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United States General Accounting Office

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

June 1989

“SWEATSHOPS” IN NEW YORK CITY

A Local Example of a Nationwide Problem



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

Human Resources Division

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June 8, 1989

The Honorable Charles E. Schumer
House of Representatives

Dear Mr. Schumer:

In response to your request that we study the sweatshop problem in the United States, we issued the first of two briefing reports ("Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options, GAO/HRD-88-130BR) in August 1988. That report provided a nationwide description of (1) the extent and nature of sweatshops and (2) federal, state, and local efforts to regulate them. It also identified policy options that might help control the problem. This briefing report parallels our 1988 report, illustrating the sweatshop problem and efforts to control it in the apparel and restaurant industries of New York City. It summarizes information presented in our April 26, 1989, briefing to your office.

To obtain this information, we surveyed officials in federal, state, and local agencies with jurisdiction over labor laws that affect sweatshops in New York City. We interviewed them about sweatshops, their agencies' enforcement efforts, and their views of the policy options presented in our August briefing report, and we analyzed inspection data they provided. We also visited selected apparel and restaurant establishments and interviewed a limited number of employers.

Because sweatshops are not defined in federal law, we developed a definition in cooperation with your staff. We defined a sweatshop as a business that regularly violates both wage or child labor and safety or health laws.

Sweatshops Exist
Throughout New York
City

The opinions of federal, state, and local officials and our analysis of inspection data indicate that sweatshops are a widespread problem in New York City's apparel industry and may be a problem in the restaurant industry as well.

The officials we interviewed said that sweatshops in the apparel industry are a serious problem that, in their opinion, has not improved or has become worse over the last decade. The officials also said these sweatshops are located throughout the city. Although they could cite no evidence to quantify the extent of the problem, their opinions were based on their experiences as enforcers of a wide variety of laws that affect working conditions in New York City. The most credible estimate of the

number of sweatshops came from a senior official of the New York State Labor Department who said that about 7,000 apparel firms operate in the city, and about 4,500 of them are sweatshops by our definition, employing more than 50,000 workers.¹

In comparison, opinions were mixed regarding whether sweatshops were a problem in the restaurant industry. Several officials thought they were a serious problem, while others believed that restaurants frequently violate wage or safety and health standards, but the officials were uncertain as to how often these violations occurred in combination.

Using inspection data to quantify the extent of the problem of multiple labor law violators requires that locations be inspected by more than one enforcement agency. This was seldom done, however, by federal agencies. For example, over a 5-year period (fiscal years 1984-88) only two firms were inspected by both the Department of Labor's Wage and Hour Division and its Occupational Safety and Health Administration (OSHA). However, by using federal, state, and local inspection data, we were able to find locations that had been inspected by more than one agency, and analysis of those inspection results identified multiple labor law violators in both the apparel and restaurant industries.

In the apparel industry, 41 firms had been cited for violation of both state labor laws and city fire ordinances. These firms were part of the 73 referrals to the city fire department by the state's Apparel Industry Task Force out of the approximately 1,600 inspections it conducted in 1988. The task force director expects the referral rate to be higher in the future because inspectors have begun receiving training in recognizing safety hazards.

In the restaurant industry, we found 55 restaurants that violated both federal wage laws and city health or fire codes. These multiple violators were identified by comparing a list of 145 establishments found in violation of federal wage and hour statutes during fiscal years 1986-88 with a list of 341 violators identified by city health and fire departments during this same period.

¹This official is director of the Apparel Industry Task Force, which assesses apparel manufacturing firms' compliance with the state's registration and labor laws and refers possible violations to local health, fire and building departments.

Factors Limiting Enforcement Efforts Nationwide Also Limit Them in New York City

In New York City, as in the United States generally, we found three factors that may limit efforts to regulate multiple labor law violators: insufficient staff resources, inadequate penalties for violations of federal wage and hour statutes, and limited coordination among enforcement agencies.

First, federal, state, and local officials in the New York area agreed with those in our nationwide survey who said that enforcement is limited by the lack of staff resources and competing inspection priorities. For example, they cited the relatively small number of federal safety and health compliance officers—35 inspectors covering about 200,000 businesses in the city. As a result of limited staff resources, OSHA targets inspections to larger firms in hazardous industries rather than to apparel manufacturing and restaurant establishments, which generally employ fewer workers and are less hazardous than those in construction and some manufacturing industries.

Second, some federal officials in New York City reiterated a point made by federal officials nationwide—that penalties under the Fair Labor Standards Act provide an insufficient deterrent. For example, these officials commented that employers in the apparel and restaurant industries frequently violate recordkeeping standards of the act—for which there are no civil monetary penalties—and these violations severely limit inspectors' ability to detect underpayments. It is for this reason that we recommended in 1981 that the act be amended to provide such penalties.

Finally, in the past, enforcement agencies put little emphasis on joint referral of potential violators and seldom engaged in joint enforcement efforts. For example, OSHA and Wage and Hour officials in New York reported that their staffs infrequently referred potential violators to each other before 1988, and referrals between OSHA and the Immigration and Naturalization Service (INS) were rare. State and local agencies in New York City also exchanged information infrequently among themselves and with federal agencies.

Officials Support Increased Coordination as a Way to Help Control Sweatshops

In our 1988 report, we suggested that closer working relationships among enforcement agencies might enhance the regulation of sweatshops without placing a severe burden on scarce enforcement resources. Our more recent work in New York City showed that some federal, state, and local agencies in the area have made efforts to establish closer working relationships through referrals and joint enforcement efforts,

and agency officials believe such actions can be helpful in reducing the problem.

Federal actions since our 1988 report have focused on encouraging referrals between OSHA and Wage and Hour inspectors, nationwide as well as in the New York City area. The Wage and Hour Division has also urged its other regional offices to adopt an agreement similar to one established in the New York region. In that agreement, Wage and Hour and OSHA are establishing a referral system and training to help inspectors identify situations that warrant referral.

The New York State Labor Department has also taken actions which include establishment of the Apparel Industry Task Force to focus on multiple labor law violators.

Additional cooperative efforts that might further enhance enforcement activities were also identified in our review, but we did not fully analyze their merit. For example, the Wage and Hour Division might place a greater emphasis on referring suspected safety and health violations in the restaurant industry to the city health department and fire hazards in apparel firms to the city fire department.

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, INS, and New York State 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 30 days from its issue date. At that time, we will send copies to the Secretary of Labor, the Attorney General, the Governor of New York State, the Mayor of New York City, and other interested parties. The major contributors to this report are shown in appendix III.

Sincerely yours,



William J. Gainer
Director of Education
and Employment Issues

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Abbreviations

| | |
|------|---|
| 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 |
| STEP | Special Targeted Enforcement Programs |
| WHD | Wage and Hour Division |

“Sweatshops” in New York City: A Local Example of a Nationwide Problem

Background

Numerous newspaper articles in the last few years have reported a widespread and growing problem with sweatshops in New York City, citing working conditions that rival those of sweatshops that existed nearly a century ago. Sweatshop employers are frequently said to pay their immigrant workers between \$2.00 and \$2.50 an hour for a 12-hour day. This is far less than the \$3.35 legal minimum wage. Journalistic accounts of safety and health hazards in apparel shops include reports of overcrowded rooms with poor ventilation, stairways in disrepair, unsanitary bathrooms, children playing near dangerous cutting machines, and workers preparing food next to their machines and eating from plates on littered floors.

Perhaps even more serious are the reports of school-age children operating sewing machines and clothes presses—in violation of child labor laws—to speed production or increase the low wages received by their mothers. (See fig. 1.) The following is a reporter's account of what he observed during an inspection conducted by New York's Apparel Industry Task Force in January 1989.

“On the 12th floor of 333 West 39th street, [a 15-year-old boy] works in conditions considered barbaric half a century ago. [He] could be found by his table . . . sewing pleats into cheap white chiffon skirts. He hopes to make \$1.00 an hour, even as winter winds swirl through a picture-window-size hole in the back wall and take all feeling from his fingers.

“The temperature inside is 8 degrees. Fluffy blue ear muffs frame this Mexican immigrant's face and he wears a thin cloth jacket, slacks, scuffed loafers and a scared look. “I can't lose my job,” [the boy] pleads in a monotone whisper in Spanish to an inspector from the state Department of Labor. “We have no money.””¹

Commenting on the working conditions, a task force investigator said a shop like this one is so cold that the workers could run their fingers under the cutter and not even know it.

¹Michael Powell. “Babes In Toil-Land: Child Labor and the City's Sweatshops.” New York Newsday, January 8, 1989, p. 3.

"Sweatshops" in New York City a Local
Example of a Nationwide Problem

Figure 1: Illegally Employed Minor in
Subfreezing Factory Loft



(Source: Ken Sawchuk, for New York Newsday)

"Sweatshops" in New York City a Local
Example of a Nationwide Problem

Figure 2: Restaurants in Chinatown



Oppressive working conditions are also reported to be prevalent in the restaurant industry of the city. (See fig. 2.) One reporter made the following observation:

"In the restaurants of Chinatown, most waiters and waitresses work twelve hours a day, six days a week, and receive only \$200.00 a month, counting on tips to survive. They are not covered by health insurance, have no paid holidays and work under unsafe, hazardous conditions."²

²Peter Kwong and JoAnn Lum. "Hard Labor in Chinatown: How the Other Half Lives Now," The Nation, June 18, 1988, p. 858.

