

US government department routinely ignores labor law violations

Jerry White
26 March 2009

A report issued Wednesday by the US Government Accountability Office (GAO) details how the Department of Labor routinely ignores low-wage workers who complain about the violation of federal minimum wage, overtime and child labor laws.

The Department of Labor's Wage and Hours Division (WHD) is responsible for enforcing the Fair Labor Standards Act, which was passed by the Roosevelt administration in 1938 in response to the massive working class struggles of the Depression era. The act established a national minimum wage, guaranteed time and a half for overtime in certain jobs, and prohibited most employment of minors in "oppressive child labor."

The ability of workers—particularly the lowest paid and most oppressed, such as immigrant workers—to seek protection from the Labor Department, which has little enforcement powers, has always been limited. Over the last three decades a bad situation has gotten worse as the minimal legal protections afforded to US workers have been systematically undermined by the government-backed offensive against the working class. The Labor Department has faced budget cuts and a reduction of inspectors by both Republican and Democratic administrations, which have perpetuated the myth of self-regulating employers.

The GAO reported actions initiated by the Labor Department on wage and hour violations dropped from approximately 47,000 in 1997 to fewer than 30,000 in 2007. The use of fines that punish repeat or egregious offenders declined by nearly 50 percent from 2001 to 2007.

Last July, the GAO, the investigative arm of Congress, presented evidence on 15 cases where the WHD failed to investigate complaints filed by workers.

The new report is a follow-up on these initial findings, based on a nine-month investigation by undercover agents from the GAO who posed as workers telephoning the WHD for help. The cases were in Alabama, California, Florida, Maryland and Texas—states that handled 13 percent of all complaints in 2007.

GAO investigators found that the Labor Department's division mishandled nine of the ten fictitious cases. In two cases, the WHD falsely reported that employers had paid back wages.

In one case, a caller posing as a meatpacker in Modesto, California, left a message with the WHD, reporting that he had seen under-aged children working during school hours with saws and meat grinders. While the government agency claims child labor violations are its top priority, four months after the call the WHD had not conducted an investigation and the complaint had not been recorded in its database.

The callous indifference of Labor Department representatives was striking. Several exchanges between GAO undercover agents and the WHD can be found here.

In one, a WHD employee seeks to dissuade a fictitious worker filing a complaint against his boss, suggesting, not too subtly, that this could result in him being fired.

WHD: "You're sure you don't want to just have a nice conversation with him yourself?"

Undercover investigator: "No, no, I don't want to, because he gets very loud and angry."

WHD: "O.K., well here's another avenue that you can pursue. O.K., do you have another job lined up?"

Investigator: "No."

WHD: "O.K., you might want to do that before you file a complaint with us, because I can't guarantee that

he's not going to fire you."

In another case, a GAO investigator posing as an employer tells the WHD she cannot afford to pay back wages to a worker—and the matter is dropped.

WHD: "Ok, well you will have to pay him at least the minimum wage for all the hours that he worked."

Fictitious employer: "Well, you know, like I said, all our contracts have dried up, we really don't have anything coming in, so..."

WHD: "Ok, so you're not in a position where you can pay him?"

Fictitious employer: "No."

WHD: "Ok, well then I will let him know that he has his private right to action to pursue the funds."

In addition to the cases with fictitious employees and employers, the GAO found that the agency had "inadequately investigated" another 20 actual cases affecting at least 1,160 employees. In some cases it took over a year for the labor department to respond to a complaint. In others, cases were closed based on unverified information provided by an employer or simply dropped when an employer did not return phone calls.

For example, it took 22 months for the agency to assign an investigator after workers charged restaurants in Lawrenceburg, Tennessee with a series of child labor, minimum wage and overtime violations. The WHD determined that the enterprises owed \$230,000 to 438 employees for the violations and for absconding with much of the workers' tips. The employers refused to compensate the workers for their tips. After rejecting the offer, the WHD dropped the case with no collection of back wages.

In another case, 93 workers at a boarding school in Thompson Falls, Montana were not paid more than \$200,000 in overtime. The Labor Department first handled the complaint as a "self-audit," allowing the employer to review its own records. The company stalled, waiting for expiration of the statute of limitations, and then offered to pay only \$1,000 in back wages. The WHD then closed the case.

Summing up its findings, the GAO wrote, "The investigation clearly shows that the Department of Labor has left thousands of actual victims of wage theft who sought federal government assistance with nowhere to turn."

On Wednesday, the House of Representatives'

Committee on Education and Labor held a hearing to take testimony from GAO officials. Committee chairman, California Democrat George Miller, singled out the former Republican administration for blame, saying, "We owe it to all hard working Americans to ensure that we correct the incompetence of the Bush administration and ensure families are not being cheated out of their wages by unscrupulous employers. This was a massive failure. Former Secretary Chao was absent without leave."

Earlier, Obama's Secretary of Labor Hilda L. Solis said the department was increasing the number of inspectors and would "refocus" its efforts on enforcing labor laws.

There is no doubt the Bush administration worked diligently to dismantle wage, job safety and environmental protections and appointed one representative of corporate America after another to head up regulatory agencies. The Democrats, however, have been complicit.

Before Bush, the Carter and Clinton administrations began the systematic undermining of such protections in the name of lifting undue restrictions on the operation of the free market. This is a process that the pro-business Obama administration will continue, despite its pretensions.



To contact the WSWWS and the
Socialist Equality Party visit:

wsws.org/contact