

# **SPECIAL TASK FORCE FOR THE APPAREL INDUSTRY**

## **Annual Report**

**2005**



**STATE OF NEW YORK  
GOVERNOR, GEORGE E. PATAKI**

**DEPARTMENT OF LABOR  
COMMISSIONER, LINDA ANGELLO**



**NEW YORK STATE DEPARTMENT OF LABOR**  
**DIVISION OF LABOR STANDARDS**  
**APPAREL INDUSTRY TASK FORCE**

**DEPUTY COMMISSIONER FOR WORKFORCE PROTECTION**

Connie J. Varcasia

**DIRECTOR**

Richard Cucolo

**CHIEF INVESTIGATOR**

Charles DeSiervo

**SUPERVISING INVESTIGATOR**

Michael Kramer

**SUPERVISING INVESTIGATOR**

John Hopkins





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## PROTECTION OF WORKERS AT RISK OF EXPLOITATION

In a ceremony on March 22, 2005, commemorating the 94<sup>th</sup> anniversary of the Triangle Shirtwaist Company fire, New York State Commissioner of Labor Linda Angello joined forces with state legislators, union leaders and members of the Apparel Industry Task Force to remember that tragic day. The fire was the worst industrial disaster in the

history of America's modern industrial age. This event led to dramatic changes in New York State laws relating to the protection of workers.



*A garment shop in New York City.*

On March 25, 1911, a fire swept through the Triangle Shirtwaist Factory, trapping workers on the top three floors of a 10-story building in lower Manhattan; exit doors were bolted and fire escapes were defective, as a result 146 young immigrant women and children lost their lives. The tremendous public outcry that followed this tragedy led New York State to enact many of the first significant worker protection laws in the nation.

"Each year we honor the victims of the Triangle Shirtwaist Factory fire and pledge to never forget their sacrifice by continuing our efforts to provide safe workplaces for all New Yorkers," said Commissioner Linda Angello. "Governor Pataki's support of the Labor Department's Apparel Industry Task Force has enabled us to pursue and prosecute individuals who flagrantly violate New York's garment laws."

The New York State Department of Labor enforces garment, wage and hour laws in the state through its Apparel Industry Task Force (AITF). Task Force investigators visit garment manufacturers and contractors to identify unsafe working conditions, review employer records and examine registration certificates. The AITF staff issue violation notices to businesses that disregard provisions of state laws governing registration, child labor, wages, benefits, working hours and industrial homework. The Task Force investigators also make referrals to the appropriate state, local or federal authorities for abatement of identified unsafe conditions.

Today, the administration of Governor Pataki continues to be steadfast in the area of worker protection. Since taking office in 1995, the Governor has more than doubled the number of investigators in the Apparel Industry Task Force, which works diligently to ensure our garment industry is fair and safe for workers.

It's important to note that today's sweatshops are no longer confined to the apparel industry. Sweatshop conditions are prevalent in restaurants, laundries, grocery stores, bakeries and gardening services. The victims often are recent immigrants who speak little English. In order to protect this vulnerable workforce, members of the Apparel Industry Task Force have participated in labor standards investigations outside of the garment industry. This has proven to be very effective because the language skills, investigative techniques and auditing procedures that AITF employs easily lend themselves to investigations in other industries.

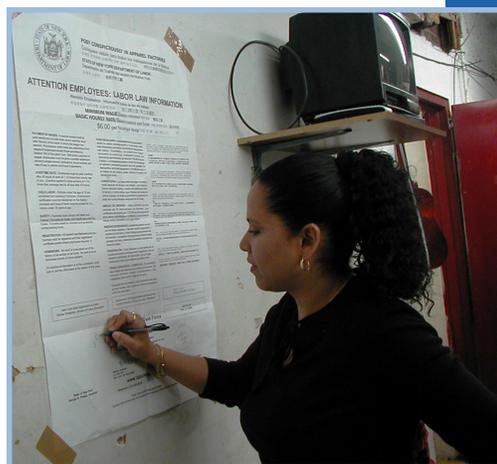


Accordingly, in his budget Governor Pataki proposed, and the Legislature accepted, a change in the name of the Task Force to the Fair Wages Task Force; expanding its jurisdiction to include every industry where the potential for sweatshop abuse exists. This change will not only help protect workers, it also will help to level the playing field for every company that obeys the law.

## 12A LEGISLATION

The Apparel Industry Task Force was created in 1987 in response to the proliferation of sweatshops in New York State. The Legislature enacted Article 12-A of the Labor Law, which established a registration process for all apparel industry manufacturers and contractors that do apparel production work in New York State and created a special task force for the apparel industry. The intent of the legislation was to expose the underground sweatshops and force them either to close down, if they continued to be part of the underground economy, or to become legitimate businesses. If they chose the latter, they are required to register with the Department of Labor. The New York State Department of Labor, Division of Labor Standards is vested with the responsibility of protecting workers from those employers who underpay their workers. The Apparel Industry Task Force is a special unit of the Division of Labor Standards that is given the task of protecting the low-paid garment workers, many of them recent immigrants to this country, who very often work in sweatshop-like conditions.

The historical and statutory remarks to the 1987 legislation note that “The legislature hereby finds that there is a growing concern over the increasing numbers of people working for employers in certain segments of the apparel industry under conditions which violate statutes of New York state governing wages and hours, child labor, unemployment insurance, workers’ compensation and the payment of payroll taxes and local laws, codes and regulations governing health and safety in the workplace. Employees working under all these unlawful sweatshops conditions face exploitation each and every working day. It is the sense of the legislature that this exploitation must, in so far as is possible, be eliminated. It is for these reasons that a special task force for the apparel industry is created and a system of registration is created.”



*Investigator Iris Rivera signing a special minimum wage poster for the apparel industry.*

The legislative mandate of the Task Force is to legitimize the businesses that are willing to comply with New York State Labor Laws and weed out and close down the egregious violators that operate in the underground economy. One of the main objectives of the Task Force is to create a level playing field so legitimate businesses that comply with the law can survive.

