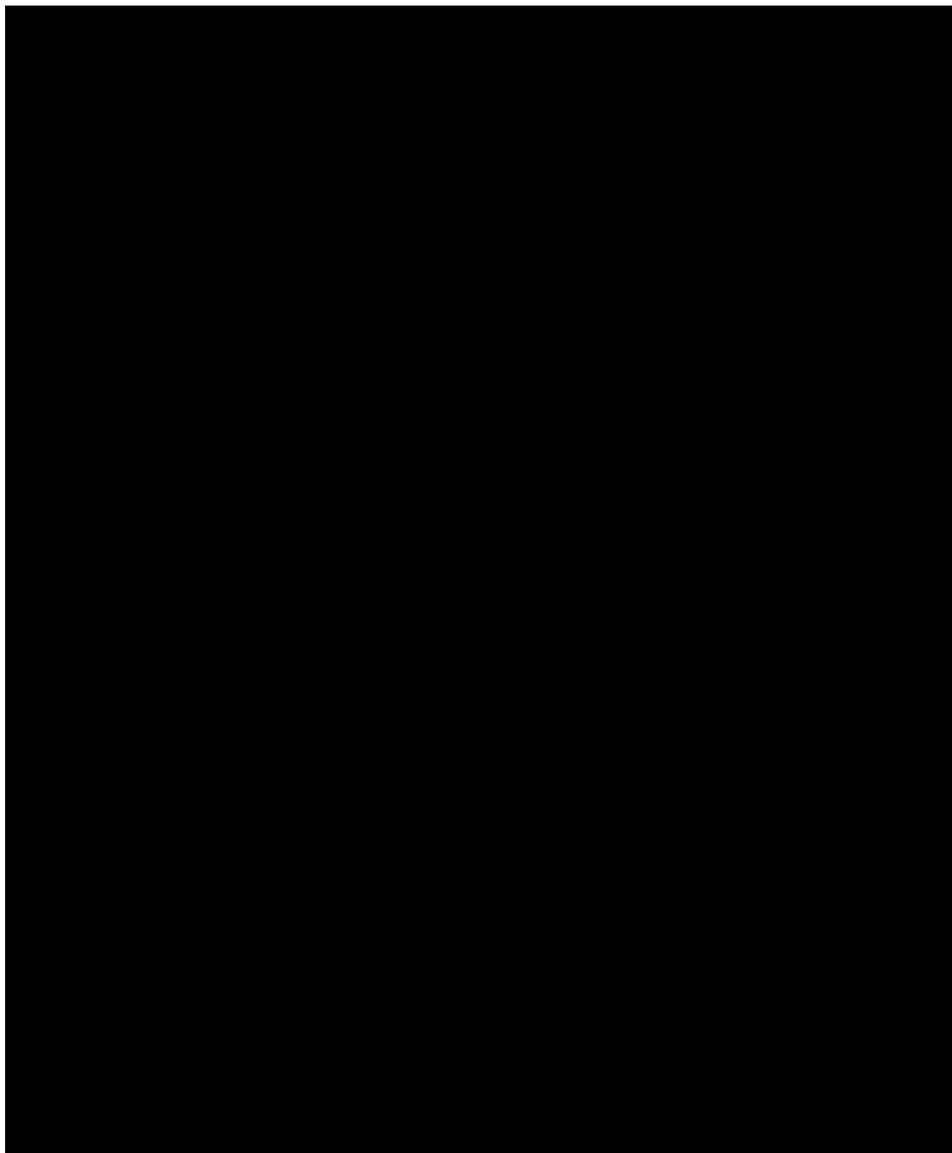


Figure 3: Lack of Machine Guards



Some of the citations for violations that federal or state officials issued included exposed electrical wiring, blocked aisles, unguarded machinery, and unsanitary bathrooms. Some experts also described the working conditions in a typical garment shop as including poor lighting, temperature control, and ventilation as well as blocked aisles. In Miami,

we found the working conditions in garment shops, while still poor, to be less severe than in New York and Los Angeles.

Labor officials in New York and Los Angeles believe the large number and severity of minimum wage and overtime violations may be related, in part, to the larger population of undocumented immigrant workers for garment manufacturing. In contrast, Labor officials in Miami and El Paso believe that because the workforce primarily comprises U.S. citizens and documented immigrants, there are fewer minimum wage and overtime violations. The Miami officials reported serious problems with workers' sewing garments in their homes (industrial homework) while officials in El Paso reported a growing problem with industrial homework.

Characteristics of Sweatshop Operations Have Changed Little

Experts believe that many characteristics of sweatshop operations, including their size, ownership, and workforce composition, have not changed significantly since 1989. Garment shops remain small in size (generally 5 to 50 workers) and operate with mostly a female immigrant workforce that is primarily Latin American with Asians in some areas. However, some experts have reported a recent influx of male workers in sweatshops in Los Angeles and El Paso.

