

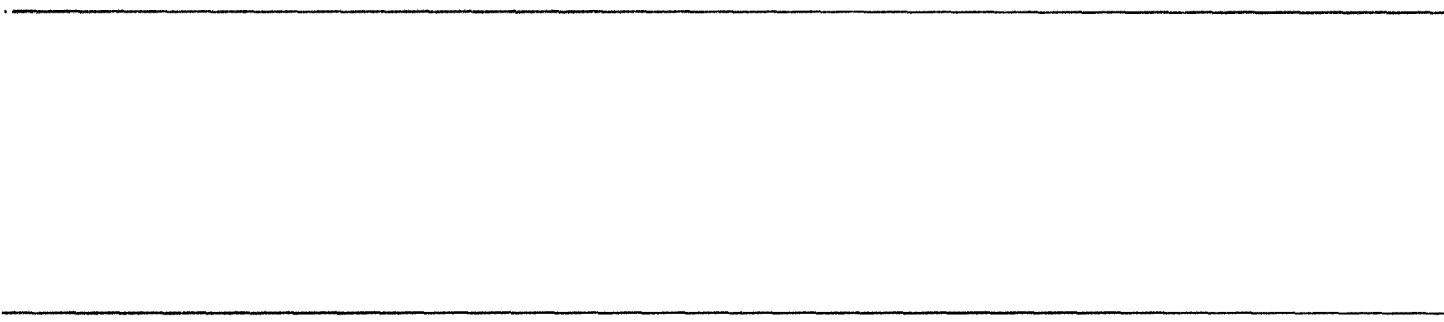
June 1992

# CHILD LABOR

## Information on Federal Enforcement Efforts



146915



**Human Resources Division****B-249011****June 15, 1992**

**The Honorable Christopher J. Dodd  
Chairman, Subcommittee on Children,  
Family, Drugs and Alcoholism  
Committee on Labor and Human Resources  
United States Senate**

**The Honorable Howard M. Metzenbaum  
Chairman, Subcommittee on Labor  
Committee on Labor and Human Resources  
United States Senate**

On June 1, 1992, you requested that we answer questions relevant to the proposed Child Labor Amendments of 1992 (S. 600). Among other provisions, S. 600 is aimed at strengthening the enforcement of child labor standards through such means as additional penalties and the use of work permits. We obtained the information you sought during the course of our work on your earlier request that we evaluate the Department of Labor's decentralized enforcement strategy for child labor. We will report the results of that work separately.

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**Background**

The Fair Labor Standards Act (FLSA) is the primary federal law regulating wages and working conditions, including those of children. It gives Labor the authority to regulate child labor in the areas of minimum age, work hours, and hazardous occupations.

In 1990, the Congress gave Labor the authority to raise the maximum civil monetary penalty for nonwillful violations of child labor laws from \$1,000 to \$10,000. Employers may contest child labor civil monetary penalties by filing an exception with Labor's Wage and Hour division (WHD) within 15 days of the assessment. Under Labor's enforcement strategy, WHD's 60 district directors normally may review contested cases and adjust penalty assessments.

In March 1992, the Senate Committee on Labor and Human Resources reported out S. 600. This bill would amend the FLSA to establish an additional civil penalty for child labor violations, require the use of certificates of employment, and facilitate publicizing the names of violators in schools. Additionally, it would require the collection of death and injury information concerning employed minors, define several

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additional occupations as hazardous for children, and prohibit the employment of minors under age 14 in agriculture except on family farms.

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## Results in Brief

Following are your questions with our summary responses. The more complete responses are in appendix I.

1. Does WHD have a formal policy regarding publicizing the names of child labor law violators in the media and in schools and if so, is it applied consistently across district offices?

WHD does not have a formal written policy to publicize the names of violators, although in practice it sometimes does so. In these cases, WHD publicizes through the media, not the local schools. The regional offices we visited have adopted inconsistent publicization practices. (See p.8.)

2. Does WHD have a formal policy requiring district offices to target some number of investigations to previous violators?