Since 1995, Governor George E. Pataki has steadfastly supported the Task Force by increasing its investigative powers and responsibilities. He enhanced the registration





*Investigator Fanny Almanzar interviewing a minor working in a supermarket.*

requirements by requiring that the owner provide his or her Social Security Number, home address and photographic proof of identity. Employers must also show evidence of New York State Workers' Compensation and Disability Insurance coverage. Other amendments to the law have given the Task Force tools to fight the abuses of the modern sweatshop. These tools have included laws on "hot goods," "joint liability" and "tagging." In 2005, the Task Force was given the additional power under the Apparel Workers Protection Act to "immediately evacuate and close any premises deemed by a special task force investigator trained in accordance with section 346 of this article to recognize fire code violations, to be a serious violation of the applicable fire code; and to refer such violation immediately to the appropriate local authorities."

In addition to the 12A legislative enforcement enhancements, Governor Pataki, in 2001, significantly increased staffing levels in the Task Force by creating 10 new multilingual investigative/senior positions. He announced this at the commemoration site in Greenwich Village marking the 90th anniversary of the 1911 Triangle Shirt Waist Company fire.

With the increase in staff and the additional laws to help enforcement, the collection of wages owed to garment workers has dramatically increased since Governor Pataki took office. Since 1996, the Task Force has collected over \$22 million in unpaid or underpaid wages for workers. (See Labor Law Violation Section.)

It is also worth noting that, since the increase of staff four years ago, the Task Force has collected approximately \$15 million in wages and distributed the money to over 27,000 sweatshop workers for the period 2002-2005.

## **NEW YORK STATE APPAREL INDUSTRY TRENDS**

Despite outsourcing of manufacturing to countries with lower labor costs, the continuing impact of 9/11 and the higher rents for space in New York City, the garment industry remains the largest manufacturing sector in New York City. New York State apparel manufacturing employed over 34,000 workers as of January 2005. This represents the number of workers "on the books." In addition, as we find during our investigations, there are a substantial number of workers paid "off the books."<sup>1</sup>

New York State remains an important center of both garment production and wholesale sales. A significant portion of apparel industry production comes from fast-selling "reorders" and niche specialty markets. Apparel is New York City's fourth largest export factor based on employment. It generates nearly \$3.5 billion annually in total economic output, which includes \$157 million annually in city tax revenues. The Fashion Industry generates nearly 100,000 additional jobs in fashion-



related textile production and in wholesale selling. Apparel manufacturing accounts for one-third of the manufacturing jobs in New York City and is its largest single source of manufacturing jobs.<sup>2</sup>

The Fashion Industry in New York State has a sales volume of \$14 billion. It also generates additional tourist revenue for New York City. Visits by 125,000 out-of-town apparel buyers inject an estimated \$100 million for New York City hotels, restaurants, transportation services and other non-apparel businesses.<sup>3</sup>

While the number of firms operating in the apparel industry continues to decline, competition among the surviving firms is high. As noted in previous reports, the trend of production shops seeking to remain competitive continues. Shops are moving out of Manhattan to the surrounding areas of Brooklyn, Queens, the Bronx, Long Island and New Jersey in search of lower rents. Production shops moving to residential areas of Brooklyn and Queens have taken over storefronts and business lofts that are not set up for heavy apparel-production machinery. Since many of these new factories are in buildings not originally constructed for manufacturing, this migration has raised safety, building and health code issues that the Task Force is addressing in cooperation with the New York City Fire and Building Departments and the department's Division of Safety and Health (DOSH).

## FAIR WAGES TASK FORCE LEGISLATION

In April 2005, Governor George Pataki signed into law Article 12 of the Labor Law creating the Fair Wages Task Force. The Fair Wages Task Force was conceived by Commissioner of Labor, Linda Angello. In the spring of 2004, Commissioner Angello asked the Apparel Industry Task Force to start a pilot program that would target certain industries outside of apparel that have a large number of employees who are paid at the minimum wage. That pilot program was so successful that Commissioner Angello requested that legislation be set in motion to create this new Task Force. (See Investigation Section.) The duties, mission, responsibilities and powers of the new Fair Wages Task Force are similar to the Apparel Industry Task Force.



*Investigator Jorge Alvarez interviewing two workers.*

According to Article 12, the commissioner is "authorized to establish a fair wages task force for the purpose of concentrating enforcement of the provisions of this chapter affecting employees in manufacturing, service and other industries where there may be a concentration of workers at risk of exploitation in New York State and otherwise exercising the duties and powers set forth in sections 332 and 333 of this article. Such task force shall be empowered to investigate and conduct inspections."



**The duties of the Fair Wages Task Force are:**

1. to inspect manufacturing, service and other industries with respect to their respective employees, for compliance with the provisions of this chapter; and
2. to ensure, with respect to their respective employees, compliance by manufacturing, service and other industries with orders of, and assessments of civil penalties by the commissioner pursuant to this article.

**The powers of the Task Force are:**

to inspect books, records and premises of employers, with respect to their respective employees to determine compliance with this chapter, including but not limited to, minimum wage, overtime compensation, unemployment insurance coverage and child labor; and when in the course of inspections pursuant to subdivision one of this section, (a) to inspect books and records of employers with respect to their respective employees concerning the deduction and remittance to the proper authorities of all federal, state and local payroll taxes and to refer to the appropriate authorities any instance in which there is reasonable cause to believe that the payment of federal, state and local payroll taxes is being evaded; and (b) to take action authorized by this chapter necessary to implement its provisions.

Similar to the Apparel Industry Task Force, the new Task Force is given the training; assistance of agencies: "The task force shall receive training to be provided by the state as is necessary to carry out the duties and powers of the task force.

According to the statute, the task force may request from any department, division, board, bureau, commission or other agency of the state, any political subdivision of the state, a public authority or any other governmental agency or instrumentality of the state, such assistance as shall enable it to properly carry out its powers and duties under the provisions of this section."

**ARTICLE 12-A REGISTRATION**

Apparel Registration is the first step that a firm takes to emerge from the underground economy. Article 12A of the New York State Labor Law requires that apparel manufacturers and contractors that are engaged in the production of men's, women's, children's and infant's apparel in New York State must register with the New York State Department of Labor by January 15th of each calendar year. The registration program was created because of the history of abuses in that industry. Unscrupulous operators were at one time able to set up shop, function for a few days or weeks and close up suddenly. Many times they would close up and fail to pay workers their earned wages.



