United States General Accounting Office

GAO

Report to the Chairman, Subcommittee on Labor, Health and Human Services, and Education, Committee on Appropriations, U.S. Senate

September 2002

CHILD LABOR

Labor Can Strengthen Its Efforts to Protect Children Who Work

GAO-02-880

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Abbreviations

BLS	Bureau of Labor Statistics
CPS	Current Population Survey
FLSA	Fair Labor Standards Act
GAO	General Accounting Office
NIOSH	National Institute for Occupational Safety and Health
NLSY	National Longitudinal Survey of Youth
WHD	Wage and Hour Division

G A O
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

September 27, 2002

The Honorable Tom Harkin
Chairman, Subcommittee on Labor, Health and
Human Services, and Education
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

In 2001, almost 40 percent of all 16- and 17-year-olds in the United States and many 14- and 15-year-olds worked at some time in the year. Children in the United States are often encouraged to work and many people believe that children benefit from early work experiences by developing independence, confidence, and responsibility. However, the public also wants to ensure that the work experiences of young people enhance, rather than harm, their future opportunities. Over 200,000 children are injured on the job each year and about 70 die as a result of their injuries, according to a recent report by the Department of Labor. In addition, while work can have a positive effect on academic achievement, working too many hours may adversely affect children's educational attainment. To protect children from such harmful effects, the Fair Labor Standards Act (FLSA), with provisions on child labor, was enacted in 1938. These provisions established the minimum age at which children can work, limited the number of hours and times of day they can work, and prohibited them from performing work defined as hazardous. It also made the Secretary of Labor responsible for defining work that is too hazardous for children and for enforcing the provisions of the law.

You asked us to update information from our 1991 reports on child labor[1] by providing information on (1) how the number and characteristics of working children in the United States have changed over the past decade, (2) whether the number and characteristics of work-related injuries to children have changed over this same time period, and (3) how well Labor enforces the child labor provisions of FLSA.

[1]See U.S. General Accounting Office, *Child Labor: Characteristics of Working Children*, GAO/HRD-91-83BR (Washington, D.C.: June 14, 1991), and U.S. General Accounting Office, *Labor's Child Labor Enforcement Efforts: Developments After Operation Child Watch*, GAO/T-HRD-91-44 (Washington, D.C.: Aug. 7, 1991).

To obtain this information, we analyzed data on the characteristics of, and injuries to, children obtained from Labor's Bureau of Labor Statistics (BLS) and injury data from the Department of Health and Human Services' National Institute for Occupational Safety and Health (NIOSH); reviewed the child labor provisions of FLSA and its implementing regulations, agency documents, information from Labor's investigations database, and individual case files; interviewed Labor officials in Washington, D.C., and 11 field offices (5 regions and 6 district offices), officials from NIOSH, and other experts on child labor; and developed estimates of the number of children who are employed illegally by comparing BLS data on working children to the child labor provisions of FLSA. Most of the estimates in the report were calculated using data obtained from samples and, therefore, have sampling errors associated with them. All differences included in the report were tested for statistical significance at the 0.05 level. See app. I for detailed information on our analysis, including its limitations. We conducted our work from September 2001 to August 2002 in accordance with generally accepted government auditing standards.

Results in Brief

The number and characteristics of working children have changed little over the past decade. According to BLS data, as in 1990, as many as 3.7 million children aged 15 to 17 worked in 2001. Although minority children and children from families with incomes of less than $25,000 a year were less likely to work, when they worked, they generally worked more hours than the average working child. The estimate of the number of illegally employed children, which we obtained by analyzing BLS data, also has changed little since 1990. Overall, approximately 4 percent of all 15- to 17-year-olds who worked were employed illegally in 2001, most commonly in violation of the provisions of the law that restrict the number of hours 15-year-olds can work. In addition, Hispanic children, children who were not citizens, and children from families with lower incomes were more likely to be employed illegally. While the BLS data provide insight into the characteristics of children who work and the nature of that work, the data are far from complete. For example, data on work performed by 14-year-olds are not collected in the main data set on the United States labor force although, once children reach age 14, they are legally allowed to work in many types of jobs, such as bagging groceries and ringing up purchases at a cash register.

The number of children who die each year from work-related injuries has changed little since 1992, but the number of children who incurred nonfatal injuries while working is more difficult to determine because data from different sources provide different estimates of the number of

injuries and trends over time. From 1992 to 2000, between 62 and 73 children died each year as a result of work-related injuries. Boys and Hispanic children; children who worked in construction, agriculture, and transportation and public utilities; and children who worked in a family business had a greater likelihood of being killed than other working children. The data on work-related fatalities collected by BLS are fairly reliable because they are verified using multiple sources. For nonfatal injuries, however, the two primary sources of nationwide data provide significantly different estimates of the number of injuries and trends over the past decade. BLS data collected from employer records show that almost 13,000 children—less than 1 percent of all working children—were injured in 1999. However, data compiled by NIOSH from emergency rooms for the same year show that over 80,000 children sustained a work-related injury. Moreover, the BLS data show that nonfatal work-related injuries to children declined significantly from 1992 to 2000—by more than 40 percent—while preliminary data from NIOSH indicate that the number of nonfatal work-related injuries to children may have increased over the same period. Although both data sets have limitations, neither BLS nor NIOSH officials could explain why the trends over time shown by these two sources differ so dramatically.

Labor devotes many resources to ensuring compliance with the child labor provisions of FLSA, including conducting nationwide campaigns designed to increase public awareness of the provisions, but its compliance efforts suffer from limitations that may prevent adequate enforcement of the law. First, Labor only recently developed specific goals for improving employer compliance in the industries in which most children work and continues to lack specific goals for industries for which children have high rates of injuries and fatalities. Second, it has not developed adequate methods of measuring the success of all of its compliance efforts. Third, Labor does not use all available data to plan its compliance efforts or assess the efforts of its local offices to ensure compliance with the child labor provisions of FLSA. Finally, Labor does not provide sufficient guidance and training to its local offices on how to use their resources most effectively or help them consistently apply the provisions of the law.

We are making recommendations to the Secretary of Labor aimed at helping the agency evaluate the effect of its child labor compliance efforts and ensure that resources are used more effectively, including developing goals for improving compliance in industries in which children face the greatest risk of being injured or killed; measures to use in assessing its success in meeting goals; using existing data to better plan compliance efforts and assess success in meeting goals; and providing additional

guidance and training to staff. In commenting on a draft of our report, Labor disagreed with many of our recommendations and conclusions, including those related to developing additional program goals, improving methods for measuring program success, and better using data for management oversight. We continue to believe that additional improvements can be made in each of these areas. Labor agreed with the remainder of our recommendations or agreed to take action on them. Labor also provided technical comments and clarifications, which we incorporated in the report as appropriate. Our summary evaluation of the agency's comments is on pages 48 and 49. Labor's general comments and our detailed responses are provided in full in app. IV.

Background

Several key sources provide information on the number and characteristics of working children. The Current Population Survey (CPS), compiled monthly by BLS, is the primary source of information on the United States labor force. CPS provides nationally representative information on the number and characteristics of working children age 15 and older,[2] including data on where children work, the types of jobs they hold, and how many hours a week they work. In addition, it provides demographic information on children such as age, race, ethnicity, and family income. Because the data have been collected for over 50 years, they can be used to show how the number and characteristics of working children have changed over time. Labor also compiles two additional sources of nationally representative data on working children. The first is the National Longitudinal Survey of Youth (NLSY). The most recent NLSY began in 1997 and is referred to as "NLSY97"; it contains data on one group of approximately 9,000 children born from 1980 to 1984.[3] NLSY provides detailed information on the work experiences of this group of children over time and captures data not collected in CPS, such as information on children younger than 15 and in-depth information on children's work habits, education, and personal lives. NLSY, however, cannot be used to show how the number and characteristics of all working children have changed over time because it only includes information on one group of

[2]Although BLS collects data on 15-year-olds who work, it does not generally publish most of the information since these individuals are not as significant a part of the labor force as those age 16 and over due to the dual constraints of child labor laws and mandatory education.

[3]The earliest NLSY interviews began in the mid 1960's under the predecessor of Labor's Employment and Training Administration. In 1979, Labor began a new longitudinal survey of a second group of children called "NLSY79." In 1986, BLS took over the collection and analysis of NLSY.

children born from 1980 to 1984. The second set is the National Agricultural Workers Survey in which data are collected several times each year from a sample of crop agricultural workers. This survey provides data on the number and characteristics of children who work in migrant agriculture, their educational attainment, and their mobility. The information can be used to supplement data on children in CPS and NLSY but it is limited. Labor added questions to the survey in fiscal year 2000 to obtain additional data on children who work in agriculture but has not been able to obtain data on a sufficiently large number of children working in crop agriculture to provide information that is statistically reliable.

The primary sources of data on children who are injured or killed as a result of work-related injuries come from BLS and NIOSH. BLS reports all work-related fatalities, including those for children, in its Census of Fatal Occupational Injuries published each year. BLS identifies these fatalities through death certificates and reports from state workers' compensation agencies, medical examiners, the Occupational Safety and Health Administration, and the news media. BLS collects data on the number of nonfatal work-related injuries and illnesses in its Survey of Occupational Injuries and Illnesses from a sample of the injury records that employers in private industry are required to maintain. NIOSH collects data on work-related injuries in its National Electronic Injury Surveillance System from a sample of emergency room records.[4]

The employment of working children is generally covered by FLSA and its implementing regulations, which limit the types of jobs, number of hours, and times of day that children younger than 16 years of age can work. Generally, most children younger than age 14 are prohibited from working in nonagricultural employment other than casual free-lance jobs such as babysitting and delivering newspapers. Children who are 14 and 15 years old may work in many jobs in retail stores, restaurants, and gas stations. They may not, however, work in any job considered hazardous, including jobs in manufacturing, mining, construction, transportation, warehousing, communications, and public utilities. The provisions also prohibit 14- and 15-year-olds from working during school hours and limit the number of hours and times of day they can work. (See table 1.)

[4]NIOSH collects data on work-related injuries to 14- to 17-year-olds through a collaborative agreement with the Consumer Product Safety Commission, which maintains the National Electronic Injury Surveillance System.

Table 1: Child Labor Provisions for Nonagricultural Jobs

Age[a]	Occupations allowed	Hours allowed	Times of day	Other conditions
13 or younger	Few—only casual free-lance work not covered under FLSA, such as babysitting or delivering newspapers.	Not applicable.	Not applicable.	Not applicable.
14 and 15	Occupations in retail, food service, and gas stations.[b]	Up to 3 hours a day and 18 hours a week when school is in session; up to 8 hours a day and 40 hours a week when school is not in session.	Between 7 am and 7 pm from Labor Day to June 1 and until 9 pm from June 1 through Labor Day.	Prohibited from working in occupations deemed hazardous by the Secretary of Labor. Also prohibited from working in many occupations, including occupations in manufacturing, mining, public messenger service, and most processing occupations, and from performing work other than office or sales work in construction, transportation, warehousing and storage, and communications and public utilities. In addition, prohibited from performing certain activities, such as working on ladders and baking, in retail, food service, and gas stations.
16 and 17	Occupations other than those deemed hazardous for children under age 18 by the Secretary of Labor.	No restrictions.	No restrictions.	Prohibited from working in occupations deemed hazardous by the Secretary of Labor.

[a]Statutory exemptions allow children to work regardless of age in certain occupations, including acting and delivering newspapers, and in a family-owned business.

[b]Regulatory exemptions also allow 14- and 15-year-olds to work in certain occupations, such as performing sports- attending duties at professional sporting events, or pursuant to a work experience and career exploration program approved by Labor. Children 14 and 15 years of age who work in a family-owned business are not subject to hours or times of day restrictions.

Source: GAO analysis of the child labor provisions of FLSA and implementing regulations.

FLSA also authorizes the Secretary of Labor to designate certain types of jobs and equipment as too hazardous for children under the age of 18. Once children reach age 16, they are only prohibited from working in jobs or with equipment covered by these Hazardous Occupations Orders, they are not limited as to the number of hours or times of day they can work. These hazardous jobs and types of equipment are specified in 17 Hazardous Occupations Orders originally issued between 1939 and 1963. (See table 2 for a list of the occupations determined to be hazardous by the Secretary of Labor.) In 2002, NIOSH completed a review of the Hazardous Occupations Orders for Labor. Its report, issued in July 2002, made several recommendations for changes to the orders, including establishing new hazardous orders prohibiting all children younger than

age 18 from working in the construction industry and from working at a height of 6 feet or higher on ladders, scaffolds, trees, and other structures.[5] Labor is in the process of reviewing the report and deciding what actions it will take in response to the recommendations.

Table 2: Hazardous Occupations Orders for Nonagricultural Work

Hazardous Occupations Order number	Prohibited occupation
1	Manufacturing and storing of explosives
2	Driving a motor vehicle and being a helper on a motor vehicle
3	Coal mining
4	Logging and sawmilling
5	Working with power-driven woodworking machines
6	Work that involves exposure to radioactive substances
7	Working with power-driven hoisting machines
8	Working with power-driven metal-forming, punching, and shearing machines
9	Mining, other than coal mining
10	Meat packing or processing (including using power-driven meat slicing machines)
11	Working with power-driven bakery machines
12	Working with power-driven paper-product machines (including using paper balers and compactors)
13	Manufacturing brick, tile, and related products
14	Working with power-driven circular saws, band saws, and guillotine shears
15	Wrecking, demolition, or ship-breaking
16	Roofing
17	Excavation

Source: Title 29 of the Code of Federal Regulations, subpart E of part 570 (29 CFR 570.50-.68).

For jobs in agriculture, the child labor provisions are much less restrictive. Children of any age may work an unlimited number of hours (outside of school hours) in nonhazardous jobs, either on a farm owned by their

[5]See Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *National Institute for Occupational Safety and Health (NIOSH) Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders.* (Washington, D.C., 2002).

parents or on a noncommercial farm[6] with the written consent of their parents. Children aged 14 and 15 are allowed to work an unlimited number of hours in nonhazardous jobs outside of school hours[7] without parental consent and, once they reach age 16, they are allowed to work in agricultural jobs deemed hazardous.[8]

The child labor provisions of FLSA do not cover all children. Children who work for employers whose annual gross volume of sales is less than $500,000 and whose work cannot be linked to interstate commerce are not covered under FLSA, although they may be covered under state child labor laws.[9] In addition, children who are self-employed are not subject to the child labor provisions of FLSA. Furthermore, although children who work for their parents are prohibited from working in occupations and operating equipment listed in the Hazardous Occupations Orders, they are not subject to other restrictions of FLSA. When children reach age 18, they are no longer covered under the child labor provisions of FLSA.

In 2001, several legislative proposals were submitted in the House of Representatives and the Senate that would strengthen the child labor provisions of FLSA. The proposals include the Children's Act for Responsible Employment of 2001, which would, among other things, increase the maximum penalties for child labor violations and prohibit children aged 16 and 17 from working in hazardous occupations in agriculture. The Young American Workers' Bill of Rights would amend the FLSA to require employers to obtain work permits for all children age 18 and under who are still in school, require Labor and the Census Bureau to compile data on child labor from the states, including data on injuries and illnesses, and add additional restrictions on child labor such as prohibiting children from making door-to-door sales for profit. (See app. II for a list of the legislative proposals introduced in the 107th Congress that would strengthen the child labor provisions of FLSA.)

[6]A noncommercial farm is defined as an agricultural employer that did not use more than 500 days of labor in any calendar quarter in the preceding year. WHD officials told us this is the working definition of a "family farm" and that 500 days equates to approximately seven full-time employees.

[7]Children employed by their parents on a farm owned or operated by their parents may be employed during school hours.

[8]The Hazardous Occupations Orders for agriculture differ from those for general industry.

[9]Each state also has its own child labor laws, which often differ from the child labor provisions of FLSA. When federal and state laws differ, the stricter standard applies.

Labor's Wage and Hour Division (WHD) is responsible for enforcing the child labor provisions of FLSA. WHD's national office develops the goals and performance measures for Labor's child labor compliance efforts and reports on the results of its efforts in annual performance plans. The national office is also responsible for providing guidance and training to WHD's regional and district offices and for assessing the results of their child labor compliance efforts. Much of the responsibility for planning and executing these efforts, however, is left to the discretion of WHD's five regional offices and the 50 district offices that report directly to the regions. The Child Labor Team Leader in the headquarters office is responsible for coordinating WHD's child labor compliance efforts, including disseminating information and guidance to the regional and district offices, maintaining the section of the WHD Web site with information on child labor, maintaining the Field Operations Handbook for investigators, and overseeing special projects. WHD's child labor compliance efforts comprise several strategies: enforcement, partnerships, education and outreach, and public awareness. Its public awareness strategy is designed to inform the general public about the child labor provisions of FLSA through activities such as press releases. WHD's education and outreach activities—which WHD also refers to as "compliance assistance"—are specifically targeted to groups that can have an impact on youth employment, such as teachers, parents, and employers. Education and outreach activities include publishing and distributing materials such as bookmarks with information on the rules governing the employment of children under age 18, and maintaining a Web site with information on the child labor provisions of FLSA and state child labor laws.

WHD's enforcement actions include on-site investigations of employers and other activities designed to bring employers into compliance with the law. When WHD finds violations of the child labor provisions of FLSA during its investigations, it may assess penalties. The penalties for child labor violations depend on the severity of the violations, the number of times the violations occurred, and aggravating factors such as falsification of records and whether the employer has a record of previous child labor violations. The penalties range from $275 for a record-keeping violation to $11,000 for a violation involving a serious injury or death.[10] Information on

[10]In 2002, WHD raised the maximum penalty for a child labor violation from $10,000 to $11,000. This adjustment was required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by the Debt Collection Improvement Act of 1996), which requires federal agencies to adjust their civil money penalties to account for inflation.

WHD's investigations, violations, and penalties assessed is tracked in its investigations database–the Wage and Hour Investigative Support and Reporting Database, WHISARD.

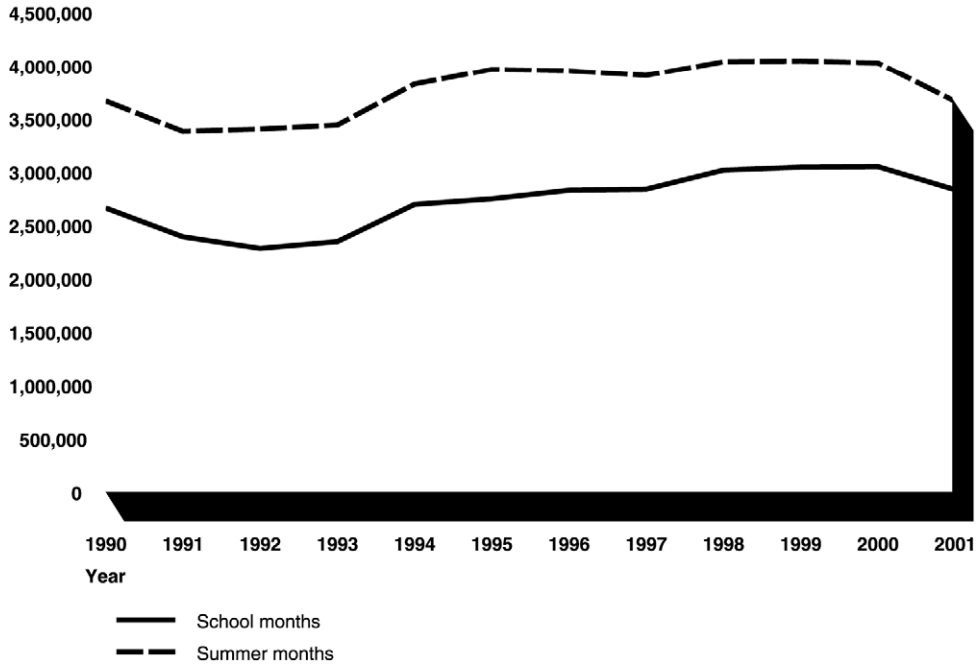
Number and Characteristics of Children Who Work and the Percentage of Illegally Employed Children Have Not Changed Since 1990

Over the past decade, according to data tabulated from CPS, the number and characteristics of working children have not changed. In 2001, working children were as sizable a part of the United States labor force as they were in 1990. Most children worked in a variety of occupations concentrated in a few select industries, primarily retail trade and services. The percentage of children who worked illegally, either because they worked in occupations prohibited under the law or more hours than allowed, also did not change. In 2001, as in 1990, minority children and children from families with annual incomes below $25,000 were more likely than other children to work illegally. However, because of limitations of the data available, we could not determine the full extent and nature of children's employment in the United States, such as the number and characteristics of children younger than age 15 who work and the percentage of children younger than 15 who are employed illegally.