WHD does not have such a policy, leaving the decision about whether to follow up to investigators or district officials. (See pp.8-9.)

3. How, if at all, did the district offices GAO visited use state work permits (certificates of employment)?

Of the 11 districts we visited, 9 were in states that had work permit systems. All nine districts reported that states had granted WHD access to work permits for enforcement purposes. Seven of these nine districts used them in various ways to detect child labor violations. (See pp.9-10.)

4. Does WHD's national investigation data base (the Wage and Hour Management Information System—WHMIS) contain, on an individual case basis, information on repeat violators, child labor violation penalty collections, or assessments?

WHMIS does not contain this information. (See p.10.)

5. Have WHD regions or districts set up any systems to track individual case information? If so, what information do they contain and are they compatible with each other and with WHMIS?

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Several regions and two other districts are independently developing their own tracking systems. None of the systems are compatible in format with the WHMIS data base. (See p.10.)

6. What percentage of all cases with child labor violations in fiscal years 1989, 1990, and 1991 was contested by employers?

Of all such cases, contested cases were 18 percent in fiscal year 1989, 24 percent in fiscal year 1990, and 29 percent in fiscal year 1991. (See p.11.)

7. What percentage of serious—by our criteria—child labor cases was contested by employers, and what kind of penalty reductions did those employers receive?<sup>1</sup>

Employers contested about 56 percent of such cases in fiscal year 1991. About 64 percent of the completed contested cases had a median reduction of about 40 percent of the initial penalty assessment. (See p.11.)

8. How does the number of children WHD has found to be illegally employed in agriculture compare with public perceptions about the extent of their illegal employment, and what explanation does WHD have for any discrepancy?

Detected illegal employment in agriculture is a relatively small part of total detected illegal employment. Although there is a public perception that the illegal employment of children in agriculture is widespread, WHD officials say that most children employed in agriculture are working legally. (See pp.12-13.)

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To answer your questions, we visited several WHD regional and district offices, and collected case file information on a stratified random sample of almost 500 child labor cases investigated by WHD during fiscal year 1991. We also surveyed all WHD district directors on the number of cases contested by employers. Our more detailed scope and methodology is provided in appendix II.

As you requested, we did not obtain written agency comments on this fact sheet. However, we did discuss its contents with representatives of

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<sup>1</sup>We defined as serious, cases with at least 1 hazardous order violation, 1 serious injury of an illegally employed minor, or 12 or more child labor violations of any type.

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**Labor's Employment Standards Administration and made changes as appropriate. We are sending copies to the Secretary of Labor and other interested parties. If you have any questions concerning this fact sheet, please contact me at (202) 512-7014. A list of the major contributors to it is included in appendix III.**



**Linda G. Morra  
Director, Education  
and Employment Issues**



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## Abbreviations

FLSA	Fair Labor Standards Act
FOH	Field Operation Handbook
SIC	Standard Industrial Classification
WHD	Wage and Hour Division
WHMIS	Wage and Hour Management Information System





# Questions and Detailed Responses

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## Publicizing the Identities of Violators

1. Does WHD have a formal policy regarding publicizing the identities of child labor violators in the media and in the schools and if so, is it applied consistently across district offices?

WHD's does not have a formal written policy to publicize the names of child labor law violators. In practice, however, WHD does publicize the names of certain child labor law violators, according to the WHD headquarters official who oversees child labor law enforcement. These are cases with large settlements or involving many employees, and cases identified through WHD's periodic strike force efforts.<sup>1</sup> When WHD publicizes, it does so through the media, not through the local schools.

In its FY 1992 Operational Guidance, WHD notified regional and district offices about using publicity during their periodic fiscal year 1992 strike force efforts. However, the official was unaware of any written WHD statement requiring or encouraging offices to use publicity regarding cases with large settlements or many employees.

Regional offices we visited have adopted inconsistent publicization practices. Of the five regions, three said they regularly released the names of child labor law violators to the media. A fourth region publicized only child labor cases it considered significant. The fifth region rarely publicized information about violators.

One region that publicizes the names of child labor violators delegated authority to do so to the district offices, while two others retained authority over publicity in the regional office.

