

**Testimony of Caroline Smith DeWaal
Director of Food Safety for the
Center for Science in the Public Interest
on “Kids and Cafeterias: How Safe are Federal School Lunches?”**

**before the Senate Subcommittee on Oversight of Governmental
Management, Restructuring and the District of Columbia
and the House Subcommittee on Government Efficiency,
Financial Management and Intergovernmental Relations**

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Good afternoon. My name is Caroline Smith DeWaal, and I am director of food safety for the Center for Science in the Public Interest. CSPI is an advocacy and education organization focused on food-safety and nutrition issues. We are supported principally by the 800,000 subscribers to our *Nutrition Action Healthletter*.

Last December, the *Chicago Tribune* ran a series of investigative reports that exposed huge gaps in food-safety protections in the national school breakfast and lunch program.¹ This program serves meals to some 27 million children² and provides an essential nutritional foundation for our nation’s school-age population.

Contaminated food is particularly dangerous to school-aged children because this population is among those at risk of contracting a serious foodborne illness resulting in hospitalization or death. Because children are especially vulnerable, many food-safety messages are targeted at parents. But when parents send their children off to school, they rely on the school system and the government to ensure the safety of the food their children eat.

The *Chicago Tribune* reporters uncovered many recent breaches and gaffes in the school lunch program, ranging from an uninspected Chicago tortilla factory, suspected of sickening 1,200 children nationwide, to school health officials more willing to blame the children than the lunchroom for illnesses. But this is not the first time that major outbreaks from school lunches have been discovered. In 1997, over 300 school children in five states were sickened from frozen strawberries harvested in Mexico and processed in California. One Michigan county was particularly hard hit, with 242 Hepatitis A illnesses, and another 10,000 people had to be immunized with gamma globulin to protect against the disease.³ In an outbreak in Arkansas, over 200 people, most of whom were grade-school students, got sick from turkey dressing served in a pre-Thanksgiving meal served at a school.⁴

¹David Jackson, “School Lunches: Illness on Menu,” *Chicago Tribune*, Dec. 9, 2001, p.1; David Jackson and Geoff Dougherty, “Meat from Troubled Plants Sold to U.S. Lunch Program,” *Chicago Tribune*, Dec. 9, 2001; David Jackson, “Schools Flunk Food Safety,” *Chicago Tribune*, Dec. 10, 2001, p.1; David Jackson, “Vendors Reap Millions From Schools,” *Chicago Tribune*, Dec. 10, 2001, p.15; Lori Olszewski and David Jackson, “Duncan Vows Food Safety,” *Chicago Tribune*, Dec. 11, 2001, p. 1.

²USDA, Food and Nutrition Service, National School Lunch Program, Participation and Lunches Served, <<http://www.fns.usda.gov/pd/slsummar.htm>>.

³Testimony of Susan J. Doneth before the Senate Committee on Agriculture, Nutrition and Forestry, June 5, 1997.

⁴Caroline Smith DeWaal, Kristina Barlow, Lucy Alderton, and Michael F. Jacobson, Ph.D., *Outbreak Alert! Closing the Gaps in Our Federal Food-Safety Net*, Center for Science in the Public Interest, Oct. 2001; Telephone Conversation with Sharon Williams, Arkansas State Health Department, June 12, 2001.

While those are dramatic examples, they represent just the tip of the iceberg. Food poisoning illnesses frequently go unrecognized and outbreaks are rarely reported.⁵ There are probably numerous small outbreaks that are never recognized but that result in serious illnesses and lost time from school.

Several years ago, CSPI began tracking food-poisoning outbreaks, so we could better identify which foods were actually making people sick. CSPI's database of foodborne-illness outbreaks, published annually in "*Outbreak Alert!*," documents more than 1,600 over the last decade.⁶ Even so, our database includes only a small fraction of those that actually occurred, because outbreaks so often go unreported.

An analysis of CSPI's *Outbreak Alert!* database shows that since 1990, there were at least 67 documented outbreaks, with more than 4,000 illnesses, in schools. (See Attachment I.) Those outbreaks were caused by 19 different pathogens and toxins, including *E. coli* O157:H7, *Salmonella*, and *Campylobacter*, and affected children and teachers in more than 25 states. In addition, it shows that the Centers for Disease Control and Prevention's (CDC) database is incomplete. Of the 67 school outbreaks in CSPI's database, nearly 10% were reported by sources outside of the CDC. The fact that school outbreaks continue to occur, and major ones have gone unnoticed by the CDC, shows that there are still serious gaps in our country's food-safety systems.