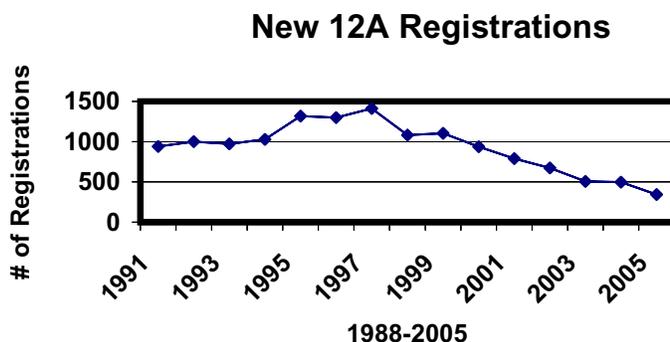
*Investigator Iris Rivera checks a 12A Registration Certificate.*

Improvements and enhancements in the registration law required that the owners of such apparel companies submit the names and home addresses of officers and shareholders as well as their Social Security Numbers and photo identification. Once an apparel firm has submitted all required information to the Certificates and Permits Office of the Division of Labor Standards, the firm is issued an Apparel Registration Certificate that must be displayed on the factory's premises. The Apparel Industry Task Force became aware that some companies were involved in "fronting." Under this process, a person who signs on as being in control of the firm is not actually responsible for the firm's operations and might not ever appear on the company's premises. The Task Force investigators continue to remain vigilant in that area.

In addition to the ability to locate violators who may have failed to pay wages, the Task Force staff will not grant a certificate to a company if they have any outstanding penalties or *Orders To Comply* for unpaid wages or overtime. The employers are required to come into compliance by paying such outstanding indebtedness before they can receive a certificate.

The Apparel Industry Task Force (AITF) is charged with enforcing the provisions of Article 12A, including the registration requirements. They perform targeted patrols in areas where they know that apparel shops exist. They are always on the lookout for new factories appearing in areas where none previously existed. The investigators are trained to recognize the signs of a factory operation. The Apparel Industry Task Force also receives anonymous complaints from individuals that an apparel factory is operating without a certificate. The Certificates and Permits Office mentioned above alerts AITF if a firm attempts to register but fails to provide all the necessary information, after being told to submit the requirements.

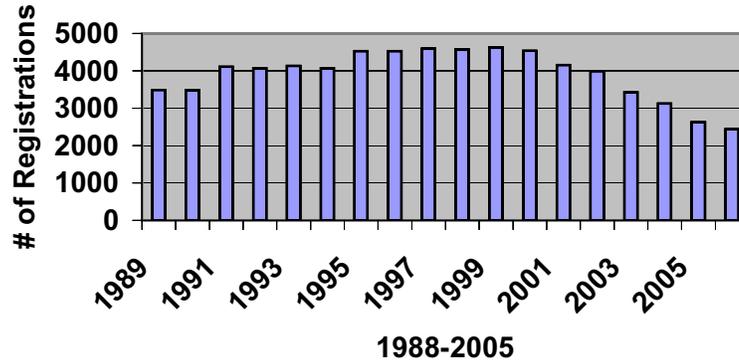
When an investigator finds an apparel firm operating without an Apparel Registration Certificate, he or she issued an *Order To Register* that requires the employer to register within 20 days. If the company fails to register, it is automatically in violation of a second section of Article 12A for failing to comply with an *Order To Register*. The Task Force can levy penalties in the statute against those firms that fail to comply with the provisions of Article 12A. The AITF investigators make every effort to bring firms into compliance without penalties, since their goal is to encourage firms to operate legitimately.



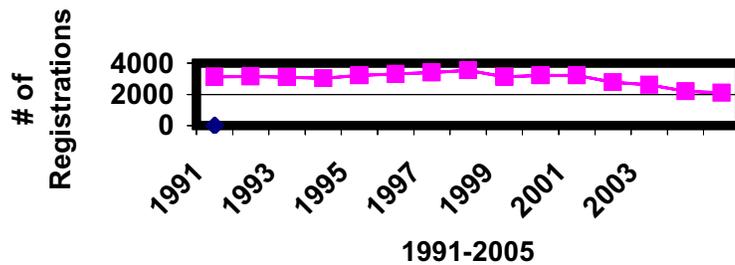
The number of new Apparel Registration Certificates continues to decline, as it has since 1999, which is the last year that showed an increase in such certificates. (See chart on page 11.) There was a significant decrease in new registrations in 2005 compared to 2004. In 2005, we received 150 fewer new registrations. This compares with 2004, when there was a decline of 11 new registrations compared to 2003. However the number of renewals and total number of registered firms registered (see below) decreased at a much lower rate. In 2004, 2,637 firms registered and in 2005, 2,439 firms registered, for a total decrease of 202 firms.

It appears that established firms are remaining in business, but new entry apparel firms are decreasing. The total decrease may be a reflection of apparel work being done overseas. The recent removal of import quotas for goods from China will make it more feasible to produce apparel in China and ship it to this country. While the Task Force expects this trend to continue, it appears that the number of shops closing is stabilizing.

### 12A Registrations



### Renewal 12A Registrations



### BIDDERS REGISTRY

In order to help New York businesses that were economically affected by 9/11, Governor George Pataki signed legislation in 2002 establishing a September 11<sup>th</sup> Bidders Registry (Chapter 350 of the Laws of 2002.) New York State manufacturers and contractors in the apparel industry, who meet certain requirements, may have a preferred source status for apparel and textile procurement by the State University of New York (SUNY) and City University of New York (CUNY), community colleges, all other New York State agencies and other public agencies.



In order for an apparel manufacturer or contractor to be listed on the registry, the firm must meet the following criteria:

- The firm was registered on 9/11/00, continuously in business from 9/11/00 to 9/11/01 and currently registered;
- The firm was adversely impacted in any way connected to the events of 9/11/01;
- The firm is engaged in cooperative labor management efforts to improve the economic well being of its employees and/or work with a labor organization (union) to that end; and
- The firm, its owners and partners are free of violations of the New York State Workers Compensation Law, or any State or Federal Labor Law, Rule or Regulation for the previous five (5) years.

In 2005, the Bidders Registry was revised to include successor companies.

There are 70 firms currently listed on the Bidders Registry. Interested parties can find the complete list at the Labor Department web address at: [http://www.labor.state.ny.us/workerprotection/laborstandards/workprot/garment\\_files/biddersreg.shtm](http://www.labor.state.ny.us/workerprotection/laborstandards/workprot/garment_files/biddersreg.shtm).

## INVESTIGATIONS

### Apparel Shops

AITF staff initiated investigations due to complaints or as a result of routine patrols (door to door) in areas known to have garment factories. In addition, investigators continued visits to garment factories located in Nassau and Suffolk Counties to ensure that all such shops are registered and are in compliance with all relevant sections of the Labor Law.