Many Children Work, Primarily in Retail Trade and Services

In 2001, as many as 3.7 million children between the ages of 15 and 17 worked, about 30 percent of all children in this age range. (See fig. 1.) Between 1990 and 2001, children as a proportion of the total United States labor force, as well as the percentage of children who worked, remained relatively stable. The percentage of children who worked in summer months fluctuated over the decade from a high of 36 percent in 1990 to a low of 30 percent in 2001. Although most children work for an employer, in 2001, about 52,000 (2 percent) were self-employed and about 10,000 (less than 1 percent) performed unpaid labor in a family business.

Figure 1: Number of Children in the United States Aged 15 to 17 Who Worked, 1990 to 2001

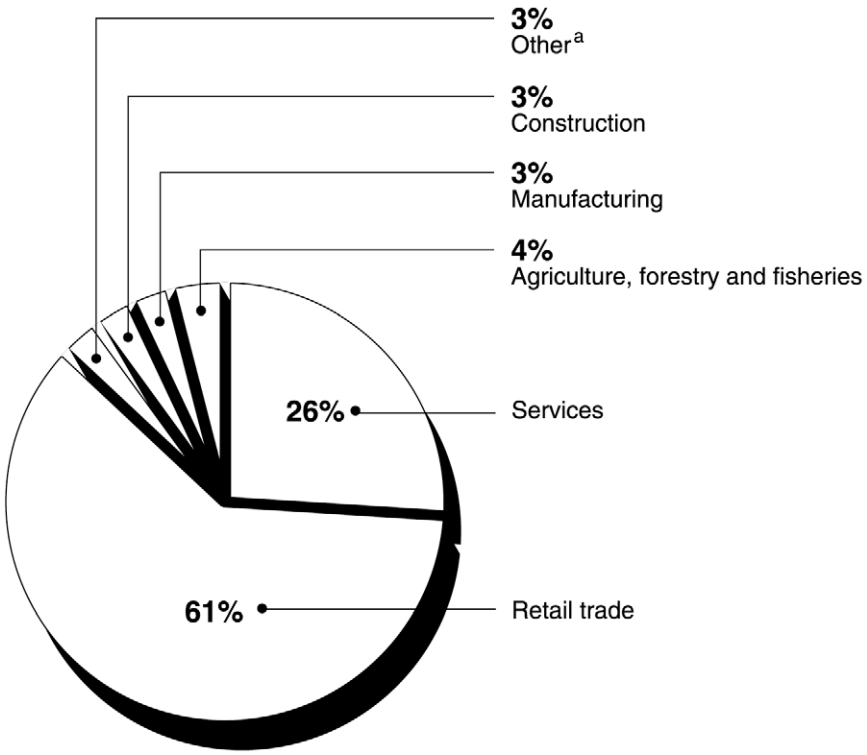


Source: GAO analysis of CPS data.

Throughout the decade, children primarily worked in retail trade, in businesses such as department stores, grocery stores, and restaurants. In 2001, as in 1990, about 60 percent of all working children were employed in this industry, mostly in eating and drinking places. (See fig. 2.) Children generally held jobs in sales occupations, such as running a cash register or clerking at a store, or in services,[11] such as waiting tables or cleaning hotel rooms.

[11]The term "services" is used in the CPS to categorize both an industry and a type of job (occupation).

Figure 2: Industries in Which Children Worked, 2001



[a]"Other" includes finance, insurance and real estate (1 percent); transportation and public utilities (1 percent); and wholesale trade (1 percent).

Source: GAO analysis of CPS data.

Various data sets provide information about children who work in agriculture. According to CPS data tabulated by GAO, about 4 percent of all children who worked were employed in agriculture in 2001. Another data set, the National Agricultural Workers Survey, provides more detailed information on the characteristics of children who work in crop agriculture. According to the data in this survey, the characteristics of children in crop agriculture changed somewhat over the decade. Although most children working in crop agriculture throughout the decade were boys aged 16 and 17, the percentage of boys increased, as did the percentage of children who were foreign-born and newcomers to this

country.[12] Although most children working in agriculture are 16 years of age and older, the percentage of younger children (14- and 15-year-olds) who work in agriculture has increased, from 17 percent to 30 percent. In addition, both the percentage of children who entered the country illegally to work in agriculture and the percentage of those who were not accompanied by their parents or other family members rose over the decade.

Children's work has a decidedly seasonal nature. More children work in summer months when school is out of session than in school months.[13] In 2001, 30 percent of all children aged 15 to 17 worked in summer months, compared to 23 percent who worked in school months. Not only do more children work in the summer, they also work more hours. In 2001, children worked an average of 21 hours a week in summer months, compared to 16 hours a week in school months. This is similar to the number of hours they worked in both summer and school months in 1990. Children also overwhelmingly worked part-time; 87 percent of all working children worked part-time in 2001.

Although children worked about the same number of hours in 2001 as in 1990, their average hourly earnings increased by 10 percent. In 1990, children paid an hourly salary earned an average of $5.70 an hour;[14] in 2001, the average hourly salary was $6.36. From 1990 to 2001, children's average hourly earnings exceeded the minimum wage and the amount by which their earnings exceeded the minimum wage increased. By 2001, their average hourly earnings exceeded the minimum wage of $5.15 an hour by $1.21.

Older Children Are More Likely than Younger Children to Work

The older a child is, the more likely he or she is to work and the more hours he or she is likely to work. These differences are even greater in the summer when more children work. For example, in summer months in 2001, 43 percent of all 17-year-olds and 33 percent of all 16-year-olds

[12]See U.S. General Accounting Office, *Child Labor In Agriculture: Changes Needed to Better Protect Health and Educational Opportunities*, GAO/HEHS-98-193 (Washington, D.C.: Aug. 21, 1998).

[13]We defined "school months" as September through May and "summer months" as June through August, although this simplification does not recognize factors such as schools that continue classes into June or schools that operate on a year-round basis.

[14]This figure is in 2001 dollars. When not adjusted for inflation, children working in 1990 actually earned $4.21 an hour.

worked, while only 15 percent of all 15-year-olds worked. Moreover, in 2001, 17-year-olds worked an average of 23 hours a week in summer months, 5 more hours a week than 15-year-olds and 2 more hours a week than 16-year-olds.

Children of different ages tend to work in different industries. Older children are more likely to work in the retail trade industry than younger children. For example, in summer months in 2001, nearly 60 percent of employed 17-year-olds worked in retail trade, whereas 38 percent of employed 15-year-olds worked in this industry. On the other hand, 15-year-olds are more likely than older children to work in agriculture, possibly because of the looser age restrictions that provide younger children with opportunities for employment in agriculture that they do not have in other industries.

Poor and Minority Children Are Less Likely to Work

In addition to age, family income and race are also related to children's employment. Children from families with lower incomes are less likely to work than those from higher income families and minority children are less likely to work than white children. About 17 percent of children in families with annual incomes below $25,000 a year worked in 2001, compared to 29 percent of children in families with incomes above $75,000 a year.[15] In 2001, 15 percent of black children and 17 percent of Hispanic children worked, compared to about 30 percent of white children.[16]

Despite the fact that children from lower income families are less likely to work, when they do work, they tend to work more hours. Children in families with annual incomes below $25,000 worked an average of 21 hours a week in 2001, 5 more hours a week than children whose families had annual incomes of $75,000 or more.

[15]We divided annual family incomes into four quartiles: $0 to less than $25,000; $25,000 to less than $50,000, $50,000 to less than $75,000, and $75,000 or more.

[16]BLS includes Hispanics in CPS data by asking respondents to categorize children of all races into the ethnicity of "Hispanic" or "non-Hispanic." In order to simplify the discussion about differences among races, we grouped children into one of four races: "White," "Black," "Hispanic" and "Other." In this grouping, Hispanic children were those whose race was identified as white, black or other, but whose ethnicity was identified as Hispanic. Children who identified themselves as black, white, or other and identified themselves as non-Hispanic were coded as the race they initially selected. Therefore, in this report, all children categorized as white, black, or other refer only to non-Hispanic children and children categorized as Hispanic include those of all races. These categorizations are not equivalent to those used by BLS.

In addition, while all minority children were less likely to work than white children, Hispanic children who were employed worked more hours than other children. In 2001, Hispanic children worked an average of 24 hours a week, at least 5 more hours a week than other children.

Many Children Are Illegally Employed; Illegal Employment Varies by Age and Gender

As in 1990, we estimated that as many as 4 percent of all 15- to 17-year-olds who worked in 2001 worked illegally, either because they worked more hours than allowed under the law or because they worked in prohibited hazardous occupations.[17] Because the child labor provisions of FLSA for 15-year-olds are more restrictive, they are more likely to work illegally than 16- or 17-year-olds. For example, in 2001, over 21 percent of all employed 15-year-olds worked illegally in school months, compared to 1 percent of all 16- and 17-year-olds. Although the overall percentage of children who worked illegally in both summer months and school months remained constant from 1990 to 2001, the percentage of 15-year-olds who worked illegally in school months increased over the period. (See table 3.)

Table 3: Percentage of Children Employed Illegally in 1990, 1996, and 2001

	1990	1996	2001
School months			
15-year-olds	17.6%	15.2%	21.4%
16-year-olds	0.8	0.9	1.4
17-year-olds	1.8	2.0	1.4
Total	**3.9%**	**3.2%**	**4.0%**
Summer months			
15-year-olds	8.4%	8.0%	8.6%
16-year-olds	1.6	1.1	1.0
17-year-olds	2.6	1.6	1.4
Total	**3.1%**	**2.5%**	**2.4%**

Source: GAO estimates of children employed in violation of FLSA in 1990, 1996, and 2001.

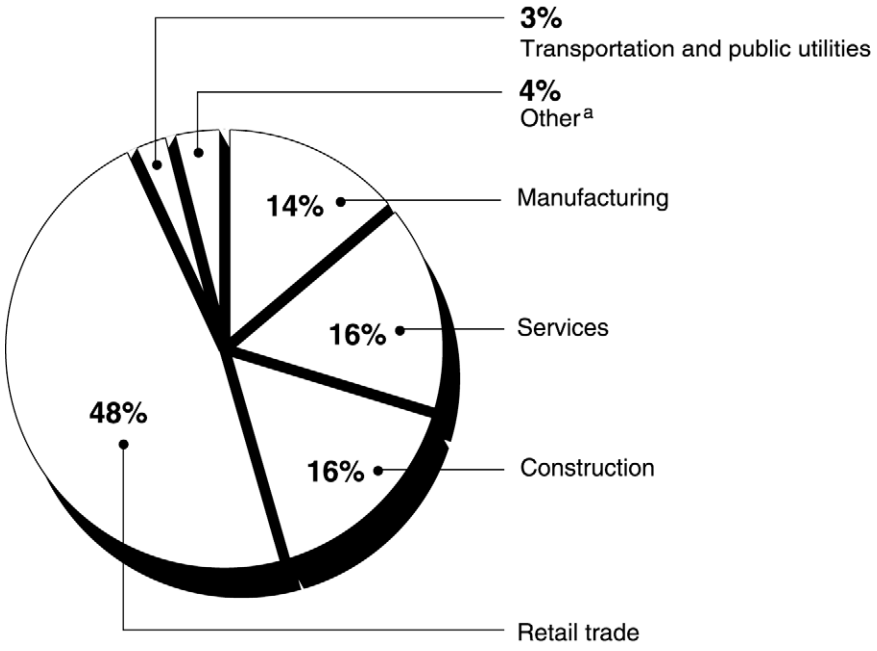
Most of the children who worked illegally were 15-year-olds who worked more hours than allowed under the child labor provisions of FLSA. Of the

[17]Because CPS does not capture data on children who work in occupations that are illegal under criminal statutes, such as drug dealing and prostitution, we could not include them in our estimates. We estimated illegal employment by comparing information reported in CPS to the restrictions in FLSA and its implementing regulations on the number of hours that 15-year-olds can work and the industries and occupations in which 15-, 16-, and 17-year-olds are prohibited from working. See app. I for detailed information on our estimates of illegal employment and limitations of the estimates.

15-year-olds who worked illegally, nearly 80 percent worked an excessive number of hours—on average, 10 hours more than the maximum number of hours allowed. Because of the hours restrictions for 15-year-olds in school months, they were much more likely to work illegally in school months than in summer months.

Children who worked illegally not only worked more than the allowed number of hours, they also worked in prohibited industries and occupations. Although most children worked in the retail trade industry during the past decade, a substantial percentage of the illegal employment was found in other industries (see fig. 3). For example, in 2001, although only 3 percent of all children worked in manufacturing, this industry accounted for 14 percent of all illegally employed children. Similarly, although only 3 percent of all working children worked in construction, the construction industry accounted for 16 percent of all illegally employed children.

Figure 3: Percentage of Illegally Employed Children, by Industry, 2001

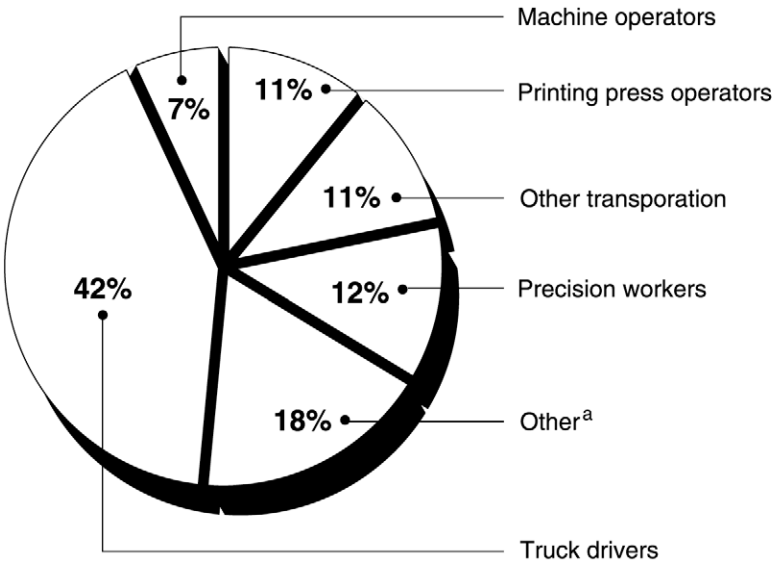


[a] "Other" includes the forestry and fisheries (2 percent); wholesale trade (1 percent); finance, insurance and real estate (0.4 percent) and public administration (0.4 percent) industries.

Source: GAO estimates of children who were employed in violation of FLSA in 2001.

Moreover, although most children worked in sales and services occupations, children who were employed in prohibited occupations were most commonly employed illegally in transportation-related occupations. In 2001, according to our estimates, over 40 percent of all children who were employed illegally because they worked in prohibited occupations worked as truck drivers. (See fig. 4.)

Figure 4: Percentage of Children Employed in Prohibited Occupations, by Occupation, 2001



[a]"Other" includes roofers (7 percent), butchers (7 percent), and forestry and logging workers (4 percent).

Source: GAO estimates of children who were employed in violation of FLSA in 2001.

We determined that a child's gender, race, and citizenship status were related to the likelihood that he or she worked in a prohibited occupation, but a child's annual family income was not related. In 2001, boys were more likely than girls to work in prohibited occupations. In addition, black children were less likely than children of other races to work in prohibited occupations, and children who were not citizens were more likely than those who were citizens to work in prohibited occupations. There was no correlation, however, between family income and children who worked in hazardous occupations. In other words, children from families with lower annual incomes were not more or less likely to work in prohibited occupations than other children.

Although children from families with lower incomes were not more likely to work in prohibited occupations, they were more likely to work more hours than allowed. In school months in 2001, 32 percent of all employed 15-year-olds with family incomes less than $25,000 a year worked more hours than allowed under the law. In contrast, only 9 percent of all employed 15-year-olds with family incomes over $75,000 a year worked more hours than allowed.

In addition to income, race is also associated with the likelihood that a child will work more hours than allowed; Hispanic children are more likely to work too many hours than other children. In 2001, 42 percent of Hispanic 15-year-olds worked more hours than allowed during school months, compared to 16 percent of whites and 18 percent of blacks.

The region of the country in which children live as well as the type of area in which they live (metropolitan or nonmetropolitan) are also associated with illegal employment. A higher proportion of employed 15-year-olds who lived in the South and West worked more hours than allowed than those who lived in the Northeast and Midwest.[18] In school months in 2001, 15-year-olds in the South and West were almost 1.5 times more likely than their counterparts in the Northeast and Midwest to work more hours than allowed. Additionally, 15-year-olds who lived in metropolitan areas were 1.4 times more likely to work more hours than allowed under the law than those who lived in nonmetropolitan areas.

Data Limitations Affect Child Labor Estimates

Although data on children who work has been collected in CPS for 50 years, and therefore provides useful information on trends in child labor, limitations of the data affect our ability to accurately describe all children in the United States who work.[19] One limitation is that data on children younger than age 15 are not collected. In 1989, Labor stopped collecting data on 14-year-olds in CPS, although these children are allowed under FLSA and its implementing regulations to work in many jobs.[20] Because CPS does not gather data on 14-year-olds, the estimates presented

[18]The BLS data divide the country into four regions: Midwest, Northeast, South, and West. See app. I for a list of all states in each region.

[19]Additional limitations affecting our analysis are highlighted in app. I.

[20]BLS officials told us that the decision to stop collecting data on 14-year-olds who work was made because of budget constraints and because they received so few responses for children of this age.

in this report paint an incomplete picture of the employment patterns for younger children.

Another limitation of CPS is the method used to capture information on working children. While some data are collected directly from children who work, most of the information in CPS on working children is provided by an adult member of the household, in most cases a parent. Because the adult answering the questions may not be aware of the full extent of the child's activities, information about the child's employment may be underreported or omitted, or the adult may incorrectly identify the industry, occupation, or hours worked.

Another BLS survey, NLSY, collects information on children differently. In NLSY, children are directly asked by interviewers to describe their jobs as well as their activities at work. Because children are asked directly about their work and are asked more detailed questions about employment throughout the year, including using a calendar to prompt the child to account for each period of employment or unemployment during the year, the percentage of children who work reported in NLSY is much higher than in CPS. For example, NLSY97 showed that about 24 percent of all 15-year-olds worked in a particular week during the summer of 1996,[21] while CPS data showed that 18 percent of 15-year-olds worked in that same period. In addition, NLSY collects data on younger children who work. For example, NLSY97 showed that 13 percent of all 14-year-olds worked for an employer in a particular week during the summer of 1996; CPS does not capture data on 14-year-olds who work. (See table 4.) NLSY97 also reported that as many as 44 percent of all 13-year-olds and 34 percent of all 12-year-olds received income from freelance jobs at some point in 1997.[22]

[21]The reference period is the week of the 12th of the month. See app. I for more information.

[22]This type of work as defined in NLSY includes freelance jobs such as babysitting and mowing lawns.

Table 4: Percentage of Children Employed in 1996 and 1997, CPS compared to NLSY97

	Jan.-May, 1996		June-Aug., 1996		Sept.-Dec., 1996		Jan.-Apr., 1997	
	CPS	NLSY	CPS	NLSY	CPS	NLSY	CPS	NLSY
14-year-olds	[a]	7.8	[a]	13.2	[a]	10.4	[a]	6.4
15-year-olds	8.5	17.1	18.2	23.5	10.0	16.3	8.9	14.8
16-year-olds	24.6	[b]	36.9	[b]	27.5	35.2	23.4	32.9

[a]CPS does not capture data on children younger than 15 years of age who work.

[b]Sample sizes for this period were too small provide statistically reliable data.

Source: Bureau of Labor Statistics, *Report on the Youth Labor Force*, May 2000 (Revised November 2000) and GAO estimate of employed 14-year-olds from NLSY97 data.

Fatalities Have Changed Little; Extent of Change in Other Work-Related Injuries to Children Is Unclear

The number and characteristics of children who die each year as a result of a work-related injury have changed little over the past decade. From 1992 to 2000,[23] the number of fatalities and the fatality rates for working children remained fairly constant. It is difficult, however, to determine whether the number of work-related injuries to children has changed, because the two primary sources of data on nonfatal injuries to working children—BLS and NIOSH—provide significantly different estimates of the number of children injured over the decade. Data from one of the two sources, however, indicates that the characteristics of children injured have changed little over the decade.