Figure 3:

GAO Comparison of two New York Industries

| | <u>Apparel</u> | <u>Restaurant</u> |
|---------------------------------|--|--|
| Establishments | • 5,000 to 7,000 | • 10,466 |
| Major locations | <ul style="list-style-type: none"> • Manhattan, 3,600 • Queens, 469 • Brooklyn, 746 | <ul style="list-style-type: none"> • Manhattan, 5,400 • Queens, 2,069 • Brooklyn, 1,788 |
| Employment (1977-1987) | • Declined from 153,000 to 105,000 | • Increased from 106,000 to 131,000 |
| Size of establishments | • 49 % employ 9 or fewer workers | • 74 % employ 9 or fewer workers |
| Work-force | • Hispanic and Asians "about one-third" | • Hispanic and Asians "about one-third" |
| Organizational structure | • Heavily unionized | • Some union presence |

The Apparel and Restaurant Industries of New York City

Two industries featured in journalistic accounts of sweatshops in New York City are apparel manufacturing and restaurants. They are described in appendix I and compared, in summary, in figure 3.

The Department of Commerce's 1985 County Business Patterns reported 5,023 apparel firms and 10,466 eating and drinking establishments operating in New York City. Of the apparel firms, 3,600 were located in Manhattan and over 1,200 were in Brooklyn and Queens. Of the restaurants, about 5,400 were located in Manhattan and about 4,000 were in Brooklyn and Queens. A more recent estimate of the number of apparel firms came from the director of the New York state Apparel Industry Task Force. His estimate of 7,000 shops is based on the combination of (1)

4,191 establishments that manufactured women's, children's, and infant's apparel that had registered with the state as of December 31, 1988 and (2) his estimate of about 3,000 other establishments that either were unregistered or manufactured other apparel. Both industries tend to be dominated by small businesses. For example, 49 percent of the apparel firms and 74 percent of the restaurants in New York City employ 9 or fewer workers.

Over the last decade employment in the apparel industry has declined dramatically, while in the restaurant industry it has increased. In 1987, employment in the apparel industry stood at 105,000—down sharply from about 153,000 in 1977. Foreign competition and high labor costs are said to have forced several apparel manufacturing firms to move their operations overseas or to other less expensive areas of the country. In contrast, employment in the restaurant industry rose from 106,000 in 1977 to 131,000 in 1987. The overall growth of the industry is generally attributed to the increased number of fast food and ethnic restaurants.

The foreign born, including recently arrived Hispanic and Asian immigrants, constitute a large segment of the work force in both industries. According to a New York City Planning Analysis of 1980 census data, post-1965 immigrants comprised 36 percent of apparel industry employees and about one-third of the employees in the restaurant industry. In addition, Chinese and other newcomers are so heavily involved in the restaurant industry that over 60 percent of the city's eating places are immigrant owned.³

Some studies we reviewed indicated that many of these immigrants lack documents authorizing them to work in the United States. Between March 1988 and February 1989, INS apprehended 115 undocumented workers in 33 establishments in New York City and about 60 percent of them were employed in the apparel and restaurant industries. Thirty-three apparel and restaurant owners were fined a total of \$291,000 for knowingly hiring undocumented workers. (See fig. 4.)

Although precise figures are unavailable, a significant proportion of the workers in apparel industry shops that are reported to the New York State Labor Department are represented by various locals of the International Ladies' Garment Workers Union and the Amalgamated Clothing

³Roger D. Waldinger. *Through the Eye of the Needle: Immigrants and Enterprise in New York's Garment Trades*. New York: New York University Press, 1986.

**"Sweatshops" in New York City a Local
Example of a Nationwide Problem**

Figure 4: Employee Said to Lack Papers Authorizing Work



(Source: Ozier Muhammad, for New York Newsday)

and Textile Workers Union. In contrast, only a small segment of the restaurant work force is unionized.

**Enforcement of Wage,
Safety, and Health
Standards in New York
City**

Current federal legislation most relevant to controlling working conditions in sweatshops or the supply of workers vulnerable to such abuse includes the Fair Labor Standards Act of 1938 (FLSA), the Occupational Safety and Health Act of 1970, and the Immigration Reform and Control Act of 1986 (IRCA). In combination, these acts and applicable regulations set standards regulating wages and hours of work for both adults and children; workplace safety and health; records of wages, hours worked, and injuries and illnesses that must be maintained by employers; and employers' responsibility to employ only persons authorized to work in this country. These federal requirements are enforced by the Department of Labor's Wage and Hour Division (WHD) of the Employment Standards Administration and the Occupational Safety and Health Administration (OSHA) and by the Immigration and Naturalization Service (INS) within the Department of Justice.

Figure 5 shows the federal agencies with responsibility for enforcement of federal legislation. In addition, it shows the New York state and local enforcement agencies with responsibilities applicable to working conditions. Appendix II also provides a more detailed description of relevant laws and enforcement activities.

New York state has enacted numerous labor laws, including those that set standards for minimum wages, hours worked, child labor, record-keeping, industrial homework, and wage claims. These are enforced by the state labor department. Also, to address the sweatshop abuses in the garment industry, in 1987 the state established within the labor department the Apparel Industry Task Force which enforces the state's labor laws and refers matters concerning worker safety to the New York City fire, health, and building departments. Also, the state Office of the Attorney General's Bureau of Labor enforces the state's labor laws through sanctions, which include criminal prosecutions.

Within New York City, local agencies, such as building permit, fire, and public health department inspection programs, have responsibility for various safety and health related matters.

Figure 5:

GAO Enforcement Responsibilities

-
- | | |
|---------|---|
| Federal | <ul style="list-style-type: none">• Wage & Hour (Labor)• OSHA (Labor)• INS (Justice) |
| State | <ul style="list-style-type: none">• Labor Department; includes Apparel Industry Task Force• Office of Attorney General |
| Local | <ul style="list-style-type: none">• Building Code Department• Fire Department• Health Department |

Objectives, Scope, and Methodology

Prompted by reports of sweatshops in New York City and around the country, Congressman Charles E. Schumer asked us to study the problem of sweatshops in the United States and enforcement efforts to control them. In August 1988, we issued a briefing report presenting a nationwide perspective on the extent and nature of sweatshops and governmental efforts to control them.⁴ We also identified policy options that might enhance enforcement efforts to regulate sweatshops.

⁴"Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options (GAO HRD-88-130BR, Aug. 30, 1988).

Mr. Schumer also asked us to issue a second report that would focus in more detail on sweatshops and enforcement efforts to control them in New York City. Our study objectives are shown in figure 6. New York City was selected to illustrate multiple labor law violators and enforcement efforts because of the city's immigrant workforce and media coverage of problems there.

We selected the apparel industry for two reasons. First, the literature we reviewed documented the prevalence of the sweatshop problem historically in the industry in New York City. Second, discussions with experts and agency officials suggested a strong likelihood that employers in New York City's apparel industry continue to subject workers to sweatshop conditions. Our selection of the restaurant industry was made on the basis of discussions with experts and was influenced in large measure by the high percentage of legal and illegal immigrants employed there.

To accomplish our study objectives we used the working definition of sweatshop we had developed during the first review because the term is not defined in federal statute or regulation. We discussed and reached an agreement with Congressman Schumer's office on the use of the definition shown in figure 7. That definition was developed by reviewing the literature and consulting with experts, including the state government officials who helped us to develop a mail questionnaire. We occasionally used the terms "chronic labor law violator" or "multiple labor law violator" to be synonymous with "sweatshop" because the state officials indicated that they were less value-laden but still reflected the combination of wage and safety and health violations. Although there has been concern about the extent to which employers in the apparel industry require or allow workers to do work in their homes, which is illegal in some sectors of the apparel industry, our study did not address the issue of homework.

The methodology we used is presented in figure 8. Information regarding the extent and nature of sweatshops and enforcement efforts to control them in New York City was collected in two stages. First, we used the results of our previous surveys of four representatives of the New York regional offices of WHD, OSHA, INS, and the state labor department to provide opinions about the sweatshop problem and enforcement efforts in New York City. The surveys asked questions regarding (1) industries having a serious problem with sweatshops in their state, region, or district, (2) enforcement activities in the two industries, and (3)

Figure 6:

GAO Objectives

- Describe
 - Extent & nature of sweatshops
 - in New York City
 - in apparel shops & restaurants

- Identify
 - Relevant federal, state, and local enforcement efforts
 - Enforcement actions likely to reduce number of sweatshops

approaches that might reduce the number of sweatshops. These surveys were conducted between January and May 1988. Second, we interviewed the same enforcement officials along with four other state and local officials between January and February 1989, to determine whether they perceived any change in the problem, to update enforcement activities, and to obtain information not previously collected. Six of these eight officials provided information about both the apparel and restaurant industries. One (from the Apparel Industry Task Force) discussed only apparel manufacturing, and another (from the city health department) discussed only restaurants.

Figure 7:

GAO Definition of "Sweatshop"

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:

Homework

In addition, we interviewed several experts to obtain their opinions about the extent and nature of sweatshops and reasons for their existence. These experts had all conducted studies that relate to aspects of sweatshop employment and worker exploitation.

To illustrate working conditions, we visited, between April 1988 and February 1989, 10 apparel shops and 5 restaurants found in violation of multiple labor laws. The 10 apparel shops were identified by the state Apparel Industry Task Force and the city fire department as violators of state labor laws and city fire ordinances in 1988. The five restaurants we visited had all been cited for violations by the federal Wage and

Figure 8:

GAO Methodology

- Surveyed:
- Regional WHD, OSHA, and INS Officials
 - Senior Mgr. NY state DOL
- Interviewed:
- Federal, state, local officials
 - Experts
- Visited sweatshops:
- Apparel shops and restaurants
- Analyzed:
- Federal, state, and local inspection data

Hour Division and either the city health or fire department. These establishments were located primarily in Manhattan, with a few in Brooklyn. We selected these establishments because they were dispersed throughout the city and had wage and safety or health violations or both.

