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Wage and Hour Maintains High Enforcement Levels in Fiscal Year 2004

The Employment Standards Administration’s Wage and Hour Division (WHD) recovered more than \$196 million in back wages in fiscal year 2004. Back wage collections have increased steadily since fiscal year 2001, with record breaking amounts collected in fiscal year 2003.^[1] The number of workers receiving back wages has increased by over 33 percent since fiscal year 2001. The average number of cases concluded by WHD investigators in each fiscal year has shown a steady increase from just over 40 cases concluded per investigator in 2001 to 46 in 2004, as WHD increased its enforcement productivity. WHD investigators have also significantly decreased the number of days it takes to conclude a complaint case. The agency concluded some 37,842 compliance actions in fiscal year 2004. WHD assessed nearly \$9 million in civil money penalties this past fiscal year – a slight decrease from the nearly \$10 million assessed in 2003.

WHD Enforcement Statistics – All Acts	FY2001	FY2002	FY2003	FY2004	Change (01-04)
Concluded Cases	38,051	40,264	39,425	37,842	(.5%)
Back Wages Collected	\$131,954,657	\$175,640,492	\$212,537,554	\$196,664,146	49.0%
Employees Receiving Back Wages	216,647	263,593	342,358	288,296	33.1%
Complaints Registered	29,085	31,413	31,123	31,786	9.3%
Enforcement Hours	998,937	1,070,600	1,032,879	1,000,739	.18%
Average Days to Resolve Complaint	139	129	108	92	(34.0%)

Over 265,000 Employees Received Back Wages as a Result of WHD Investigations in Fair Labor Standards Act Cases.

In fiscal year 2004, more than 265,000 employees received back wages as a result of WHD investigations in Fair Labor Standards Act (FLSA) cases. WHD collected more than \$165 million in back wages for violations in FLSA cases, a 48 percent increase over the \$111 million collected in fiscal year 2001, although slightly less than in 2003. FLSA cases represent around 83 percent of all cases handled by the agency in a fiscal year. In fiscal year 2004, back wages for overtime violations represented roughly 92 percent of all

FLSA back wages collected, and the number of employees due overtime back wages represented about 89 percent of all employees due FLSA back wages. This fiscal year, about 71 percent of the FLSA cases had monetary violations, compared to the 69, 70 and 66 percent of monetary violation cases in fiscal years 2003, 2002 and 2001, respectively. In fiscal year 2004, WHD assessed employers \$3,500,388 in FLSA civil money penalties, an increase of 9 percent over fiscal year 2003.

FLSA Registered Case Enforcement Statistics[2]	FY2001	FY2002	FY2003¹	FY 2004	Change (01-04)
Concluded FLSA Cases	31,772	33,154	32,591	31,448	(1.0%)
FLSA Cases with Monetary Violations	21,001	23,111	22,641	22,300	6.2%
Back Wages Collected for FLSA Cases	\$111,102,883	\$142,979,826	\$182,119,413	\$165,385,781	48.8%
Employees Receiving Back Wages	195,257	241,568	314,660	265,772	36.1%

Back Wages Collected for Workers in Low-Wage Industries Increased 33 Percent over the Last Four Years

WHD continues to pursue compliance in low-wage industries, those with vulnerable, often immigrant workers, and those industries with a history of chronic violations. In fiscal year 2004, the agency collected more than \$43 million in back wages for 84,897 workers in selected low-wage industries – an increase of over 22 percent of low-wage workers receiving back wages since fiscal year 2001. Over a third of WHD enforcement resources are attributed to investigations in nine selected low-wage industries, which include day care, restaurants, janitorial services and temporary help. The increase in back wages collected and the number of low-wage workers receiving back wages reflects WHD’s continued commitment to ensuring that low-wage workers’ rights and wages are protected.