Number and Characteristics of Work-Related Fatalities and Fatality Rates for Working Children Changed Little over the Decade

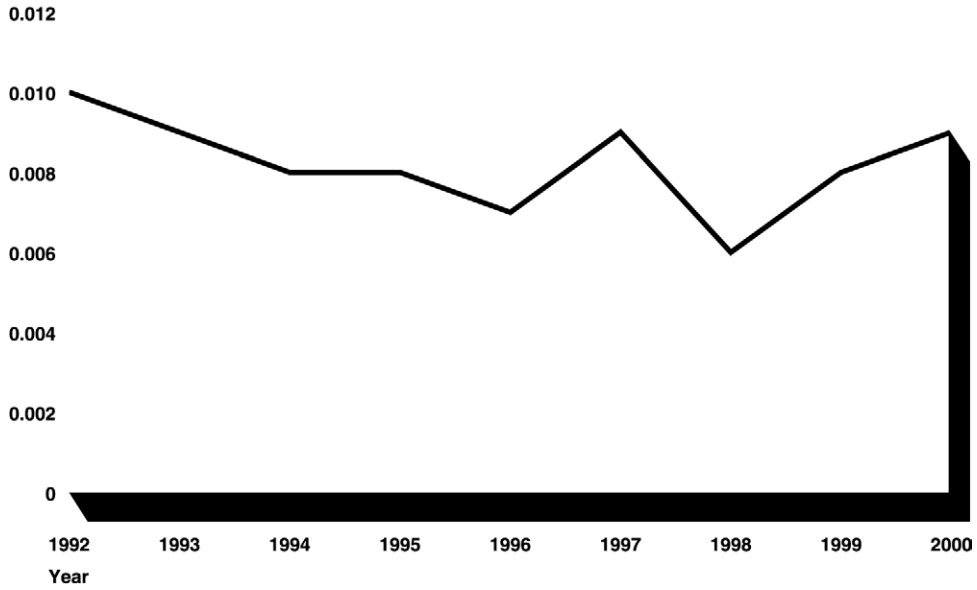
The number and characteristics of work-related fatalities and fatality rates for working children remained relatively constant from 1992 to 2000. Each year, according to data collected by BLS on work-related fatal injuries,[24] between 62 and 73 children died from injuries sustained while working, a total of 613 children over the 9-year period. In addition, the fatality rate for children aged 15 to 17—the number of deaths per 100,000 hours worked—was fairly constant, ranging from approximately 0.006 deaths per 100,000

[23]Data on fatal work-related injuries for 1990 and 1991 collected by BLS are not comparable to data for later years. Prior to 1992, BLS fatality data were collected in the Survey of Occupational Injuries and Illnesses, a sample survey that differs in scope and methodology from the current Census of Fatal Occupational Injuries. In addition, information on the age of injured workers was not collected in the survey prior to 1992.

[24]To ensure the accuracy of the data in the Census of Fatal Occupational Injuries, BLS collects occupational fatality information from a number of different sources, such as death certificates, reports from state workers' compensation offices, fatality investigation reports, and news reports.

hours worked in 1998 to about 0.010 deaths per 100,000 hours worked in 1992.[25] (See fig. 5.)

Figure 5: Work-Related Fatality Rates for Children Aged 15 to 17 per 100,000 Hours Worked, 1992 to 2000



Source: GAO estimates of fatality rates calculated from BLS's Census of Fatal Occupational Injuries and CPS data.

Demographic data for children who died as a result of a work-related injury show that most of the children killed were boys 16 years of age or older. Although girls were as likely as boys to work from 1992 to 2000, boys were almost eight times more likely to die as a result of a work-related injury than girls. In addition, although most of the children killed (about 60 percent) were aged 16 and 17, a substantial number (20 percent) were 13 years of age or younger. (See table 5.)

[25]We calculated fatality rates by dividing the number of deaths stated in BLS's Census of Fatal Occupational Injuries by the number of hours children worked during the same time period as shown in CPS. See app. I for detailed information on our calculations.

Table 5: Number and Percentage of Work-Related Fatalities for Children, by Age, 1992 to 2000

	Number	Percentage
12 and younger	85	14%
13-year-olds	38	6
14-year-olds	42	7
15-year-olds	78	13
16-year-olds	145	24
17-year-olds	225	37
Total	**613**	**100%**[a]

[a]Percentages shown total more than 100 percent because of rounding.

Source: BLS's Census of Fatal Occupational Injuries.

Most of the children younger than age 15 who died as the result of a work-related injury were employed in agriculture, and about 50 percent of the children who died as a result of injuries incurred while working in agriculture were 14 years old or younger. Moreover, even though most children who died from a work-related injury were white (75 percent), Hispanic children had a fatality rate that was twice as high as the rate for white children. (See table 6.)

Table 6: Number and Percentage of Work-Related Fatalities and Fatality Rates for Children, by Race, 1992 to 2000

	White	Hispanic	Black	Total
Number of Children	460	90	32	613
Percentage of Children[a]	75%	15%	5%	100%
Fatality Rate per 100,000 Hours Worked[b]	0.008	0.016	0.006	0.008

[a]About 5 percent of the fatalities were for children not identified with one of the races listed above or for whom race was not reported.

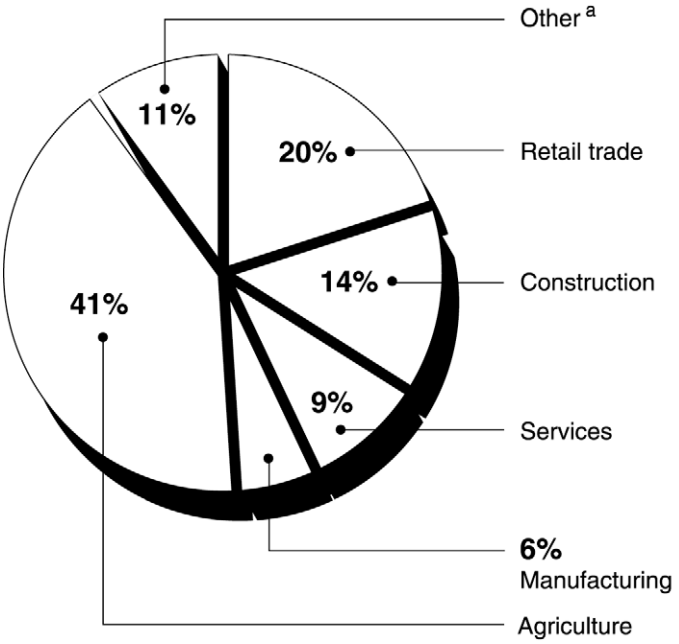
[b]The fatality rates shown are only for children age 15 and older because BLS does not collect data in CPS on hours worked for children younger than age 15.

Source: GAO estimates calculated from BLS's Census of Fatal Occupational Injuries and CPS data.

Fatality data also show that certain industries and types of businesses pose a greater danger to working children. During the decade, over 40 percent of the children killed as a result of work-related injuries worked in agriculture, primarily crop production. Retail trade and construction accounted for 20 percent and 14 percent of all fatalities, respectively. (See fig. 6.) In addition, although children who worked in family businesses accounted for less than 1 percent of all working children, they accounted for about one-third of all fatalities. Moreover, children who worked for small employers—those with 10 employees or

less—accounted for nearly two-thirds of the fatalities for which employer size was reported. About 90 percent of the children killed who worked for an agricultural employer for which establishment size was reported worked for employers with 10 or fewer employees.[26]

Figure 6: Work-Related Fatalities for Children, by Industry, 1992 to 2000



Notes: Industry data for 13 of the 613 work-related fatalities (2 percent) were not available. Percentages total more than 100 percent because of rounding.

[a] "Other" includes government (4 percent), transportation and public utilities (3 percent), wholesale trade (2 percent), and forestry and fishing (2 percent).

Source: BLS's Census of Fatal Occupational Injuries.

[26]This information is from unpublished estimates obtained from BLS. Although BLS collects data on establishment size as categorized by the number of employees, these data were only available for about 64 percent of the fatalities to workers under age 18 in the Census of Fatal Occupational Injuries for 1992 to 2000. The distribution of fatalities by establishment size could differ significantly if establishment size were known for all fatalities. Of the 255 children killed as a result of work-related injuries that occurred in agriculture, data on establishment size were only available for 155 children (61 percent).

Data on fatality rates, however, show that the number of hours children work in each industry needs to be considered as well as the number of deaths. For example, although many of the children killed worked in retail trade, the fatality rate was 0.003 per 100,000 hours worked, much lower than the rate in construction, 0.050, in which 14 percent of the fatalities occurred. (See table 7.) For transportation and public utilities, the fatality rate was also relatively high, 0.027, although this industry only accounted for 3 percent of the fatalities.

Table 7: Fatality Rates per 100,000 Hours Worked for Children, by Industry, 1992 to 2000

Industry	Fatality Rate
Agriculture, forestry, and fishing	0.050
Construction	0.050
Transportation and public utilities[a]	0.027
Wholesale trade	0.016
Manufacturing	0.012
Retail Trade	0.003
Services	0.003

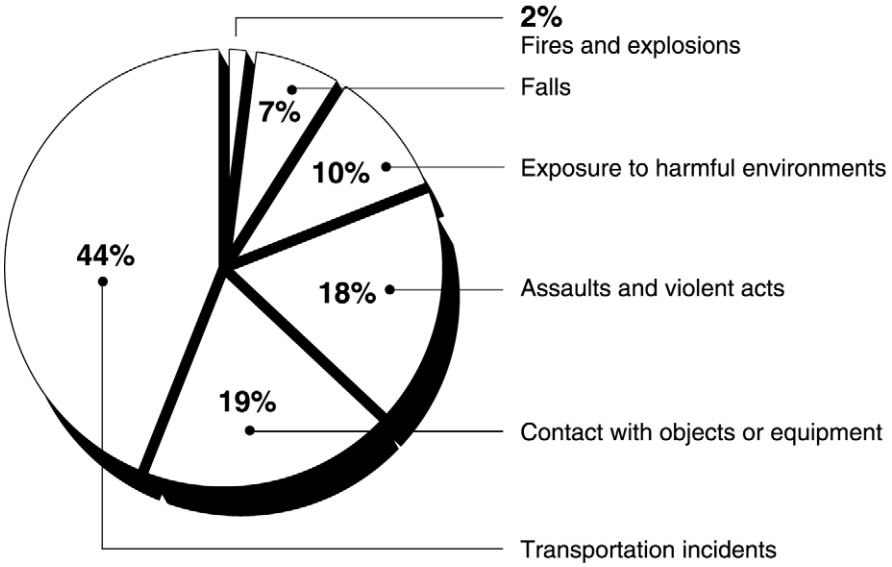
[a]"Transportation and public utilities" includes transportation industries such as railroads, taxicab services, and warehousing and storage; communications industries such as radio, television, and cable services; and utilities industries such as electric light and power, gas, and sanitary services.

Source: GAO estimates calculated using BLS's Census of Fatal Occupational Injuries and CPS data.

Children die as a result of many different types of work-related accidents. From 1992 to 2000, 44 percent of all children killed as a result of a work-related injury died as a result of transportation-related accidents, including highway collisions and nonhighway incidents, such as a fall from a moving vehicle. Other common events included being caught or compressed by equipment or being struck by a falling or flying object. (See fig. 7.) For example, in 2000, a 16-year-old boy who worked in a supermarket was crushed to death by a cardboard box compactor, and another 16-year-old boy was crushed when the forklift he was operating flipped over and landed on his chest.[27]

[27]Descriptions of fatal injuries were obtained from Fatality Assessment and Control Evaluation (FACE) reports compiled by NIOSH. The Census of Fatal Occupational Injuries does not report information on individual fatalities.

Figure 7: Causes of Work-Related Fatalities for Children, 1992 to 2000



Source: BLS's Census of Fatal Occupational Injuries.

Overall, the characteristics of children who died as a result of work-related injuries and the characteristics of their fatalities remained relatively constant from 1992 to 2000, although transportation-related fatalities appeared to increase. In both 1992 and 2000, 60 percent of the children who died as a result of work-related injuries were 16 and 17 years old, and 75 percent of children killed for whom race was available were white.[28] In addition, throughout the decade, the percentage of children killed who worked in agriculture generally ranged from 33 percent to 44 percent, although it rose to 58 percent in 1998.[29] While most characteristics changed little over the decade, the number of children who

[28]Race was not available for 8 percent of the children who died as a result of work-related injuries when data were broken out on an annual basis for 1992 to 2000, either because it was not reported or because it did not meet BLS's publication guidelines designed to protect individuals' anonymity.

[29]Industry was not available for 12 percent of the fatalities when data were broken out on an annual basis for 1992 to 2000, either because it was not reported or because it did not meet BLS's publication guidelines.

died as the result of a work-related transportation incident increased from 37 percent in 1992 to 52 percent in 2000.[30]

Two Data Sources Show Different Numbers and Trends for Nonfatal Injuries

The two primary sources of nationwide data on work-related injuries, one collected by BLS from employer records and the other collected by NIOSH from emergency room records, differ substantially in their estimates of the number of working children injured each year, the types of injuries they sustained, and the trends over time. For 1999, BLS reported that almost 13,000 children were injured on the job, while NIOSH estimated that over 80,000 children were injured on the job that year.[31] BLS's estimate came from records that employers are required to maintain for all work-related injuries serious enough to cause children to miss at least one day of work. NIOSH's estimate was based on records of injuries treated in emergency rooms.[32] In addition, different types of injuries were more prevalent among those reported by employers than those treated in emergency rooms. BLS data for 1992 to 2000[33] showed that sprains, strains, and tears were the most common injuries, while NIOSH data indicated that lacerations were the most common injury.

The BLS and NIOSH data also, over time, indicate different trends in the numbers of work-related injuries to children. BLS data show that injuries have decreased by more than 40 percent, from about 22,000 in 1992 to about 13,000 in 1999. However, data from NIOSH suggest that injuries may have actually increased during the same period, from about 64,000 in 1992 to about 80,000 in 1999. (See fig. 8.)

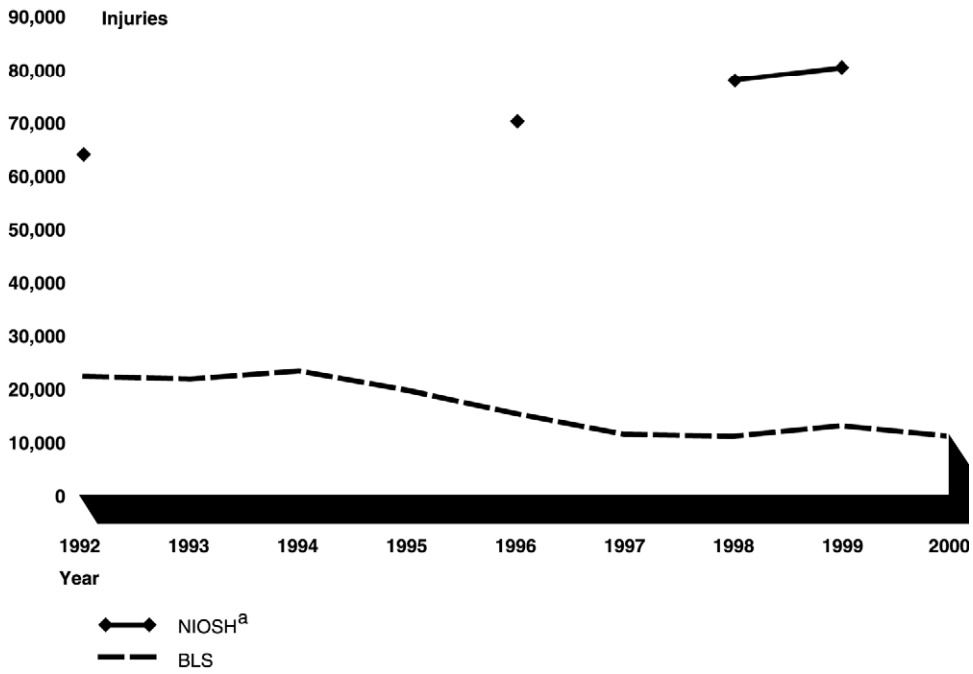
[30]Cause of injury was not available for 5 percent of the fatalities when data were broken out on an annual basis for 1992 to 2000, either because it was not reported or because it did not meet BLS's publication guidelines.

[31]BLS's estimates of work-related injuries include data on all children younger than age 18, although injuries to children younger than age 15 represent less than 1 percent of all injuries. The NIOSH estimates generally are for children aged 14 to 17, although the estimates for 1998 and 1999 did not include injuries to 14-year-olds. NIOSH officials told us that the number of work-related injuries for 14-year-olds is very small.

[32]Although NIOSH increased its estimate to over 200,000 based on a study published in 1988 that indicated only about one-third of all occupational injuries are treated in emergency rooms, NIOSH officials told us that they do not know whether the study accurately represents the proportion of injuries treated in emergency rooms.

[33]Data on nonfatal work-related injuries for 1990 and 1991 collected by BLS are not comparable to data for later years because they were combined with fatal injuries prior to 1992.

Figure 8: Number of Work-Related Injuries to Children, 1992 to 2000



[a]Data were not available from NIOSH for all years.

Source: BLS's Survey of Occupational Injuries and Illnesses and NIOSH's National Electronic Injury Surveillance System.

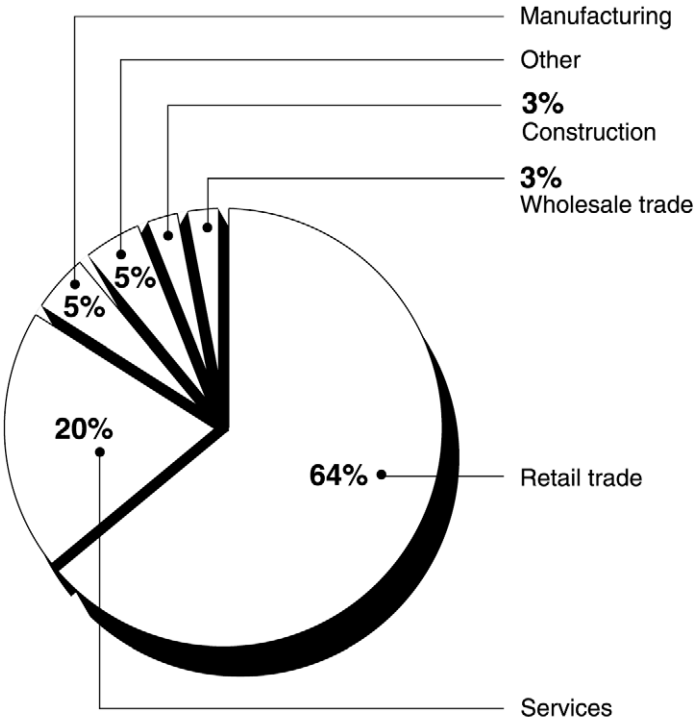
Due to limitations of both data sources, it is difficult to determine the true extent of injuries to children who work. Both sets of data underreport injuries to children. BLS captures only injuries serious enough to require at least one missed day of work; therefore, data on many injuries are not captured. Moreover, because most children work part-time, many children who are injured may not miss a full day of work because they were not scheduled to work after being injured. In addition, BLS does not collect data on children who are self-employed; those who work in federal, state, or local government; those who work for agricultural employers with fewer than 11 employees; and household workers. NIOSH data also underreport injuries because children who are injured may not inform hospital staff that their injuries are work-related and hospital staff may omit details of injuries that connect them to work. As a result, some injuries treated in emergency rooms may not be accurately counted as being work-related. Although BLS and NIOSH officials recognized that the data they collect underreport the number of work-related injuries to

children, and recognized the limitations in their data, they emphasized that their data capture information on different types of injuries and can be used to complement each other. For example, certain types of injuries such as lacerations may be treated in emergency rooms but not necessitate one or more days away from work, while other types of injuries that may result in missed work days such as sprains and strains may be more commonly treated in physicians' offices or outpatient clinics than in emergency rooms. Officials were not, however, able to explain why the trends indicated by the two sources differed so greatly.