Multiple Factors Contributing to Sweatshop Growth

Experts believe legislative, resource, and economic factors have contributed to the continued presence and growth of sweatshops in the garment industry. For example, legislatively, FLSA does not include any civil monetary penalties for recordkeeping violations.⁴ Federal and state labor law officials stated that records maintained by the employer on the workers' pay and hours of work are essential to assess whether the employer is in violation of the act's minimum wages and overtime provisions. In addition, the statute of limitations governing FLSA back-wage cases can adversely affect WHD's ability to collect all wages owed to workers.⁵

Federal and state labor law officials in New York City and Los Angeles identified another legislative weakness with FLSA's hot goods provision. Under current law, WHD must obtain a court injunction permitting

⁴Changes Needed to Deter Violations of Fair Labor Standards Act (GAO/HRD-81-60, May 28, 1981). FLSA does provide for the assessment of civil monetary penalties against willful or repeat violators of the act's overtime and minimum wage provisions and for violators of its child labor provisions.

⁵Minimum Wages and Overtime Pay: Change in Statute of Limitations Would Better Protect Employees (GAO/HRD-92-144, Sept. 22, 1992).

enforcement of the act through the confiscation of goods produced in violation of FLSA. This can be a time-consuming process, permitting the contractor to ship the illegal goods in the interim. To obtain an injunction, WHD must demonstrate in court that the contractor's violation of the act was willful—essentially, that the contractor knowingly and recklessly disregarded the law. WHD officials state that this is difficult to prove even in some cases with flagrant and repeated violations.

Regarding resource factors, since 1989, WHD has had fewer enforcement resources for all of its regulatory objectives and more employers to cover and laws to enforce. In addition, WHD has experienced a 17 percent (970 to 804) decrease in the number of investigators, while the number of estimated employers covered by FLSA increased by over 6 percent (see table 1).

Table 1: WHD Inspections, Investigators, and Covered Employers (Fiscal Years 1989-93)

Fiscal year	Wage and hour division				
	FLSA total inspections ^a	Total garment inspections ^a	Total investigators	Employers covered by FLSA	Employers for one investigator
1989	44,518	383	970	6,107,413	6,296
1990	44,477	747	938	6,175,563	6,584
1991	36,411	535	865	6,200,650	7,168
1992	36,274	556	835	6,355,666	7,612
1993	32,642	609	804	6,514,558	8,103

^aNumbers based on WHD estimates.

In addition, combating sweatshops in the garment industry is only one of WHD's many regulatory priorities, which also include protecting farm workers, working children, and workers in low-wage industries. Finally, WHD's regulatory mission was recently expanded, giving the agency enforcement responsibilities for the Family and Medical Leave Act and the Employee Polygraph Protection Act.

Regarding economic factors, many of the experts we spoke with said that the intense price-competitive dynamics of the garment industry have fostered a willingness among manufacturers and contractors to break labor laws. The low domestic start-up costs allow easy contractor entry, ensuring manufacturers a large number of contractors bidding against each other for work. This competition is further heightened by the ability of retailers and manufacturers to import low-priced garments and the

typical presence of an immigrant and primarily undocumented workforce, often with limited employment opportunities.

WHD Has Acted to Coordinate Sweatshop Enforcement

WHD has made some progress in coordinating enforcement activities in garment industry sweatshops, but problems remain. Labor's efforts are impeded because of legal and administrative limitations and the varying regulatory priorities of federal and state labor departments.

Coordination With Occupational Safety and Health Administration (OSHA)

WHD has a joint agreement with OSHA, which enforces compliance with standards promulgated under federal health and safety legislation, to cross train investigators and refer cases. OSHA and WHD compliance officers receive at least 3 days of instruction annually on each agency's operations, and WHD and OSHA refer cases on both formal and informal bases. Although experts identify garment industry sweatshops as dangerous workplaces, OSHA currently does not target garment shops for programmed health or safety inspections. This is because the Bureau of Labor Statistics (BLS) industry-level injury data used by OSHA for targeting does not identify the garment industry as a high hazard industry.⁶ Thus, OSHA has chosen to rely on an employee complaint or a reported injury, which limits the potential number of referrals it makes to WHD.⁷

Coordination With Immigration and Naturalization Service (INS)

WHD has a joint agreement with the INS to cross train investigators and refer cases. WHD and INS compliance staff periodically participate in joint training sessions. WHD investigators currently verify the employment eligibility status of workers when inspecting a worksite for FLSA violations and provide information on the results of these inspections to INS. Although WHD officials report receiving some case referrals from INS, they rarely refer cases to INS. This is because WHD officials believe that greater cooperation with INS would actually impede their own enforcement efforts by undermining worker cooperation in WHD investigations.

