

BERNARD SANDERS, VERMONT, CHAIR

PATTY MURRAY, WASHINGTON
ROBERT P. CASEY, JR., PENNSYLVANIA
TAMMY BALDWIN, WISCONSIN
CHRISTOPHER MURPHY, CONNECTICUT
TIM Kaine, VIRGINIA
MARGARET WOOD HASSAN, NEW HAMPSHIRE
TINA SMITH, MINNESOTA
BEN RAY LUJAN, NEW MEXICO
JOHN W. HICKENLOOPER, COLORADO
EDWARD J. MARKEY, MASSACHUSETTS

BILL CASSIDY, LOUISIANA
RAND PAUL, KENTUCKY
SUSAN M. COLLINS, MAINE
LISA MURKOWSKI, ALASKA
MIKE BRAUN, INDIANA
ROGER MARSHALL, KANSAS
MITT ROMNEY, UTAH
TOMMY TUBERVILLE, ALABAMA
MARKWAYNE MULLIN, OKLAHOMA
TED BUDD, NORTH CAROLINA

United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

WARREN GUNNELS, MAJORITY STAFF DIRECTOR
AMANDA LINCOLN, REPUBLICAN STAFF DIRECTOR

www.help.senate.gov

October 19, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Julie A. Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C. 20210

Acting Secretary Su:

On April 24, 2023, I wrote to you regarding the widespread exploitation of migrant children across the country in direct violation of child labor laws. The letter asked how the Department of Labor (DOL) planned to address this problem under your leadership and requested information regarding the steps DOL is taking to increase its enforcement activities to protect children from predatory employment that could threaten their health, safety, and opportunity to obtain an education. Regrettably, DOL failed to provide detailed responses to my inquiry.

On August 21, 2023, the DOL Office of Inspector General (OIG) announced that it was reviewing the Wage and Hour Division's (WHD) efforts to curtail child labor law violations, as well as the cause of rising child labor law violations.¹ In response, a DOL spokesperson said that the WHD "is using every tool at its disposal to ensure that children are safe, healthy, and protected from exploitation" and that DOL is "taking a whole-of-government approach to forge new partnerships, employ innovative tactics, ramp up enforcement, and work with agencies across the federal government to root out child labor violations."² However, it is clear that DOL's efforts in this area have been wholly insufficient and that the Department has not acted in the way that this crisis demands.³

¹ Memorandum from Carolyn R. Hantz, Assistant Inspector Gen. for Audit, to Jessica Looman, Principal Deputy Adm'r for Wage & Hour Div. (Aug. 21, 2023), <https://www.oig.dol.gov/public/oaprojects/Child%20Labor%20Laws%20Engagement%20Letter%20Discretionary%20Audit.pdf>.

² Christopher Wood, *Inspector General's Office Reviewing Labor Department's Efforts to Stop Child Labor Law Violations*, THOMSON REUTERS (Aug. 29, 2023), <https://tax.thomsonreuters.com/blog/inspector-generals-office-reviewing-labor-departments-efforts-to-stop-child-labor-law-violations/#:~:text=When%20asked%20about%20the%20OIG's,approach%20to%20forge%20new%20partnerships%20C>.

³ See, e.g., Nicole Goodkind, *Illegal child labor is on the rise in a tight job market*, CNN (July 30, 2023, 9:06 AM), <https://www.cnn.com/2023/07/30/economy/child-labor-louisiana-texas/index.html>.