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## Follow-Up Investigations of Previous Violators

2. Does WHD have a formal policy requiring district offices to target some number of investigations to previous violators?

WHD does not have a formal policy requiring district offices to target any child labor investigations to previous violators. It has general guidelines that leave the decision about whether to conduct a "follow-up" investigation to the investigator. In its Field Operations Handbook (FOH), WHD instructs district officials to identify, at the time the case is to be closed, all appropriate cases for reinvestigation. According to the FOH, whether a case is appropriate depends on the employer's general attitude

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<sup>1</sup>During FY 1990, Labor conducted four nationally directed strike forces targeted to child labor violations under Operation Child Watch. During 1991 and 1992, district offices conduct periodic strike forces to detect child labor violations.

towards compliance, the nature and extent of the violation, and the legal action taken. The FOH does not further define these criteria.

Of the 11 district offices we visited, 3 conducted some follow-up investigations on a regular basis each year. Other offices rarely did so. Four district officials told us that they had conducted no follow-up investigations since the nationwide Operation Child Watch strike force in fiscal year 1990, when WHD headquarters required all district offices to do so.

Generally, headquarters and district officials viewed the use of follow-up investigations as a successful enforcement technique. Headquarters officials reported great success when they targeted prior violators during Operation Child Watch, with over 25 percent of the investigations yielding violations. At two offices that regularly performed follow-up investigations, officials told us that they believe such investigations helped to foster current and future compliance. Further, of the eight districts that did not conduct regular follow-up investigations, district officials at three offices generally agreed that such investigations were an important enforcement tool. One office said that they do not perform follow-up investigations because of their large complaint backlog and lack of resources.

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## WHD's Use of Work Permits

3. How, if at all, did the district offices GAO visited use state work permits (certificates of employment)?

Of the 11 districts we visited, 9 were in states that had work permit systems. All nine districts reported that states had granted WHD access to work permits for enforcement purposes. Seven of these nine districts used them in various ways to detect child labor violations. Two of the seven districts that used work permits reviewed the permits at the job site to verify minors' ages, their occupations, or both. The remaining five offices used work permits to direct their investigations to employers who hire children. Two of these district offices used work permits extensively in targeting employers—one initiated 70 to 80 percent of its child labor investigations by using work permits.

In all five offices that used work permits to target employers, regional and district officials said that their targeting efforts were successful. One district had been using work permits successfully for 10 years. In another

district, officials said that using these permits worked extremely well for targeting potential violators.

Of the two district offices that had access to work permits but did not use them, the director of one told us that it had never occurred to them to use work permits. He said that his office would consider using work permits in the future to target employers for child labor investigations.

## Headquarters, Regional, and District Office Inspection Data Bases

4. Does the national investigation data base (WHMIS) contain, on an individual case basis, information on repeat violators, child labor violation penalty collections, or assessments?

For each investigation, WHMIS contains information on child labor violations by type, industry, and region and the number of children Labor detects as illegally employed. WHMIS does not contain information on repeat violators or on penalty collections and assessments on an individual case basis. As of June 1992, Labor plans to revise WHMIS to include penalty data, but no date has been set for this modification.

5. Have WHD regions or districts set up any systems to track individual case information? If so, what information do they contain and are they compatible with each other and with WHMIS?

One region we visited—Region IX—had developed and implemented its own region-wide tracking system to supplement WHMIS. This system contains such information as the case number, case type, employer name, Standard Industrial Classification (SIC) code, name of the complainant (if any), prior investigation history of the employer, type and number of violations detected, and penalty assessment data. A district office in another region also was using this tracking system. This second region and two other districts are independently developing their own tracking systems. None of these systems are compatible in format with the WHMIS data base.

Most of the offices that have supplemented WHMIS with their own local tracking systems said they did so either because WHMIS does not provide the information regions and districts want or need, or because headquarters does not provide data from WHMIS to them on a timely basis.

## Cases Contested by Employers

6. What percentage of all cases with child labor violations in fiscal years 1989, 1990, and 1991 was contested by employers?