Coordination With IRS

In a recent report, we found that employers who do not pay federal taxes may also be violating labor laws.⁸ Currently, WHD has no agreement with

⁶BLS collects data to calculate lost workday injury (LWDI) rates. The LWDI rate is the average number of injuries that required days away from work or restricted work activity per 100 full-time workers per year.

⁷Because of the immigrant or undocumented nature of much of the sweatshop labor force, WHD and OSHA report rarely receiving complaints from workers in garment sweatshops. In addition, an annual appropriation bill rider prohibits OSHA from conducting safety inspections of most employers with 10 or fewer workers in industries with below-average injury rates, unless a worker files a complaint or an accident occurs.

⁸Tax Administration: Data on the Tax Compliance of Sweatshops (GAO/GGD-94-210FS, Sept. 23, 1994).

the IRS to cross train investigators or to refer cases. However, IRS is starting to develop its enforcement efforts around certain market segments, particularly types of taxpayers or businesses. Although WHD officials say that they do refer some cases to IRS, they also report receiving little information in return. This is because the IRS Code generally limits sharing information with federal agencies for enforcement purposes. Federal agencies can get very limited information, such as company addresses, when cases involve assessed penalties. However, many WHD cases do not involve such penalties.

Coordination With State Labor Departments

We found that WHD coordination with state labor departments varied widely, depending on the emphasis the state placed on combating sweatshop working conditions. California and New York, two states that have state minimum wage and overtime laws, large garment industries, and state labor departments, have identified garment industry sweatshops as a regulatory priority. These states also have established coordinated enforcement efforts with WHD during the last few years. In California, WHD and the DLSE conduct joint investigations in the garment and agricultural industries. In New York, WHD and the New York Apparel Industry Task Force conduct separate investigations but share the results with each other.

This cooperation also extends to the cross referral of cases to take advantage of the different strengths of the state and federal laws to best serve the needs of the workers. For example, in New York, state labor enforcement officials often pursue large back-wage cases because officials have a greater chance of success in state court than WHD has in federal court in cases in which the employer declares bankruptcy. However, New York state does not have a hot goods provision, so New York may refer such cases to WHD for action.

In contrast, WHD has coordinated far less with the Florida and Texas state labor agencies, two states with less stringent labor standard legislation than the FLSA.⁹ For example, WHD officials in Florida reported that they have an informal agreement to coordinate with the Florida State Workers' Compensation Bureau.¹⁰ WHD officials in Texas have no formal agreement

⁹Florida does not have any state minimum wage or overtime laws. Texas does not have any overtime laws, and its hourly minimum wage rate of \$3.35 is below the minimum federal rate of \$4.25 an hour. In addition, workers' compensation insurance coverage is voluntary in Texas.

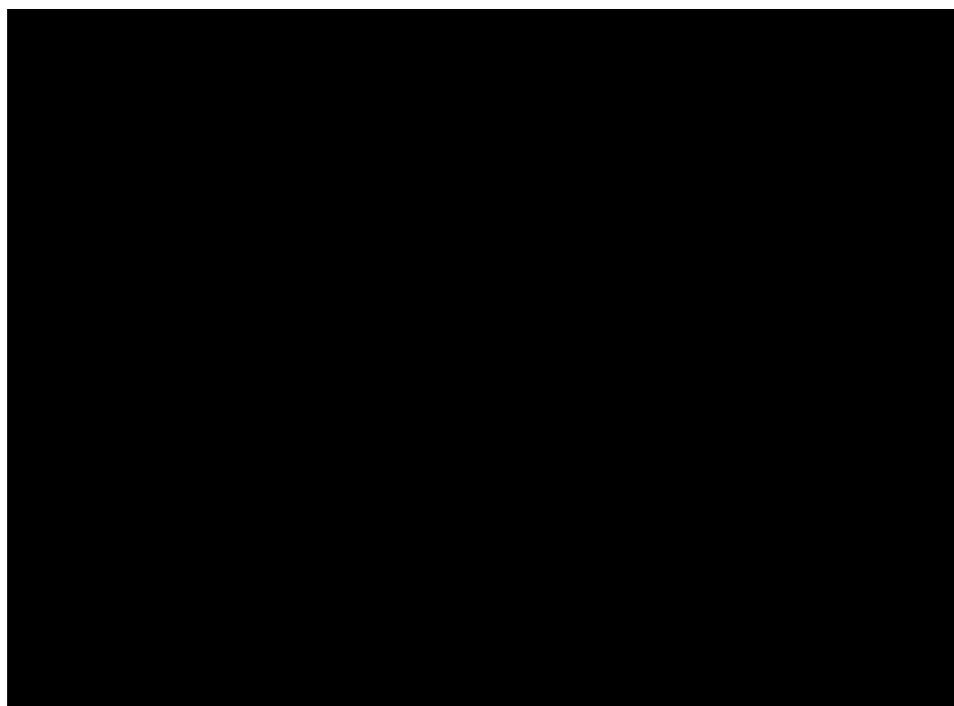
¹⁰The Florida Workers' Compensation Bureau collects information on garment industry and other employers who do not pay for mandatory workers' compensation coverage for their workers.

