



Highlights of [GAO-08-973T](#), a testimony before the Committee on Education and Labor, House of Representatives

Why GAO Did This Study

Over 100 million workers are protected through the Department of Labor's (Labor) enforcement of labor laws. Under the Fair Labor Standards Act, Labor's Wage and Hour Division (WHD) enforces provisions that ensure workers are paid at least the federal minimum wage and for overtime. The Act applies to businesses engaged in interstate commerce or ones with annual sales over \$500,000. Conducting investigations based on worker complaints is WHD's priority. According to Labor, investigations range from comprehensive investigations to conciliations, which consist primarily of phone calls to a complainant's employer.

This testimony highlights findings from GAO's ongoing investigation of WHD's process for investigating and resolving wage and hour complaints. Specifically this testimony will report on cases GAO has identified from ongoing work that show inadequate WHD investigations of complaints.

To develop the case studies, GAO obtained and analyzed data from WHD for over 70,000 closed case files from fiscal years 2005 to 2007. GAO then reviewed WHD documents and obtained information from publicly available sources in order to determine facts about the employers that had complaints filed against them. The results of these cases cannot be projected to all 70,000 WHD cases. GAO plans to continue its work in this area to determine if identified case studies are indicators of more systematic problems in WHD.

To view the full product, including the scope and methodology, click on [GAO-08-973T](#). For more information, contact Gregory D. Kutz at (202) 512-6722 or kutzg@gao.gov.

DEPARTMENT OF LABOR

Case Studies from Ongoing Work Show Examples in Which Wage and Hour Division Did Not Adequately Pursue Labor Violations

What GAO Found

GAO identified case studies that show WHD inadequately investigated complaints from low-wage and minimum wage workers alleging that employers failed to pay the federal minimum wage, required overtime, and failed to pay employees their last paychecks. Examples of inadequate WHD responses to complaints included instances where WHD inappropriately rejected complaints, failed to adequately investigate complaints, or neglected to investigate until it was too late. The table below provides examples of several case studies.

Examples of Case Studies GAO Identified

Profession/ location	Alleged violation	WHD Actions, Conclusions, and Additional Details
Night attendant at assisted living facility/ Ohio	Minimum wage	<ul style="list-style-type: none"> A homeless woman receiving free room and board while working as a night attendant at a nursing home alleged her employer had failed to pay her wages for an entire year. According to WHD, the employer admitted it had failed to pay any wages to the night attendant and considered the room and board to be pay, but stated it did not have any money to pay the back wages. WHD dropped the case and advised the night attendant of her right to file a private lawsuit. The employer was still in business as of June 2008.
Pool maintenance technician/ Florida	Last paycheck – minimum wage	<ul style="list-style-type: none"> Pool maintenance technician alleged that he did not receive his final paycheck from his employer. Employer admitted to the WHD investigator that they did not pay the employee's last paycheck but refused to pay employee. WHD dropped case and advised the worker of his right to file a private lawsuit.
Cashier/ Florida	Last paycheck – minimum wage	<ul style="list-style-type: none"> Gasoline station cashier alleged he did not receive his final paycheck from his employer. According to WHD, the employer agreed that it owed the cashier his last paycheck, but asked the WHD investigator to call back later to resolve the complaint. WHD dropped the case after several subsequent calls to the employer were not returned. WHD advised the cashier of his right to file a private lawsuit.
Cook/Ohio	Overtime pay	<ul style="list-style-type: none"> Complainant alleged he was not paid for overtime Investigator did not perform any actions for 15 months citing a backlog of cases Investigation was dropped after 15 months when the investigator saw a news article showing that the business in question had closed

Source: GAO, WHD.

The investigations for these cases were inadequate for a variety of reasons. For example, investigators stated that some delays in investigating cases were caused by a backlog of complaints. In these cases by the time a complaint was assigned to an investigator, the statute of limitations for assessing back wages was close to expiring. In another instance an investigator stated that a thorough investigation was not performed because the complaint was filed anonymously. In addition, several investigators stated that because complaints were related to isolated issues, WHD did not normally perform a full investigation. Finally, for one last paycheck complaint, when asked about why a thorough investigation was not performed, the investigator simply stated it "was not a case."