Obtaining interviews with employers was extremely difficult. Only 2 of the 15 owners or managers agreed to talk with us and let us tour establishments to observe working conditions. Both of them owned garment shops. The other owners were either unavailable at the time of our initial and subsequent visits or refused to be interviewed.

We also accompanied a health department inspector on three restaurant inspections in March 1989, although we had no information regarding wage violations in these establishments. With the permission of all three owners, we were allowed to tour, observe, and photograph the working conditions in these establishments.

Our analysis of inspection data relevant to the enforcement activities of WHD, OSHA, and the state labor department provided information on (1) the agencies' overall enforcement activities, (2) the number of inspections relative to the total number of apparel manufacturing establishments and restaurants, and (3) the frequency with which WHD and OSHA regional offices inspected the same establishment within the apparel and restaurant industries. In addition, we matched inspection data bases to determine the number of multiple labor law violators identified between fiscal years 1986 and 1988. These analyses identified (1) apparel shops found in violation by both the state's apparel task force and the city fire department and (2) restaurants found in violation by both WHD and the city health department.

Sweatshops Exist Throughout New York City

Our information regarding the extent and nature of the sweatshop problem in New York City comes primarily from three sources. First, we present the opinions of seven senior officials representing federal, state, and local enforcement agencies in New York. We considered these officials to be in the best position to make informed opinions about the extent and nature of sweatshops in the city because of their experiences as enforcers of laws that affect working conditions in sweatshops.

Second, our analysis of inspection data provides several illustrations of sweatshops in the apparel and restaurant industries of New York City. Although our findings are not projectable to the universe of establishments in the apparel and restaurant industries of the city, they clearly demonstrate the presence of sweatshops and the kinds of multiple labor law violations that exist in both industries.

Third, we describe some of our visits to apparel shops and restaurants. They illustrate some of the working conditions in both industries and provide a closer look at the problem.

A summary of our findings regarding the extent and nature of sweatshops in the apparel and restaurant industries of New York City is shown in figure 9.

Figure 9:

GAO Sweatshop Problem in New York City

| | |
|------------------------------------|---|
| Extent of problem | <ul style="list-style-type: none">• Apparel: serious• Restaurant: possibly serious |
| Estimates | <ul style="list-style-type: none">• Apparel: 4,500 shops with more than 50,000 workers¹• Restaurant: no estimate |
| Severity of problem, last 10 years | <ul style="list-style-type: none">• Said to be unchanged or worse |
| Location | <ul style="list-style-type: none">• Thought to be throughout NYC |
| Violations found | <ul style="list-style-type: none">• Apparel: wage, child labor, homework, registration, and safety• Restaurants: minimum wage, overtime, and safety/health |

¹ Reported by the Director of New York State's Department of Labor
Apparel Industry Task Force

Enforcement Officials' Opinions About Chronic Labor Law Violators

All seven of the federal, state, and local enforcement officials we interviewed said sweatshops are a serious problem in the apparel industry, and most believed that the problem is widespread throughout the city. For example, the director of the state's Apparel Industry Task Force commented that garment sweatshops are spread out across the city in locations that include (1) the Garment District and Chinatown in Manhattan; (2) Jamaica, Flushing, Richmond Hall, and Long Island City in Queens; (3) Sunset Park and Borough Park in Brooklyn; and (4) areas within the Bronx. The director added that he could send task force investigators into any of these areas and "keep them busy for several weeks."

Enforcement officials were less certain about the restaurant industry. Four of the seven officials said the industry is having serious problems with sweatshops, and the problem extends throughout New York. For example, a senior official of the state Attorney General's Office said both labor and safety and health violations are prevalent throughout the industry. Others thought there were either wage violations or safety and health violations but were unsure how often both kinds of violations occurred in the same establishments.

Commenting on the relative severity of the sweatshop problem over the last 10 years in the apparel and restaurant industries, officials thought it had remained about the same or had become worse. Three officials believed that the severity of sweatshop activity in the apparel industry had remained the same over the last decade and two felt that the problem had become more severe. The severity of the problem in the restaurant industry had remained unchanged, according to two officials.

None of the officials we spoke with could provide an estimate on the number of sweatshops in the restaurant industry. Numerous estimates have been made, however, of the number of sweatshops in the apparel industry. Over the last 20 years, those estimates have ranged between 200 in the early 1970s to as many as 5,000 in 1989. These estimates appear periodically in the press and are attributed to labor department or union sources or both. However, when we contacted these sources they could not verify the estimates. According to the most frequently cited estimates, there are about 3,000 sweatshops operating in New York City, employing more than 50,000 employees. This estimate has been refuted by some experts as generally being too high. However, through its constant use in the press, at public forums, and at congressional hearings, the estimate has become well known.

In our opinion, the most credible estimate of the number of sweatshops and people working in them was from the director of the state's Apparel Industry Task Force. The official estimated that about 7,000 apparel firms operate in the city and about 4,500, 64 percent, of them are sweatshops employing over 50,000 workers. He believes that 1,200 of the 4,500 sweatshops are operating illegally, meaning they have not complied with the requirement for apparel manufacturers to register with the state. The remaining 3,300 firms are registered with the state but still are multiple labor law violators.

**Sweatshops Identified
Throughout the City
Illustrate Their Presence**

Our analysis of federal, state, and local inspection data illustrates some of the multiple labor law violators in the apparel and restaurant industries in New York City even though the available data were inadequate for us to develop projectable estimates of the scope of the problem. Relying on federal inspection data alone to quantify the extent of the problem of multiple labor law violators is generally unproductive because so few locations are inspected by more than one federal enforcement agency. For example, over the entire 5-year period of fiscal years 1984-88, only one apparel shop and one restaurant were inspected by both WHD and OSHA. By using a combination of federal, state, and local data, however, we were able to make comparisons that confirmed the presence of multiple labor law violators in both industries.

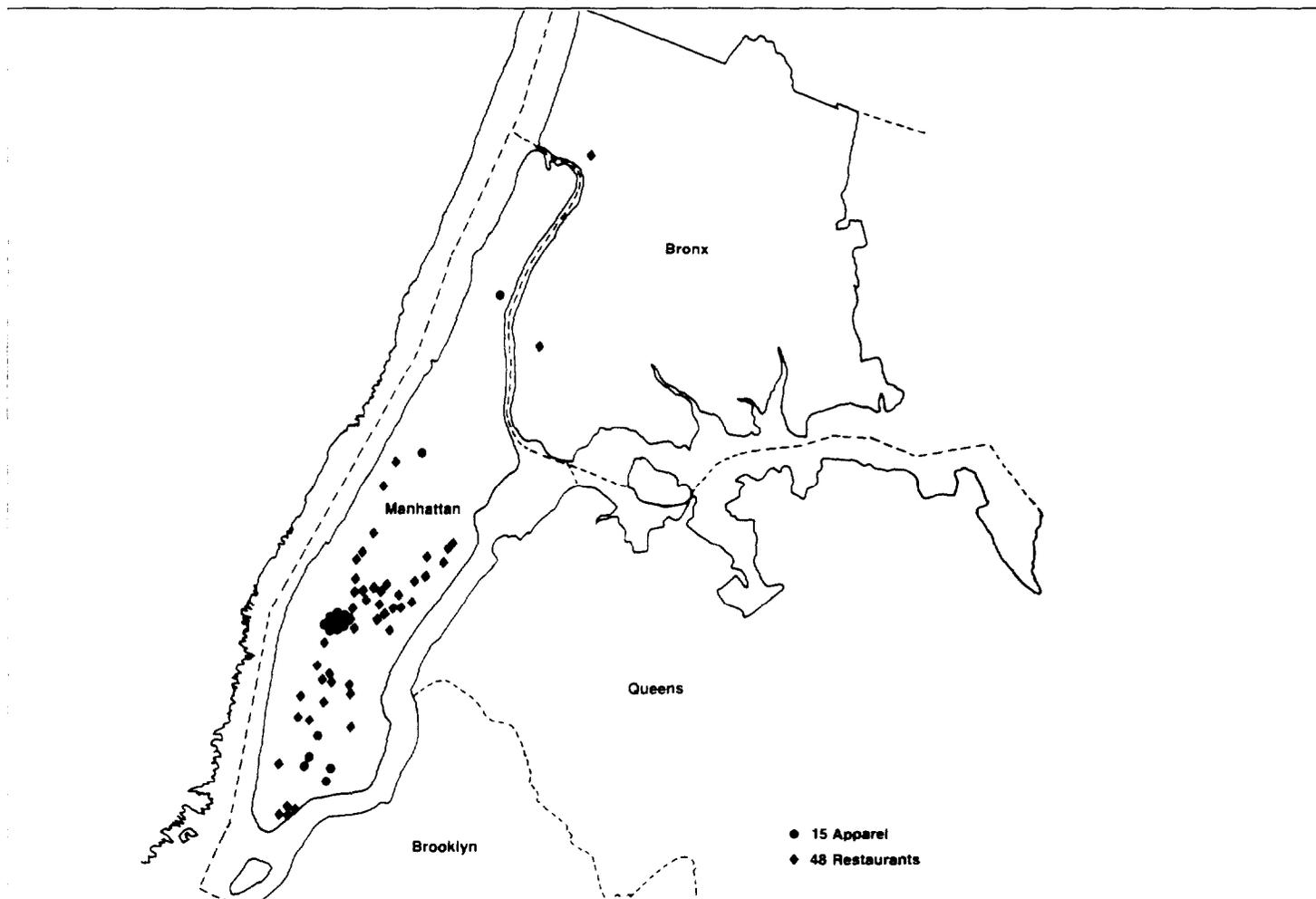
In the apparel industry, we found 41 firms in violation of both state labor laws and city fire ordinances. This constitutes 56 percent of the 73 referrals by the state's Apparel Industry Task Force to the fire department in 1988 for having potential safety hazards. The director of the task force commented that the unit only recently began receiving training in workplace safety hazards and as such the 41 firms identified by the agencies dramatically understates the extent of the sweatshop problem in the industry. Although there were only 73 referrals from approximately 1,600 inspections, the director expects the referral rate to be much higher in the future. As figures 10 and 11 show, 15 of the sweatshops were located in Manhattan and 26 were in Brooklyn and Queens.