*A busy garment shop.*

AITF investigators are able to communicate with the apparel factory workers because they speak the languages of the workers, i.e., Spanish, Korean and Chinese.

The Task Force prioritizes its complaints. The highest priority is given to protecting the worker in cases involving unpaid wages or dangerous working conditions. Staff schedule investigations in the following priority: complaints, targeted areas and door-to-door visits.

The Task Force investigators regularly conduct compliance sweeps in targeted areas that have been previously identified as having numerous Labor Law and local safety code violators. A sweep consists of one or more teams of investigators who visit all apparel manufacturing shops in the targeted geographic area. The teams of investigators speak the language of the workers in the area of the sweep. A sweep can last for one day or three weeks, depending on the situation.





*Investigator Kenny Lin examines payroll records.*

In 2005, the Task Force continued its mandate to vigorously enforce New York State Labor Law in the apparel industry, specifically, Articles 4 (child labor), 5 (hours of work), 6 (payment of wages), 12A (wages and apparel registration), 13 (industrial homework) and 19 (minimum wage).

Task Force investigators make unannounced door-to-door visits to apparel production firms daily. All investigations include the review of registration requirements, payroll records, interviewing of employees and employers and the referral of health and safety and health issues to the appropriate agencies. Employers who violate Article 6

(Payment of Wages) or Article 19 (Minimum Wage) of the Labor Law are considered "Hot Goods" violators. This identification may cause their merchandise to be tagged as "unlawfully manufactured", which prohibits the manufacturer from selling these goods at retail. The "tagging of garments" in shops where wages have not been paid continues to be a strong weapon. The threat of tagging is often enough to obtain the cooperation of contractors or manufacturers who may be otherwise reluctant to produce their records.

The Task Force continues to use the team approach investigation method for both efficiency and safety. It permits investigators to immediately identify and effectively deal with apparel factory owners involved in multiple covert activities such as employment of minors, "off the books" employment, under-reporting or non-payment of wages, fraudulent record-keeping, fire, safety and health code violations and tax remittance avoidance. In this potentially volatile setting, the team approach gives the investigator security.

Traditionally, the most recently arrived immigrant groups see the apparel industry as the first stepping-stone to employment in their new home. Today, apparel manufacturing remains an important source of work for recent immigrants to New York State, who constitute over 75% of the workforce in the apparel industry.<sup>1</sup> The industry also provides an opportunity for advancement for immigrant entrepreneurs who own a significant number of the factories in New York City. According to a story in the New York Daily News, immigrants make up 43% of the city's total job force and about half of the workers age 25 to 54, the prime employment years. "New York's current and future economic viability is closely tied..." to immigrants, who "play a crucial role in the city's labor market..." according to the report, which also provides a sweeping look at population trends... during the past decade.<sup>2</sup> While New York City is the hub of



*Investigator Stanley Chan interviewing a garment worker.*

<sup>1</sup> The Fashion Industry and New York City See *Garment Industry Development Corporation* at <http://www.gidc.org/>

<sup>2</sup> **Immigrant Labor booms in city** by Brian Kates Daily News Staff Writer Tuesday, January 25<sup>th</sup>, 2005.





*Investigator Nancy Gao interviewing a garment worker.*

the garment industry in New York State and over 95% of our investigations are in the city, the Task Force enforces the Labor Law throughout the state.

### **Non-Apparel Shops**

As noted earlier, there has been a decline in garment manufacturing. To continue its mandate to fight sweatshops, in 2004 the Task Force expanded its mission with a small pilot program to protect workers in other industries who work in sweatshop-like conditions, but do not work in garment factories. In this pilot program, the Task Force began to investigate non-apparel firms that

meet the criteria of sweatshops in other industries, using the same investigative techniques that are used in apparel investigations. The criteria that the Task Force uses to focus on other industries includes, but is not limited to, businesses that use a large number of immigrant workers who might be undocumented and receive wages below the minimum wage or the payment of flat salaries for all hours worked (including those in excess of 40 in one week.) Many of these businesses are known to the Division to have a tradition of employing people "off the books". Some of these businesses include carwashes, restaurants, supermarkets that are part of a cooperative but are not chain-operated, nail salons and warehouses.

In the 2004 pilot program, the Task Force did 38 non-apparel investigations and found over \$900,000 owed to 383 workers who were not paid in accordance with the minimum wage. Although the Fair Wage Task Force has no tagging law to assist in such cases, the Task Force was still able to recover most of the money due the workers. In addition, the Task Force closely monitored these firms that violated the law, requiring them to attend Labor Law Seminars and performing periodic rechecks so that they would come into compliance. In the few instances where all the money was not collected, the matters were referred to the Attorney General's Office, where criminal convictions or full restitution was obtained.



*A Task Force investigator interviewing a warehouse worker.*

In response to the successful 2004 pilot program, under the support and direction of Governor George Pataki and Commissioner of Labor Linda Angello, the State Labor Department created the Fair Wages Task Force as a permanent entity.

The number of wage-related investigations has risen as a result of additional staff hired pursuant to Governor George Pataki's directive in 2001. In 2005, the Task Force assessed a record \$5,346,020 in unpaid wages and below minimum wage payments and will collect and distribute over \$5 million to approximately 5,105 workers. The assessments were \$2,004,000 in apparel industry and the balance \$3,341,000 in non-apparel industries.



## 2005 LABOR COMPLIANCE SWEEPS

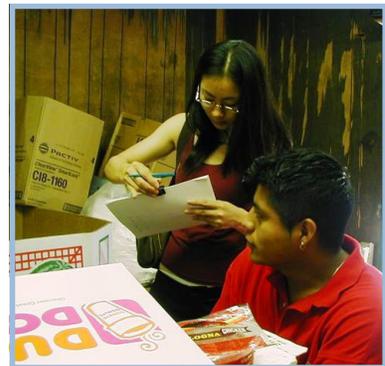


*Investigator Maurice Agudelo interviewing workers in a basement of a Green Grocer.*

In 2005, the Task Force made a number of Labor Law Compliance Sweeps. A Compliance sweep is defined as a visit to a specific industry or group of industries in a target area to see if they are in compliance with the various provisions of the Labor Law. In particular, the operation targets certain midsize to large establishments in a location that typically pays at the minimum wage level. Most sweeps are planned and scouted by veteran field staff. A team usually consists of 10 or more multi-language investigators, Senior(s), Supervisor(s) and Chief, who are then divided into two or more teams. The most important element of a sweep is multiple simultaneous interviews of employees in an establishment before they can be coached by their superiors. It is not unusual to have six or

seven multi-lingual investigators interviewing minimum wage employees, while at the same time team leaders interview management. This concept of dividing the boss from employees has been successfully used by the Apparel Industry Task Force team approach for almost 20 years.