In fact, as recently as June, you continued to push a narrative that DOL was not negligent in its enforcement duties to ensure that children are not employed in violation of the Fair Labor Standards Act of 1938. During a hearing before the House Committee on Education and the Workforce, you were asked about two recent New York Times articles, published in February and April, which reported that the White House and federal agencies were repeatedly alerted to signs of children at risk yet ignored or missed these alerts.^{4,5} You responded, “I don’t believe the story said that the Department of Labor was not doing what we need to do. In fact, I believe the stories came out because the Department of Labor was doing our job.”⁶ However, contrary to your characterization, the New York Times articles faulted DOL, stating that “[DOL] is supposed to find and punish child labor violations, but inspectors in a dozen states said their understaffed offices could barely respond to complaints, much less open original investigations.”⁷ It is perplexing why you believe that DOL “was doing [its] job” when child labor violations are up 37 percent in the previous year alone.⁸

There is an ongoing concern that DOL has repeatedly announced new efforts to combat child labor violations only in response to news articles, rather than “doing [its] job” and proactively combatting these violations, as you suggest. DOL entered into a Memorandum of Agreement (MOA) with the Department of Health and Human Services (HHS) in March to deepen coordination and information-sharing.⁹ While this is a step in the right direction, it is also evidence that the Department knew that there were deficiencies in its previous handling of child labor violations and breakdowns in interagency coordination prior to the publishing of the New York Times article in February. Similarly, the Department recently announced an investigation into Perdue and Tyson Foods¹⁰ only after a New York Times Magazine article reported numerous examples of minors working at their facilities in horrific conditions.¹¹

While it is encouraging that DOL announced new actions this summer to hold companies accountable for violating federal child labor laws and published new materials to help prevent

⁴ *Examining the Policies and Priorities of the Department of Labor: Hearing Before the H. Comm. on Educ. & the Workforce*, 118th Cong. (2023) (question of Rep. Jim Banks).

⁵ Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, N.Y. TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>; Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

⁶ *Examining the Policies and Priorities of the Department of Labor: Hearing Before the H. Comm. on Educ. & the Workforce*, 118th Cong. (2023) (statement of Julie Su).

⁷ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

⁸ Wage & Hour Div., *Child Labor*, U.S. DEP’T OF LAB., <https://www.dol.gov/agencies/whd/data/charts/child-labor> (last visited Aug. 31, 2023).

⁹ Press Release, U.S. Dep’t of Lab., Departments of Labor, Health and Human Services Announce Additional Steps to Tackle Child Labor Violations, Strengthen Communication (March 24, 2023), <https://www.dol.gov/newsroom/releases/osec/osec20230324>.

¹⁰ Danielle Wiener-Bronner, *Tyson and Perdue under investigation by Department of Labor*, CNN (Sept. 28, 2023, 6:28 AM), <https://www.cnn.com/2023/09/28/business/tyson-perdue-child-labor-dol-investigation/index.html>.

¹¹ Hannah Dreier, *The Kids on the Night Shift*, N.Y. TIMES MAGAZINE (Sept. 18, 2023), <https://www.nytimes.com/2023/09/18/magazine/child-labor-dangerous-jobs.html>.

child labor violations,¹² it is unclear how these actions will stop this crisis since the Department has been unable or unwilling to evaluate and identify the problems that contributed to the severity of this situation. Broad pronouncements of “further[ing] collaboration” and “improv[ing] information-sharing” among agencies¹³ are not sufficient at a time when DOL has still not acknowledged the inexplicable lapse in communication between the Department and the White House that resulted in this tragic issue not getting the attention that it needed for far too long.¹⁴

In order to prevent and combat child labor violations moving forward, there needs to be a full accounting of DOL’s mistakes that allowed this illegal activity to proliferate.¹⁵ Your failure to provide detailed responses to questions about communication breakdowns between DOL, HHS, the White House, and other federal agencies, in addition to not providing information on how DOL collects and uses data to prevent child labor violations, suggests that a thoughtful retrospective has not been completed.

For example, in September 2022, the HHS OIG issued a report finding that during the surge in unaccompanied children at the southern border in 2021, the Office of Refugee Resettlement (ORR) “removed several safeguards from [its] process for screening potential sponsors” and that “the removal of these safeguards may have also increased children’s risk of release to unsafe sponsors.”¹⁶ It is not clear that DOL knew about this report, and if it did, whether the Department took subsequent steps to focus child labor prevention and enforcement tools on geographic areas with a high number of unaccompanied children. Given that many of the children who are exploited are those released to sponsors by ORR, it is essential that DOL works in coordination with ORR to identify areas where migrant children are especially vulnerable and use all of the tools at its disposal to identify warning signs that may uncover child labor violations.