Labor law violations at the 41 sweatshops included (1) failure to maintain adequate payroll records, (2) failure to comply with state registration requirements, (3) illegal employment of minors, and (4) illegal work performed by workers at home. The safety violations identified by the fire department included electrical hazards, blocked exits and aisles, and inoperable fire extinguishers.

In the restaurant industry, 55 restaurants had violated both federal wage laws and city health or fire codes. These violations were found by comparing a WHD list of violators with a list of violators cited by city health and fire departments during fiscal years 1986 through 1988. WHD had cited 145 establishments for violating the Fair Labor Standards Act, and city departments had found 341 restaurants in violation of city health or fire codes. The 55 restaurants that both WHD and city departments had cited constituted 38 percent of the restaurants that violated federal wage laws. As figures 10 and 11 show, 48 of the sweatshops were located in Manhattan and the Bronx, and 7 were located in Brooklyn and Queens.

"Sweatshops" in New York City a Local
Example of a Nationwide Problem

Figure 10:



The Wage and Hour Division in New York found 1,197 workers in the 55 eating and drinking establishments were owed back wages that totalled over \$230,000 during the 3-year period. Overtime violations were most frequently cited, with 877 employees owed a total of about \$165,000 in back wages.

With respect to safety violations, the 55 restaurants were cited by the city health department for numerous violations that included such hazards as rodent infestation, standing water on floors, holes in walls and floors, missing stairway rails, and inadequate food protection that

**"Sweatshops" in New York City a Local
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Figure 11:



could affect workers as well as patrons.⁵ (According to the director of the city health department's Restaurant Inspection Program, workers may be at risk of food poisoning by eating contaminated food at their places of employment, since one of the benefits often extended to restaurant workers is free meals.) One of the restaurants was also cited by the city fire department's Office of Public Safety for failing to chemically treat curtains to prevent fires.

⁵According to a senior manager of the Health Department, none of the 55 cases involved inspectors who were arrested on extortion charges in the corruption investigation discussed in this report.

GAO Visit to an Apparel Sweatshop

Figure 12 summarizes our visit to one apparel shop—a belt company in downtown Manhattan that had been cited for violations of state labor laws and safety standards.

The building floor that houses the belt company is divided into several rooms. The one containing the belt company is further divided by plywood partitions into work space for three contractors, including another belt company. The room has only one door leading to the hallway, so it is necessary to walk through the other work spaces to reach the belt company that we visited. As we entered, we observed several children playing in the hallway and in adjacent work areas, but not in the belt company. Two very dirty bathrooms serve all the employees on the 13th floor.

Working conditions were quite uncomfortable. The workplace was extremely small, approximately 20 feet long and 10 feet wide, and contained one long wooden workbench with sewing machines that were in fairly poor condition. Work space was crowded with five employees and the co-owner present. Our interview with the co-owner had to be conducted in the main aisle of the establishment because there was no place to sit.

The employees, all Hispanic, worked diligently at their stations as ethnic music combined with the roar of sewing machines. They worked under extremely warm conditions in dilapidated wooden chairs without padding. A large window at the end of the workbench had a garment scrap covering it, providing partial shade, but no ventilation.

The workplace contained numerous safety hazards. For example, electrical cords to the sewing machines were frayed. The work area contained many boxes that were piled in narrow aisles. Scraps of fabric and other debris were strewn on the floor and across the workbench where workers eat their lunch. An extension cord and rotten banana peel, partially hidden by fabric, were also lying on the floor. Plaster fell from the walls during our visit.

The co-owner and manager of the shop was busy working when we arrived. She did not speak English but agreed to be interviewed through an interpreter. She is from the Dominican Republic. She said that she and her sister are co-owners of the company, which they established in 1986 with earnings saved from previous jobs. They moved to the present location not long after starting the company.

Figure 12:

GAO Apparel Firm Visited in New York City

| | |
|---|--|
| Location and appearance | <ul style="list-style-type: none">● Garment District● 13th floor● Approximately 20 ft. long by 10 ft. wide● Boxes, scraps, other rubbish blocking aisles, frayed wires, peeling plaster |
| Product manufactured | <ul style="list-style-type: none">● Belts |
| Description of owner and workers | <ul style="list-style-type: none">● Owned by 2 Hispanic women● Workers: 6 women, 2 men● All Hispanic and foreign born |
| Workers and their payment: | <ul style="list-style-type: none">● Eight sewers paid by piece rate● Seven cents for each piece completed● Salary range reported: \$200 to \$300 a week● Average work week reported: 40 hours |
| Inspection history | <ul style="list-style-type: none">● Citations for child labor, minimum wage, and illegal homework● Citation for rubbish, no exit signs/light, unacceptable fire extinguisher● Criminal prosecution for failure to (1) register apparel shop (2) maintain payroll records |

Currently, the company has contracts with seven jobbers to manufacture belts.⁶ The jobbers provide the belt designs; she produces the belts and is paid 15 to 30 cents for each. Work, she says, is fairly constant throughout the year. She believes that the companies with which she does business treat her fairly and pay a reasonable price for her products.

Concerning her employees, she said it is difficult to find workers who are qualified to produce belts yet not already working for other companies. She usually finds workers through referrals from employees or

⁶See appendix I for a description of contractors, jobbers, and manufacturers.

friends. Current employees are all between the ages of 16 and 55. Of the six women and two men, four are from Mexico and four are from the Dominican Republic. According to the co-owner, none of the employees belong to a labor union.

The employees are paid on a piece rate, 7 cents for each piece completed. She estimated that an employee can earn from \$200 to \$300 a week, with the average worker making about \$250 a week, or \$6.25 per hour working an average of 40 hours a week.

The co-owner described several changes in the apparel industry in recent years. She believes that competition is more intense, laws and regulations are more strict, and pay has increased for workers. Although competition has increased in recent years, her business has not been adversely affected because her contracts provide steady work. The various laws and regulations have, however, presented problems for her. For example, she has had major problems with INS because it has been difficult for her to find workers who are documented. And she is now required to pay higher wages to employees because of the New York State minimum wage laws. When we asked her if she was aware of the New York State garment registration law that requires all apparel firms to register with the state, she replied that she had no knowledge of it.

In addition, she told us that she currently does not pay social security and unemployment compensation taxes. However, she said she recently received the papers from the state and plans to begin paying them soon. She also told us that the company does not provide other employee benefits, such as paid vacations or medical insurance.

Inspection History

In March 1988, the Apparel Industry Task Force cited the belt maker for failing to register her shop and for violations of the state's minimum wage, industrial homework, child labor, and recordkeeping standards. Commenting on the case, a senior official of the task force said that the belt maker repeatedly violated state labor laws. As an example, the official recalled three separate occasions in which state inspectors warned the employer to register her shop with the state, but she failed to do so. Also, the inspector said two minors were employed illegally in the shop: one fled when inspectors arrived.

In November 1988, the Apparel Industry Task Force forwarded information on the belt maker to the New York State Office of the Attorney

General for criminal prosecution due to repeated labor law violations. In December 1988, she was charged with two misdemeanor counts for failing to register under the state garment registration law and maintain proper payroll records, for which she is subject to a \$2,500 fine. However, as of April 1989, the office had been unable to locate the employer, who has gone out of business and no longer lives at her reported address.

Prompted by a referral from the task force, the city fire department cited the employer for several fire hazards in April 1988. According to a representative of the department, the hazards were minor infractions and could be corrected easily, and, as such, the employer was not assessed a fine.

GAO Visits to Three Restaurants

In March 1989, we accompanied a city health department inspector on three restaurant inspections in Manhattan, one on the lower east side and two in Chinatown. A summary of our observations in the three establishments is shown in figure 13.

The restaurant on the lower east side was located in a dilapidated neighborhood that was scarcely populated, but the two Chinese restaurants were located in congested communities. The three establishments each employed fewer than 20 persons who, along with their employers, were either Puerto Rican or Chinese. Among the three restaurants, the seating capacities for patrons ranged from 8 to 60, and prices for entrees averaged about \$5.00.

All of the restaurants we visited were poorly maintained. Figures 14 through 16 illustrate some of the conditions we observed. Generally, the floors, walls, and ceilings in the eating and kitchen areas were laden with dirt and grease and the storage areas were cluttered with debris. Large boxes were blocking the aisles or stairways in the two Chinese restaurants, and there were holes in the walls and ceilings in all three establishments. The inspector pointed out to us evidence that both rats and mice were present in two restaurants and were flourishing among the clutter in the storage areas.