Low-Wage Industries Statistics	Cases	Back Wages	Employees
Agriculture	1,633	\$1,194,589	3,700
Day Care	751	\$936,211	3,323
Restaurants	5,040	\$11,304,915	24,335
Garment Manufacturing	505	\$4,770,554	6,722
Guard Services	683	\$5,316,776	8,753
Health Care	1,947	\$10,925,095	20,531
Hotels and Motels	1,045	\$2,383,884	6,817
Janitorial Services	549	\$2,999,578	4,700
Temporary Help	472	\$3,310,309	6,016
Total Selected Low-Wage Industries	12,625	\$43,141,911	84,897

Low-Wage Industries Statistics[3]	FY2001	FY2002	FY2003	FY2004	Change (01-04)
Cases in Selected Low-Wage Industries	14,267	14,016	12,962	12,625	(11.5%)
Back Wages Collected	\$32,470,183	\$38,608,612	\$39,595,382	\$43,141,911	32.9%
Employees Receiving Back Wages	69,469	86,432	80,772	84,897	22.2%

Steady Decline in Minors Employed in Violation of Child Labor Laws

In fiscal year 2004, 41 percent fewer minors were found employed in violation of the FLSA child labor provisions than in fiscal year 2001. Forty-seven (47) percent fewer minors were found illegally employed in hazardous occupations than in 2001. The number of investigations in which child labor violations were found decreased by nearly 23 percent from fiscal year 2001, while the number of self-directed child labor investigations increased by nearly 7 percent in the same time period. WHD assessed \$4,191,809 in child labor civil money penalties in fiscal year 2004.

Child Labor Statistics	FY2001	FY2002	FY2003	FY2004	Change (01-04)
Self-Directed Child Labor Cases	2,021	2,105	2,031	2,155	6.6%
Cases with Child Labor Violations	2,103	1,936	1,648	1,616	(23.2%)
Minors Employed in Violation	9,918	9,690	7,228	5,840	(41.1%)
Minor Per Case	4.7	5	4.4	3.6	(23.4%)
Cases with HO Violations	876	747	654	459	(47.6%)
Minors Employed in Violation of HOs	2,060	1,710	1,449	1,087	(47.2%)
Child Labor Enforcement Time	7.4%	6.3%	5.9%	5.8%	(21.6%)

Family and Medical Leave Act Enforcement Complaints Declined Slightly in 2004

The number of Family and Medical Leave Act (FMLA) complaint investigations concluded dropped slightly in 2004 from fiscal year 2003, but were about 20 percent higher than in fiscal year 2001. The number of violation cases increased by only 4 percent during the same time period from 2001 through 2004. Violation cases as a percent of FMLA complaints decreased significantly from 52 percent in fiscal year 2001 to 45 percent in fiscal year 2004. In fiscal year 2004, WHD collected just over \$2.3 million in back wages for violations of FMLA. Termination of employees seeking FMLA leave continues to be the primary reason that employees filed a complaint.

FMLA Enforcement Statistics	FY2001	FY2002	FY2003	FY2004	Change (01-04)
Number of Complaints	2,790	3,501	3,565	3,350	20.1%
Nature of Complaint					
Refusal to Grant FMLA Leave	629	741	815	697	10.8%
Refusal to Restore to Equivalent Position	360	400	370	369	2.5%
Termination	1,123	1,503	1,567	1,473	31.2%
Fail to Maintain Health Benefits	62	71	46	48	(22.6%)
Discrimination	616	786	767	763	23.9%
Status of Compliance Action					
No Violation Cases	1,343	1,766	1,911	1,848	37.6%

Employer Not Covered	58	63	68	75	29.3%
Employee Not Eligible	164	224	199	238	45.1%
Complaint Not Valid	953	1,281	1,417	1,301	36.5%
Other	168	198	227	234	39.3%
Violation Cases	1,447	1,735	1,654	1,502	3.8%
Number of Employees Affected	1,627	2,077	1,867	1,742	7.1%
Amount of Monetary Damages	\$2,983,936	\$3,731,929	\$2,397,876	\$2,311,781	(22.5%)

[1] FY2003 statistics include several multimillion dollar back wage cases, including one case in excess of \$21 million, that were concluded during FY2003.

[2] FLSA registered cases are investigations registered under the Fair Labor Standards Act (as opposed to the Davis-Bacon Act or the Migrant and Seasonal Agricultural Worker Protection Act). The violations, back wages and employees receiving back wages for this group of investigations are not limited to FLSA violations. The reported violations may have occurred under any other statute that WHD enforces.

[3] Includes Agriculture, Day Care, Restaurants, Garment Manufacturing, Guard Services, Health Care, Hotels and Motels, Janitorial Services, Temporary Help.