

United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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March 5, 2024

The Honorable Jessica Looman
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As you are aware, The New York Times and other media outlets have shed light on the increasing number of unaccompanied children being seriously injured or killed while illegally working dangerous jobs throughout the country. It's alarming that, while these children worked in unsafe conditions, the Department of Labor (DOL) and other federal agencies either missed or ignored signs of their exploitation until it was far too late.¹ These injuries, and all other mental, emotional, and physical harms caused to children because of unconscionable working conditions are unacceptable. So too is DOL's lack of response.

In 2023, DOL discovered 5,792 minors working in violation of child labor laws.² This represents an 88 percent increase since 2019, and nearly a 50 percent increase from 2022.³ This spike in exploitative child labor comes at a time when a historic number of unaccompanied children—nearly 400,000 since 2021—are entering the United States.⁴ The overwhelming majority of these children come to the United States from Guatemala, Honduras, and El Salvador, and roughly two-thirds of them are placed with non-parent sponsors upon being released by the Office of Refugee Resettlement (ORR) until they turn 18 years old.⁵ While they are with their sponsors, many of these children work full-time jobs, often in violation of federal child labor laws, to send money back to their families living in Latin America or to help their sponsor pay rent or other expenses.⁶

¹ See Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, THE NEW YORK TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

² U.S. Department of Labor, *Child Labor Enforcement: Keeping Young Workers Safe*, <https://www.dol.gov/agencies/whd/data/child-labor>; Lauren Kaori Gurley, *Child Labor Violations Soared in Fiscal 2023*, THE WASHINGTON POST (Oct. 19, 2023), <https://www.washingtonpost.com/business/2023/10/19/child-labor-violations-2023/>.

³ U.S. Department of Labor, *Child Labor Enforcement: Keeping Young Workers Safe*, <https://www.dol.gov/agencies/whd/data/child-labor>; Rebecca Rainey, *Child Labor Violations Up 50% in 2023 Amid Federal Crackdown*, BLOOMBERG LAW (Oct. 19, 2023), <https://www.dol.gov/agencies/whd/data/child-labor>

⁴ Eli Murray, Hannah Dreier, and K.K. Rebecca Lai, *Where Migrant Children Are Living, and Often Working, in the U.S.*, THE NEW YORK TIMES (Dec. 28, 2023), <https://www.nytimes.com/interactive/2023/12/28/us/migrants-children-data.html>.

⁵ *Id.*

⁶ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE NEW YORK TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

Media reports have repeatedly made clear that unaccompanied migrant children as young as 12 are being exploited and working in dangerous jobs at all hours of the day and night. In February 2023, The New York Times released an investigation highlighting how migrant children “are part of a new economy of exploitation” that includes “[t]welve year old roofers in Florida and Tennessee,” “underage slaughterhouse workers in Delaware, Mississippi and North Carolina,” and “[c]hildren sawing planks of wood on overnight shifts in South Dakota.”⁷ It found children running milking machines in Vermont, packing cereal boxes on the night shift in North Dakota, delivering food in New York City, harvesting coffee and building lava rock walls around vacation homes in Hawaii, and washing hotel sheets in Virginia.⁸ Unfortunately, this was only the beginning of a story still being told today.

Seven months later, in September 2023, The New York Times released a report on a 14-year-old boy in Virginia who spent his nights working for a chemical cleaning company at a Perdue Farms slaughterhouse for \$100 per shift.⁹ Each night he worked, the boy was responsible for donning protective gear and cleaning machinery that was used during the day to process chickens by spraying them with hot water before scrubbing them with chemicals too dangerous to touch his skin.¹⁰ To perform this job, the 14-year-old boy purchased fake identification documents that showed him to be in his 20s.¹¹ While cleaning one of these machines, the machine somehow turned on while his arm was inside it, severely maiming him to an extent that required numerous surgeries.¹²

In December 2023, The New York Times reported on migrant children working in dangerous roofing jobs—some of whom had been working these jobs since they were young enough to be in elementary school.¹³ Notwithstanding federal laws that prohibit minor children from working on roofs due to the inherent danger involved with working on top of houses in stifling heat and with dangerous tools, The New York Times’ report detailed over 100 child roofers in roughly 24 states who often worked long 12-hour shifts instead of going to school.¹⁴

Just seven weeks ago, on January 16, 2024, reports surfaced of a fatal incident in Mississippi in which a 16-year-old migrant child from Guatemala was killed while cleaning machinery at a chicken plant after being pulled into a deboning machine in July 2023.¹⁵ Inexplicably, DOL did not see fit to notify Congress until six months after it learned of the fatal incident.