Figure 13:

GAO Summary of Three Restaurants Visited

| | |
|--|---|
| Location | <ul style="list-style-type: none">● Chinatown and lower east side, Manhattan |
| Description of owners and workers | <ul style="list-style-type: none">● Two owners Chinese, one Puerto Rican● Employees Puerto Rican or Chinese● Number of workers 3 to 16 |
| Seating capacity | <ul style="list-style-type: none">● Ranged from 8 to 60 |
| Kind of restaurant | <ul style="list-style-type: none">● Ethnic Chinese and Spanish cuisine |
| Price of entrees | <ul style="list-style-type: none">● \$4 to \$6 |
| Appearance | <ul style="list-style-type: none">● Greasy walls, floors, and counters● Poor ventilation● Possible child labor violation● Cluttered storage areas● Blocked aisles/stairways |
| Health code violations | <ul style="list-style-type: none">● Inadequate ventilation● Grease and food laden floors● Rodent infestation● Holes in walls and door |

The health inspector cited the employers of the three restaurants for several kinds of violations. These included (1) cooking without proper ventilation; (2) rodent infestation; (3) facility maintenance violations, such as having dirty walls, floors, and ceilings; and (4) holes in walls and doors.

The conditions in the Puerto Rican restaurant were especially hazardous. The kitchen area was extremely small, poorly ventilated, and could potentially cause serious health hazards to workers. Thick cooking

Figure 14: Grease-Laden Ceiling Above Stove



fumes filtered out over the entire restaurant causing the walls and counters to become covered with grease. When the inspector monitored the air quality, a high concentration of carbon monoxide was detected. The inspector explained that carbon monoxide poisoning depletes the blood

Figure 15: Hole in Ceiling Outside Kitchen Area



system of oxygen and very high concentrations can be fatal—milder cases can cause dizziness and nausea. Although the carbon monoxide level was elevated, the inspector said that it was not serious enough to close the establishment. However, the owner was cited and ordered to provide an adequate ventilation system within 15 days.

Limits on Enforcement Efforts in New York City

Our review of enforcement activities in New York City shows a pattern similar to that nationwide. We found that inspections rarely addressed multiple labor law violations, and we identified three factors that appear to limit enforcement efforts. (See fig. 17.) Two administrative problems are

Figure 16: Cluttered Storage Area in Restaurant



- insufficient staff resources and inspection priorities that direct staff to other industries and
- separate enforcement agencies that (1) only inform each other on a limited basis about potential violations of laws they enforce and (2) rarely engage in joint efforts targeted at multiple labor law violators.

A third factor—legislative in nature—is that penalties for violations committed by employers are inadequate as effective deterrents.

Figure 17:

GAO Factors Cited as Limiting Enforcement Efforts

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

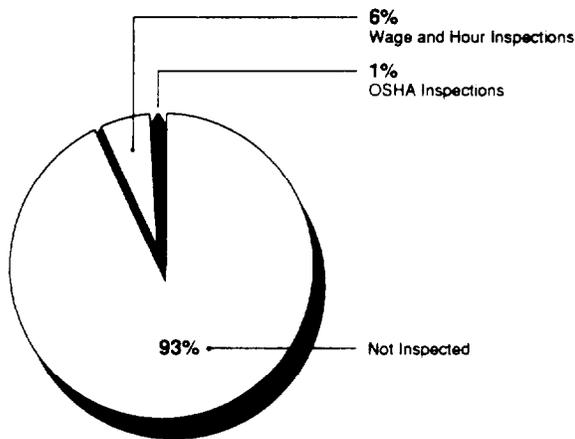
Workplaces Seldom Inspected by More Than One Enforcement Agency

Our analysis of federal enforcement statistics over a 5-year period shows that (1) WHD and OSHA investigated a small number of apparel and restaurant establishments in New York City compared to the number of establishments operating in each industry and (2) only 2 out of at least 17,000 apparel and restaurant establishments were inspected by both WHD and OSHA.

As figure 18 shows, over the 5-year period, fiscal years 1984 through 1988, fewer than 10 percent of the apparel and restaurant firms in New

Figure 18:

GAO Proportion of Establishments Inspected in New York City



Note: Total during 1984-1988

York City were inspected by either WHD or OSHA. Out of an estimated 17,000 apparel and restaurant establishments, WHD conducted inspections in 639 apparel firms and 391 restaurants, a total of 1,030 or 6 percent of all establishments and found violations in 330 (32 percent) of them.⁷ OSHA conducted 53 inspections in apparel firms and 9 in restaurants for a total of 62—less than 1 percent of all establishments. Violations were found at 31—50 percent—of them. Examining the inspection data another way, WHD inspected about 9 percent of the apparel shops

⁷This analysis assumes that each inspection was of a different establishment. Although this is unlikely to be true, making the assumption sets an upper limit to the percentage of establishments inspected.

and 4 percent of the restaurants in the city during this period, while OSHA inspected fewer than 1 percent of all apparel firms and restaurants in New York City.

State and local enforcement organizations also conducted relatively few inspections in the apparel and restaurant industries, but found substantial numbers of violators in both industries during 1984 through 1986, as shown in figure 19.

In the restaurant industry, the state labor department inspected 438 restaurants, about 4 percent of those in the city, from 1984 through 1986. Eighty-one percent of them were in violation of state labor laws. The city fire department's Office of Public Safety inspected about 6 percent of all eating and drinking establishments in 1988, and found about one-third in violation of various fire codes.

With respect to the apparel industry, the state labor department's Apparel Industry Task Force conducted inspections involving wages in 339, or 5 percent, of the apparel firms in New York City between October 1987 and December 1988. Sixty-nine percent, or 234 firms, of those inspected owed back wages to employees totaling about \$170,000. Also, 85 firms employed 130 minors illegally and were assessed \$1,750 in penalties. Other inspections by the task force for violations, such as homework or failing to register, brought the total number of inspections to at least 1,585 (about 23 percent of the firms), out of which about 1,350 (85 percent) were cited for violations. In 1988, 73 referrals were made by the task force to the fire department for possible city fire code violations. The fire department in turn inspected 62 of these firms, of which 42 (68 percent) had safety violations. No data are available from the task force on the number of referrals made to the city health and building departments.

Enforcement data detailing the results of inspections conducted by the health and building departments in the apparel and restaurant industries were not readily available. To determine this information would have required an extensive review of manually maintained inspection records.

Figure 19:

GAO State and Local Enforcement Statistics

| <u>Restaurant Industry</u> | | | |
|----------------------------|--------------------|-------------------------|-----------------------------|
| <u>Agency</u> | <u>Inspections</u> | <u>Violations Found</u> | <u>Percent in Violation</u> |
| State DOL ¹ | 438 | 354 | 81 |
| Fire Dept. | 600 | 198 | 33 |
| <u>Apparel Industry</u> | | | |
| <u>Agency</u> | <u>Inspections</u> | <u>Violations Found</u> | <u>Percent in Violation</u> |
| State DOL | 1,585 | 1,343 | 85 |
| Fire Dept. ² | 62 | 42 | 68 |

¹ Covers three year period, 1984 through 1986. All other statistics cover approximately one year (1988).
² Inspected as a result of referrals from State Labor Department.

resources and competing enforcement priorities. Federal, state, and local officials in the New York City area identified the same enforcement related problems.

WHD, OSHA, and a state labor department official said that additional staff resources were needed. Federal officials we spoke with cited high turnover rates, inexperienced staff, and a lack of bilingual staff as major problems that limit enforcement efforts. Examining the enforcement resources at the federal level, combining WHD and OSHA, 62 compliance officers are responsible for conducting federal labor and safety and health inspections in about 200,000 New York City businesses (see fig. 20). Given the lack of experienced and bilingual staff, the current staf-

Figure 20:

GAO Limited Staff Resources for
New York City Inspections

| Agency | Inspectors |
|---------------------|-------------------|
| • WHD | 27 |
| • OSHA | 35 |
| • Dept. of Health | 51 |
| • State Labor Dept. | 45 |

ing level appears to present formidable challenges for both agencies to provide adequate worker protection in the city.

The officials noted that it is not only the overall staff resources but also the resulting enforcement priorities that limit the number of inspections in industries such as apparel and restaurants. For example, OSHA's safety inspections are targeted to construction and manufacturing industries that are considered 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. Industries in New York considered high hazard in fiscal year 1989 were those with lost work day

injury rates above 4.2. Because the 1989 rates for the apparel and restaurant industries in New York City were about 2.6 and 3.0, respectively, these establishments generally would receive safety inspections only in response to a fatal accident or catastrophe, a written employee complaint, or a referral from another agency.⁸ Also, health inspections are targeted to industries with a high rate of past serious health-related violations, which are believed to be rare in the apparel and restaurant industries.

Many sweatshops in New York City 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. As figure 3 shows, the Bureau of the Census estimated in 1985 that about one-half of the apparel manufacturing shops and three-fourths of the eating and drinking establishments in New York City employ nine or fewer workers.

The lack of inspectors in the city health department has had a dramatic impact on the number of inspections done in the city's restaurant industry. In 1987, the Federal Bureau of Investigation arrested 36 or about one-half of the city's health inspectors on extortion charges; all of them either pleaded or were found guilty.

As an example of how the scandal has affected the program, the director of the city health department's Restaurant Inspection Program said that the city health code requires the agency to conduct cyclical inspections every 18 months in all eating and drinking establishments in New York City. However, the official reported that only about 9,800 inspections were conducted in 1988—about 45 percent of the program's 22,000 inspections conducted in 1987. According to the director, as a result of staff shortages, the agency concentrated its enforcement activities on high-priority complaints, such as those involving food poisonings, and inspections of newly opened establishments, which normally represent only 25 percent of the program's enforcement activities. To address the problem of staff shortages, the department recently replaced the number of inspectors lost in the scandal and plans to increase its staff beyond the 1987 level.

