



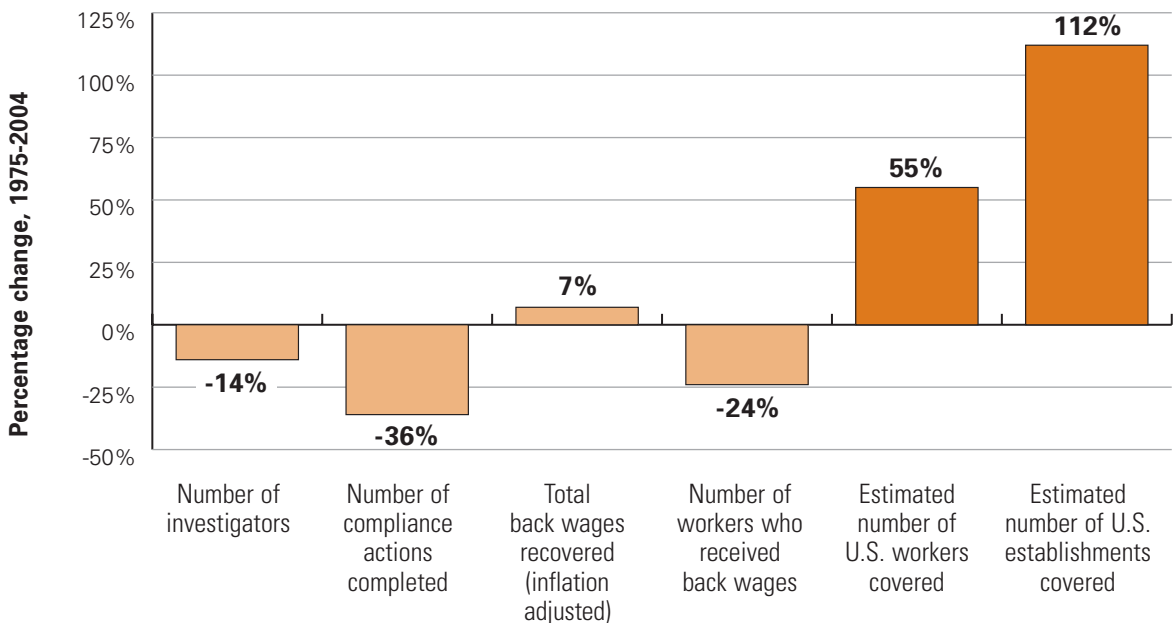
Trends in Wage and Hour Enforcement by the U.S. Department of Labor, 1975-2004

By Annette Bernhardt and Siobhán McGrath

In this policy brief, we analyze data on the enforcement activities of the U.S. Department of Labor’s Wage and Hour Division. The Wage and Hour Division is responsible for enforcing basic laws governing the workplace, including the federal minimum wage, overtime pay requirements, limitations on the use of child labor, and other workplace protections.

Our analysis indicates that over the past three decades, enforcement resources and activities of the U.S. Department of Labor have either stagnated or declined, at the same time that the number of workers and workplaces in the country has expanded. In combination, these two trends indicate a significant reduction in the government’s capacity to ensure that employers are complying with the most basic workplace laws.

Figure 1. Trends in enforcement by the U.S. Department of Labor, Wage & Hour Division, compared to growth in U.S. workers and establishments, 1975-2004



Source: See Data Sources Section

Specifically, Figure 1 shows that between 1975 and 2004:

- *The number of Wage and Hour investigators declined by 14%.*
- *The number of compliance actions completed declined by 36%. This is a rough indicator of the number of establishments investigated each year, and includes a range of actions taken by the U.S. Department of Labor – from full investigations into a workplace (often covering all workers) that result in a judgment against the employer, to individual complaints where the Department settles with the employer, to investigations that uncover no violations.*
- *The total amount of back wages recovered by the Department of Labor grew by 7%, after adjusting for inflation. “Back wages” are the wages that the employer owes the worker – for example, as a result of paying less than the legally-required minimum wage.*
- *The number of workers who received back wages declined by 24%.*

But during that same time period, we estimate that:

- *The number of workers covered by wage and hour laws grew by 55%, and the number of covered establishments grew by 112%.*

A key point in interpreting these findings is that across the country, there is strong anecdotal evidence that growing numbers of workers in the U.S. are experiencing workplace violations. Newspapers are increasingly covering this trend, profiling cases where employers paid less than the minimum wage, did not pay overtime, or failed to pay any wages at all, in industries as varied as construction, restaurants, nursing homes, and domestic work. This suggests that the decline in Wage and Hour enforcement is taking place at the very time that the need for worker protections is growing.

Data Sources for Figure 1

Figure 1 combines administrative data from the U.S. Department of Labor with estimates of the number of workers and establishments covered by wage and hour laws. The administrative data that underlie Figure 1 are as follows:

Enforcement Statistics, U.S. Department of Labor, Wage & Hour Division	FY 1975	FY 2004
Number of investigators	921	788
Number of compliance actions completed	58,758	37,842
Total number of workers who received back wages	380,254	288,296
Total back wages recovered (inflation adjusted to 2004 dollars)	\$184,010,909	\$196,664,146

Source: Letter from the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, to the Brennan Center for Justice, in response to the Brennan Center’s Freedom of Information Act request, received May 2, 2005 (on file with the Brennan Center for Justice). Dollar amounts for back wages recovered were adjusted for inflation with the Consumer Price Index (Research Series).

Estimates of the number of U.S. workers and establishments covered by wage and hour laws are very difficult to construct. We focus on the Fair Labor Standards Act (FLSA), which has by far the broadest coverage, but even here, only rough estimates can be made. For number of establishments covered, we use official government statistics on the total number of establishments in the U.S. (3,947,740 in 1975 and 8,377,266 in 2004); it was not possible to make adjustments for likely FLSA coverage, but note that the vast majority of establishments do fall under FLSA. Data source: U.S. Department of Labor, Bureau of Labor Statistics. Quarterly Census of Employment and Wages. <http://www.bls.gov/cew/home.htm> (accessed 21 August 2005). For number of workers covered, we draw on several data sources. Our estimate of covered workers for 1975 was 56,648,000, taken from Willis J. Nordlund. *The Quest For A Living Wage*. Westport, CT: Greenwood Press, 1997. Our estimate of covered workers for 2004 was 87,691,695, which we calculated drawing on a report by the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division (*Minimum Wage and Overtime Hours Under the Fair Labor Standards Act*. Washington, DC: U.S. Department of Labor, 1998). That report estimated that 66.7% of U.S. workers were covered by FLSA during the years 1990-1996. We applied this percent to the total number of U.S. workers in 2004. Data source: U.S. Department of Labor, Bureau of Labor Statistics. Current Employment Statistics. <http://www.bls.gov/ces/home.htm> (accessed 21 August 2005).