⁷ *Id.*

⁸ *Id.*

⁹ Hanna Dreier, *The Kids on the Night Shift*, THE NEW YORK TIMES (Sept. 18, 2023), <https://www.nytimes.com/2023/09/18/magazine/child-labor-dangerous-jobs.html>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Hannah Dreier, et al., *Children Risk Their Lives Building America’s Roofs*, THE NEW YORK TIMES (DEC. 14, 2023) <https://www.nytimes.com/interactive/2023/12/14/us/roofing-children-immigrants.html>.

¹⁴ *Id.*

¹⁵ Jesus Jiménez, *U.S. Faults Mississippi Poultry Plant in Death of 16-Year-Old*, THE NEW YORK TIMES (Jan. 16, 2024), <https://www.nytimes.com/2024/01/16/business/mississippi-marjac-poultry-teen-death.html>.

DOL's Wage and Hour Division (WHD) is responsible for enforcing the Fair Labor Standards Act (FLSA), including its child labor protections.¹⁶ However, according to The New York Times, DOL's WHD District Offices "barely respond to [child labor] complaints, much less open original investigations."¹⁷ DOL also typically tracks, and makes public, fatal work injuries. However, as of 2017, it no longer makes public fatal work injuries of foreign-born workers, including children.¹⁸ From the numerous reports of severe and egregious child labor violations, it is clear that WHD has failed at its mission to protect minors from these unacceptable working conditions.

In February 2023, the Biden administration announced an Interagency Task Force to Combat Child Labor Exploitation.¹⁹ Acting Secretary of Labor Julie Su claimed that this interagency task force would "leave no stone unturned to root out exploitative child labor," and that DOL would work together with the Departments of Agriculture, Commerce, Education, Health and Human Services, Homeland Security, Justice, and State to take concrete steps to improve cross-training, outreach, education, and health outcomes for children that could be subject to child labor.²⁰

Five months later, in July 2023, DOL announced actions it has taken to hold companies accountable for violating federal child labor laws, including an increased focus on employers, information sharing, and cross-training.²¹ Despite the Biden administration's announcement and claims that it would ramp up its child labor enforcement,²² the results do not appear to show much progress in deterring violations, especially when they involve migrant children. In fact, reports show that the Biden administration has turned a blind eye to warnings that ORR, the government agency responsible for ensuring that unaccompanied minor children are safely placed with responsible sponsors, has failed to properly vet potential sponsors, leaving many of these children exposed to the harmful incentives of working in dangerous jobs.²³

This years-long increase in unaccompanied migrant children crossing the southern border under the Biden administration, and the negative incentive for these children to expose themselves to dangerous working conditions is an intolerable tragedy for which we must find an immediate and lasting solution. It is clear that the enforcement actions taken so far against violators have not slowed this upward trend in exploitative child labor. As the Administrator for WHD, you are

¹⁶ Press Release, U.S. Dep't of Health and Hum. Servs., *U.S. Departments of Labor and Health and Human Services Announce Additional Steps to Tackle Child Labor Violations, Strengthening Coordination* (Mar. 24, 2023), <https://www.hhs.gov/about/news/2023/03/24/us-departments-labor-health-human-services-announce-additional-steps-tackle-child-labor-violations-strengthening-coordination.html>.

¹⁷ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE NEW YORK TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

¹⁸ Press Release, U.S. Dep't of Health and Hum. Servs., *U.S. Departments of Labor and Health and Human Services Announce Additional Steps to Tackle Child Labor Violations, Strengthening Coordination* (Mar. 24, 2023), <https://www.hhs.gov/about/news/2023/03/24/us-departments-labor-health-human-services-announce-additional-steps-tackle-child-labor-violations-strengthening-coordination.html>.

¹⁹ Press Release, U.S. Dept. of Labor, *Department of Labor, Interagency Task Force Announce Recent Actions to Combat Exploitative Child Labor with New Partnerships, Innovative Tactics, Ramped Up Enforcement* (July 27, 2023), <https://www.dol.gov/newsroom/releases/osec/osec20230727>.

²⁰ *Id.*

²¹ *Id.*

²² Hannah Dreier, *Biden Administration Plans Crackdown on Migrant Child Labor*, THE NEW YORK TIMES (Feb. 27, 2023), <https://www.nytimes.com/2023/02/27/us/biden-child-labor.html>.