⁸OSHA's priorities for enforcement are as follows: imminent danger, catastrophic and fatal accidents, employee complaints and referrals, and programmed (targeted) inspections.

One solution to the staff resource limitation would be to increase the number of compliance officers or change enforcement priorities. However, the benefits of implementing these changes would have to be balanced against the cost of doing so—costs 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 improvements in enforcement will more likely be dependent on response to the other two factors limiting enforcement: inadequate penalties and limited coordination among enforcement agencies.

Inadequate Penalties for Violations

As an option for strengthening penalties for wage violations, we said in our 1988 report that the Congress should consider amending the Fair Labor Standards Act (FLSA) to allow the Department of Labor to assess civil monetary penalties of sufficient size to deter violations of the act's minimum wage, overtime, and recordkeeping requirements (as GAO recommended in 1981).⁹ Our observations in New York City further support this option.

The FLSA requires employers to maintain records on wages, hours worked, and other items, which investigators use to determine whether employers are complying with provisions of the act and to compute the amount of illegally withheld back wages owed to employees. Employers who are found in violation of minimum wage or overtime standards are only requested to voluntarily repay the back wages owed; no additional penalty can be levied. When employers refuse to comply, Labor's remedy is to seek restitution for employees through court action. It can (1) sue for back wages plus an equal amount in what is referred to as "liquidated damages" or (2) file suit against employers to restrain future violations of the act and to recover back wages and interest.

In addition, there is no monetary penalty for failing to keep the required records. This severely hampers Labor's enforcement efforts because these records are essential for determining whether other provisions of the act have been violated and, if so, the amount of back wages due employees.

Labor can also, upon recommendation from its Office of the Solicitor, refer cases to the Department of Justice for criminal actions against employers for willful violations of the act, including those related to

⁹Changes Needed to Deter Violations of Fair Labor Standards Act (GAO/HRD-81-60, May 28, 1981).

minimum wage, overtime, and recordkeeping provisions. But these criminal sanctions, like the available civil sanctions, have not been used extensively.

Officials in the New York City area cited the lack of civil monetary penalties as a factor limiting efforts to regulate sweatshops. Two situations we reviewed illustrate the inadequacies of the existing provisions.

Figure 21 shows one WHD investigation we reviewed that demonstrates the need for civil monetary penalties. In April 1988, a WHD compliance officer investigated an apparel firm in Manhattan. After reviewing payroll records from March 1986 through March 1988, the compliance officer found recordkeeping violations that prevented the compliance officer from determining the total number of hours worked by employees. The compliance officer, however, was able to determine that one employee was owed a total of \$4,326 in overtime compensation. WHD cited the employer for having these violations and issued a handbook that provides guidance on complying with the FLSA. In addition, WHD conducted conferences with the employer to discuss the violations and tried to convince the employer to repay the wages owed; however, the employer refused to pay. Subsequently, WHD advised the employee of his right to pursue private legal action to recover the back wages.

About this case, WHD regional and headquarters officials told us that normally first time recordkeeping violations by employers, such as this one, are not pursued for litigation unless the number of employees affected or amounts owed in back wages are substantial. They added that section 16(b) of FLSA allows employees to take legal action against employers on their own behalf.

Our second example involves the same employer. In August 1988, just 4 months after the first investigation, WHD received a second complaint alleging wage and immigration violations.

WHD referred the case to INS, which investigated and apprehended nine illegally employed immigrants. WHD compliance officers reinvestigated the establishment and interviewed the nine workers at an INS detention center. This time, the investigation disclosed minimum wage and overtime violations totaling close to \$12,000.

According to a WHD official, recordkeeping violations were again present and worse than before. None of the employees were on the employer's

Figure 21:

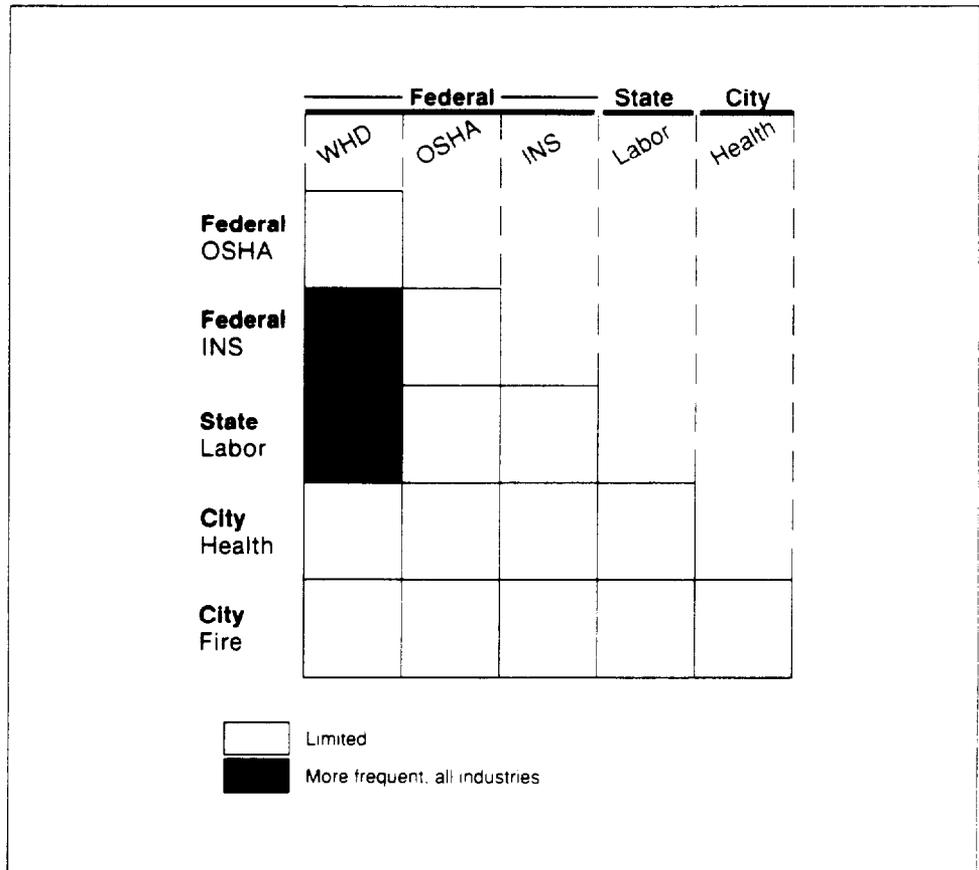
GAO Example of Recordkeeping Violations in a Garment Shop

| | |
|--|---|
| Period of investigation | <ul style="list-style-type: none">• April 1988 |
| Findings | <ul style="list-style-type: none">• Record keeping and overtime violations• Over \$4,000 owed to one employee |
| Result of investigations by WHD | <ul style="list-style-type: none">• Held conferences with employer• Employer refused to pay wages owed• Advised employee of rights to pursue private legal action• No fine assessed to employer for violations |

payroll, instead they were paid "off the books" and the employer was paying no social security or other taxes.

Once again WHD tried to convince the employer to repay the wages owed, but the employer refused. In November 1988, WHD referred the case to Labor's Regional Solicitor's Office for review and later found the case suitable for litigation. The Solicitor's Office filed a complaint in the Eastern District Court of New York in April 1989.

Figure 22: Coordination Among Enforcement Agencies Before 1988



Limited Coordination Among Responsible Enforcement Agencies

In the past, coordination efforts among federal, state, and local agencies to identify multiple labor law violators in New York have generally been limited. As figure 22 shows, frequent coordination existed in only 2 of the 15 possibilities for coordination between any two federal, state, or local agencies before 1988. That coordination was between WHD and INS and between WHD and the state labor department. This limited coordination among agencies can be observed in their (1) putting little emphasis on referring likely violators to other agencies having jurisdiction and (2) rarely engaging in joint enforcement efforts aimed at multiple labor law violators.

Generally, enforcement organizations in New York infrequently exchanged information about chronic labor law violators. In our survey of federal officials, we asked them about the frequency with which they made referrals, cross-trained staff, and conducted joint enforcement

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activities during fiscal year 1987. WHD and OSHA officials reported that referrals to each other were either made infrequently or not at all in fiscal year 1987. Also, INS and OSHA officials reported no referrals or training between each other during this period. State and local agencies in New York also exchanged information infrequently among themselves or with federal agencies.

In contrast, coordination between the New York staffs of WHD and INS was reported to be more extensive than that among the other federal agencies in 1987, typically occurring at least once a month, which we also found to be true nationwide in our earlier report. The closer working relationship between the two agencies was established under WHD's Special Targeted Enforcement Program (STEP) and as a result of the two agencies' enforcement responsibilities under the Immigration Reform and Control Act (IRCA).

STEP was established in 1982 with the objective of using 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 to WHD the names of employers who were alleged to have paid apprehended undocumented workers 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 specific industries or locations and direct its inspection activities accordingly. In New York, the high-risk industries designated by WHD include construction, apparel, and restaurants.

According to a WHD official in New York, most FLSA investigations in the apparel and restaurant industries are designated as STEP cases because the industries have a history of employing undocumented workers at or below the minimum wage. Over 90 percent of FLSA compliance actions in the apparel industry and 65 percent of such actions in the restaurant industry were labeled as STEP cases during fiscal years 1983 through 1987.

Coordination between WHD and INS in New York has also been fostered by passage of IRCA. The act requires employers, upon request, to show Department of Labor officials the employee verification forms employers must have for all employees hired after November 6, 1986. (These

forms confirm that employees have documents supporting their authorization 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.

Also, coordination between WHD and the state labor department is active. Senior officials of both agencies reported frequent exchanges of information about labor law violators.