In 2005, the Task Force had a number of specific sweeps. The focus or purpose of each sweep varied, but the results were consistent. There is a large group of workers who are making substantially less than the New York State minimum wage. The Task Force had industry sweeps, area sweeps and joint sweeps with other government agencies. A summary of some of the Task Force compliance sweep highlights follows:



*Investigator Nancy Gao interviews a worker.*

### JOINT NY & US DOL SWEEP

This sweep was a joint venture of the New York and United States Departments of Labor. On October 6, 2006, a staff of 39 investigators from both departments visited nine mid-sized supermarkets in Queens. The investigators were divided into three teams overseen by New York State and Federal supervisors. Each team investigated three supermarkets in the course of the day. At the end of the day, all three teams met at a debriefing session at the NYS DOL building in downtown Flushing. The day's work was reviewed and the assignments made to investigators for follow up and computation of underpayments.



*Investigator Jorge Alvarez interviewing a supermarket worker.*

Of the nine firms that were visited, it appears that six have substantial monetary violations, two were in compliance and one firm, the USDOL has not yet reported back. Of the six firms with monetary violations, five have been served recaps for over



\$1,000,000 due approximately 270 workers. (Settlement agreements have been reached for three of the firms for repayment of over \$630,000.)

### **BROOKLYN (BRIGHTON BEACH) SWEEP**

On July 21, 2005, two teams of 11 Spanish-, Chinese- and Korean-speaking Task Force investigators and Supervisor Michael Kramer, with Director Richard Cucolo, visited 24 employers in the Brighton Beach area. When preparing for this sweep, the Task Force criteria was to find a normal busy business area in NYC, outside of Manhattan, to see if businesses are in compliance with minimum wage and recordkeeping provisions of the Labor Law. The Task Force cited 21 of the 24 businesses for recordkeeping and/or child labor violations. In addition, at least 13 of these businesses have been cited for monetary violations (mostly minimum wage) totaling over \$172,000 due 55 employees. To date, the Task Force has collected or has payment plans for over \$165,000.



*Director Richard Cucolo, Supervisor Michael Kramer, Senior Maritza Lamboy and Investigator Iris Rivera under the Brighton Beach L line.*



*Investigator Jorge Alvarez and investigator Iris Rivera serving a Notice of Violation to an employer.*

### **SILK SCREENING SWEEP IN MIDTOWN NEW YORK**

On the afternoon of September 30, 2005, three teams of six Investigators and a Senior conducted a sweep at a Silk Screening Building located at 1165 Broadway. The Task Force visited nine firms in the building and issued six recordkeeping violations, five *Orders to Register* and assessed over \$44,000 in unpaid wages for six workers who were being paid less than minimum wage. To date, the Task Force has collected or has

payment plans with four of the firms that owe approximately \$15,000 to their workers. Compliance conferences were scheduled for the other two firms.

### **UPPER MANHATTAN SWEEP**

On July 18<sup>th</sup>, a group of six Spanish-Speaking Investigators and a Supervisor visited four establishments in upper Manhattan two supermarkets, one restaurant and one car wash. All four firms were served Labor Law violations, including failure to pay minimum wage and failure to keep accurate payroll records. The Task Force computed almost \$200,000 in back wages due approximately 80 employees. To date the Task Force has collected or has payment plans from three of the firms totaling \$110,000 in back wages for 51 workers. A compliance conference was scheduled for the remaining firm.



*Senior Investigator Maritza Lamboy shown records by Silk Screen owner.*





Senior Paul Kalka and Investigator Nancy Gao reviewing notes.

## QUEENS SWEEP

On June 30, 2005, two teams of twelve Chinese- and Spanish-Speaking Investigators, overseen by a Senior and Chief, visited five supermarkets in Queens. Individually the teams visited four supermarkets and collectively visited one supermarket with over 100 employees. Each of the teams visited a different branch of a chain supermarket and followed up by visiting each chains Manhattan branch supermarkets the next day. The one chain of supermarkets with three branches agreed to make restitution totaling over \$640,000 due in back wages to over 140 employees. Another chain

supermarket is currently being jointly investigated by the New York State Attorney Generals Office and the Task Force. The other supermarket investigation has been expanded to include other chain stores and that investigation is currently active.

## LABOR LAW VIOLATIONS & WAGE COLLECTIONS

As the result of a Task Force investigation, an employer can be cited for violating sections of the New York State Labor Law through the issuance of a *Notice of Labor Law Violation* and/or an *Underpayment Recapitulation Sheet*. Department procedures permit a cited firm to request a Compliance Conference to review the findings of the investigation and to provide any additional evidence pertinent to the matter.

After further review of the matter, if the department determines the Notice of Labor Law Violation and/or Under-payment Recapitulation Sheet to be accurate or needing to be revised, but the firm refuses to comply with the law and/or make full restitution on wages owed, an Order to Comply with penalties and interest is issued against the firm and/or the matter is referred to the New York State Office of the Attorney General for criminal prosecution.

While both civil and criminal options are available to the Task Force, the Task Force stresses full restitution and future compliance. In fact, over 95 percent of monetary investigations are successfully concluded without the need for civil or criminal proceedings.



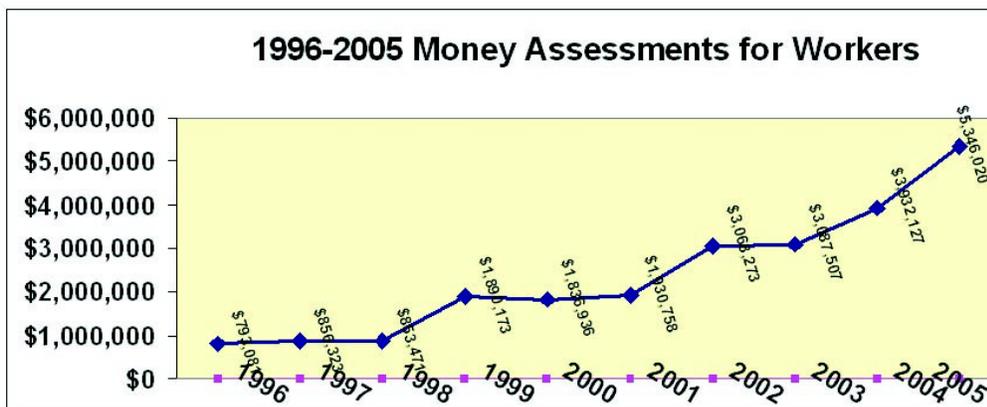
Typical records in a garment shop.