with the Bureau of the Texas State Employment Commission, but they do coordinate informally with the state's Last Payday and Child Labor Units.

Coordination With Garment Manufacturers

Under current law, manufacturers are not liable for the back wages owed by their contractors to employees even in cases where the contractor has gone out of business. To address this and other compliance deficiencies, since March 1992, WHD has begun working with garment industry manufacturers to raise the level of voluntary compliance with federal labor laws. Manufacturers have quality control representatives who visit the garment shops regularly to check on the production of their garments (see fig. 4).

Figure 4: Manufacturer's Quality Control Representative Overseeing Contractor's Work



WHD efforts involve educating the garment manufacturers on their own employment-related responsibilities and those of the contractors who depend on the manufacturers' production orders.

WHD has achieved some initial success with this effort. For example, one Los Angeles manufacturer has established a compliance division to audit

its contractors to ensure compliance with federal and state labor laws. Other manufacturers have hired consultants to monitor their contractors' compliance with labor laws. These consultants conduct compliance training programs that all the manufacturers' contractors must attend; these consultants also conduct compliance investigations of the contractors' workplaces and wage records. Contractors who refuse to comply with labor laws, one expert said, are requested to do so by the consultant; contractors' failure to comply results in the notification of the manufacturer and possible loss of the contracts. WHD offices in Dallas and San Francisco have also had success with this strategy.

To the extent that these voluntary efforts are successful, WHD will be able to reallocate enforcement resources to other agency priorities. However, economic incentives continue to exist for manufacturers to maintain lax or no oversight of their contractors' compliance with labor standards. In this regard, manufacturers benefit when contractors offer lower bids for work, even though the lower bids are predicated on the contractors' violation of minimum wage and overtime provisions. Aware of these incentives, WHD officials told us that they recognize that, should these voluntary efforts fail, legislative action may be needed to better protect garment workers from exploitation.

Conclusions

Sweatshop working conditions remain a major problem in the U.S. garment industry, according to the experts contacted. They say working conditions, in many cases, have worsened over the last few years. In general, the description of today's sweatshops differs little from that at the turn of the century.

Labor has made some progress in coordinating labor law enforcement to combat the sweatshop growth in the garment industry. But improved coordination continues to face a variety of impediments. Some of these stem from existing legislative and administrative constraints on OSHA and IRS. Further, although WHD has achieved some coordination successes with those states that emphasize labor law enforcement such as California and New York, the potential for such coordination appears far less with states with less vigorous labor enforcement efforts such as Florida and Texas. WHD also continues to face a huge and expanding regulatory mandate as its enforcement resources, as measured in compliance officers, continue to decline.

We applaud WHD's recent efforts to work with garment industry manufacturers to foster voluntary compliance of their contractors with federal and state labor laws. Such efforts minimize regulation and permit WHD to better allocate its scarce enforcement resources. Nevertheless, these manufacturers also benefit when contractors can offer lower bids for work because these contractors will later owe back wages to their workers in violation of minimum wage and overtime provisions. WHD recognizes that should these voluntary efforts fail, legislative action, such as making manufacturers jointly liable for back wages owed by bankrupt contractors, may be needed to better protect garment workers from exploitation.

As requested by your office, we did not obtain written agency comments on this report; however, we discussed its contents with WHD and OSHA officials. As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 7 days from the date of this letter. At that time, we will send copies to the Secretary of Labor; the Attorney General of the United States; federal and state officials in California, Florida, New York, and Texas; and other interested parties. Major contributors to this report are listed in appendix I.

Sincerely yours,

A handwritten signature in cursive script that reads "Linda G. Morra".

Linda G. Morra, Director
Education and
Employment Issues

GAO Contacts and Staff Acknowledgments

GAO Contacts

Linda Stokes, Evaluator-in-Charge, (202) 512-7040
Charles Jeszeck, Assistant Director, (202) 512-7036
Cheryl Gordon
Patrice Hogan

Acknowledgments

In addition to those named above, the following individuals made important contributions to this report: Ann McDermott served as the photographer and publishing advisor; Laurel Rabin was the editor on the assignment.

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