Increased Coordination Has Potential to Help Control Sweatshops

Federal and state officials in New York generally believed that two actions identified in our 1988 briefing report as ways to improve working relationships among enforcement agencies would help control multiple labor law violations. Those actions are (1) increased emphasis on referrals and cross-training so that compliance officers can make informed referrals when obvious violations are observed and (2) joint enforcement agency efforts concentrating on problem locations and industries. In fact, federal, state, and local agencies in the New York City area have recently taken several steps to establish closer working relationships with each other, and they believe these actions will be helpful in reducing the sweatshops problem. As figure 23 shows, more frequent coordination now exists between two additional sets of agencies. WHD and OSHA will exchange information about violators in all industries and the state labor department and the city fire department are working more closely to identify safety hazards in the apparel industry. In addition, Labor has taken actions nationwide that will affect the working relationship among federal agencies in the New York area.

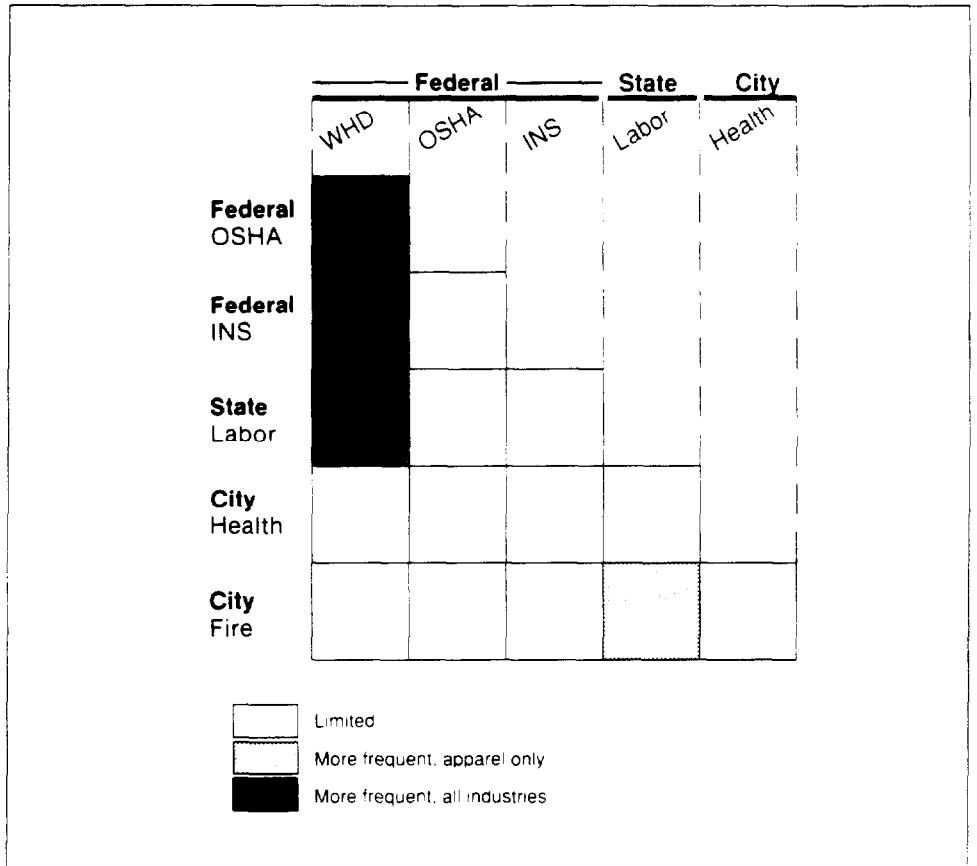
Department of Labor Policy Changes Nationwide and in New York

Since our 1988 report was issued, WHD and OSHA have taken several actions to work more closely together. This change is reflected in figure 23 and the changes that affect other regions as well as New York are detailed in figure 24.

The Wage and Hour Division discussed with field staff the importance of making referrals to OSHA when safety and health violations are observed and, to encourage and facilitate referrals, revised its referral form (WHD 124) to provide more detailed guidance on procedures to follow when

"Sweatshops" in New York City a Local Example of a Nationwide Problem

Figure 23: Current Coordination Among Enforcement Agencies



making referrals to OSHA. Also, in March 1989, WHD issued further guidance to its regional components strongly recommending that they implement referral and cross-training agreements with OSHA similar to that recently established in New York.

OSHA revised its Field Operations Manual in October 1988, to include a requirement for its compliance staff to refer potential violations of other agencies' laws to the appropriate agency. The requirement does not, however, specifically mention exchanging information with WHD when FLSA violations are discovered.

In January 1989, the New York Region WHD and OSHA offices finalized an agreement to establish a referral system and cross-training. Under the agreement, WHD and OSHA will exchange information about potential violations of each agency's laws and monitor the frequency of exchanges of information and resulting action as shown in figure 25. This agreement

Figure 24:

GAO Recent Nationwide Actions by WHD and OSHA

WHD:

- Stressed to inspectors the need for referrals to OSHA
- Recommended that regions establish referral systems and cross-training

OSHA:

- Required inspectors to refer violators of other laws

covers all industries within the New York region. Training will consist of instructing WHD and OSHA field staff on safety and health standards and requirements of FLSA and the kinds of situations that warrant referral between the agencies. In fact, senior regional and area office managers of OSHA began the half-day training for WHD field staff in January 1989, as part of other planned WHD training exercises. WHD expects to start providing training to OSHA field staff in fiscal year 1989.

Figure 25:

GAO Recent Actions by WHD and OSHA in New York Area

Action:

- Established referral system, including:
 - Information exchanges
 - Sharing results of referrals
 - Cross-training staff

Under Consideration:

- Similar agreement with State Labor Department

New York officials said that they believe a referral system and basic training are needed to help compliance staff better handle situations that warrant referrals between the two agencies. Also, they believe these procedures will pose no significant burden on their respective enforcement programs and will be beneficial to both agencies' missions. As one official pointed out, during the course of safety or health inspections, compliance officers might observe children working during school hours. By knowing what constitutes a child labor violation, the compliance officers will be able to make referrals to WHD when these instances occur. Conversely, if WHD compliance officers notice safety hazards, such as exposed wiring, unguarded machinery, or pits with no guard rails, they will know how and where to make the appropriate referral.

The regional offices of WHD and OSHA also have under consideration a memorandum of understanding with the New York State Department of Labor that would include, if implemented, exchanges of information and training among the agencies. Also, if the agreement between WHD and OSHA proves to be an effective enforcement approach, the agencies will consider including INS.

State and Local Actions

The New York State Labor Department is making a concerted effort to address the sweatshop problem in the apparel industry. In 1986, the New York State legislature amended its labor laws to create a special Apparel Industry Task Force, established in 1987, to address concerns over the growing number of people working in sweatshop conditions in the industry. Concentrating primarily on New York City, the unit is comprised of 18 inspectors who have broad powers to ensure that manufacturers and contractors comply with minimum wage, child labor, homework, unemployment insurance, and other payroll tax provisions. The task force uses a variety of investigative techniques, such as leads, complaints, surveillance, and random visits to establishments.

The amendment also established a garment industry registration program, for which the task force was given enforcement responsibility. The program requires manufacturers and contractors in the state's women's, children's, and infant's apparel industries to register with the state labor department. Companies that fail to register or knowingly do business with companies that do not register face civil penalties up to \$1,000 for the first offense and up to \$2,500 for subsequent violations.

One of the major activities of the state task force is its active coordination with the city's Bureau of Fire Prevention and the state Attorney General's Office, which became fully operational in 1988. In their enforcement of wage and hour laws, task force inspectors are also alert to employers' compliance with local safety and health codes and regulations and make referrals as appropriate. Figure 26, for example, shows a task force inspector identifying hazardous materials stored improperly. The task force referred 73 apparel firms suspected of having safety violations to the fire department for inspection over a 14-month period. As we mentioned earlier, many of these firms were identified as sweatshops, having both wage and safety violations. Also in 1988, the task force referred five apparel firms to the state Attorney General's office for criminal prosecution for failing to comply with state registration requirements and recordkeeping standards. As of February 1989, convictions had been obtained on four of the five cases.

**"Sweatshops" in New York City a Local
Example of a Nationwide Problem**

Figure 26: Apparel Industry Task Force Investigator at Work



(Source: Jim Wilson/NYT Pictures)

In addition to these actions, several others that are underway or being considered to address the sweatshop problem in New York City and in other jurisdictions are shown in figure 27. One major effort initiated by New York State is a Reciprocal Agreement Statute, an interstate enforcement agreement allowing prosecution and collection of claims and judgments from labor law violators who move from state to state. Currently 12 states are participating in the agreement, and New York State is encouraging other states to participate as well. Other states are

Figure 27:

GAO New York State Actions

- Established Apparel Industry Task Force
- Passed interstate labor laws
- Training seminars with New Jersey DOL
- Outreach program in immigrant communities

also being encouraged to adopt and enforce uniform labor laws that would discourage employers from moving to other states because they have less rigorous or less stringently enforced laws. Another state action is participation of labor standards enforcement personnel in joint training seminars with other states. Joint seminars are already occurring with the New Jersey Labor Department and other states are considering participating. Finally, the state administers outreach programs to immigrant communities through news media and educational efforts to advise them of their rights as workers.

Other Actions That Might Improve Coordination

Figure 23, which shows the current coordination among enforcement agencies, also shows the combinations of agencies where there is still little exchange of information through referrals or joint enforcement efforts. Our discussions with officials suggested that increased referrals might be helpful among many of the combinations. For example, an increased emphasis on referrals among WHD, state labor department, and fire and health departments might help enforcement efforts in the restaurant industry, while WHD might productively refer potential fire hazards in apparel shops to the city fire department.