Characteristics of Injuries and of Children Injured Changed Little from 1992 to 2000

Although BLS data from employer records on work-related injuries to children are not complete, they provide information on the types of injuries sustained by children over the past decade. In general, the characteristics of occupational injuries to children and the characteristics of children who were injured as indicated by the BLS data changed little from 1992 to 2000. Demographic data for children injured show that 60 percent of the injuries occurred to boys, even though they accounted for only about half of all working children. Moreover, during this period, children aged 16 and over sustained the vast majority of all work-related injuries. BLS data also show that, throughout the decade, most children (84 percent) were injured while working in the two industries in which children are most likely to work—retail trade and services. Within these industries, in 2000, children who worked in eating and drinking places, food stores, general merchandise stores, and health services had the largest numbers of injuries. The injury rates per hours worked, however, were lower for the retail trade and services industries than the rates for children who worked in wholesale trade, transportation and public utilities, and manufacturing.

Figure 9: Work-Related Injuries to Children, by Industry, 1992 to 2000



Source: BLS's Survey of Occupation Injuries and Illnesses.

However, as with fatalities, the likelihood of injury needs to be considered in addition to the actual number of injuries. We found that the risk of injury was highest in some industries with the smallest number of injuries to children. For example, although many fewer children who worked in the wholesale trade, transportation and public utilities, and manufacturing industries sustained a work-related injury than those who worked in retail trade and in services, children working in wholesale trade, transportation and public utilities, and manufacturing had higher rates of injury than those working in retail trade or services. (See table 8.)

Table 8: Injury Rates for Children per 100,000 Hours Worked, by Industry, 1992 to 2000

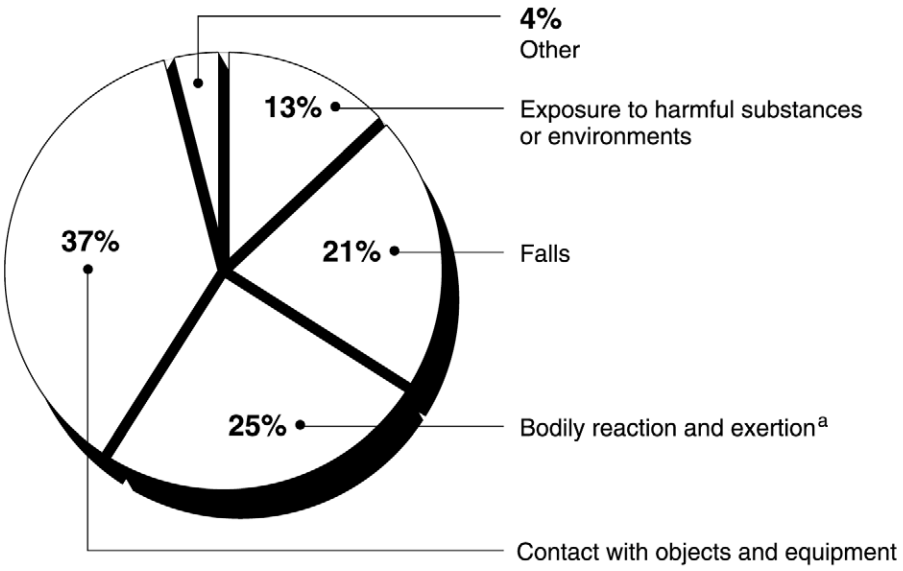
Industry	Injury rate	Number of injuries
Wholesale trade	5.38	3,963
Transportation and public utilities	5.01	2,566
Manufacturing	3.90	7,981
Retail trade	2.89	94,379
Construction	2.68	4,282
Services	2.03	28,956
Agriculture, forestry, and fishing[a]	1.38	3,507

[a]Because most agricultural employers have fewer than 11 employees, and because these employers are excluded from BLS's Survey of Occupational Illnesses and Injuries, injuries to children who work in agriculture are underrepresented.

Source: GAO estimates of injury rates calculated from BLS's Survey of Occupational Injuries and Illnesses and CPS data. Although BLS's injury data include injuries to children younger than 15 years of age, CPS data do not include hours worked by children younger than 15. However, this discrepancy did not affect our estimates because injuries to children younger than 15 represent less than 1 percent of all injuries. See details of our calculations of injury rates in app. I.

Injuries are caused by a variety of factors, but most frequently from coming into contact with an object or equipment. (See fig. 10.) For example, in 1998 a 17-year-old worker fractured his hand when a piece of metal slipped off a power-driven machine he was operating and landed on his hand. Other common accidents were overexertion, falls, and contact with hot objects. The causes of work-related nonfatal injuries were fairly constant over this period.

Figure 10: Causes of Work-Related Injuries to Children, 1992 to 2000

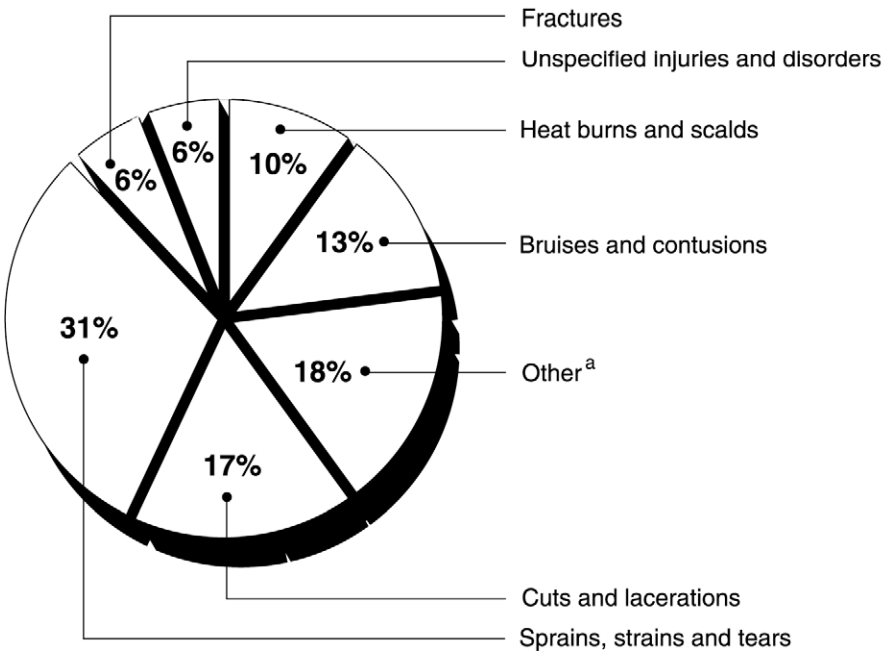


[a]Bodily reaction and exertion includes injuries caused by bending, climbing, reaching, twisting, and slipping or tripping without a fall.

Source: BLS's Survey of Occupational Injuries and Illnesses.

The nature of work-related injuries to children also did not change from 1992 to 2000. Children injured on the job most frequently sustained strains and tears, cuts and lacerations, and bruises and contusions. (See fig. 11.)

Figure 11: Types of Work-Related Injuries to Children, 1992 to 2000



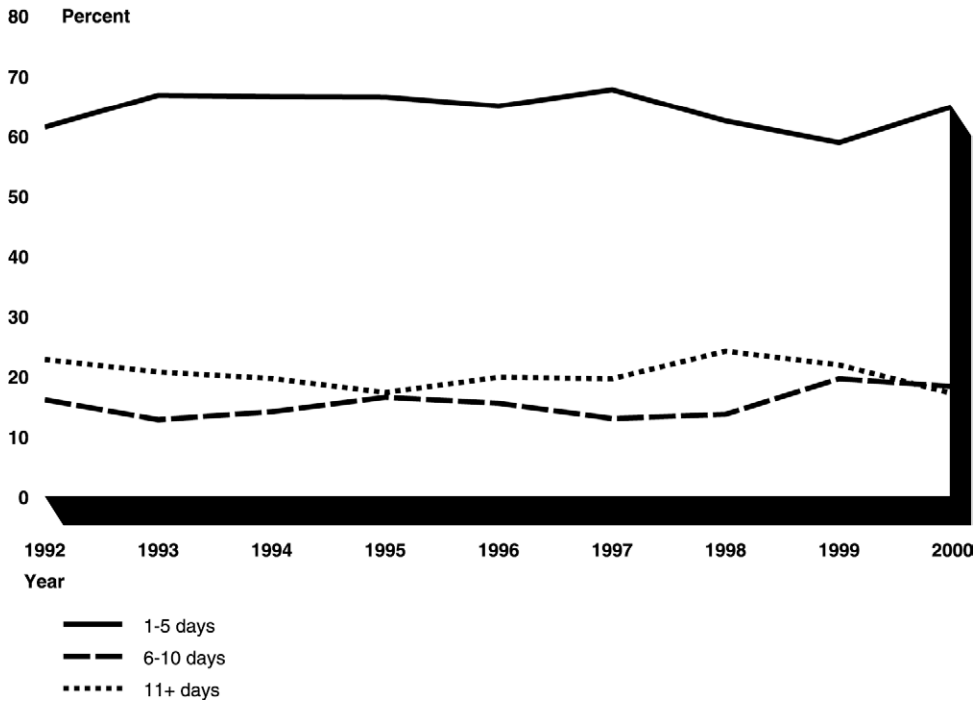
Note: Figures in the chart total more than 100 percent due to rounding.

[a]"Other" includes over 50 different categories of injuries, including concussions, chemical burns, and puncture wounds; each category represents less than 1 percent of all injuries.

Source: BLS's Survey of Occupational Injuries and Illnesses.

In contrast to the decrease in the number of injuries indicated by the BLS data, the severity of injuries to children (as defined by median number of days away from work) reported by BLS has remained relatively constant throughout the decade. About 65 percent of the injuries from 1992 to 2000 required children to miss 5 or fewer days of work, while 20 percent of the injuries required them to miss more than 10 days. (See fig. 12.)

Figure 12: Injuries to Children by Number of Days Away from Work, 1992 to 2000



Source: BLS's Survey of Occupation Injuries and Illnesses.

Labor's Enforcement of the Child Labor Provisions of FLSA Has Limitations

Labor has devoted substantial resources to ensuring compliance with the child labor provisions of FLSA over the past decade, and has continuously indicated that child labor is one of the agency's highest priorities, but its efforts to improve employer compliance suffer from limitations that hamper its enforcement of the law. First, while Labor has recently begun to identify specific, measurable goals for the industries in which children are most likely to work, it continues to lack goals for those industries where children face significant risks. Second, it has not developed methods of measuring the success of many of its child labor compliance efforts. Third, Labor does not use all available data to plan its future efforts or measure its progress in improving employer compliance and ensuring that all working children are adequately protected under the law. Finally, Labor does not provide sufficient guidance and training to its regional and district offices on how to use their resources most effectively or help them consistently apply the child labor provisions of FLSA.

Goals Have Only Recently Been Developed for Industries in Which Children Are Most Likely to Work

Since 1990, Labor has developed better goals for increasing employer compliance with the child labor provisions of FLSA.[34] Over the decade, its goals for improving compliance have moved from general statements about conducting investigations and education and outreach activities designed to increase child labor compliance to more specific goals that focus on improving compliance rates in certain low-wage industries such as agriculture and low-wage businesses such as nursing homes and residential care facilities—rates established through investigations of employers in those industries. Labor recently established specific goals for fiscal year 2003 for the industries in which children are most likely to work.

WHD's national goals in the early part of the decade focused on increasing the number of its child labor enforcement activities. For example, Labor's goals for fiscal years 1990 and 1992 focused on its plans to dramatically increase the number of child labor investigations through nationwide efforts it called "Operation Child Watch." These high-visibility efforts involved sending out hundreds of investigators for 1- and 2-day periods to conduct child labor investigations. As a result of these investigations, WHD found thousands of child labor violations and assessed millions of dollars in penalties. Operation Child Watch also gave WHD a sense of where it could expect to find child labor violations in the future.

In fiscal year 2000, Labor considered setting specific goals for industries in which many children worked and were likely to be injured—the grocery and restaurant industries—but decided not to based on the results it received from a survey of employers. That year, WHD conducted a "survey" of employers designed to establish baseline compliance rates for employers in these industries.[35] In the survey, WHD conducted

[34]This improvement is in line with the move towards the greater efficiency, effectiveness, and accountability established by the Government Performance and Results Act of 1993, P.L. 103-62, which required agencies to set goals and develop performance measures to use in assessing their progress in meeting the goals by fiscal year 1999 and to begin reporting on their efforts in fiscal year 2000.

[35]WHD refers to these investigations as the "National Child Labor Survey." In its initial sample, WHD investigated a total of 200 employers that employed 3,890 children under age 18: 68 supermarkets, 65 full-service restaurants, and 67 fast food restaurants. As part of the survey, WHD also investigated 119 employers in these industries with previous child labor violations: 39 supermarkets, 40 full-service restaurants, and 40 fast food restaurants.

investigations of statistically valid samples of supermarkets,[36] full-service restaurants, and fast food restaurants that employ children and found that the overall compliance rates for these industries were 82 percent, 78 percent, and 70 percent, respectively. It also conducted investigations of employers with prior child labor violations and found that, although the compliance rates for two of the three industries were still lower than the overall compliance rates, the rates had improved from 0 percent previously to 72 percent of supermarkets with prior violations, 52 percent of full-service restaurants, and 72 percent of fast food restaurants. Because WHD considered these rates to be sufficiently high, particularly compared to other industries, it decided not to set goals for these industries for improving compliance with the child labor provisions of FLSA.

WHD made this decision despite the conclusions reached in its analysis of the results of the survey. The analysis stated that, while child labor compliance rates were relatively higher in these three industries than overall FLSA compliance rates, it would be a "serious mistake" to compare the findings of the survey with compliance rates found in its surveys of other industries because all of the requirements of FLSA were not evaluated in the child labor compliance survey. In addition, the analysis stated that there were "still enormous child labor compliance issues that these industries need to address," with at least 52,000 and as many as 220,000 children illegally employed in the three industries. The analysis also stated that the compliance rate in some segments of these industries was lower than the overall compliance rates. For example, it noted that although most children employed in full service restaurants, 89 percent, were employed in compliance with the child labor provisions of FLSA, the compliance rate was much lower, 53 percent, for 14- and 15-year-olds working in these restaurants.

More recently, WHD developed specific goals for improving overall employer compliance with FLSA in some low-wage industries, including compliance with the child labor provisions. For example, WHD's fiscal year 2002 performance plan established a goal of 75 percent compliance with the minimum wage, overtime, and child labor provisions of FLSA for employers in the long-term health care industry (nursing homes and residential care facilities).

[36]Supermarkets were defined as retail establishments primarily engaged in selling a general line of food. Convenience stores, food marts in gas stations, and delicatessens were not included in the survey.

In September 2002, in its comments on a draft of this report, Labor reported that WHD had developed specific, measurable goals in its draft fiscal year 2003 annual performance plan. The draft plan includes goals for grocery stores, fast food restaurants, and full-service restaurants, industries in which children are most likely to work. WHD did not, however, establish goals for industries in which we found that children were likely to be employed illegally, such as manufacturing and construction, or for industries in which children have the highest rates of fatalities and nonfatal injuries, such as construction, wholesale trade, and transportation and public utilities.

Methods of Measuring the Success of All Efforts to Improve Compliance Have Not Been Developed

WHD has not developed adequate methods of measuring the success of all of its child labor compliance efforts. Over the decade, WHD's measures of success have generally consisted of counting the number of its child labor compliance activities. For example, WHD measured the success of Operation Child Watch in the early 1990s by citing the large number of violations and penalties produced. More recently, WHD headquarters officials told us they look at trends in the number of child labor violations found each year, and noted that the numbers have dropped dramatically since the early 1990s. (See table 9.)

Table 9: Number of Investigations in Which Child Labor Violations are Found Each Year, Number of Children Found Illegally Employed, and Penalties Assessed, Fiscal Years 1990 to 2001

	FY 90	FY 91	FY 92	F 93	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Number of investigations with child labor violations[a]	5,889	3,627	3,923	2,358	2,086	1,651	1,820	1,141	1,237	3,117	1,886	2,103
Number of illegally employed children	39,790	27,655	19,443	10,375	8,764	6,331	7,873	5,270	5,588	6,766	7,874	9,918
Average number of children per investigation	6.8	7.6	5.0	4.4	4.2	3.8	4.3	4.6	4.5	2.2	4.2	4.7
Penalties assessed (in millions)	$8.5	$12.7	$14.4	$8.2	$6.5	$13.5[b]	$9.2	$4.9	$4.0	$4.7	$6.2	$6.7
Average penalties per investigation	$1,435	$3,508	$3,677	$3,484	$3,101	$8,153	$5,071	$4,319	$3,260	$1,492	$3,276	$3,173

[a]Child labor violations were found from child labor investigations and from investigations conducted for other purposes, such as investigations initiated by complaints about payment of minimum wages or overtime.

[b]The total penalties for fiscal year 1995 were significantly larger than other years because they included one case for which the penalties assessed totaled $5.5 million.

Source: WHD's investigations database.

It is not clear, however, what factors led to the decrease in the number of violations. It could have resulted from an increased rate of compliance among employers, the decrease in the number of child labor investigations conducted by WHD, or other factors. For example, since Operation Child Watch, the number of investigator hours devoted to child labor investigations has declined from a high of 11 percent to 7 percent in 2001, with a low of 5 percent in 1998. (See table 10.)

Table 10: WHD's Budget, Number of Investigators, Total WHD Investigator Hours, and Hours Devoted to Child Labor

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
WHD's budget (in millions)	$90.8	$91.3	$94.4	$95.0	$97.1	$100.7	$99.8	$177.9	$121.2	$129.6	$141.7	$152.4
Number of investigators	938	865	835	804	800	809	781	942	942	938	949	945
Total hours (in thousands)	1,265	1,109	1,089	999	887	813	714	741	910	982	968	999
Child labor hours (%)	143 (11%)	83 (7%)	105 (10%)	74 (7%)	73 (8%)	60 (7%)	60 (8%)	41 (6%)	44 (5%)	58 (6%)	71 (7%)	74 (7%)

Source: WHD's investigations database.

While WHD headquarters officials use various factors to measure the success of their enforcement efforts, they told us that they do not know how to develop methods of measuring the success of their education and outreach activities. Officials told us they could tell their activities generate attention if WHD receives a lot of media inquires and that they count the number of times individuals access information from WHD's Web site. However, WHD does not link its education and outreach activities with changes in employer behavior. While we recognize the inherent difficulties in assessing the impact on employer behavior of WHD's education and outreach activities, particularly the difficulty of establishing a cause and effect relationship between changes in compliance and WHD's activities, such measurement is important in distributing WHD's limited resources. Moreover, we found that some district offices were trying to develop such methods. For example, officials at one district office told us that they felt it was important to obtain at least an indication of success by conducting investigations of employers after their education and outreach activities. They also said they were working with researchers at the University of Tennessee to develop methods of measuring the success of all of their child labor compliance activities.

Despite having difficulty in developing methods of measuring the effectiveness of its education and outreach activities, WHD headquarters officials told us that they devote a lot of their resources—both at the national and local level— to education and outreach and other compliance assistance activities. Since Operation Child Watch, most of Labor's national child labor campaigns have focused on providing education and outreach and other compliance assistance to employers and on increasing public awareness of the child labor provisions of FLSA. For example, from 1996 to 2001, WHD conducted its "Work Safe This Summer" initiative designed to reach children beginning summer jobs. As part of this national

initiative, WHD provided pamphlets and posters with information on the child labor provisions of FLSA, a Web site with safety tips and information about the law, and a public service announcement displayed on movie screens in 22 states and printed on 37 million shopping bags distributed by K-Mart. Labor's newest national child labor initiative, "YouthRules!" announced by the Secretary in May 2002, is aimed at "educating young workers, parents and employers about workplace hazards, proper hours of work and ensuring that students' education should be everyone's first priority." The initiative includes partnerships that WHD has formed with all levels of government as well as businesses, unions, and advocacy groups to provide training and educational materials, such as bookmarks that list some of the rules regarding jobs in which children ages 14 through 17 can work. (See fig. 13.)

Figure 13: Bookmark That is Part of WHD's New "YouthRules!" Child Labor Initiative

Front

youth rules!

What Jobs Can I Do?

When you are 13 or younger . . .

You can baby-sit, deliver newspapers or work as an actor or performer.

When you turn 14 . . .

You can work in an office, grocery store, retail store, restaurant, movie theater or amusement park.

When you turn 16 . . .

You can work in any job that is not hazardous.

Youth cannot work in mining, logging, meatpacking, roofing, excavation or demolition. You cannot drive a car or forklift. You cannot work with saws, explosives, radioactive materials or most power-driven machines.

Back

When Can I Work?

If you are 14 or 15, you can work . . .