²³ See Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, THE NEW YORK TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

uniquely situated to implement crucial changes that ensure not only that children are safe from dangerous, life-threatening working conditions, but also that the laws of this country are faithfully executed to prevent and deter any employer from engaging in this practice. To best understand what actions WHD is currently taking to address this unacceptable trend and what, if any, steps the interagency task force is taking to actually end this illegal practice, I ask that you answer the following questions, on a question-by-question basis, **by close of business on March 19, 2024.**

1. Since assuming the role as Administrator in October 2023, have you implemented any new policy or changed existing policies or procedures to crack down on illegal child labor, including the exploitation of migrant children? If so, please produce copies of these new policies. If not, why not?
2. What *proactive* steps does WHD take to combat illegal child labor before it receives a complaint or other information that raises suspicion of illegal child labor? Included in your answer, please provide:
 - a. The total number of investigators employed in WHD;
 - b. The number of WHD investigators assigned to investigate cases of illegal child labor;
 - c. The attrition rate for WHD investigators in the past two years;
 - d. The training process for WHD investigators and the amount of time it takes to train a new investigator;
 - e. The percentage breakdown of time investigators spend on child labor investigations versus other categories of FLSA investigations;
 - f. The hours during which WHD investigators make site visits to audit companies suspected of employing illegal child labor (i.e., do they only conduct site visits during regular day shifts or also during night and weekend shifts?); and
 - g. Whether WHD inspectors' collective bargaining agreement limits when inspectors can make site visits to investigate.
3. Of the 800 child labor investigations DOL said it had open nationwide in November 2023, how many of those investigations were triggered by complaints? How many were triggered by WHD inspections? How many were triggered by an OSHA inspection and subsequent referral?
4. How many investigations has WHD opened or pursued involving migrant child labor since January 20, 2021?
5. How does WHD work with ORR to find solutions that will prevent the ongoing practice of exploiting migrant children in dangerous workplaces?
 - a. Please list the name and titles of the responsible party or parties at WHD responsible for working with ORR.
 - b. What steps has WHD taken to coordinate with ORR to identify and target WHD investigations and enforcement of child labor laws?

- c. How does WHD work with ORR to ensure sponsors understand and agree that the children placed in their care are not eligible to work in the United States?
 - d. Does WHD share the identities of children discovered to be working in violation of child labor laws with ORR to allow ORR to cross-check their roles for children formerly or currently in ORR's custody?
6. What steps does WHD take after it receives information that constitutes a warning sign of illegal child labor? Included in your answer, please provide:
 - a. The types of data WHD collects to investigate allegations of illegal child labor; and
 - b. What kind of data WHD does not currently collect that you believe would be helpful to root out illegal child labor practices.
7. What new, innovative tactics has WHD adopted to combat exploitative child labor as part of the Interagency Task Force to Combat Child Labor Exploitation? Included in your answer, please provide:
 - a. Detailed information about any new strategies the Task Force plans to implement, regardless of the agency responsible for implementation;
 - b. The types of data WHD collects to inform its investigations into worksites where child labor violations are most likely to occur;
 - c. The trends that have been exposed with regards to child labor as a result of cross-agency data sharing;
8. Aside from the cross-training and data sharing mentioned in DOL's July 27, 2023 Press Release, what concrete actions has the Task Force taken to implement any new strategies or plans to prevent—as opposed to punish—exploitative child labor?
9. Are any other agencies involved in the Task Force assisting DOL in proactively investigating claims of exploitative child labor? If so, which agencies?
10. Has WHD communicated with the Department of Homeland Security to advocate for or discuss whether any changes are necessary to ensure the employment verification systems that employers use, including E-Verify, work to appropriately prevent individuals not authorized to work in the United States from being employed? If so, please describe those communications and if any remedial actions were made, or are expected to be made.
11. Will you make data on fatal work injuries of foreign-born workers, including children, public? If not, why not?
12. Will you commit to timely notifying HELP Committee staff when WHD opens child labor violations regarding migrant children who have been injured or killed in the workplace?

Thank you for your attention to this important matter. I look forward to your prompt response.

Sincerely,

Bill Cassidy, M.D.

Bill Cassidy, M.D.

Ranking Member

U.S. Senate Committee on Health,
Education, Labor, and Pensions