Below is a comparison of wage collections for the past four years.

	2002	2003	2004	2005
TOTAL COLLECTIONS FOR ENFORCEMENT	124	102	107	107
UNPAID WAGES FOR ENFORCEMENT	80	79	82	82
REPAIRS TO WAGES FOR ENFORCEMENT	12	8	8	8
TOTAL WAGES PAID FOR ENFORCEMENT	202	199	207	207
TOTAL WAGES FOR ENFORCEMENT	80	87	90	90
TOTAL WAGES (APPROXIMATE)	81	88	92	92
TOTAL WAGES FOR ENFORCEMENT	80	82	82	82
UNPAID WAGES	80,000,000	80,000,000	80,000,000	80,000,000
REPAIRS TO WAGES	12,000,000	8,000,000	8,000,000	8,000,000
TOTAL WAGES PAID	202,000,000	199,000,000	207,000,000	207,000,000

With the increase in staff and the additional laws to help enforcement, the collection of wages owed to garment and other workers has dramatically increased since Governor Pataki took office. Since 1996, the Task Force has assessed over \$22 million in unpaid or underpaid wages for workers. The chart below shows this increase.



It is worth noting that, with the increase of staff four years ago, the Task Force has collected approximately \$15 million in wages and distributed the money to over 27,000 workers for the period 2002-2005.

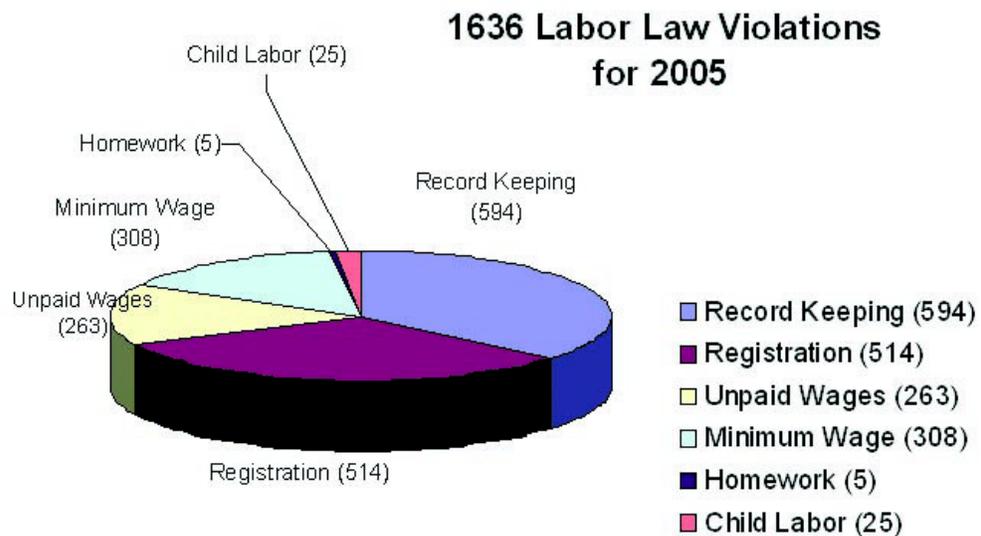
With the Task Force taking on the additional responsibilities in other industries, the number of investigations decreased slightly. This is due to the complexities of the minimum wage cases resulting in a large increase in minimum wage investigations. Non-apparel minimum wage investigations are usually very time-consuming because investigations usually involve more workers and the underpayments are for longer periods of time than those in the garment industry. As in the past, Task



Force investigators continue to vigorously enforce the recordkeeping provisions of the Labor Law by insisting that all wage payments cash, check or combination of both be included in the payroll records or substantial civil penalties will be assessed. The issue of proper recordkeeping is also a topic that is emphasized at the popular employer Labor Law education seminars (see pages XX-XX)

Through the use of a computerized database, the Task Force selects firms for investigation based upon historic and geographic data surveys, as well as field investigation reports. The Task Force has successfully utilized this information in investigations, yielding a high percentage of employees with violations, while avoiding repeated visits to employers who do not have a history of violating the Labor Law.

In 2005, the Task Force investigated 1,187 businesses and issued 1,536 Labor Law violations. The investigations revealed that 514 firms were not registered, 512 firms were not in compliance with the wage payment and/or minimum wage provisions of the Labor Law and 594 firms were in violation of recordkeeping requirements, such as allowing employees to work "off the books" and/or furnishing incomplete or inaccurate records. (See pie chart below.)



As the above pie chart shows, manufacturers and contractors in the apparel industry, as well as other minimum wage industries, continue to operate in violation of multiple laws, codes and regulations. The Task Force investigators found that over 50 percent of apparel firms visited were in violation of registration requirements, 48 percent of the firms visited violated wage payment or minimum wage requirements and 50 percent of firms visited were in violation of the recordkeeping requirements of the Labor Law. These violation numbers are significant. The relatively high percentage of firms in violation of the Labor Law is the result of the Task Force mode of targeting certain industries and/or geographical areas that have a history of non-compliance with the Labor Law.





*Senior Investigator Geovanna Giraldo and Investigator Fanny Almanzer reviewing interview sheets taken at a supermarket.*

Homework and child labor violations remain at a low level in the garment industry as a result of vigorous enforcement by the Task Force. Monthly educational seminars also play a significant role in Labor Law compliance.

The Task Force vigorously enforces all aspects of the Labor Law. After processing Labor Law violations, such as records, child labor, registration and home-

work, in addition to criminal and civil proceeding remedies which the Task Force utilizes in monetary cases, Labor Standards has an additional method of resolution the stipulation. A firm that is in violation of the recordkeeping, child labor, homework or registration provisions of the Labor Law may get the chance to pay a stipulation penalty instead of having an Order to Comply issued against them. In 2005, the Task Force resolved 70 percent of Labor Law violations that resulted in penalties by stipulations. In addition, if the violation is severe, the firm must promise future compliance and attend a Labor Law Seminar. In those instances, the Task Force does a six-month investigative recheck to insure that the firm is in compliance with the Labor Law.