Outside school hours

After 7 a.m. and until 7 p.m. during the school year (9 p.m. in the summer)

3 hours on a school day
18 hours in a school week
8 hours on a non-school day
40 hours in non-school week

If you are 16 or older, you can work any hours

To Find Out More

Visit us on the Internet

youthrules.dol.gov

U.S. Department of Labor
Wage and Hour
Toll-Free Help Line
1-866-4US-Wage
(TTY: 1-877-889-5627)

Different rules apply to farms, and State laws may have stricter rules.

Source: Labor's Wage and Hour Division.

All Available Data Are Not Used to Plan or Assess the Success of Child Labor Compliance Efforts

WHD does not use all of the data available to plan its future child labor compliance efforts or assess their success. WHD does not routinely use data from BLS to identify the industries and occupations in which children work, or data from BLS and NIOSH to determine the industries or occupations in which children are most likely to sustain work-related injuries. WHD also does not use information from its investigations database or reports on local child labor initiatives to assess the results of the regional and district offices' child labor compliance efforts or hold them accountable for ensuring that the child labor provisions of FLSA are enforced adequately nationwide.

WHD does not routinely obtain information from BLS on the industries and occupations in which children work—legally or illegally—or those in which they are most likely to be injured or killed to use in targeting its compliance efforts. As a result, WHD may not target sufficient resources to these areas. For example, we estimated that a significant proportion of illegally employed children worked in construction and manufacturing—industries in which WHD targets few of its child labor compliance efforts. We also found that children were more likely to be injured or killed while working in several industries in which WHD conducts few child labor investigations—construction, wholesale trade, and transportation and public utilities. WHD officials told us that they do not use data from BLS on the industries and occupations in which children work because the information is not easily accessible and because the data do not provide information at the local level that could be used to help plan local compliance efforts. However, CPS data is available at the regional level and we developed state-level information by combining several years of data. For example, by combining CPS data for 4 years (1998 to 2001) and comparing it to the provisions of FLSA, we estimated the number of children illegally employed in each state. (See app. I for detailed information on these estimates.)

WHD also does not utilize information from its investigations database to determine what types of strategies are most successful in detecting child labor violations in its investigations of employers. WHD conducts child labor investigations[37] either as a result of a receiving a complaint about a possible child labor violation or from a decision by a WHD office to

[37]In this report, we refer to investigations that focus specifically on child labor, whether initiated by WHD or as the result of a complaint, as "child labor investigations" although WHD does not use this term.

conduct investigations of employers that focus specifically on children they employ ("self-initiated" investigations).[38] WHD officials told us that, although they review every complaint they receive about a possible child labor violation, they do not receive many complaints about child labor.[39] They also said that WHD's national office does not require all district offices to conduct self-initiated child labor investigations. In fact, since Operation Child Watch, the only national initiative that required all district offices to conduct child labor investigations was the child labor compliance survey WHD conducted of the grocery and restaurant industries in fiscal year 2000. WHD officials also told us that it is not necessary for the national office to require all of its district offices to conduct self-initiated child labor investigations because investigators look for child labor violations during all investigations, not just those that focus on child labor. However, in reviewing data we requested from WHD's investigations database, we found that, although self-initiated child labor investigations accounted for only 5 percent of all investigations completed in fiscal year 2001, these investigations accounted for almost 40 percent of all cases in which child labor violations were found. (See table 11.) In other words, WHD would have missed a large proportion of the cases with child labor violations if some district offices had not conducted self-initiated child labor investigations in the absence of a national directive to do so.

[38]WHD refers to these investigations as "directed" investigations. In this report, we use the term "self-initiated" investigations. A self-initiated investigation can be initiated by WHD's national, regional, or district offices.

[39]Most complaints WHD receives are from employees who complain about possible minimum wage or overtime violations of FLSA.

Table 11: Investigations Completed by WHD, Fiscal Year 2001

	Investigations completed		Investigations that resulted in child labor violations	
	Number	Percentage	Number	Percentage
Self-initiated child labor investigations	2,011	5.3%	826	39.3%
Investigations initiated as the result of a child labor complaint	694	1.8	431	20.5
Subtotal-child labor investigations	2,705	7.1	1,257	59.8
Other investigations[a]	35,350	92.9	846	40.2
Total investigations	**38,055**	**100%**	**2,103**	**100%**

[a]"Other investigations" include self-initiated investigations of areas other than child labor, such as investigations of the agriculture and garment industries, and investigations initiated as a result of complaints about topics other than child labor, such as potential minimum wage and overtime violations.

Source: WHD's investigations database.

WHD headquarters officials also do not use data from its investigations database to ensure that district offices nationwide are providing an adequate level of protection to all children who work by ensuring that all district offices nationwide conduct at least some minimum number of child labor investigations. From the data we obtained for fiscal year 2001, we found that the number of investigations conducted by each district office and by WHD's five regions varied widely and that a few district offices accounted for a large number of the child labor investigations and cases in which child labor violations were found. For example, in fiscal year 2001, we found that the total number of child labor investigations (both those initiated by complaints and self-initiated investigations) conducted by the district offices in each region varied widely, from a total of 942 child labor investigations in the northeast region to a total of 227 investigations in the southwest region. We also found that the number of investigations conducted by each of the district offices varied widely; 8 of the 50 district offices accounted for 43 percent of all child labor investigations completed in fiscal year 2001, and 9 of the 50 district offices completed fewer than 10 self-initiated child labor investigations in fiscal year 2001. WHD headquarters officials were not able to explain these regional and district variances.

Although WHD's regional and district offices conduct many local child labor initiatives,[40] WHD headquarters officials do not use the quarterly reports prepared by these offices on their local initiatives to ensure that, nationwide, local child labor initiatives provide adequate protection for all children who work. WHD headquarters officials told us that all regional and district offices should have some local child labor initiatives, unless they have a reasonable justification not to, such as other higher-priority compliance efforts, and that, in recent years, every district office has had some local child labor initiatives. However, the reports we reviewed for fiscal years 1999 through 2002 showed that, in some years, many districts had no child labor initiatives and the number of child labor initiatives varied significantly from one region to another. For example, in fiscal year 2000, almost all of the district offices in the northeast region had at least one child labor initiative and two regions had regionwide initiatives that required all of their district offices to conduct child labor investigations. Some of the district offices in the southwest region, however, had no local child labor initiatives planned for fiscal years 1999 through 2002, although our estimates of illegally employed children showed greater numbers of children in the South to be illegally employed than in the Northeast.

Sufficient Guidance and Training Has Not Been Provided to Regional and District Offices

While WHD leaves many of the decisions about how to deploy enforcement resources to its regional and district offices, it does not ensure that these offices receive sufficient guidance and training to properly target or carry out their child labor compliance efforts. In addition, some regional and district offices do not use data on previous child labor violations to target their compliance efforts because WHD has not provided all staff with adequate training on how to obtain reports from its investigations database.

WHD's national office does not provide regional and district offices with adequate guidance on how to target their child labor compliance efforts. WHD's national office has not provided criteria to the regional and district offices to use in targeting their child labor compliance efforts. Instead, district offices generally rely on the anecdotal knowledge they have gained from previous investigations to plan their future compliance efforts.

[40]WHD's child labor "initiatives" refer to any activities aimed at increasing compliance with the child labor provisions of FLSA, including investigations of employers, providing educational materials to employers and children, and meeting with school officials responsible for issuing work permits for children. These activities may be initiated by WHD's national, regional, or district offices.

WHD's national office also does not provide regional or district offices with data from BLS on the industries and occupations in which children work, legally or illegally, and are most likely to be injured. Officials in one district office we visited told us that, because of their past enforcement efforts, illegal child labor was not a problem in their area and thus, they did not devote a lot of their enforcement resources to targeting child labor violations. However, our analysis showed that a large percentage of children working in this state worked in those industries where children were most likely to be injured. In addition, our estimates of the number of illegally employed children in each state showed that a larger proportion of 15-year-olds in that state were likely to be employed illegally than those in any other state we visited. While these estimates do not prove that illegal child labor was a problem in the area of the state covered by that district office, it is an indication that potential violations exist undetected.

WHD's national office also does not provide specific guidance to regional and district offices on when to assess penalties for child labor violations. As a result, district office practices for penalty assessment and collection vary significantly. In reviewing investigations with child labor violations completed in fiscal years 2000 and 2001 at the district offices we visited, we found that district officials sometimes reduced the penalties for child labor violations or did not assess any penalties for child labor violations while in other, similar cases, they assessed penalties. For example, one district office we visited generally did not waive penalties for child labor violations it found, but another district office waived many of the penalties for the child labor violations it found, including a violation of a Hazardous Occupations Order involving a child who was working with dangerous equipment. We also found that the average percentage of the penalties collected varied significantly among the district offices we visited—from a low of 49 percent of the original amount assessed to a high of 82 percent for investigations completed in fiscal years 2000 and 2001.

Finally, WHD does provide adequate training to all of its regional and district offices on how to obtain reports from the investigations database to use in targeting their child labor compliance efforts. Two of the five regional child labor coordinators and officials at two of the district offices we visited indicated that they had not been trained on how to obtain reports from WHD's database. Officials at the district offices we visited told us they had staff members with the skills needed to obtain reports from the investigations database that enabled them to identify where they had found child labor violations in the past to use in targeting their future compliance efforts. Officials at two of these offices, however, said that they had only one person with these skills and that, if they lost this person,

they would not be able to obtain the reports they need from the investigations database.

Conclusions

By allowing and encouraging children to work, the nation acknowledges that children can derive many benefits from working, such as independence, confidence, and responsibility. However, work may also have negative consequences for children's physical, emotional, and educational development. In recognition of this, Labor devotes significant attention to enforcing the child labor provisions of FLSA and ensuring safe and productive work experiences for children. Over the last decade, its efforts have ranged from conducting investigations to carrying out nationwide education and outreach campaigns.

Despite the importance that WHD places on ensuring the safety of children who work, it faces difficulty in showing that its efforts have made a difference in improving the working conditions of children. WHD's ability to effectively enforce the child labor provisions of FLSA is dependent, in part, upon the establishment of a sound performance management system that provides program managers with the type of information they need to evaluate the effectiveness of their child labor compliance efforts and ensure that their limited resources are used in the most effective manner. WHD has taken some steps towards developing such a system, as reflected in the program goals it has established and refined in recent years. However, WHD continues to lack goals for industries that have high rates of injuries and fatalities. Further, WHD's performance management system does not allow managers to fully assess the impact of its child labor compliance efforts. As a result, WHD lacks a sound basis for determining, among other things, the extent to which it should devote resources to child labor investigations versus its education and outreach and other compliance assistance activities. Its resource allocation decisions are also hindered because WHD does not routinely use all of the data available from BLS and NIOSH to target its child labor compliance efforts to the places that are most dangerous for children and in which they are most likely to work illegally. Similarly, by not fully utilizing information from its own investigations database to evaluate the child labor compliance efforts of its regional and district offices, WHD is not able to target its local efforts most effectively or hold local offices accountable at the national level for enforcing the child labor provisions of FLSA and ensuring that all children who work are adequately protected. Finally, even if WHD were to use all existing data as effectively as possible, it would still not be able to use the data to better target its child labor compliance efforts for children younger than 15 because BLS's CPS data do not include information on

14-year-olds who work and NLSY97 does not have information on children born after 1984. We recognize, however, that collecting these data will require additional resources.

Regional and district offices also need sufficient guidance and training to effectively carry out their mission. Because WHD's national office leaves many decisions about the appropriate amount of resources to devote to child labor compliance efforts to its regional and district offices, but does not provide them with criteria for targeting their efforts or data on industries and occupations in which children work and are most likely to be injured, they may not be using their limited resources as efficiently as possible. Additionally, because district offices do not receive specific guidance from WHD's national office about when to assess penalties for child labor violations, nationwide, they do not consistently assess penalties for these violations. Finally, because staff in WHD's district offices do not receive adequate training on how to use WHD's investigations database, they are not able to effectively use all available information to help them assess their past child labor compliance efforts and better target their future efforts.

Recommendations

To strengthen WHD's ability to evaluate the effectiveness of its child labor compliance efforts and ensure that limited resources are used in the most effective manner, the Secretary of Labor should

- establish additional specific, measurable goals for WHD's child labor compliance efforts for industries in which children are most likely to be injured or killed;
- develop methods of measuring the success of WHD's child labor compliance efforts, including its education and outreach activities;
- routinely obtain data from BLS and NIOSH on the industries, occupations, and locations in which children work—both legally and illegally—and sustain work-related injuries and use them to target WHD's child labor compliance efforts;
- routinely obtain and review data from its investigations database on the number and types of investigations conducted by WHD's district offices and child labor violations found and use these data to (1) ensure that WHD's resources are deployed in the most effective manner and (2) hold regional and local offices accountable at the national level for ensuring

that all children nationwide are protected under the child labor provisions of FLSA;

- consider enhancing the data collected on children who work by expanding CPS to include 14-year olds or beginning additional cohorts of NLSY at regular intervals, such as every five years.

To provide WHD's regional and district offices with the information they need to properly plan and implement their child labor compliance efforts, the Secretary of Labor should

- provide better guidance to WHD's regional and district offices on how to improve employer compliance and specific guidance on when to assess penalties for child labor violations.

- provide training to all WHD staff on how to obtain information from the investigations database.

Agency Comments and Our Evaluation

We provided a draft of this report to Labor for comment. Overall, Labor disagreed with many of the conclusions and recommendations in the draft. Labor's comments and our specific responses are included in app. IV.

Labor disagreed with our recommendation to establish specific, measurable goals for industries in which most children work and in which they are most likely to be injured or killed. The agency noted that WHD's draft fiscal year 2003 performance plan includes specific goals for the industries that employ the most children. One goal, for example, is to decrease the percentage of grocery stores and full-service restaurants with repeat child labor violations by 2 percent. We think these are positive steps and have revised our report to reflect these efforts. However, the draft performance plan does not include goals for other industries because Labor does not believe there are sufficient numbers of children working in these industries to justify setting such goals. We believe that this approach reduces attention to some of the industries that pose significant risks to children. For example, there are no specific goals for construction, which has high fatality and injury rates.

Labor also disagreed with the conclusions supporting our recommendation to develop methods of measuring the success of its child labor compliance efforts. In this regard, Labor noted that it had recently decided to repeat its compliance survey of grocery stores, full-service restaurants, and fast food restaurants in fiscal year 2004. While we are

encouraged by this step, Labor has not developed methods of measuring the success of other child labor compliance efforts, particularly its education and outreach activities, which, admittedly, are difficult to evaluate. In addition, it has not conducted child labor compliance surveys of other industries.

Finally, Labor took issue with our recommendation to routinely obtain data from BLS and NIOSH on the industries, occupations, and locations in which children work and sustain injuries and use them to target WHD's child labor compliance efforts. Labor maintains that it does routinely use such data. However, we found that WHD has no procedures for routinely collecting data from BLS and NIOSH to plan its child labor enforcement efforts. Moreover, the district offices we visited confirmed that they do not receive this information to use in planning their local child labor efforts.

Labor agreed with the remainder of our recommendations or agreed to take action on them. For example, it agreed to obtain and review data from the WHISARD database to better hold local offices accountable, explore the possibilities of collecting additional data through CPS or NLSY, provide better guidance to WHD's regional and district offices concerning penalty assessment, and provide training to WHD staff on how to obtain information from the investigations database.

Labor also provided technical comments and clarifications, which we incorporated in the report as appropriate.

We are sending copies of this report to the Secretary of Labor, the Wage and Hour Administrator, the Commissioner of the Bureau of Labor Statistics, and other interested parties. Copies will be made available to others upon request. This report is also available at no charge on GAO's Web site at http://www.gao.gov.

If you have any questions concerning this report please contact me at (202) 512-7215 or Lori Rectanus at (202) 512-9847. Other major contributors are listed in appendix. V.

Sincerely yours,

Robert E. Robertson,
Director, Education, Workforce
and Income Security Issues

Appendix I: Scope and Methodology

This appendix discusses in more detail our scope and methodology for (1) estimating the number of working children in the United States who are employed illegally, (2) using data from the National Longitudinal Survey of Youth (NLSY) to estimate the number of 12- to 14-year-olds in the United States who work, (3) computing fatality and injury rates for working children, and (4) using data on occupational injuries to calculate relative risk. Most of the estimates in the report were calculated using data obtained from samples and, therefore, have sampling errors associated with them. All differences included in the report were tested for statistical significance at the 0.05 level.

Estimating the Number of Children Employed Illegally in the United States

To estimate the number of children who are employed illegally in the United States—children employed in violation of the child labor provisions of the Fair Labor Standards Act (FLSA)—we compared data obtained from the Bureau of Labor Statistics's (BLS) Current Population Survey (CPS) on children in the United States who work to the child labor provisions of FLSA. Because CPS does not capture data on children in the United States who work in occupations that are illegal under criminal statutes, such as drug dealing and prostitution, we could not include them in our estimates. In developing our estimates, we worked with Douglas Kruse, Ph.D., a professor at Rutgers University's School of Management and Labor Relations and a research associate with the National Bureau of Economic Research who updated our initial estimate of illegal child labor in the 1991 GAO report on child labor using CPS data from January 1995 to September 1997.[1] We compared CPS data for 1990, 1996, and 2001 to the child labor provisions of FLSA by defining the base population and identifying illegal employment by occupation and hours. We further refined this analysis through the use of logistic regression for illegal occupations and cross-tabulations for hours.

Defining the Base Population

We used data from 36 monthly surveys from CPS for the following years: 1990, 1996 and 2001. For each year, we created data sets with children aged 15 to 17. Each year held roughly 70,000 observations.

We defined the base population by using the child labor provisions of FLSA as a guide. Because FLSA does not apply to children who are

[1]See "Illegal Child Labor in the United States: Prevalence and Characteristics," *Industrial and Labor Relations Review*, vol. 54, no. 1 (2000).

self-employed and the provisions are much less stringent for children who work in agriculture than for those who work in nonagricultural jobs, we eliminated children who were self-employed and those who worked in agriculture from the data set. Key questions concerning child employment in a family business were not added to CPS until 1994. Therefore, in order to compare results for 2001 with results for 1990, we included children who worked in a family business in the 2001 base population, even though these children are not covered by FLSA. (See app. III for information on the number of children in the United States who worked in a family business in 2001.)

To obtain numbers of children who worked illegally, we averaged the results of the nine school months to obtain the number of children who worked illegally in school months (defined in our report as September through May) and the three summer months to obtain the number of children who worked illegally in summer months (defined as June through August).

To simplify the discussion on racial differences, we combined race and ethnicity categories. CPS treats ethnicity separately from race. As a result, a child can be identified in CPS as both "white" and "Hispanic," or as both "black" and "Hispanic." To separately determine the effect of illegal employment on whites, blacks, and Hispanics, we coded children whose race was identified as "white" or "black" and whose ethnicity was identified as "Hispanic," as "Hispanic" only. For children whose race was identified as "black" or "white," and whose ethnicity was identified as "non-Hispanic," we included them in the category of race identified (i.e., as "black" or "white" only). This resulted in four racial categories: white, black, Hispanic, and other. For 1996 and 2001, "Other" included Asians and Native Americans. For 1990, "Other" included Asians, Native Americans and "Other," which contained anyone who identified a race that did not fall within the other categories listed.

Illegal Employment: Occupations

Hazardous Occupations, 15- to 17-year-olds

Using methods developed in our previous report and refined by Douglas Kruse, we defined a list of 100 occupational codes that correspond to activities prohibited by the Hazardous Occupations Orders. Any child in the base population with one of these codes was included in our estimates of children employed illegally.

Prohibited Occupations, 15-year-olds

We used a similar method to identify occupations specifically prohibited for 15-year-olds.[2] In this instance, 216 occupational codes matched the descriptions of activities prohibited for 15-year-olds to children under 16. Any child identified in the base population with one of these codes was included in our estimates of children employed illegally.

Regression Results

Due to the small sample sizes of children identified in these groups, cross tabulations were not statistically significant at the 0.05 level. In order to obtain information on the likelihood of children who were most likely to work in illegal occupations, we conducted a logistic regression.

To determine demographic differences in the likelihood of working illegally, the following variables were included in the model: sex, race, urbanicity (metropolitan or non-metropolitan area), income, citizenship, and region. Differences that were found to be statistically significant are indicated in table 12 below.