Given the seriousness and tragic nature of this issue, it is incumbent upon the Health, Education, Labor, and Pensions Committee to examine the actions DOL is taking to remedy past mistakes and ensure that there is a comprehensive plan going forward to prevent child labor law violations. As Acting Secretary, you have an obligation to respond to such oversight requests in a timely and thorough manner. The opening of a DOL OIG review into the actions that the Department has taken only bolsters this Committee’s justification for demanding a full accounting of past behavior

¹² Press Release, U.S. Dep’t of Lab., 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>.

¹³ *Id.*

¹⁴ Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, N.Y. TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html> (“A spokeswoman for the Labor Department said that the White House had been aware of the rise in child labor because it was widely public. But Mr. Bates, the White House deputy press secretary, said officials there had not known of the increase in child labor until The Times’s February report.”).

¹⁵ See Wage & Hour Div., *Child Labor*, U.S. DEP’T OF LAB., <https://www.dol.gov/agencies/whd/data/charts/child-labor> (last visited Aug. 31, 2023) (showing a 37 percent increase of minors employed in violation of federal labor laws from 2021 to 2022).

¹⁶ Christi A. Grimm, Inspector Gen., *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children*, U.S. DEP’T OF HEALTH & HUM. SERVS. OFF. OF INSPECTOR GEN. 2 (Sept. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

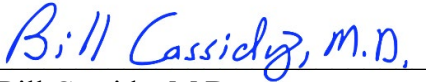
and the articulation of the specific steps DOL plans to take to prevent future tragedies. Therefore, I ask that you answer the following questions, **on a question-by-question basis, by November 2, 2023:**

1. If DOL “was doing [its] job” regarding child labor violations prior to the New York Times article being published in February 2023, why did the Department enter into a MOA with HHS for inter-agency data sharing in March 2023?
 - a. What specific steps did DOL take to coordinate with other federal agencies to combat child labor violations prior to February 2023?
 - b. Did DOL and HHS decide to enter into a MOA to combat child labor violations before or after the New York Times article was published in February 2023? Please provide documentation to support your answer.
2. Have DOL’s actions been sufficient to curtail child labor law violations? If not, what additional steps can DOL take?
 - a. How does DOL prioritize inspections of employers in industries that have a high incidence of child labor violations? Does DOL receive tips of potential child labor violations?
3. There has been no evidence that DOL made any changes to its enforcement priorities in the wake of the September 2022 HHS OIG report highlighting the removal of safeguards at ORR that may have increased children’s risk of being released to an unsafe sponsor.
 - a. Was DOL made aware of this report? If so, when was it made aware? Please provide documentation to support your answer.
 - b. Did DOL take any actions in the wake of this report to focus child labor prevention and enforcement tools on geographic areas with a high number of unaccompanied children?
 - c. What specific actions has DOL taken to protect unaccompanied children who are released to sponsors from being exploited to work in hazardous conditions?
4. Please explain the specific ways in which the DOL-led Interagency Task Force furthers collaboration and improves information sharing among agencies. In addition, please provide the types of data that DOL collects and uses through the Interagency Task Force to prevent and enforce child labor violations.
5. Will DOL commit to publicly releasing its data that tracks the deaths of foreign-born child workers? If not, why not?

6. Is there any data about child labor violations that DOL would like to collect, but is unable to? If yes, what is preventing the Department from collecting this data?

Thank you for your prompt attention to this important matter.

Sincerely,

Handwritten signature of Bill Cassidy, M.D. in blue ink, underlined.

Bill Cassidy, M.D.

Ranking Member

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