Most of the officials we interviewed said that an increased emphasis on referrals and cross-training among agencies should be established and would pose no significant burden on their enforcement programs. Although officials we interviewed generally supported increased exchanges of information, one exchange considered questionable was that between the Apparel Industry Task Force and INS. The task force director was concerned that the rapport and trust the task force attempted to foster on the part of apparel workers, whose cooperation is often needed to investigate employers' practices, could be jeopardized by investigators reporting those workers who are suspected of being employed illegally to INS. Other officials of the state labor department and INS believed, however, that some coordination of efforts might be appropriate.

Federal officials in New York agreed that joint strike forces could be useful. However, some felt that establishing a referral system among the three agencies would be more productive because it would avoid the scheduling problems in getting all three agencies in place at the same time, while having the same impact on sweatshops.

Description of Apparel Manufacturing and Restaurant Industries¹

Apparel Manufacturing

New York State leads the nation in employing workers in apparel manufacturing. It employs 12 percent of such workers in the United States. New York exports more apparel than any other state. New York City is traditionally considered the garment center of the United States. The Seventh Avenue area of Manhattan is commonly referred to as the Garment District and it is the nucleus of the state's internationally recognized apparel industry.

The apparel industry consists of three kinds of businesses: manufacturers who design clothing, jobbers who act as middlemen, and contractors who perform most of the production activities (see fig. I.1). The production work is done primarily by small contractors who employ large numbers of immigrants. These three businesses make up what has been known historically as the "contracting system." The International Ladies' Garment Workers' Union and some other observers believe that this system is, in part, responsible for creating the sweatshop conditions that existed in the past and that presently plague garment workers.

The system allows jobbers and manufacturers to shift production costs and capital investment to a wide range of contractors, who can enter the business with limited capital investment, often relying on leased equipment and substandard rental space. Further, the system places pressures on contractors as they bid fiercely among themselves for garment contracts. They in turn can shift these pressures to their workers by attempting to reduce wages and failing to provide adequate working conditions.

According to the literature we reviewed, in large metropolitan areas like New York City, contractors often depend on recently arrived, "exploitable," immigrants, some of whom lack authorization to work in this country. The relatively simple technology of apparel production requires only limited language skills, which further encourages the use of immigrant labor. Through paternalism, appeals to ethnic bonds, or intimidation, contractors can control their relatively small workforces and avoid worker complaints to labor standards enforcement agencies.

¹Four major sources used in developing this description were (1) Roger D. Waldinger, *Through the Eye of the Needle: Immigration and Enterprise in New York's Garment Trades*. New York: New York University Press, 1986; (2) "The Apparel Industry in New York State: A Statistical Profile." Bureau of Business Research, New York State Department of Commerce, 1986; (3) "The U.S. Apparel Industry, 1960-1985, with Special Emphasis on Women's and Children's Apparel"; International Ladies' Garment Workers Union, October 1985; and (4) Thomas R. Bailey, *Immigrant and Native Workers: Contrasts and Competition*. Boulder, CO: Westview Press, 1982.

Figure I.1:

GAO Apparel Manufacturing: Industry Structure

- Manufacturers: • Design, acquire, cut, sew, sell and ship garments
- Jobbers: • Contract out actual sewing operations, perform many of the same activities as manufacturers
- Contractors: • Sew garments into final product

In recent years, intense foreign competition has also placed substantial cost pressures on the city's contractors. With labor costs being significantly lower in other countries, foreign subcontractors can produce and import less expensive apparel products to the United States. As a result, fierce competition is created among domestic and foreign contractors to obtain garment contracts from manufacturers and jobbers. This situation and its downward pressures on wages and working conditions along with large flows of immigrants have interacted to intensify sweatshop employment conditions.

Contracting is a difficult, often marginal, risky undertaking, and business failure is common. In this regard it is not uncommon for contractors

to close, only to re-open under a different name at another location within a few days, which can make labor law enforcement difficult.

Although foreign competition has often had a negative impact on domestic garment industry employment—through the closing of noncompetitive shops—its effects have not been felt uniformly across all segments of the industry. For example, the women’s outerwear business is subject to relatively rapid and important changes in fashion, requiring the existence of locally based production systems capable of quick, specialized, or limited production runs to accommodate constantly changing fashion demands. Consequently, foreign producers generally are unable to provide the products as quickly as needed. Thus, despite substantial advantages available through foreign producers, a local contracting system capable of serving large local markets like New York City’s continues to make economic sense.

Restaurants

Technically defined in the Standard Industrial Classification Manual, issued by the Office of Management and Budget, as “Eating and Drinking Places,” the city’s more than 10,000 restaurants constitute one of the largest retail trade establishment groupings. The restaurant industry is among the city’s largest employers. Eating and drinking establishments were among the top five employers in each of the city’s five boroughs in 1985.

One study we reviewed (Bailey, 1982) described the use of immigrant labor in eating and drinking establishments in various sectors of the industry in New York City. For analytical purposes the study divided the restaurant industry into four sectors: fast food, intermediate (such as coffee shops), full-service, and immigrant-owned, as shown in figure I.2.² Fast food restaurants are described as generally relying on low-paid teenage workers and tending not to attract recently arrived immigrants. In contrast, almost all of the unskilled kitchen jobs in the intermediate, full-service, and immigrant-owned sectors are said to be held by immigrants. They are employed as cooks, dishwashers, or porters or in other unskilled kitchen jobs.

In an interview with this researcher, we asked for his opinion about the sweatshop problem in the restaurant industry in New York City. He

²Immigrant-owned restaurants could fall into any of the other three sectors, but they are also typically characterized by relationships among owners and workers that differ from those of nonimmigrant-owned restaurants.

Figure I.2:

GAO Restaurants:
Industry Structure

- Fast food
- Intermediate (coffee shops)
- Full-service
- Immigrant-owned

believes labor law violations are a common occurrence in various eating and drinking establishments, but he is uncertain whether safety and health violations are prevalent. In general, he thinks that overtime violations are more prevalent than minimum wage or child labor violations. He also believes that violations occur more often in the intermediate, full-service, and immigrant-owned sectors than in fast food restaurants.

Legislation and Enforcement Activities Applicable to Sweatshops in New York City

Federal Legislation and Enforcement

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 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 the Department of Labor can bring suit to obtain those wages and an equal amount in liquidated damages. Also, in November 1988, the Department of Labor issued new regulations regarding the employment of homeworkers in certain sectors of the apparel industry, in which the department can levy civil monetary penalties for any violation of the FLSA related to homework (except for child labor).
- The Occupational Safety and Health Act of 1970 was enacted "to assure so far as possible 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 and health standards or the recordkeeping requirements are subject to civil penalties ranging from \$1,000 to \$10,000 for each violation.
- The Immigration Reform and Control Act of 1986 (IRCA) includes sanctions for employing workers who are not authorized 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.

The Wage and Hour Division (WHD) within the Department of Labor administers and enforces FLSA and related statutes. WHD has two district offices in New York City. As of March 1989, there were 13 compliance officers in the Manhattan district, which covers Manhattan, Brooklyn, Queens, and Staten Island. The Bronx district office covers the Bronx and seven upstate counties with 14 compliance officers.

Also within the Department of Labor, the Occupational Safety and Health Administration (OSHA) enforces the act after which it is named. In New York, OSHA is responsible for enforcement of private-sector workplace safety and health standards. The act is administered and enforced in the city by the Manhattan area office with 16 compliance officers and in the Queens area office with 19 compliance officers.

The Immigration and Naturalization Service (INS) within the Department of Justice enforces IRCA as well as other immigration statutes. In May 1989, its New York district office, which covers New York City and Long Island, was staffed with 161 officers.

State Legislation and Enforcement

In addition to federal labor standards, New York State has enacted numerous labor laws, including those that set standards for minimum wages, hours worked, child labor, recordkeeping, industrial homework, and wage claims. Employers who violate these labor standards can be assessed civil penalties up to \$500. During 1988, the state labor department's Labor Standards Division enforced these laws with 45 inspectors. Also, to address the sweatshop abuses in the garment industry, in 1987 the state established within the labor department the Apparel Industry Task Force. This unit, comprised of 18 inspectors and supervisors in New York City, enforces the state's labor laws and refers matters concerning worker safety to the New York City fire department. In addition, the task force enforces the state's garment registration program, which requires firms in the women's, children's, and infant's sectors of the apparel industry to register with the state labor department. Failure to register can result in civil penalties up to \$2,500. As of December 31, 1988, 4,191 firms were registered.

Also significant to labor standards enforcement is the state Office of the Attorney General. Its Bureau of Labor enforces the state's labor laws through sanctions that include criminal prosecutions.

City Enforcement Activities

Within New York City, local agencies, using building permit, fire, and public health department inspection programs, have responsibility for various safety and health related matters. Labor standards enforcement in New York City is the responsibility of the state and federal government. The buildings department enforces the city's zoning regulations and building codes. Among its many activities, the agency conducts annual inspections of elevators and ensures the soundness of buildings. Also, the city's fire prevention bureau conducts inspections designed to

Appendix II
Legislation and Enforcement Activities
Applicable to Sweatshops in New York City

ensure that commercial and industrial structures as well as places of public assembly are in compliance with applicable fire codes. Finally, the city's health department, through its restaurant program, conducts inspections in establishments to protect consumers and employees against health hazards.

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Related GAO Products

Occupational Safety & Health: California's Resumption of Enforcement Responsibilities in the Private Sector (GAO/HRD-89-82, Apr. 17, 1989).

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