The problems with school lunch safety provide a microcosm of the overall condition of the food-safety system. The responsibility for food safety is split among at least nine federal agencies—from the Department of Agriculture (USDA) to the Bureau of Alcohol, Tobacco and Firearms.⁷ As the school lunch issue amply demonstrates, balkanization and inflexible restrictions on applying resources result in many gaps and inconsistencies in the federal government's oversight of food safety.

Foods regulated by the Food and Drug Administration (FDA), such as vegetables, eggs, and seafood, account for almost 80 percent of the outbreaks in the *Outbreak Alert!* database, while the meat and poultry regulated by USDA account for less than 20%. The lion's share of federal inspection dollars go to USDA, which has approximately 7,600 inspection personnel for about 6,500 meat, poultry, and processed-egg plants. The FDA has only about 770 food inspectors for the 60,000 plants it oversees. That imbalance between risk and resources led CSPI and other consumer organizations to call on Congress and the President to develop a single, coherent food-safety statute that is implemented by a single, independent food-safety agency. Such an agency could allocate its resources according to risk. Under the current system, USDA's meat and poultry inspectors cannot be assigned, if an emergency arises, to inspect plants that produce fish, shell eggs, or other FDA-regulated foods.

Outbreak Recognition and Response

Schools are the first place where an outbreak could be recognized but some school officials may prefer to ignore a problem, rather than blame it on the lunch room.⁸ Once a school identifies an outbreak, school staff need to inform local health officials, who in turn must notify state health officials. Eventually, the outbreak may be reported to CDC, to analyze whether there is a common food source nationally, and to include in their annual outbreak listing. However, reporting to CDC is largely voluntary.

The large number of government agencies with food-safety responsibilities can delay both the recognition and the government's response to food poisoning outbreaks in the school lunch program. While CDC becomes

⁵Even when foodborne illnesses are reported, children who complain of illness are sometimes suspected of "faking it" according to a school health official quoted in David Jackson, "Schools Flunk Food Safety," *Chicago Tribune*, Dec. 10, 2001, p.1.

⁶Caroline Smith DeWaal, Kristina Barlow, Lucy Alderton, and Michael F. Jacobson, Ph.D., *Outbreak Alert! Closing the Gaps in Our Federal Food-Safety Net*, Center for Science in the Public Interest, Oct. 2001.

⁷The nine food-safety regulatory agencies are the USDA's Agricultural Marketing Service, Animal and Plant Health Inspection Service, the Food Safety and Inspection Service, and the Grain Inspection, Packers and Stockyards Administration; the FDA's Center for Food Safety and Applied Nutrition and Center for Veterinary Medicine; the Environmental Protection Agency, the Commerce Department's National Marine Fisheries Service, and the Treasury Department's Bureau of Alcohol, Tobacco and Firearms.

⁸David Jackson, "Schools Flunk Food Safety," *Chicago Tribune*, Dec. 10, 2001.

involved in outbreaks of national significance and conducts limited food testing, it doesn't regulate the food or the processing plant. CDC must identify the suspected food, then inform USDA if it is a meat item or FDA if it is a processed food without meat. Meanwhile, the agencies frequently sit on the sidelines until CDC identifies the likely food source.

The impact of this system was clearly evident in the burrito outbreak reported by the *Chicago Tribune*. From May to October, over 1200 children became ill while the processor continued to sell contaminated food to school systems around the country. The response was slow because of the bifurcated federal regulatory system: The USDA originally assumed responsibility for investigating the outbreak as the suspected food source, burritos, contained meat. However, once the source was determined to be the burrito shell itself, FDA became the government agency in charge.

FDA and USDA lack mandatory recall authority, so once the harmful food is identified, the federal government must rely on the plant itself to conduct the recall or ask a state to initiate a recall. In the burrito case, the plant manager trying to direct the recall found he couldn't obtain his own shipping records to give to FDA because they had already been given to USDA. According to the *Tribune* report, the manager asked the age-old question, "Who is in charge?" when it comes to federal food safety regulation.⁹

Outbreaks involving school food service don't require any federal response under the existing system. Proper handling of foods following preparation is critical to ensuring their safety. Formation of toxins can occur in food that is maintained too long at temperatures below 135°F or in hot trays that don't heat the food evenly. Sanitary conditions in the school kitchens, central kitchens, and lunchrooms are inspected by the local or county governments, with few exceptions.