Contested cases as a percentage of all cases with such violations have increased over the 3 fiscal years. Employers contested 29 percent of the 2,544 assessments in 1991, 24 percent (of at least 3,356 assessments) in 1990, and 18 percent (of at least 1,164 assessments) in 1989.<sup>2</sup>

7. What percentage of serious—by GAO’s criteria—child labor cases was contested by employers, and what kind of penalty reductions did those employers receive?

Of the cases we deemed serious (involving at least one hazardous order, serious injury, or 12 or more violations of any type), employers contested about 56 percent during fiscal year 1991, we estimate. About 64 percent of the contested cases in which negotiations had been completed resulted in an adjustment that reduced the initial penalty assessment. For these cases, the median reduction was \$2,000, or 40 percent of the initial assessment.

The reasons regional and district Labor officials most frequently gave for reducing a penalty were that it was the employer’s first violation or that the employer promised future compliance. They said this occurred in about 60 percent of the assessment reductions. (See table I.1.)

**Table I.1: Most Frequent Reasons for Adjusting Penalty Assessments in Contested Cases, GAO Survey, FY 1991**

Reason	Percent of adjusted cases
Promise of future compliance	63%
First violation	59
Gravity of violation	51
Size of business	34
Evidence in file does not support penalty	30
Financial hardship	20

Note: Categories total more than 100 percent because district directors or regional administrators could adjust penalties for more than one reason.

<sup>2</sup>We obtained this information from the district office survey. However, three offices were unable to provide data from both FY 1989 and FY 1990.

## Illegal Employment of Children in Agriculture

8. How does the number of children WHD has found to be illegally employed in agriculture compare with public perceptions about the extent of their illegal employment, and what explanation does WHD have for any discrepancy?

Detected illegal employment in agriculture is a relatively small part of total detected illegal employment. In fiscal year 1991, about 1 percent of the 27,528 illegally employed children detected by Labor (264 children) worked in agriculture. (See table I.2.)

**Table I.2: Number of Illegally Employed Children Labor Detected in Agriculture, FY 1983-91**

Fiscal year	Total number of illegally employed minors detected	Number of illegally employed minors in agriculture	Percent of total detected in agriculture
1983	9,243	414	4.4%
1984	8,860	516	5.8
1985	9,937	635	6.4
1986	12,689	296	2.3
1987	19,081	436	2.3
1988	21,857	487	2.2
1989	22,502	266	1.2
1990	38,697	649	1.7
1991	27,528	264	1.0

Child labor advocates contend that the amount of illegal child labor in agriculture is substantial and far larger than the number detected by WHD.<sup>3</sup> For example, the National Child Labor Committee estimates that up to 100,000 children may be illegally employed in agriculture.<sup>4</sup>

Although there is a public perception that the illegal employment of children in agriculture is widespread, WHD headquarters officials told us that they believe that many of the children employed in agriculture are working legally. Under certain conditions, children can legally work in agriculture at younger ages—sometimes as young as 10 years old. In addition, the law exempts children employed by their parents on family farms.

<sup>3</sup>Labor may be underdetecting illegal child labor in all industries. In fiscal year 1988, Labor detected 21,857 minors in violation of all federal child labor regulations in all industries. Yet for calendar year 1988, GAO estimated that about 166,000 15-year-olds worked in violation of either Labor's maximum hours or minimum age regulations alone. See Child Labor: Characteristics of Working Children (GAO/HRD 91-83BR, June 1991).

<sup>4</sup>See Hired Farmworkers: Health and Well-Being at Risk (GAO/HRD-92-46, Feb 14, 1992).

In two district offices we visited, officials said they found few children working illegally in agriculture because of the large number of family farms in their areas. In addition, four district offices observed the high degree of agricultural mechanization, especially in harvesting crops, is reducing the number of children working. For some crops, such as tomatoes, they say harvesters have reduced the amount of labor needed. Farms try to hire more adults for the remaining jobs because they can pick better and faster.