## REFERRALS

The Task Force is responsible for protecting the health and safety of the workers that it oversees and, at the same time, assuring that employers adequately maintain payroll deductions and remit these deductions to the proper government agencies. These responsibilities were given to Task Force under Article 12 (Fair Wages Task Force) and Article 12A (Apparel Industry Task Force).

Under Article 12 (Section 333) and Article 12-A (Section 344) the Task Force is required to report "to the appropriate authorities any instance in which there is reasonable cause to believe that the payment of federal, state and local payroll taxes is being evaded." In addition, under Section 344, the Task Force is required, during the course of the investigation, "to determine compliance with concerning state or local building codes, state or local fire codes, laws or regulations and state or local health codes, laws or regulations and to refer to the appropriate authorities any instance in which there is reasonable cause to believe that a violation of such codes, laws or regulations exists." Accordingly, the Task Force makes referrals for the following:



*A blocked fire exit that was reported to the New York Fire Department.*



*A locked exit door at a garment factory that was referred to the New York Fire Department.*

- Non-compliance with the Unemployment Insurance Law
- Failure to demonstrate coverage for New York State Workers Compensation Insurance and Disability Benefits Insurance
- Failure to demonstrate evidence of remittance of federal, state and local payroll taxes
- Violations of State or local building codes
- Violations of State or local health codes
- Violations of Federal (OSHA), State or local safety and health regulations

While the Task Force vigorously enforces the referral mandate, referral of health and safety issues to the appropriate agencies is of paramount importance. If there is an issue of imminent public danger, the Task Force immediately contacts the New York City Fire or Building Department or other appropriate government agency.

The Task Force regularly makes referrals to the Department of Labor's Unemployment Insurance and Safety and Health Divisions, the Workers

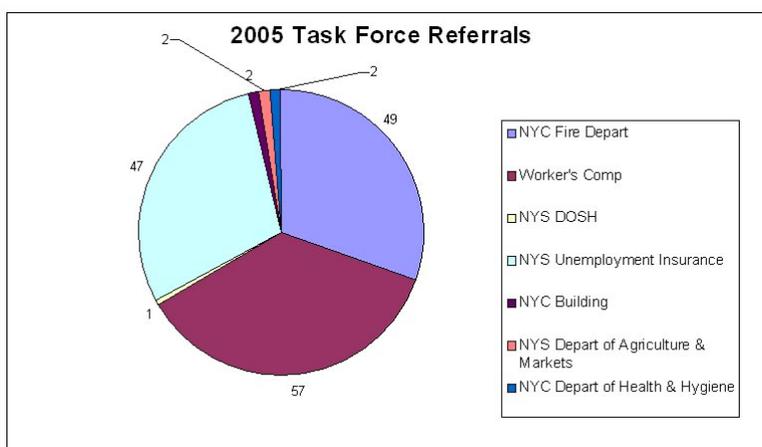


Compensation Board and the New York City Departments of Building, Fire (FDNY) and Health. When appropriate, the Task Force refers issues of possible tax evasion to other government agencies for investigation. The criteria for referrals to these agencies include nonpayment or under-payment of taxes, disregard for safety of the workers and health, fire or building code violations. Please see attached chart for the breakdown of the referrals for 2005.

Strict enforcement of proper fire and/or OSHA regulations can avoid or significantly reduce human tragedies. Task Force investigators have been trained by the New York City Fire and Building Departments and the Department of Labor's Safety and Health Division to identify and immediately report a potentially deadly situation.



*A bathroom in garment shop referred to N.Y.C. Dept. of Health.*

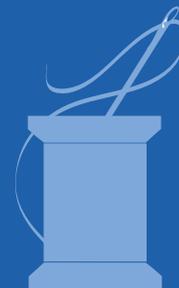


## TASK FORCE STAFFING



*Part of Task Force meeting at a sweep.*

While the Task Force is continually adopting new tactics to protect the garment worker, the stability of the staff has allowed the Task Force to remain focused on the mission. Eight staff members have been with the Task Force since its inception in 1987. They are all supervisory personnel, guiding the investigative staff, many of whom have been with the Task Force since graduating college. Five new investigators were hired in 2005, four Spanish-speaking and one Korean-speaking, to replace investigators who were promoted, retired or resigned. The Task Force remains fully staffed.



## PUBLIC EDUCATION



*Maritza Lamboy conducts a Labor Law Seminar for the National Supermarket Associates.*

In 2002, Commissioner of Labor Linda Angello selected the monthly Employer Seminar Program for the *Commissioners Award of Excellence*. In 2005, the monthly seminar continued to maintain the highest standards in its presentations to the business community.

Attendance at the monthly seminar, which is held at the NYSDOL midtown Manhattan West 54<sup>th</sup> Street complex, is by invitation only and includes employers who have been cited for violating the New York State Labor Law, as well as those who are starting up new businesses and have requested to attend.

The seminar is conducted using a power-point format. Additional presentations are given by the NYSDOL Division of Safety and Health (DOSH) and the United States Department of Labor / Wage and Hour Division.

The monthly seminar provides employers with an overview of the New York State Labor Law. Topics reviewed include the minimum wage, overtime compensation, wage payment frequency requirements, employer record keeping and health and safety issues at the workplace. The multi-lingual staff is able to answer questions in Spanish, Korean and various dialects of Chinese during and after the formal presentation.



*Senior Andy Chan giving a Labor Law Seminar in Chinatown.*



*Director Richard Cucolo talking at a Labor Law Seminar for the National Supermarket Associates.*

Other employer seminars which are presented during either daytime or evening hours are given at a variety of venues, including hotel conference centers and restaurant banquet rooms.

During 2005, other employer seminars were held in conjunction with the Legal Aid Society of New York, Asian Job Service Employer Committee, Inc., National Supermarket Association, United States Equal Employment Opportunity Commission and the Korean American Certified Public Accountants Association of Greater New York.

In 2005, the Apparel Industry Task Force and the Fair Wages Task Force continued to expand its seminars to the workforce from various immigrant communities. Restaurant workers who receive tips seem to be most interested

in the presentations with regard to tip distribution, tip appropriation and the tip allowance regarding the hourly minimum wage rate.