In 1996, CSPI surveyed nearly 50 local and county health departments about their approach to inspecting restaurants and other food service establishments. We found these agencies were chronically underfunded, poorly staffed, and often did not enforce food safety standards that complied with national recommendations.¹⁰

Preventing Food Poisoning Outbreaks in Schools

Preventing outbreaks in the school lunch program is largely dependent on the existing, flawed government food-safety programs. While meat and poultry products are generally becoming safer due to USDA's new pathogen reduction/performance standard systems, the same is not true for FDA-regulated foods. Today, FDA inspects domestic food plants only about once every five years. And a recent report by the Inspector General said that over 60% of the inspections credited to FDA were actually being conducted by the states.¹¹ This means that during years with economic downturns, some states may reduce their level of food plant inspections as state revenues decline. For this reason and others, we don't believe that state inspection is a reliable substitute for federal oversight. And today's FDA food plant inspection rate is so low that it is not adequate to protect the safety of food being sold directly to the public or going into the school lunch program.

Also, because of the desire to minimize costs associated with food purchased by the school lunch program, the program may in fact purchase food that is of lower quality. The Supreme Beef case exemplifies how that can occur. In December 1999, USDA tried to close a plant for repeatedly failing to meet the government limits on *Salmonella* in ground beef. Despite its failing safety record over an extended period of time, this company was a major supplier to the school lunch program, selling \$23.3 million dollars of beef to the government during the 1999-2000 school year.¹² The company successfully sued to stay open but has since filed for bankruptcy.

⁹David Jackson, "School Lunches: Illness on Menu," *Chicago Tribune*, Dec. 9, 2001.

¹⁰Caroline Smith DeWaal and Elizabeth Dahl, *Dine at Your Own Risk: The Failure of Local Agencies to Adopt and Enforce National Food Safety Standards for Restaurants*, Center for Science in the Public Interest, Nov. 1996, pp. 3-5.

¹¹Department of Health and Human Services, Office of Inspector General, *FDA Oversight of State Food Firm Inspections: A Call for Greater Accountability*, OEI-01-98-00400, June 2000, p. 15.

¹²Supreme Beef Processors, inc. vs. United States Department of Agriculture, United States District Court for the Northern District of Texas Dallas Division, Civil Action No. 3:99-CV-2713-G.1, May 25, 2000, p. 4-5; Julie Vorman, *US to Stop Salmonella Testing of Beef for Schools*, Reuters, April 5, 2001, 12:13pm. (USDA briefly announced that it would curtail testing ground beef for *Salmonella*, but the Bush

In 2000, USDA tightened its requirements for its ground meat purchases by testing every lot of meat purchased for the school lunch program for *Salmonella* and *E. coli* O157:H7, a practice that continues today. Lots that contain the harmful pathogen are rejected. While lot testing does not guarantee that all ground meat distributed by USDA for the national school lunch program is free of hazards, it helps to eliminate many contaminated lots and forces the meat industry to be more careful.

Two years after implementation, USDA has a ready supply of affordable beef for school lunch meals and our children are getting a better, safer product. This program would be even more effective if the agency required more frequent testing of meat by its suppliers. For example, some fast food restaurants require suppliers to check their ground beef every 15 minutes for *E. coli* O157:H7 and *Salmonella*. This gives a much greater level of certainty than USDA's current testing program, and school children certainly deserve the additional protection.

While the meat industry complains that the zero-*Salmonella* standard for ground meat is unfair, it is justified because children are among the most vulnerable consumers. We should serve them the safest products, not just the cheapest. No amount of financial savings could justify the illness or death of a child.

Although USDA has tightened its purchasing specifications for *Salmonella* in ground beef, it has ignored other problems. For example, just last summer, CSPI discovered that the purchasing specifications still allowed beef trimmings to have small bits of spinal cord attached, despite concerns about the spread of mad cow disease. USDA quickly eliminated that standard, but it shows that the agency's standards do not reflect current food-safety concerns.

Another gap is in the area of transportation of foods. Foods always should be transported in sanitary vehicles, and perishable items should be in refrigerated trucks. On the federal level, neither USDA nor FDA has a comprehensive regulatory program for transportation and storage of the products they regulate. FSIS has a reactive approach, only investigating products in interstate commerce that it suspects are adulterated.

Current regulations are not adequate to ensure that potentially hazardous foods are transported and stored safely. There are no uniform refrigeration or time requirements for shipment of foods; no government oversight to prevent cross-contamination in trucks or other vehicles; and no comprehensive record-keeping system so that receivers of these foods can be sure they were shipped under proper conditions.