Table 12: Variables for Which Logistic Regressions Were Conducted

Demographic characteristics	Odds ratio
Urban vs. rural	0.79
Non-citizen vs. citizen	1.75[a]
Female vs. male	0.21[a]
Hispanic vs. white	1.14
Black vs. white	0.39[a]
Other vs. white	0.97
Lowest income quartile vs. highest income quartile	1.40
Second income quartile vs. highest income quartile	1.15
Third income quartile vs. highest income quartile	1.10
Midwest vs. West	0.94
Northeast vs. West	0.82
South vs. West	0.90

[a]The differences between these characteristics were statistically significant at the 0.05 level.

Source: GAO.

[2]Although both 14- and 15-year-olds are prohibited from working in these occupations, we could not include 14-year-olds in our estimates of illegal employment because BLS does not capture information on children younger than 15 who work in CPS.

Illegal Employment: Hours for 15-year-olds

We used the CPS variable that describes the number of hours actually worked each week to determine whether 15-year-olds[3] worked more hours than allowed each week under FLSA. Children who worked over 18 hours in a week in school months, from September to May, were included in our estimates of illegal employment. Children who worked over 40 hours a week in summer months, June through August, were also included in our estimates. We further refined this analysis of the number of 15-year-olds who worked more hours than allowed under the law by conducting cross tabulations for race, industry, occupation, sex, geographic region, metropolitan area, and income.

Regional and State-Level Results

To estimate levels of illegal employment in each region, we used data for the four regions defined in CPS: Midwest, Northeast, South, and West. The states included in each region are

Midwest: Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin;
Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont;
South: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; and
West: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

To estimate illegal employment in each state, we combined CPS data for 4 years (48 monthly surveys) from 1998 to 2001. Because observations at the state level were relatively small, combining data for 4 years increased the sample size and allowed us to make estimates about the state population.

[3]As with prohibited occupations, although both 14- and 15-year-olds are restricted from working more than 18 hours a week during school months and from working more than 40 hours a week during the summer, we could not include 14-year-olds in our estimates because data on them are not captured in CPS.

Limitations of Our Estimates of Illegal Employment

The specific nature of child labor laws makes it difficult to reconcile them with generalized data sources. FLSA and implementing regulations and guidance describe activities that children are prohibited from performing. Although CPS data on occupations are fairly specific, they do not list the actual activities children perform on the job. Therefore, it is not possible to determine whether each child who works in a prohibited occupation category is actually performing prohibited activities. As a result, our estimates of illegal employment are both under- and overstated. The estimates are understated—probably by a significant amount—because many activities prohibited, particularly the many types of equipment children are prohibited from using detailed in the Hazardous Occupations Orders, cannot be gleaned by reviewing the occupational categories in CPS. For example, all children younger than 18 are prohibited from using meat slicers. However, although CPS shows that many children work in "food services," it does not indicate how many of them work with meat slicers. The estimates are also overstated because they include some activities that are allowed in occupations that are prohibited. For example, because work as a public messenger is expressly prohibited for15-year-olds, we included children who worked in the occupation category "mail carrier" in our estimates of illegal employment. However, these children could have been delivering mail within an office or sorting mail in a mailroom, activities that are allowed. It was not, however, possible for us to determine the extent to which our estimates of illegal employment are under- or overstated as result of these limitations.

In addition, our estimates of the number of 15-year-olds are understated because CPS does not capture information necessary to determine the number of 15-year-olds who work more hours than allowed on a daily basis or at prohibited times of day.[4] CPS does not collect information on either the length of the workday, nor its starting and ending times. As with prohibited occupations, however, it was not possible to determine the extent to which our estimates are understated as a result of these limitations. However, we believe that the amount of this understatement is large because many of the child labor violations found by WHD in its investigations of employers are violations of the restrictions on number of hours and times of day that children are allowed to work.

[4]Under FLSA, 14- and 15-year-olds are prohibited from working more than 3 hours on a school day or more than 8 hours on a non-school day, and are prohibited from working before 7 am all year and after 7 pm during school months and after 9 pm during summer months (defined by WHD as "between June 1 and Labor day").

Finally, our estimates are overstated to the extent that they include children whose employment is not covered under FLSA, either because their employers do not meet the threshold for enterprise coverage under FLSA,[5] or because the child does not work in interstate commerce. CPS does not collect information on the characteristics of employers for which children work, such as sales volume or other proxies for annual dollar volume of sales, or information that could be used to determine whether children work in interstate commerce. As with the other limitations, however, the extent to which our estimates are overstated because not all children work in employment covered under FLSA cannot be determined.

Using NLSY to Estimate the Employment of 12- to 14-year-olds in the United States

We used data from NLSY97, the survey of children born from 1980 to 1984, to estimate the number of 12- to 14-year-olds who work. In NLSY, children are asked whether or not they worked in each of the 52 weeks in a given year. We coded children noted in NLSY97 as being born in 1982 as 14 years old in 1996 and children born in 1983 as 14 years old in 1997. To determine employment for these children in 1996 and 1997, we identified those weeks that contained the 12th day of the month since the reference period for NLSY is the 12th week of a particular month. We determined the frequency of employed children in each of the 16 weeks and averaged the result over the total number of months in each period. We performed these calculations for three periods in 1996 and one period in 1997 as shown in table 4 in this report.

Most employment questions in NLSY deal with events that take place after the child's 14th birthday. As a result, we used a different method to estimate employment for children younger than 14 years of age. One of the variables in NLSY97 identified children who indicated that they had received income from a job in the previous year (1996). We coded children born in 1983 and 1984 as being 13 years of age and 12 years of age, respectively. We coded these children who said they had received income from a job as having been employed at some point in the previous year.

[5]In order for a business to be covered by FLSA's child labor provisions, its annual dollar volume of sales or other business must be at least $500,000, and it must have employees engaged in interstate commerce. Labor can also establish coverage for a child on an individual basis if the child is involved in interstate commerce.

Computing Fatality and Injury Rates for Working Children

To calculate fatality and injury rates for children, we used data from three BLS sources: (1) data on fatal work-related injuries from the Census of Fatal Occupational Injuries, (2) data on nonfatal injuries from the Survey of Occupational Injuries and Illnesses, and (3) data on the hours children work from CPS.

We used the Census of Fatal Occupational Injuries and Survey of Occupational Injuries and Illnesses to identify the number and characteristics of 15- to 17-year-olds who died as a result of a work-related injury or sustained a nonfatal injury from 1992 to 2000. Because the number of fatalities in each year was relatively low, we aggregated the data over the decade to provide statistically reliable information. We did not aggregate the data on nonfatal injuries over the decade because the number of injuries reported was large.

We calculated fatality and injury rates by using the total number of hours children worked as indicated in CPS. We, and some other researchers, consider this method more appropriate than using the number of children who work to compute fatality and injury rates because many children work part-time. Using the number of hours children work provides a better measure of exposure to injury and leads to a more accurate assessment of risk than using the number of children.

We used data from 108 monthly surveys to obtain the total number of hours worked by 15- to 17-year-olds between 1992 and 2000. In computing the rates for nonfatal injuries, we excluded children who worked for the government or were self-employed because they are excluded from the data for nonfatal injuries. We totaled the hours worked each week by all children for each year and totaled the hours worked each week for children of different sexes, races, and those who worked in certain industries. Because the data sets for fatal and nonfatal injuries use different industry groupings than CPS, we combined industries so that they would reflect the same industry groupings. Because we were not able to obtain SOII data that only included 15- to 17-year-olds by industry, we calculated industry rates by dividing the total number of injuries to children under 18 by the total hours worked by 15- to 17-year-olds in each industry. Since CPS data do not include hours worked by children younger than 15, we were unable to include the hours worked by these children in our calculations. However, since children under 15 make up less than 1 percent of all injuries to children, this discrepancy did not affect our estimates.

To calculate the fatality rate for each category, we divided the total number of injuries by the total number of hours children worked and multiplied the result by 100,000. This figure represents the number of injuries per hundred thousand hours worked.

Appendix II: Recent Legislative Proposals on Child Labor

Several legislative proposals were introduced in the 107th Congress to strengthen the child labor provisions of FLSA. In July 2002, the Senate passed the Traveling Sales Crew Protection Act, legislation designed to ensure that child employees of traveling sales crews are protected under FLSA. The law includes provisions that prohibit children under age 18 from working in traveling sales work where they remain away from home for more than 24 hours. Other legislative proposals introduced in the 107th Congress are listed in table 13 below.

Table 13: Legislation Introduced in the 107th Congress to Strengthen the Child Labor Provisions of FLSA

Bill Number	Name/Introduced by	Summary
S. 869	CARE Act of 2002 Senator Harkin	Would amend FLSA to increase the maximum penalty for child labor violations from $10,000 to $15,000 and impose a minimum penalty of $500. It would limit the exemptions for agriculture to those children employed on family farms outside of school hours, and all children would be prohibited from working in hazardous occupations. It also would impose additional record-keeping requirements on Labor to track the types of industries and occupations in which children are employed and compile information on child labor violations, and require employers to report to the state work-related injuries and illnesses incurred by children. Finally, it requires Labor to work more closely with certain organizations with similar responsibilities.
H.R. 2239	CARE Act of 2002 Representative Roybal-Allard	Similar to S. 869. Also would require Labor to hire 100 additional inspectors specifically to enforce compliance with child labor laws and increase the budget for the Labor Solicitor's office by 10% for increased prosecution of child labor law violations, subject to the availability of appropriations.
H.R. 961	Young American Workers Bill of Rights Representative Lantos	Would amend FLSA to require employers to obtain work permits for all children age 18 or under who are still in school. Would also require Labor and the Census Bureau to compile data on child labor from the states, including data on child labor violations, and produce an annual report. Contains additional restrictions on child labor, such as prohibiting children under age 16 from making door-to-door sales for profit and using fryers and other cooking equipment, and increases the civil and criminal penalties for child labor violations. Also would require Labor to establish an Advisory Committee for Child Labor, and to publish and disseminate the names and addresses of individuals who willfully violate child labor laws.
H.R. 1869	Amy Robinson Memorial Act Representative Frost	Would require employers to give notice to the parents or guardians of children under age 18 or of individuals with disabilities employed under special certificates issued by Labor if they also employ individuals with a criminal record for violence.
H. R. 4768	Garment Consumer's Right-to-Know Act of 2002 Representative Velazquez	Would amend FLSA by providing greater access to information about garment workers in order to prevent or halt sweatshop conditions, including those involving child labor violations.
H.R. 4667	Child Modeling Exploitation Prevention Act of 2002 Representative Foley	Would amend FLSA to prohibit employers from hiring minors under age 17 to work in exploitive child modeling which involves the marketing of images of children rather than the marketing of products or services.

Source: GAO's analysis of legislative proposals.

Appendix III: Detailed Information on Children in the United States Who Work

The number and characteristics of children who worked from 1990 to 2001 as tabulated from the Current Population Survey (CPS) data we obtained from the Bureau of Labor Statistics (BLS) are detailed in the tables below.

Table 14: Number of Children Who Worked in an Average School Month, by Age, 1990 to 2001

(In thousands)

	15-year-olds	16-year-olds	17-year-olds	Total
1990	427	884	1,349	**2,660**
1991	361	796	1,233	**2,389**
1992	339	759	1,182	**2,280**
1993	310	796	1,238	**2,344**
1994	367	935	1,391	**2,693**
1995	374	959	1,413	**2,746**
1996	357	1,015	1,454	**2,826**
1997	357	979	1,500	**2,836**
1998	384	1,039	1,591	**3,014**
1999	400	1,063	1,579	**3,043**
2000	407	1,051	1,590	**3,048**
2001	381	960	1,490	**2,831**

Source: GAO analysis of CPS data.

Table 15: Number of Children Who Worked in an Average Summer Month, by Age, 1990 to 2001

(In thousands)

	15-year-olds	16-year-olds	17-year-olds	Total
1990	726	1,295	1,643	**3,664**
1991	641	1,164	1,573	**3,378**
1992	655	1,161	1,584	**3,400**
1993	620	1,255	1,562	**3,437**
1994	680	1,349	1,795	**3,824**
1995	737	1,419	1,807	**3,963**
1996	703	1,436	1,811	**3,949**
1997	680	1,392	1,834	**3,906**
1998	700	1,409	1,928	**4,037**
1999	695	1,397	1,953	**4,044**
2000	721	1,432	1,873	**4,026**
2001	595	1,348	1,717	**3,661**

Source: GAO analysis of CPS data.

Table 16: Percentage of Children Employed, by Age, 2001

(In thousands)

	All children	Employed children	Percentage
School months			
15-year-olds	4,023	381	9.5%
16-year olds	3,991	960	24
17-year olds	4,062	1,490	36.7
Total	**12,076**	**2,831**	**23.4%**
Summer months			
15-year olds	4,022	595	14.8%
16-year olds	4,061	1,348	33.2
17-year olds	3,989	1,717	43.1
Total	**12,071**	**3,661**	**30.3%**

Source: GAO analysis of CPS Data.

Table 17: Number of Children Who Worked in an Average School Month, by Gender, 1990 to 2001

(In thousands)

	Male	Female
1990	1,354	1,306
1991	1,205	1,184
1992	1,164	1,116
1993	1,199	1,145
1994	1,377	1,316
1995	1,376	1,370
1996	1,407	1,419
1997	1,444	1,391
1998	1,518	1,497
1999	1,565	1,477
2000	1,524	1,524
2001	1,394	1,436

Source: GAO analysis of CPS data.

Table 18: Number of Children Who Worked in an Average Summer Month, by Gender, 1990 to 2001

(In thousands)

	Male	Female
1990	1,956	1,708
1991	1,848	1,250
1992	1,807	1,278
1993	1,878	1,560
1994	2,007	1,817
1995	2,108	1,855
1996	2,019	1,930
1997	2,068	1,838
1998	2,107	1,930
1999	2,203	1,841
2000	2,120	1,906
2001	1,875	1,785

Source: GAO analysis of CPS data.

Table 19: Number of Children Who Worked in an Average School Month, by Race, 1990 to 2001

(In thousands)

	White	Black	Hispanic	Other
1990	2,173	199	210	77
1991	1,996	151	167	74
1992	1,907	144	162	70
1993	1,960	163	157	64
1994	2,223	219	170	50
1995	2,291	211	157	50
1996	2,310	231	200	86
1997	2,303	226	222	84
1998	2,439	244	241	90
1999	2,412	249	259	122
2000	2,383	264	282	119
2001	2,220	239	272	100

Source: GAO analysis of CPS data.

Table 20: Number of Children Who Worked in an Average Summer Month, by Race, 1990 to 2001

(In thousands)

	White	Black	Hispanic	Other
1990	2,968	295	287	114
1991	2,741	293	232	112
1992	2,752	305	241	102
1993	2,843	281	207	106
1994	3,071	375	263	74
1995	3,220	359	280	57
1996	3,210	354	256	129
1997	3,111	350	326	119
1998	3,227	386	315	109
1999	3,166	374	350	155
2000	3,191	377	341	118
2001	2,885	369	304	103

Source: GAO analysis of CPS data.

Table 21: Number of Employed Children Who Worked Without Pay in a Family Business or Farm, 1994 to 2001

(In thousands)

	School months	Summer months
1994	37	48
1995	39	43
1996	34	42
1997	30	47
1998	24	33
1999	23	30
2000	23	41
2001	20	27

Source: GAO analysis of CPS data.

Table 22: Number of Illegally Employed Children in Average School and Summer Months, by Age, 1990, 1996, and 2001

(In thousands)

	1990	1996	2001
School months			
15-year olds	71	50	78
16-year olds	7	9	13
17-year olds	23	29	21
Total	102	88	112
Summer months			
15-year olds	58	51	48
16-year olds	20	16	13
17-year olds	33	28	24
Total	111	95	86

Source: GAO analysis of CPS Data.

Table 23: Number of Illegally Employed Children in Average School and Summer Months, by Gender, 1990, 1996, and 2001

(In thousands)

		1990	1996	2001
School months				
Hours[a]	Male	29	17	29
	Female	29	20	33
Reg 3 occupations[b]	Male	10	11	10
	Female	1	1	2
Hazardous orders[c]	Male	30	35	33
	Female	4	4	5
Total		**102**	**88**	**112**
Summer months				
Hours[a]	Male	7	7	11
	Female	9	2	2
Reg 3 occupations[b]	Male	56	32	33
	Female	3	6	12
Hazardous orders[c]	Male	29	40	22
	Female	7	8	7
Total		**111**	**95**	**86**

[a]Worked more hours than allowed under the child labor provisions of FLSA.

[b]Worked in occupations in which 15-year-olds are prohibited by regulation (Reg 3) from working.

[c]Worked in occupations in which 15-, 16-, and 17-year-olds are prohibited in the Hazardous Occupations Orders from working.

Source: GAO analysis of CPS Data.

Table 24: Number of Illegally Employed Children in Average School and Summer Months, by Race, 1990, 1996, and 2001

(In thousands)

		1990	1996	2001
School months				
Hours[a]	White	45	3	7
	Black	5	1	.3
	Hispanic	7	32	53
	Other	.8	[d]	2
Reg 3 occupations[b]	White	10	11	10
	Black	.4	.3	[d]
	Hispanic	.3	.1	2
	Other	.02	.5	.4
Hazardous orders[c]	White	31	36	31
	Black	.5	.4	.4
	Hispanic	3	2	5
	Other	[d]	.5	2
Total		**102**	**88**	**112**
Summer months				
Hours[a]	White	13	[d]	8
	Black	[d]	[d]	1
	Hispanic	1	9	4
	Other	1	[d]	[d]
Reg 3 occupations[b]	White	26	29	22
	Black	3	2	2
	Hispanic	7	4	4
	Other	[d]	3	1
Hazardous orders[c]	White	47	45	38
	Black	2	.8	5
	Hispanic	8	2	.7
	Other	2	[d]	.5
Total		**110**	**95**	**86**

[a]Worked more hours than allowed under the child labor provisions of FLSA.

[b]Worked in occupations in which 15-year-olds are prohibited by regulation (Reg 3) from working.

[c]Worked in occupations in which 15-, 16-, and 17-year-olds are prohibited in the Hazardous Occupations Orders from working.

[d]No observations for this category present in the data set.

Source: GAO analysis of CPS data.

Appendix IV: Comments from The Department of Labor

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

September 11, 2002

Mr. Robert E. Robertson
Director, Education, Workforce
and Income Security Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Robertson:

Thank you for the opportunity to review and comment on the draft report prepared by the General Accounting Office (GAO) entitled, "*Child Labor: Labor Can Strengthen Its Efforts to Protect Children Who Work,*" GAO-02-880. The comments that follow respond to references in the report regarding the Wage and Hour Division (WHD) of the Department of Labor. Separate narrative comments from the Department's Bureau of Labor Statistics (BLS) are attached as Appendix A. Technical corrections from both WHD and BLS are attached as Appendix B.

Most Young Workers Are Legally Employed

According to BLS estimates, over the past decade, about 3.7 million youth work at some time during each year. (Draft Report at page 2.) In the Draft Report, GAO concludes that 96 percent of working youth (or about 3.55 million teens) are employed in compliance with the child labor provisions of the Fair Labor Standards Act (FLSA). Thus, four percent of working youth (or about 148,000 teens) may be employed illegally.[1] GAO's estimate is consistent with the results of statistically valid surveys of child labor compliance conducted by WHD during fiscal year 2000, which found that 98 percent of young workers in grocery stores, 95 percent of young workers in full-service restaurants, and 89 percent of young workers in quick-service restaurants were legally employed.

Further, according to GAO, most of the teens working illegally "were 15-year-olds who worked more hours than allowed under the child labor provisions of FLSA." (Draft Report at 15.) Violations of the FLSA's restrictions on the number of hours youth can work accounted for about 65 percent of the illegal employment estimated by GAO. In

See comment 1.

[1] BLS has serious concerns regarding GAO's use and interpretation of available data. For example, BLS questions GAO's use of the current population survey (CPS) data to estimate illegal employment. See Appendix A for more information. Although WHD shares BLS's concerns, for purposes of these comments, WHD assumes GAO's conclusions are supported by statistically valid data.

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other words, some 96,000 of the 148,000 illegally employed teens were employed in of the hours restrictions, while some 52,000 teens were working in prohibited hazardous jobs or occupations.[2] This finding is consistent with the findings of WHD's child labor compliance survey that 50 percent of the violations in grocery stores, 70 percent of violations in full-service restaurants, and 65 percent of violations found in quick-service restaurants were violations of the FLSA hours restrictions.