During 2005, there were 711 seminar attendees. Some of the seminars received extensive coverage in the Chinese-language and Korean-language print and broadcast media.



*Chief Charles DeSiervo making a point at the Law Seminar.*

## IN-HOUSE TRAINING



*Investigator Stanley Chan and Supervisor John Hopkins giving a Labor Law Seminar to restaurant workers.*

Newly appointed Labor Standards Investigator Trainees receive formal classroom instruction and on-the-job field training from experienced staff members.

In 2005, all staff members received special training from the New York City Fire Department that focused on fire code compliance in the workplace.

## TECHNOLOGY

The Task Force gathers extensive data to determine current sweatshop locations, egregious violators and to keep in step with the latest trends in the industry. Staff members of the Task Force have either a personal computer or laptop on their desks and every field investigator has a laptop computer for field use.

Every violation is entered into a database in order to effectively track each case, reduce redundancy and help bring each case to a quick resolution.

The Task Force lists currently registered manufacturers and contractors on the Department of Labor web site <http://www.labor.state.ny.us/workerprotection/laborstandards/workprot/garment.shtm>. Manufacturers and contractors can search the database to determine if firms they may want to do business with are registered with the Department of Labor. In addition, contractors and manufacturers can use the list as a source for expanding their business ties in the New York garment community.

The New York State Department of Labor web site has a vast amount of Labor Law information for employers, employees and the general public. Employees can download Labor Law information and claim forms and employers can download various forms, including the 12A Registration form. As discussed earlier in this report, there is also a link to the September 11th Bidders Registry on the web site.



## OUTSIDE TASK FORCE ACTIVITIES



*Senior Investigator Andy Chan and Investigator Adele Liao at a Citizen Day Expo in Flushing.*

In compliance with its legislative mandate, the Task Force met with various apparel-related groups and community organizations, as well as Federal and State agencies during 2005. These meetings provide an opportunity to develop relationships, to share information and to respond to industry problems and concerns. Below are a number of those outside Task Force activities:

On Saturday, Nov. 12, 2005, Investigator Adele Liao and Senior Investigator Andy Chan attended the Citizen Day Expo at Flushing Mall

located at 113-31 39th Ave., Flushing, NY 11354. The event was organized by the Citizenship Unit of the NYS Governors Office. There were representatives from 18 governmental agencies and social services units, including the New York State Division of Human Rights, Department of Civil Service, Consumer Protection Board, Insurance Department, State Police Department, Empire State Development, EPIC program of Department of Health, NYS Department of Labor, United States Social Security Administration, Mental Health Association of New York City, the Asian Woman Center and the Fair Wages Task Force of the NYS Department of Labor. In addition to answering questions regarding New York State Labor Laws, they distributed pamphlets including Worker Protection in New York State, Laws Governing the Employment of Minors, and "Functions of the Division of Labor Standards." The most questions asked by the public were about overtime payment. The main focus of participants questions were payment of overtime and the telephone complaint hot-line numbers. It is estimated that over five hundred people, mostly Chinese-speaking individuals, attended the Expo activities



*Senior Andy Chan at an educational Labor Law Seminar.*

Senior Labor Standards Investigator Andy Chan and Labor Standards Investigator Adele Liao conducted an educational seminar at Chinatown Manpower Project in downtown Brooklyn. Eighteen students and two teaching staff attended the training class. The topics discussed included the functions of the Division of Labor Standards, minimum wage and



overtime regulations, meal period, child labor, industrial homework and wage supplement coverage and qualifications. The Task Force distributed worker protection literature and encouraged the students to relate what they learned to their friends and family.

The Task Force operations are known world wide. A number of leading international figures have visited the Task Force to better understand the way that New York State Labor Department enforces worker protections laws. In 2005, the United States Department of State asked the Task Force to brief foreign dignitaries on the methods used by the Task Force to enforce worker protection. On August 8, 2005, Ms. Jingyi Ye, Vice Director of the Labor Law Institute of Beijing University Law School, visited the Task Force to be briefed on operations.



*Chief Charles DeSiervo and staff briefing a Chinese Delegation regarding Task Force Activities.*

## HUMAN TRAFFICKING

In July 2004, Chief Charles DeSiervo, representing the Department of Labor Fair Wages Task Force, was invited to The National Conference on Human Trafficking: Rescuing Women and Children from Slavery, by the United States Department of Justice, held in Tampa, Florida. The New York State Department of Labor (NYSDOL) was the only state labor department invited to the conference. Prominent speakers at the conference were: George W. Bush, President of the United States; Jeb Bush, Governor of Florida; and John Ashcroft, United States Attorney General. In February 2005, Senior Labor Standards Investigator (Task Force) Maritza Lamboy was invited to a similar conference held in Houston, Texas.

The purpose of these conferences is to educate and train conference attendees regarding the importance of the state, local governments and non-profit groups that provide safe havens for victims of trafficking, to work together with the federal government to learn how to identify and investigate human trafficking cases. Attendees were also shown how local law enforcement agencies can identify victims and their predators and the importance of working together with safe haven groups to immediately provide services to the victims. The conferences also discussed the importance of local coordination and how intelligence-sharing can help to identify and dismantle larger criminal networks on the Federal level.

These invitations to New York State Department of Labor to the Human Trafficking workshops sponsored by the United States Department of Justice are examples of national recognition that the New York State Task Force receives for its dedication to helping the disenfranchised workers of New York.

The NYSDOL Fair Wages Task Force is working closely with federal, local and non-profit safe haven groups to protect New Yorkers who are most vulnerable to human



trafficking. The Task Force has formed partnerships with three local Human Trafficking Task Forces: U.S. Department of Justice Eastern District of New York Task Force, Suffolk County Police Task Force and the Rural Opportunities Hudson Valley Outreach. These groups are comprised of local and national police organizations, various state and local government agencies and non-profit groups which provide safe havens for victims. They hold monthly meetings to discuss coordination of efforts to detect and eliminate human trafficking offenses in New York. The majority of cases involve victims of commercial, sexual and/or labor exploitation. Human traffickers prey on the most vulnerable people undocumented children and women. The New York Fair Wages Task Force, because of its multi-lingual investigators and the investigators ability to gently interview victims of Human Trafficking, helps local and national police agencies investigations by getting the victims to openly discuss their plight.







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