There is also concern because of the increasing trend toward heating lunches in one school or central kitchen and then transporting them locally to a school for distribution. The problems inherent in keeping these food hot during transport as well as the potential for cross contamination en route are tremendous. Transportation of food products needs more careful oversight by federal, state, and local officials.

Recommendations

Improving the safety of school meals can only occur through comprehensive reform of the federal food safety system and specific improvements aimed at the national school lunch program, including federal, state, and local participants.

1. The federal food-safety agencies need mandatory traceback and recall authority for food products. Government action will result in faster, more efficient recalls. The federal government carries more credibility with consumers and is able to garner greater press attention, which is critical for successful recalls. Country-of-origin and state-of-origin labeling of produce and other foods would help to facilitate traceback of foods linked to a recall.
2. Congress should give the FDA more resources to inspect the 60,000 domestic food plants under its jurisdiction at least once per year. While Congress has just given FDA \$97 million to beef up its food inspections as part of the bioterrorism package, the lion's share of that money will be devoted to food imports. Food for the school lunch program is required to be domestically produced, so it is vital that FDA be given additional funds to ensure much more frequent inspection of domestic food plants that it regulates. After all, the government already inspects meat and poultry processors every day.
3. USDA should require processors of ground meat products to test for *Salmonella* and *E. coli* O157:H7, increase the government's testing frequency to several times a day, and reject positive lots. USDA should also test for *Listeria monocytogenes* in all ready-to-eat meat products purchased for the school lunch program. This program would be further strengthened by passage of the Harkin/Eshoo Meat and Poultry Pathogen Reduction Act (S. 2013, H.R. 3956).

administration reversed the decision immediately.)

4. USDA's agency that purchases food for the school lunch program should visit every plant that sells and donates food to ensure that the plants are operating according to federal food-safety laws, and that they are regularly inspected by the appropriate state and federal agencies. Food processors and suppliers to the school lunch program should be required to regularly test their food for pathogens and other contaminants and should disclose the results to the purchasing agency or school. USDA should do additional testing during their plant audits and should also audit state inspection programs annually.
5. States who rely on strong local enforcement should regularly audit their county and local governments to ensure that they conduct monthly or more frequent inspections of school kitchens, cafeterias, and central kitchens used for the national school lunch program. Where local programs are weak, states should maintain a separate inspection force to ensure the safe and sanitary preparation of food served in schools, day care centers, nursing homes, hospitals, and prisons.
6. School lunch programs should utilize safety systems adopted by the fast food industry. For example, Taco Bell has introduced a system in some of its restaurants designed to alert staff to temperature violations. Reheated food, such as ground beef or beans, is held on a heating table until it is assembled into food products sold by the restaurant. The heating table and the cooling equipment that holds fresh produce are connected to a monitor, which turns on an audible alarm system in the restaurants if temperatures fall outside the safety range. If the problem is not corrected within a specified amount of time, a second alarm is issued and a telephone call is automatically made to corporate headquarters.¹³
7. The CDC should require states to report foodborne-illness outbreaks. The CDC has established reporting on only five foodborne pathogens. While some states voluntarily give the CDC information on outbreaks caused by other foodborne pathogens, the CDC does not monitor the states that do not. As a result, the CDC's listing of food-poisoning outbreaks is incomplete. CDC also needs to publish outbreak reports and line-listings in a timely fashion. At the present time, the CDC reports on outbreaks months, or even years, after they have occurred. Without timely information, public-health officials and consumers can do little to manage and prevent outbreaks.
8. Weaknesses in our government programs could set the stage for a crisis in consumer confidence, a crisis that we would like to see prevented. That is a compelling reason to create an independent food-safety agency with responsibility from farm-to-table. Such an agency must be strongly oriented to protecting public health as a means of protecting public confidence. In addition, it would provide a single regulatory checkpoint with which the CDC and the states could interact during an outbreak. We urge Congress to act this year to pass the Durbin/DeLauro Safe Food Act of 2001, a bill that offers a much-needed strategy to consolidate food safety regulatory functions in a single federal agency.

¹³Caroline Smith DeWaal and Elizabeth Dahl, *Dine at Your Own Risk: The Failure of Local Agencies to Adopt and Enforce National Food Safety Standards for Restaurants*, Center for Science in the Public Interest, Nov. 1996, p. 27.