GAO also reports that the number of working youth fatalities has remained relatively constant from 1992 to 2000, with between 62 and 73 teen deaths each year and a total of 613 teen deaths over this 9-year period. (Draft Report at 20.) According to GAO, over 41 percent of youth work-related fatalities involved youths working in agriculture. Youths working in family businesses accounted for about one-third of all fatalities, and youths working for small employers (with 10 employees or less) accounted for nearly two-thirds of the fatalities. (Draft Report at 22.)

Although workplace fatalities have not decreased, the data gathered by GAO show that workplace injuries have been cut in half since 1992. In 1992, youths suffered 22,121 nonfatal workplace injuries. By 2000, nonfatal workplace injuries to teens had fallen to 10,885. (Draft Report at 65, Table 27.) In fact, according to BLS data, nonfatal workplace injuries fell at a faster rate for teens (51%) than for the total working population (29%) during the same time period. Thus, the workplace is becoming safer for young workers.

See comment 2.

The Department Of Labor Devotes Substantial Resources To Ensure Young Workers Are Safely And Legally Employed

As GAO recognizes, the Department "has devoted substantial resources to ensuring compliance with the child labor provisions of the FLSA over the past decade, and has continuously indicated that child labor is one of the agency's highest priorities." (Draft Report at 33.) Despite this acknowledgement, the GAO Draft Report fails to note many of WHD's accomplishments towards "ensuring safe and productive work experiences for children." (Draft Report at 46.

See comment 3.

See comment 4.

In 2001, WHD investigator hours devoted to child labor enforcement reached a 5-year high of nearly 74,000 hours or 7.4 percent of investigator time – even though young workers make up only 3 percent of workers. Even this percentage understates the agency resources devoted to ensuring child labor compliance. WHD balances several strategies to promote compliance with the child labor provisions of the FLSA, assessing the effectiveness of each tool for each particular circumstance. These strategies include targeted enforcement, compliance assistance, public awareness activities and strategic partnerships. The hours and resources devoted to child labor compliance assistance, public awareness activities and partnerships, at all levels of the organization, are not

See comment 5.

[2] GAO found that about 70 percent of 15-year-olds working illegally involved violations of the FLSA restrictions on work hours. None of the violations GAO found for 16- and 17-year-olds are violations involving work hours as these restrictions do not apply to youth age 16 or older. The percentage of young workers with work hours violations as compared to violations involving prohibited employment was estimated from data in Table 3, Table 14 , and Table 15 of the Draft Report. (Draft Report at 15, 58.)

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See comment 6.

accounted for in the investigator hours spent on child labor. In addition, the number of child labor violations found and the amount of civil money penalties assessed demonstrated WHD's continued strong commitment of resources to child labor compliance. In fiscal year 2000, WHD found child labor violations in 1,886 investigations and assessed $6.2 million in child labor civil money penalties. In fiscal year 2001, WHD found child labor violations in 2,103 investigations and assessed $6.7 million in child labor civil money penalties – an increase of 8 percent over fiscal year 2000. (Draft Report at 37, Table 9.)

The draft report only briefly mentions the most recent Secretarial initiative on youth employment, *YouthRules!* (Draft Report at 39.) The *YouthRules!* initiative is designed to increase public awareness of both Federal and State rules concerning young workers. Through *YouthRules!*, the Department wants to bring teens, their parents, educators, governments, employers, unions and advocacy groups together so that young workers can enjoy positive and safe work experiences. The new *YouthRules!* web page – www.youthrules.dol.gov – provides a gateway to information on the Internet about young workers. The new web site includes pages that clearly state the Federal rules regarding when youth can work and what jobs they can perform. It includes several printable stickers that can be placed on equipment to warn employers and working youth, "no operators under 18 years of age." In addition, WHD has published and distributed a new *YouthRules!* bookmark and Employer Pocket Guide.

See comment 3.

The draft report also fails to recognize prior child labor compliance assistance and public awareness campaigns. While the draft report mentions the *Work Safe This Summer* initiative only briefly (Draft Report at 38.), WHD's development and participation in the *Spring Into Safety* campaign conducted jointly with State labor departments and the *Fair Harvest/Safe Harvest* initiative, which was targeted specifically to young workers in agriculture, are completely ignored. These campaigns have also been a significant component of WHD's compliance assistance activities over the last several years.

See comment 7.

GAO fails to recognize the Department's regulatory initiatives over the last 10 years. During the last decade, WHD twice revised its civil money penalty assessment policy to strengthen the deterrent effects of penalty assessments. This year, regulations increasing the civil money penalties for child labor violations to $11,000 were finalized. WHD is now working to publish a final rule based on a 1999 regulatory proposal to update certain hazardous occupation orders and expects final regulations early next year.

See comment 8.

Finally, GAO does not acknowledge that WHD commissioned, and spent approximately $2.5 million, on the recently issued report from the National Institute for Occupational Safety and Health (NIOSH) studying youth fatalities and injuries. The NIOSH Report examines injury data, from 1998 or earlier, for all workers, and recommends prohibiting employment for youths in most jobs with an associated fatality rate of 10 per 100,000 workers (twice the national average). This methodology resulted in proposals from NIOSH for 17 new Hazardous Occupation Orders (HOs) and 37 modifications to existing HOs. To assist WHD in developing a regulatory plan to update the HOs, WHD will hold stakeholder meetings early in fiscal year 2003 seeking comments from employers, unions, and child advocacy groups regarding the NIOSH recommendations. Such

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See comment 9.

omissions by the GAO fail to provide Congress with the complete picture of WHD efforts to enforce child labor laws and to prevent violations of them in the first instance.

Responses To GAO Recommendations

Recommendation 1

The Secretary of Labor should establish specific, measurable goals for WHD's child labor compliance efforts for industries in which most children work and in which they are most likely to be injured or killed.

See comment 10.

GAO acknowledges that, since 1990, the Department has improved its goals for increasing employer compliance with the child labor provisions by moving from general statements to specific goals. However, GAO contends that "the specific national child labor goals in WHD's current performance plans are not for the industries in which most children work or in which children are most likely to sustain a serious injury." (Draft Report at 34.) This is simply incorrect and should be corrected before the final report is published.

Relying on data from BLS and NIOSH, the Draft Report establishes that youth are most likely to work, and sustain injuries, in the retail industry. The Draft Report concludes that 61 percent of all working youth are employed in the retail industry. (Draft Report at 11-12.) According to the Draft Report, the retail industry accounts for 48 percent of youth illegally employed, 20 percent of teen fatalities, and 64 percent of teen injuries. Of the fatal injuries in the retail industry, 26 percent occur in grocery stores and 45 percent occur in restaurants. Of nonfatal injuries in the retail industry in 2000, 20 percent occur in grocery stores and 57 percent occur in restaurants.

See comment 11.

The Department has established specific, measurable goals for WHD's child labor compliance efforts for industries in which most children work and are most likely to be injured or killed – the retail industry. WHD's Government Performance and Results Act (GPRA) Plans and Annual Performance Plans include specific, measurable goals for child labor compliance efforts in retail grocery stores and restaurants. For example, WHD's fiscal year 2000 GPRA plan included a goal to increase child labor compliance by conducting statistically valid, investigation-based compliance surveys in the grocery store and restaurant industries. A second child labor goal in the fiscal year 2000 GPRA plan challenged WHD to increase child labor compliance among employers previously investigated in the grocery store and restaurant industries.

The results of the fiscal year 2000 GPRA goal were published in the Department's annual performance plan, *U.S. Department of Labor Annual Report Fiscal Year 2000, Report on Performance and Accountability*. The Department reported that the compliance surveys found 82 percent of grocery stores, 79 percent of full-service restaurants, and 70 percent of quick-service restaurants in compliance with the child labor provisions of the FLSA. Compliance rates for prior violators were lower, although demonstrating significant improvement from the baseline of zero compliance: 72 percent of grocery stores with prior violations, 53 percent of full-service restaurants, and 73 percent of quick-service

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See comment 12.

restaurants were in compliance with the child labor provisions. Most importantly, the compliance survey also found that 98 percent of young workers in grocery stores were legally employed; 95 percent of young workers in full-service restaurants were legally employed; and 89 percent of young workers in quick-service restaurants were legally employed.

See comment 13.

Given these relatively high levels of compliance,[3] WHD did not develop specific GPRA goals for subsequent years. However, contrary to GAO's understanding, WHD did and continues to establish specific child labor performance objectives in its Annual Performance Plan. In addition to GPRA goals, WHD and other Department agencies develop Annual Performance Plans, which establish the agency's priorities during a fiscal year. The Annual Performance Plan encompasses the GPRA goals and includes additional agency performance objectives and outcomes.

See comment 14.

See comment 15.

WHD's fiscal year 2002 Annual Performance Plan contains a goal to "maintain or increase the previously established levels of child labor compliance in selected industries where data indicate that the risk of serious injury is greatest." WHD's fiscal year 2003 Annual Performance Plan reaffirms WHD's commitment to child labor compliance and establishes child labor as one of three enforcement priorities (along with low-wage industries and repeat violators). The child labor outcome in the fiscal year 2003 plan challenges the agency to "maintain or increase child labor compliance, with a focus on industries with the highest youth employment and the greatest risk of serious injury." Within the outcome, WHD has established four specific program goals:

- Maintain or increase the percentages of grocery stores, full-service restaurants, and quick-service restaurants in compliance with the child labor provisions of the FLSA, and the percentages of youths employed in compliance in these industries.
- Decrease the percentage of grocery stores and full-service restaurants with repeat child labor violation by 2 percent.
- Increase child labor compliance through locally targeted initiatives.
- Improve public awareness of the child labor laws.

For each goal, WHD has established specific measures and defined strategies for accomplishing the goal. For example, each Region and District Office will develop locally targeted initiatives in the grocery store, full-service restaurant, and quick-service restaurant industries. WHD will reinvestigate 25 percent of full-service restaurants and grocery stores with prior serious child labor violations. The agency will develop compliance assistance initiatives targeted to other industries with high injury and fatality rates such as construction and agriculture, although those industries may have fewer covered young workers.

[3] WHD's current GPRA goals focus on the low-wage industries of garment, agriculture, and long-term health care. Investigation-based compliance surveys in these industries show a much lower rate of compliance: garment manufacturing compliance rates range from 33 percent in Los Angeles to 52 percent in New York City; health care compliance rates range from 40 percent in nursing homes to 60 percent in residential living facilities; and compliance in hand-harvested agricultural commodities such as onions, garlic, lettuce, and cucumbers range from 38 percent to 65 percent.

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Under its long-term strategic plan, WHD will conduct the next investigation-based compliance survey of the grocery store, full-service restaurant, and quick-service restaurant industries in fiscal year 2004 to assess whether WHD's efforts have resulted in increased compliance and whether patterns of non-compliance have changed. In light of these objectives, GAO's conclusion that "WHD has not used its survey of employers in the grocery and restaurant industries as a 'baseline' because it has no plans to conduct follow-up investigations on a nationwide basis" is inaccurate. (Draft Report at 35.)

See comment 10.

GAO appears to have reached the conclusion that WHD did not set specific goals in the retail industry after fiscal year 2000 by looking only at the Department's GPRA Plan and not taking into account WHD's Annual Performance Plans.

See comment 16.

Although WHD has developed specific goals for its child labor compliance efforts in the retail industry, the agency does not ignore other industries. WHD child labor enforcement resources are allocated proportionately to the industries in which youth work and in which youth are injured or killed. The chart below summarizes GAO's findings regarding the percent of all working youth employed by industry, illegally employed youth by industry, workplace fatalities by industry, and workplace injuries by industry. The last column indicates the percent of fiscal year 2001 child labor enforcement hours by WHD investigators in each industry. The chart shows that the resources allocated by WHD for each industry tracks closely to the percent of youth employed, injured and killed in each industry.

	Employed	Illegally Employed	Fatalities	Injuries	WHD Hours[4]
Retail	61%	48%	20%	64%	59%
Services	25%	11%	9%	20%	16%
Agriculture	7%	n/e[5]	41%	2%	4%
Construction	3%	16%	14%	3%	5%
Manufacturing	3%	14%	6%	5%	7%
Transportation & Public Utilities	1%	3%	3%	2%	1%
Wholesale	n/e	n/e	2%	3%	2%

Thus, WHD performance plans and enforcement statistics establish that the Department has targeted its child labor goals and resources as closely as possible to the industries in which most children work and in which they are most likely to be injured or killed.

Despite these facts, GAO questions WHD's allocation of child labor resources. GAO suggests that WHD should target the transportation and public utilities, wholesale,

[4] WHD industry enforcement data is organized by the North American Industry Classification System (NAIC). Although slightly different than the industry classification system used by BLS, it is roughly comparable when estimating percentage of time at the major industry category level.

[5] GAO did not estimate (n/e) the percentage of youth illegally employed in agriculture, likely because the rules for youth employment in agriculture differ from other industries. GAO did not provide employment estimates in the wholesale industry, likely because few youth work in that industry.

See comment 17.

See comment 18.

See comment 19.

See comment 20.

See comment 21.

See comment 22.

construction, and manufacturing industries. (Draft Report at 36, 41.) This conclusion is based on a flawed interpretation of the BLS and NIOSH data. GAO used the data to calculate fatality rates, and then relied on these fatality rates rather than actual numbers of youth employed, injured and killed to make its recommendations. GAO's methodology would result in an inefficient allocation of resources to industries in which youth are not frequently employed or injured – and reduce resources for industries with high youth employment and injuries.

First, GAO suggests that WHD should target the transportation and public utility industry because, according to GAO's interpretation of BLS data, youth in this industry have a high rate of fatalities – 0.036 per 100,000 hours worked. (Draft Report at 24, 36.) However, the reported employment data indicate that only one percent (1%) of young workers are employed in this industry – about 37,000 youth from a total population of 3.7 million young workers and 120 million total workers. By GAO's own estimate, only 3 percent (3%) of the 148,000 illegally employed youth were working in transportation and public utilities. That equates to approximately 4,440 youth illegally employed (with a total of 15 fatalities in the last 9 years) in an industry category that includes railroads, taxicab services, and warehousing and storage; communication industries such as radio, television, and cable service; and utilities industries such as electric light and power, gas, and sanitary services.

Finding these 4,440 young workers among our nation's 120-million person workforce would be difficult at best. Establishing such a goal would be unrealistic and counterproductive. In fiscal year 2001, of all the directed investigations conducted in the transportation industry, WHD found child labor violations in only six cases – or about 7 percent of the investigations. Because WHD looks for child labor violations in every investigation it conducts, if child labor violations were prevalent in this industry, we would expect a high percentage of directed cases to have violations.[6]

Second, GAO concludes that WHD should target the wholesale industry because, according to GAO's interpretation of BLS data, youth in this industry have a high rate of fatalities – 0.009 per 100,000 hours worked. (Draft Report at 24, 36.) Similar to the transportation and public utilities industry, a total of 14 youths have died in this industry since 1992 – about 2.2 percent of youth fatalities. There have been no reportable youth fatalities in the wholesale industry since 1996. Further, the percent of youth employed in wholesale is so small that GAO does not even cite a percentage estimate. While the death of even one young person is too many, these statistics do not provide the basis for targeting agency resources to this industry, particularly when employment levels are so low.

Third, GAO concludes that WHD should target the construction industry because, according to GAO's interpretation of BLS data, youth in this industry have a high rate of

[6] WHD also questions GAO's conclusion (Draft Report at 17) that 43 percent of illegally employed youths are employed as truck drivers. This suggests that there are some 63,000 illegally employed young truck drivers, which is not consistent with WHD research and experience. GAO's conclusion that 44 percent of youth workplace fatalities are caused by traffic accidents (Draft Report at 25) is consistent with WHD research and experience.

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fatalities – 0.053 per 100,000 hours worked. (Draft Report at 24, 36.) While WHD acknowledges that many tasks in the construction industry carry inherent risks, it is significant, in considering whether to target the industry for potential child labor violations, that many construction occupations are not prohibited for 16- and 17-year-olds. According to GAO interpretation of BLS data, only 3 percent of youth are employed in this industry (roughly 111,000). According to GAO's estimates about one-fifth are illegally employed (23,680 workers). Unfortunately, GAO's estimate of illegal employment does not adequately address whether employers in this industry are subject to the FLSA. Of the 84 fatalities in construction over the past 9 years (1992 to 2000), 63 percent were in the specialty trade contractors classification. WHD has historically found that many of these specialty trade contractors are so small that they do not meet the FLSA coverage criteria.

See comment 23.

Targeting enforcement resources to the construction industry may not be the most effective way to reduce injuries or fatalities and it is premature to recommend aggressive enforcement targeting in the industry. Instead, compliance assistance in this industry, as planned for fiscal year 2003, may be more effective. In addition, WHD has proposed revisions to Hazardous Occupation Order No. 16, which governs the roofing industry. The roofing industry accounts for about 15 percent of the fatal occupational injuries in construction. Finally, as part of the interagency agreement with NIOSH, WHD funded three research projects addressing the health and safety of young construction workers. WHD will await the final results of these projects before determining whether and to what extent to target child labor enforcement resources in the construction industry.

Fourth, GAO suggests that WHD should target the manufacturing industry because youth are most likely to be illegally employed in that industry. (Draft Report at 36.) According to GAO, 14 percent of the youth who are illegally employed work in manufacturing. (Draft Report at 16.) Manufacturing, according to GAO, accounts for about 3 percent of youth employment. Like construction, GAO estimates that some 20,700 youth are illegally employed in manufacturing. In 2001, according to the CPS, there were over 18 million workers employed in the manufacturing industry. The manufacturing industry accounts for 6 percent of youth fatalities[7] and 5 percent of youth injuries. In the absence of more specific industry and occupational data on youth employment in the respective sectors of the manufacturing industry, WHD cannot agree that targeting the manufacturing industry would – first, be a wise resource investment and second, result in fewer occupational injuries and fatalities.

See comment 24.

[7] Of the 35 fatalities in manufacturing, 10 were in the lumber and wood products industry and 11 were in the newspaper publishing and printing industry. If the fatalities in the newspaper industry occurred during the delivery of newspapers, the FLSA child labor provisions may not have been applicable.

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Recommendation 2

The Secretary of Labor should develop methods of measuring the success of WHD's child labor compliance efforts, including education and outreach activities.

See comment 25.

GAO contends that "WHD has not developed adequate methods of measuring the success of its child labor compliance efforts." (Draft Report at 36.) The Department disagrees with this conclusion.

The Department has developed a statistically valid method of measuring the success of WHD's child labor compliance efforts and all the other laws that WHD enforces – the investigation-based compliance survey. With assistance from a contractor, WHD identifies and conducts full investigations of a random sample of establishments from an industry, which allows the agency to make statistically valid inferences about compliance in that industry. The first compliance survey in an industry establishes a baseline from which the agency measures whether progress is being made toward achieving its goals.

The compliance surveys serve four basic functions:

- Provides a form of intervention to change compliance behavior.
- Provides WHD, the public and Congress with accurate measures of compliance levels in an industry.
- Measures WHD's success in changing compliance behavior over time.
- Informs WHD regarding industry-wide compliance patterns, which assists the agency in developing strategies for changing behavior.

Investigation-based surveys measure the combined effectiveness of all WHD strategies for increasing compliance including enforcement, partnerships, and compliance assistance. Such surveys have been used to measure the success of WHD efforts in the garment, agriculture and long-term health care industries.

WHD conducted the first statistically valid investigation-based survey of child labor compliance in fiscal year 2000. The survey focused on compliance with child labor provisions in the industry in which youth are most likely to work and be injured – retail trade. The survey found that 98 percent of young workers in grocery stores were legally employed; 95 percent of young workers in full-service restaurants were legally employed; and 89 percent of young workers in quick-service restaurants were legally employed. The survey also measured the number of employers in compliance with the child labor provisions, finding 82 percent of grocery stores, 79 percent of full-service restaurants, and 70 percent of quick-service restaurants in compliance with the child labor provisions of the FLSA. In addition, most were hours violations and not hazardous occupation order violations. WHD will conduct the next child labor compliance survey in fiscal year 2004.

Although less formal than a compliance survey, WHD also measures the success of specific child labor initiatives by conducting follow-up investigations. In the Illinois

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SAFECHILD program, for example, WHD works with schools to obtain copies of student work permits. WHD provides educational materials on child labor laws to the employers identified on the work permits, and asks the employers to conduct self-audits. WHD then randomly selects some of the employers for investigations. Since 1996, WHD has partnered with 21 school districts, and increased child labor compliance among employers from 62 percent to 76 percent.

See comment 26.