Detecting illegal employment in agriculture is very dependent on targeting investigations to those locations, headquarters officials acknowledged. Agriculture has been a priority for many of their directed task forces, they said; it was one of the primary industries targeted for investigation during three of the task forces conducted during Operation Child Watch in 1990.<sup>6</sup> In addition, Labor made agriculture one of the targeting priorities for the district-directed strike forces conducted during fiscal years 1991 and 1992. However, officials from two district offices said that lack of resources hindered their ability to conduct child labor investigations in agriculture. They do not look for child labor violations in agriculture except when they are told to do so, one said.

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<sup>6</sup>Of the approximately 9,800 child labor violations detected by Labor during the second, third, and fourth task forces of Operation Child Watch, 86 were agricultural violations. During the three sweep efforts, about 7.5 percent (408 out of 5,440) of all investigations were targeted to agriculture.

# Scope and Methodology

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We based our selection of regional and district offices to visit on certain performance indicators we calculated for each individual district office, on a consultation with officials from WHD and Labor's Office of the Solicitor, and on geographical diversity.<sup>1</sup> Between January 1992 and February 1992, we visited 11 WHD district offices and 5 corresponding Labor regions. These were Atlanta, Georgia, and Ft. Lauderdale, Florida, in Region IV; South Bend, Indiana, and Chicago, Illinois, in Region V; Dallas, Texas, and New Orleans, Louisiana, in Region VI; St. Louis and Kansas City, Missouri, in Region VII; and San Francisco, Sacramento, and Los Angeles, California, in Region IX.

To collect data on penalty adjustments, the reasons for adjustments, and related information, we selected a stratified random sample of 486 child labor cases with at least one child labor violation opened between March 1, 1991, and September 30, 1991. We chose this sample from the Wage and Hour Management Information System data base maintained by WHD. We then screened out all cases except those that we had deemed "serious"—representing investigations with either (1) at least one hazardous order violation, (2) at least one serious injury of an illegally employed child, or (3) 12 or more child labor violations of any type.<sup>2</sup>

In January and March 1992, we also surveyed all 60 WHD district directors regarding the numbers of assessments to which employers filed exceptions (contested cases) and all child labor assessments in their offices for fiscal years 1989, 1990, and 1991. All the districts responded to our survey, although three were unable to provide us complete data for fiscal years 1989 and 1990.

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<sup>1</sup>For example, we calculated "hit rates"—the percentage of investigations directed towards child labor violations in which at least one violation was detected—for each district office.

<sup>2</sup>Because we surveyed a sample rather than the universe of cases, each reported estimate has an associated sampling error. Generally, the sampling errors for characteristics of significant child labor cases do not exceed 4 percentage points at the 95-percent confidence level. This means that the chances are 19 out of 20 that the actual number or percentage being estimated falls within the range defined by our estimate, plus or minus the sampling error. However, sampling errors may be higher for the characteristics of certain subgroups.



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# Related GAO Products

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Work Permits: Work Permit and Death and Injury Reporting Systems in Selected States (GAO/HRD-92-44FS, Mar. 16, 1992).

Labor's Child Labor Enforcement Efforts: Developments After Operation Child Watch (GAO/T-HRD-91-44, Aug. 7, 1991).

Child Labor: The Characteristics of Working Children (GAO/HRD-91-83BR, June 14, 1991).

Child Labor: The Characteristics of Working Children in the United States (GAO/T-HRD-91-13, Mar. 19, 1991).

Child Labor: Increase in Detected Child Labor Violations Throughout the United States (GAO/HRD-90-116, Apr. 30, 1990).

Child Labor Violations and Sweatshops in the U.S. (GAO/T-HRD-90-18, Mar. 16, 1990).

"Sweatshops" in New York City: A Local Example of a Nationwide Problem (GAO/HRD-89-101BR, June 8, 1989)

"Sweatshops" in the U.S.: Opinions on Their Extent and Possible Enforcement Options (GAO/HRD-88-130BR, Aug. 30, 1988).

Fair Labor Standards Act: Enforcement of Child Labor Provisions in Massachusetts (GAO/HRD-88-54, Apr. 28, 1988).

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