WHD does not, as GAO concludes, measure success by counting the number of child labor investigations conducted, violations found or civil money penalties collected each year. WHD tracks this data in its WHISARD database, as it tracks the number of compliance assistance activities completed. As recommended by GAO elsewhere in its Draft Report, these data are used to hold Region and District Offices accountable for completing child labor compliance activities.

The Department continuously strives to improve its methods for measuring performance. The Office of the Assistant Secretary for Policy, for example, plans to retain an outside consultant to assist in developing methods for measuring the impact of compliance assistance activities. WHD will be participating in that effort. In addition, the Department welcomes any specific suggestions from GAO on how to measure the effectiveness of child labor compliance efforts.

Recommendation 3

The Secretary of Labor should routinely obtain data from BLS and NIOSH on the industries, occupations, and locations in which children work – both legally and illegally – and sustain work-related injuries and use them to target WHD's child labor compliance efforts.

See comment 27.

WHD already routinely uses BLS, NIOSH and other available data to plan for the most efficient allocation of its child labor resources. Other sources of data routinely used by WHD include:

- Information from student work permits, which provide information on a state and local level about where youth are working.
- State workers' compensation data, which provide detailed information on patterns of injuries and fatalities including whether particular industries present increased hazards for youth.
- Enforcement data and trends from the agency's WHISARD database.
- Anecdotal injury and fatality information collected from a variety of sources and maintained by WHD's national office.

Each year, a team of WHD managers with over 150 years of collective child labor experience reviews all available data to formulate activities for the next fiscal year. This child labor team uses the data and their years of experience to target WHD's child labor resources to most effectively protect young workers. The team prepares child labor goals for WHD's annual performance plan, which is then used by each Region and District Office to plan specific child labor initiatives.

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Thus, the fiscal year 2002 Annual Performance Plan, which was distributed to all WHD managers, includes a summary of fiscal year 2001 data on the number and percentage of child labor violations by industry. The plan also identifies the percentage of fatalities and injuries by industry based on BLS data. Finally, as discussed above, the plan sets specific goals to maintain or increase child labor compliance.

See comment 27.

WHD uses all available data, including information from BLS and NIOSH, on the industries, occupations, and locations in which children work and sustain work-related injuries. WHD has used this data to target its child labor compliance efforts nationally in the retail industry with additional local child labor initiatives in roofing, tourism, recreation, landscaping, and other industries identified by WHD Region and District Offices. As explained above, targeting additional industries in which relatively few teens work would not be an efficient use of WHD resources.

Recommendation 4

The Secretary of Labor should routinely obtain and review data from its investigations database on the number and type of investigations conducted by WHD's district offices and child labor violations found and use these data to (1) ensure that WHD's resources are deployed in the most effective manner and (2) hold regional and local offices accountable at the national level for ensuring that all children nationwide are protected under the child labor provisions of FLSA.

GAO recommends that WHD require all District Offices to conduct directed child labor initiatives. (Draft Report at 42.) GAO also suggests that WHD use data from the WHISARD database to hold Region and District Offices accountable for providing an adequate level of protection to all working youth by ensuring that all offices conduct at least some minimum number of child labor investigations. (Draft Report at 43.) GAO found that the number of child labor investigations conducted in each region during fiscal year 2001 varied widely, from 942 investigations in the Northeast region to 227 investigations in the Southwest region.

WHD agrees with GAO's recommendations. WHD has already directed each District Office to submit plans for directed child labor initiatives in fiscal year 2003. In addition, WHD will run reports from the WHISARD database on a quarterly basis to hold offices accountable for conducting child labor investigations and compliance assistance activities.

Recommendation 5

The Secretary of Labor should consider enhancing the data collection on children who work by expanding CPS to include 14-year-olds or beginning additional cohorts of NLSY at regular intervals, such as every five years.

GAO recommends that the Department expand the Current Population Survey (CPS) to include collection of data for 14-year-old workers. This recommendation cannot be

See comment 28.

implemented without additional study and resources. Before expanding CPS to include 14-year-olds, BLS would have to evaluate the quality of data that can be collected. The CPS captures relatively little labor force activity among 15-year-olds. Presumably, there would be even less among 14-year-olds. Additionally, assuming the survey could provide accurate estimates of work activity among 14-year-olds, the relatively small number of observations may limit the ability of analysts to disaggregate the data by characteristics such as industry, occupation, or hours of work. Finally, expanding the CPS sample to include 14-year-olds will require additional resources to field the survey and will add to respondent burden by lengthening the interview. The Department would need to evaluate whether the benefit of collecting the data justifies the additional costs, particularly when compared to other data needs.

GAO also recommends that the Department begin additional cohorts of the National Longitudinal Survey of Youth (NLSY) at regular intervals, such as every 5 years. As a general matter, BLS would support beginning new cohorts of youth. Additional resources would be required to field new survey panels.

Recommendation 6

The Secretary of Labor should provide better guidance to WHD's regional and district offices on how to improve employer compliance and specific guidance on when to assess penalties for child labor violations.

See comment 29.

GAO found that "WHD's national office does not provide regional and district offices with adequate guidance on how to target their child labor compliance efforts." (Draft Report at 44.) WHD disagrees with this conclusion.

WHD's annual planning process provides regional and district offices with guidance to plan effective child labor compliance efforts while ensuring adequate flexibility necessary to develop activities to address local labor conditions. Beginning in the third quarter of the fiscal year, WHD's national office executive team meets with the Regional Administrators and Deputy Regional Administrators to establish a framework for planning activities for the next fiscal year. This Executive Leadership Team develops strategic goals, objectives and measures that are memorialized in a draft annual performance plan. In addition, as discussed above, national initiative teams for garment, agriculture, health care and child labor also meet to review data and develop more specific goals and activities for the next fiscal year. WHD then presents the draft Annual Performance Plan, including the recommended goals and activities developed by the national initiative teams, to a meeting of all District Directors. At this meeting, the District Directors have an opportunity to ask questions and suggest changes to the performance plan. The Annual Performance Plan is finalized after this meeting and distributed to all WHD managers. The managers then hold meetings with the WHD investigators to develop regional and district initiatives to support the Annual Performance Plan.

This lengthy planning process ensures that every employee of the Wage and Hour Division – from the Administrator to the investigators in the field – have an opportunity to ask questions about, and provide input into, the agency's strategic planning. WHD

managers and investigators review enforcement data and BLS data, but also plan activities based on their front-line experience at the State and local level. This process provides "criteria" and "guidance" for planning child labor compliance activities without being so directive or inflexible that local offices cannot target as appropriate for local labor conditions.

GAO also recommends that WHD provide specific guidance to Region and District Offices on when to assess penalties for child labor violations. GAO found that the amount of civil money penalties assessed and collected for child labor violations varies from office to office. WHD agrees with this recommendation. WHD and the Office of the Solicitor (SOL) have already worked to develop guidance on the litigation quality of child labor cases. WHD will work with the SOL to develop internal guidance on the assessment of civil money penalties. WHD will develop and distribute an update to its Field Operations Handbook in fiscal year 2003.

Recommendation 7

The Secretary of Labor should provide training to all WHD staff on how to obtain information from the investigations database.

WHD agrees that its managers and investigators should be able to easily retrieve data from the WHISARD database. The WHISARD database contains over 250 tables and over 3,000 data elements. Currently, to retrieve data from the database, WHD staff must design their own reports, which often results in data quality issues as a single change in a design element of one report can create anomalous and inconsistent results. Thus, greater access to, and training for, the current basic report formats is not appropriate. Instead, during fiscal year 2003, WHD will implement, and provide training for, a new reporting program – Business Objects – that will allow WHD staff to access standardized reports with minimal margins of error.

Summary

The Department of Labor devotes significant resources to ensure safe and appropriate work experiences for youth. The Department's Wage and Hour Division has worked to improve compliance with the child labor provisions of the Fair Labor Standards Act through strong enforcement, compliance assistance, strategic partnerships, and regulatory action. The Department of Labor is committed to continuous improvement of its child labor programs. Accordingly, although the Department disagrees with many of the conclusions and recommendations in GAO's draft report, the Wage and Hour Division will implement the following improvements in fiscal year 2003:

- WHD has directed each District Office to submit plans for at least one directed child labor initiative in fiscal year 2003.
- WHD will run reports from the WHISARD database on a quarterly basis to hold Region and District Offices accountable for conducting child labor investigations and compliance assistance activities.

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- WHD will work with the Office of the Solicitor to develop internal guidance on the assessment of civil money penalties for child labor violations. WHD will develop and distribute an update to its Field Operations Handbook in fiscal year 2003.

- During fiscal year 2003, WHD will implement, and provide training for, a new reporting program – Business Objects - that will allow staff to access standardized reports from the WHISARD database.

Again, thank you for the opportunity to comment on this report. If you have any questions, please contact Griffin Crump at 693-0308.

Sincerely,

Tammy D. McCutchen

GAO Comments

1. Our draft report acknowledged the difficulty of estimating the number of children employed in violation of the child labor provisions of FLSA and the limitations of using CPS data to provide such estimates. While recognizing these limitations, we continue to believe that our analysis provides the best estimates that can be made with available data. In fact, we used the same methods as those used to develop estimates cited by BLS and WHD in several of their publications. For example, in BLS's November 2000 *Report on the Youth Labor Force* and WHD's May 2000 materials prepared for its "Spring Into Safety" child labor campaign, they cited estimates of the number of children illegally employed prepared by Douglas Kruse, the researcher with whom we worked in developing our estimates. WHD stated that his 1997 study provided "the best currently available estimate of the number of children employed in violation of Federal or State child labor laws."

2. Labor cites the drop in workplace injuries indicated by the BLS data from the Survey of Occupational Injuries and Illnesses as evidence that "the workplace is becoming safer for young workers," but ignores NIOSH data from emergency room records that indicates that workplace injuries to children are on the rise.

3. Although we highlighted many of Labor's efforts to ensure compliance with the child labor provisions of FLSA, our report was not intended to describe all of the agency's child labor enforcement efforts over the past ten years but rather, as requested, to determine how well Labor enforces these provisions and to make recommendations for improvement.

4. WHD is correct in its statement that the number of investigator hours devoted to child labor enforcement in fiscal year 2001, 74,000 hours, represents the largest investment of investigator time by WHD in the last 5 years. However, our report, which focuses on WHD's efforts since 1990, shows that this is lower than the resources dedicated to child labor enforcement in the first half of the decade. For example, in fiscal years 1990, 1991, and 1992, WHD investigators devoted 143,000 hours, 83,000 hours, and 105,000 hours, respectively, to child labor enforcement.

5. We did not provide information on the number of hours spent by WHD investigators on activities other than investigations because, although the investigations database, WHISARD, can track this information, we found, and WHD officials confirmed, that it did not contain complete information on the time investigators spend on non-enforcement activities such as education and outreach.

6. We continue to believe that the trends in the number of child labor violations found and the amount of penalties assessed—including the fact that the numbers have declined significantly since 1990—are not valid indicators of WHD's commitment to child labor compliance, nor are they evidence of the success of its efforts to ensure compliance with the child labor provisions of FLSA. As noted in our report, because we do not know what factors led to the changes in the number of violations, it is unclear whether the increase in the number of violations found by WHD in fiscal year 2002 compared to fiscal year 2001 indicates a growing problem with child labor, improvements in WHD's efforts to identify violations, or other factors.

7. This statement is misleading. Our draft report recognized that, in 2002, the maximum penalty for a child labor violation was raised from $10,000 to $11,000. We did not recognize WHD's efforts to publish a final rule on the 1999 regulatory proposal to update some of the hazardous occupations orders or issue new regulations because these actions have not been completed.

8. This statement is also misleading. Our draft report acknowledged that NIOSH completed a review of the hazardous occupations orders for Labor, which made several recommendations for changes to the orders. We also noted that Labor was in the process of reviewing the report and deciding the actions it would take in response to NIOSH's recommendations.

9. We believe that our report provides a comprehensive and balanced picture of the effectiveness of Labor's efforts to ensure compliance with the child labor provisions of FLSA and contains important information on how these efforts could be improved.

10. The information in our draft report was based on our review of WHD's fiscal year 2001 and 2002 annual performance plans. Neither of these plans contained specific, measurable goals for the industries in which most children work or in which children are most likely to sustain a serious injury. However, WHD's draft performance plan for fiscal year 2003, which we recently obtained, appears to be a step in the right direction in terms of setting more specific, measurable goals, although it does not contain goals for some of the industries with high injury

and fatality rates.[1] Accordingly, we have revised the information in our report and the associated recommendations.

11. While the referenced employer compliance survey is an important step in setting goals for improving employer compliance, it is only one of the steps required. The baseline data become the starting point for measuring progress in improving compliance. However, after completing the survey in fiscal year 2000, WHD chose not to set specific goals for improving compliance in the grocery and restaurant industries in its fiscal year 2001 and 2002 performance plans. It made this decision even though the rate of non-compliance for fast food restaurants was 30 percent, and the non-compliance rate for full service restaurants with previous child labor violations was almost 50 percent.

12. We do not believe that the most important indicator of compliance is the percentage of children who are employed illegally. Although we agree it is an indicator that should be reviewed, a few companies that employ large numbers of children can have a disproportionate effect on the numbers. Therefore, we believe the most important indicator of compliance is the percentage of employers who are in compliance with the child labor provisions of FLSA, particularly because employers are responsible for maintaining compliance with the provisions of the law.

13. As noted previously, prior to fiscal year 2003, WHD's annual performance plans did not contain specific, measurable goals for improving compliance with the child labor provisions of FLSA for many of the industries in which most children work or are likely to sustain work-related injuries. See GAO comment 10.

14. As Labor's quotation indicates, the goals in WHD's fiscal year 2002 performance plan did not establish specific goals for the industries in which most children work or are likely to sustain work-related injuries. See GAO comment 10.

[1]Although we asked WHD officials about the status of the fiscal year 2003 performance plan and, at our exit conference in August 2002, discussed our recommendation that they develop more specific, measurable goals for improving child labor compliance, they did not inform us that they had completed a draft of WHD's fiscal year 2003 plan in July 2002 which contained more specific, measurable goals or provide us with a copy of the plan at that time.

15. As noted previously, we have revised the report to reflect the goals contained in WHD's draft performance plan for fiscal year 2003. See GAO comment 10.

16. The fact that WHD conducts investigations in these industries does not negate the need for WHD to set goals for increasing compliance with the child labor provisions of FLSA for these industries. Because WHD conducts many of its investigations in response to complaints about possible violations, the resource allocations indicated in Labor's charts may reflect WHD's responses to complaints as much as the results of its efforts to target child labor violations in these industries.

17. We disagree that our analysis of fatality rates is a "flawed interpretation of the BLS and NIOSH data" and that is more appropriate to use the actual numbers of children employed, injured, and killed to determine risk. While we understand the importance of reviewing the number of children who work in each industry and the numbers of children injured or killed, we believe that injury and fatality rates are important indicators that WHD should use in allocating its resources. As noted in an article by a researcher at BLS about fatality rates, "although [fatality] counts are informative in identifying worker groups that experience large numbers of fatalities, they do not by themselves measure risk. To quantify risk, the data on workplace fatalities must be associated with a measure of worker exposure to risk, such as employment or hours worked. The number of hours worked is preferable because different workers spend variable hours on the job in a given time period (e.g. year), and therefore have different lengths of exposure to workplace hazards."[2] We believe it is particularly important to use the number of hours worked, rather than simply using the number of children employed, to calculate injury and fatality rates because so many children (87 percent) work part time.

18. For the transportation and public utilities industry, Labor mentions only fatality rates and the number of fatalities. In addition to high fatality rates for this industry, we found that the injury rate was high compared to other industries. Therefore, we believe that it is important for WHD to focus some of its resources on reviewing child labor in this industry.

[2]See "A Relative Risk Analysis of Workplace Fatalities" by John W. Ruser, a Research Economist with BLS's Compensation Research and Program Development Group, Office of Compensation and Working Conditions.

19. It is not clear that establishing a goal for improving compliance in the transportation and public utilities industry would be unrealistic and counterproductive. Given the limitations of the estimates of illegal employment, we question the agency's estimate that only 4,400 youth are employed illegally in this industry. The statistics cited by Labor on the number of violations found as evidence that violations are not prevalent in this industry are also questionable because it is unclear whether WHD would have found more child labor violations if it had targeted employers in this industry.

20. Labor cites only the fatality rates and number of deaths in the wholesale trade industry, although we found that the injury rates for children working in this industry were also relatively high. While the number of children working in this industry may be small, we believe the injury rates to be sufficiently high to warrant further WHD attention. WHD should look to the extensive experience of its staff cited on page 10 of Labor's comments to identify the areas of the country in which children are most likely to work in these industries.

21. As with the transportation and public utilities and the wholesale trade industries, Labor only cites the fatality rates for the construction industry. Again, we noted that the injury rate for children who work in this industry was relatively high. In addition, we question how WHD determined that "many of these specialty trade contractors are so small that they do not meet the FLSA coverage criteria" because this information is not tracked in WHD's investigations database and we found no data on employer coverage under FLSA. We also found, in our discussions with WHD officials, that establishing coverage for employers in the construction industry was not a problem for some of the district offices we visited, particularly those on the east coast.

22. CPS data on occupations show that many children are employed as truck drivers. However, our draft report incorrectly indicated that 43 percent of <u>all</u> children who are employed illegally are employed as truck drivers. We clarified the report to show that the percentage of children who are employed illegally as truck drivers represents 42 percent of children <u>who are employed in prohibited occupations</u>.

23. We continue to believe that the injury and fatality rates for children who work in the construction industry warrant WHD attention. We also commend WHD's efforts to fund research by NIOSH on the health and safety of young workers in the industry.

24. As noted in our report, manufacturing has one of the highest injury rates for children. WHD's opinion that targeting additional resources on this industry would not be a wise resource investment and would have no impact on occupational injuries and fatalities for children working in this industry does not factor in these high injury and fatality rates. In fact, some of the most serious child labor violations WHD found occurred in sawmills and companies that produce wood pallets.

25. We commend WHD's recent decision to conduct a second compliance survey of the grocery, full service restaurant, and fast-food restaurant industries in fiscal year 2004. However, as stated in our report, WHD has not developed methods of measuring the success of all of its child labor compliance efforts, particularly its education and outreach and other compliance assistance activities. In addition, WHD has not conducted child labor compliance surveys of other industries.

26. In our conversations with WHD headquarters officials and in WHD publications, the number of investigations, violations found, and civil monetary penalties were frequently cited as indicators of the success of the WHD's child labor enforcement efforts. In fact, on page 3 of the agency's comments on our report, Labor cites the increase from fiscal years 2000 to 2001 in the number of child labor violations and the total amount of penalties assessed as evidence of "WHD's continued strong commitment of resources to child labor compliance."

27. We disagree with Labor's statement that WHD routinely uses BLS and NIOSH data to plan the allocation of its child labor resources. We found that WHD has no procedures for routinely obtaining data from BLS and NIOSH to plan its child labor enforcement efforts and the district offices we visited confirmed that they do not receive this information for use in planning their local child labor efforts. Second, Labor's statement that WHD routinely uses state workers' compensation data to plan its enforcement efforts must be qualified to indicate that many states refuse to release this information to WHD because of privacy concerns. Third, WHD has, in the past, used only limited data from its WHISARD investigations database to plan its enforcement efforts. In some cases, reports we requested from the database, such as reports that showed the source of investigations completed in fiscal years 2000 and 2001, was the first time that WHD had run such reports. Finally, we believe the anecdotal information on injuries and fatalities maintained by WHD's national office does not provide enough information to be useful in making WHD's resource allocation decisions. The information on fatalities and serious injuries to children tracked by WHD's national office and provided to us in May

2002 contained data on only 7 fatalities and 36 injuries reviewed by WHD in fiscal year 2001 and 7 fatalities and 32 injuries reviewed in fiscal year 2002.

28. We agree with Labor's statement that our recommendation to consider enhancing the data collected on children who work by expanding CPS to include 14-year-olds or beginning additional cohorts of NLSY cannot be implemented without additional study and resources, which is why we recommended that the Secretary "consider" these actions instead of recommending that they be taken. We clarified our conclusions to acknowledge that collecting these data may require additional resources.

29. We continue to believe that WHD's regional and district offices cannot target their resources in the most effective manner without having better criteria from WHD's national office on how to target their enforcement efforts, including information from WHD's investigations database on previous child labor investigations and from BLS and NIOSH on the industries in which children work and those in which they are most likely to be injured or killed.

Appendix V: GAO Contacts and Staff Acknowledgments

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