

Committee on Resources

Full Committee

Witness Statement

Statement of

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before the

House Committee on Resources

Regarding Federal law enforcement and the use of Federal funds

in the Commonwealth of the Northern Mariana Islands

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Mr. Chairman, and members of the Committee on Resources, I am pleased to appear before you today to discuss Federal law enforcement and the use of Federal funds in the Northern Mariana Islands.

The Department of the Interior, itself, does not have Federal law enforcement responsibility with respect to immigration, labor and trade issues in the Commonwealth of the Northern Mariana Islands (CNMI). The Departments of Labor, Justice, and Treasury have law enforcement responsibilities which their witnesses will address. We will all explain why, despite the best efforts at Federal law enforcement, current Federal law is insufficient to correct the continuing inadequacies caused by CNMI immigration and labor policy. It remains the position of the Administration that the need to apply - and phase -- Federal immigration, wage, and trade standards is inescapable.

Initiative Funding

In 1994, the Congress was sufficiently alarmed over the ever-worsening immigration and labor situation in the Commonwealth of the Northern Mariana Islands (CNMI) that it appropriated \$7 million for fiscal years 1995 and 1996 to the Department of the Interior for the Federal-CNMI Initiative on Immigration, Labor, and Law Enforcement. The program was intended to be, and our first two annual reports reflected, a partnership between the Federal government and the CNMI. The goal was two-pronged: aid the CNMI in dealing with the problems the Congress identified, and encourage Federal agencies to commit increased resources to the enforcement of Federal law in the CNMI, where they have authority.

As a result, we embarked on an ambitious Initiative with the CNMI to curb the excesses of the CNMI immigration and labor system, with both CNMI and Federal components. Since the inception of the

Initiative in fiscal year 1995, the CNMI has received \$5 million. The CNMI used these funds for development of a special investigation unit for the Attorney General's office, funding for a non-government protective service agency for alien workers with employment claims, the hiring of additional prosecutors and investigators, the updating of the CNMI criminal and labor codes, and the prototype development of the Labor and Immigration Identification system (LIIDS) database to track and control migrants and labor permit holders. The LIIDS system was intended to be fully integrated for immigration arrival and departure and on-island labor tracking. Despite the expenditure of \$1.5 million, it has never been used for immigration, but is limited to an alien labor picture and identification system.

The Initiative has devoted \$9 million to Federal efforts in the CNMI. Federal officials have used the additional funds to establish a more active presence in the CNMI. This funding has increased law enforcement activities, technical assistance and training by the Wage and Hour Division, Solicitor's Office, Occupational Safety and Health Administration, and the Employment Training Administration in the Department of Labor; the Immigration and Naturalization Service, the Federal Bureau of Investigations, the U.S. Marshals Service the Drug Enforcement Agency, the U.S. Attorney's Office, Civil Rights Division, and the Criminal Division/Child Exploitation and Obscenity Division of the Justice Department; the Secret Service, U.S. Customs Service, and the Bureau of Alcohol, Tobacco and Firearms of the Department of Treasury; and the Diplomatic Security Service of the Department of State. Law enforcement personnel on-island has increased from four law enforcement related personnel in 1994 to 18 in 1999. A number of Federal agencies budget additional funds of their own for CNMI enforcement actions. Attached to my written statement is a more complete description of Initiative activities.

After two-and-a-half years of experience with the program, and increasingly dismal statistics and on-the-scene reports, the Administration, in 1997, concluded that the problem is not a lack of resources and enforcement. The problem is the CNMI immigration and labor system itself, and the lack of will to change it fundamentally.

This realization was reflected in the comprehensive 3rd and 4th annual reports on the Federal-CNMI Initiative on Immigration, Labor, and Law Enforcement, which fully described the problems and outlined a legislative solution. Draft legislation addressing immigration, minimum wage, and trade issues in the CNMI was sent to the Congress on October 6, 1997. The Administration's proposal was introduced as S. 1275, in the 105th Congress, and was reported with amendment by the Senate Committee on Energy and Natural Resources.

The Problem

The Administration arrived at its position due to the unending stream of allegations, administrative determinations, court decisions, and statistics validating the fact that alien workers are routinely mistreated in the CNMI, with severe ramifications for both the Federal government and the people of the Northern Mariana Islands. The Administration's firm position continues because the actions in the CNMI do not bring improved results in either statistics or real world experience.

CNMI Actions

The current CNMI administration has sought to do more than its predecessors to address immigration and labor issues. These actions, characterized by the CNMI as ameliorating the immigration and labor situation in the CNMI, are:

- o health screening for alien workers*
- o moratorium on hiring alien workers*
- o minimum wage review committee*
- o law for new funding for the CNMI deportation fund for workers with awards*
- o required exit for alien workers after 3 years in the CNMI*
- o 6-month limited immunity for self-reported aliens who are out of status*

On the surface, it appears that these CNMI actions are intended to redress the grave consequences of the CNMI's immigration and labor policies. Startling CNMI population growth statistics, however, bring us back to reality: 32,822 non-United States citizens born in Asia were in the Saipan labor force in the first quarter of 1999 -- an increase of nearly 10,000 from the 1995 census and an increase of about 2,000 from the June 1998 survey, 9 months earlier. Violations of the spirit and letter of the moratorium law added to the increases in alien workers during the past year. In 1997, the CNMI House of Representatives, in legislation, found there to be 7,000 illegal and undocumented aliens in the CNMI.

While possibly well-intentioned, these six CNMI actions merely address symptoms. They do not strike at the heart of the problem: (1) the indenture - a contract between a CNMI employer and a poverty-stricken alien worker for his or her labor, and (2) the availability of virtually unlimited numbers of such workers, at a minimum wage, and virtually a maximum wage, of \$3.05 per hour (less for domestic and agricultural workers). Under the indenture, the employee is tied to a specific employer, with most job transfers requiring the permission of the current employer or occurring at the end of the contract. During the year-long indenture or contract, the employer has nearly unfettered sway over the employee, because the suggestion of alternative employment will likely bring retribution, including return to the employee's home country with no means of repaying huge debts owed to recruiters, and a reduction in overtime work, which for some can be lucrative. The employee's poverty in his or her home country, debts stemming from recruiting fees paid for jobs in the CNMI, and extremely low wages paid in the CNMI, usually limit the employees choices to one - continuing to work for the same employer and bearing whatever treatment the employer may mete out.

An increase in enforcement funding and personnel, either CNMI government or Federal government, will not solve this problem. The problem is inherent in the CNMI system, not the fault of law enforcement. The Federal immigration and minimum wage laws that apply in the fifty states, and in prosperous Guam, only 35 miles away, are non-existent for the CNMI.

Mistreatment

The mistreatment and consequences that occurred under the CNMI's immigration and labor system in past years are well-documented in the Administration's 3rd and 4th annual reports. Plentiful, recent illustrations continue to indict the CNMI's immigration and labor system.

- o During the past year, the CNMI reneged on its own moratorium on alien workers: the Governor liberally exercised his executive discretion for granting exceptions, the Legislature by admitting 2,500 aliens as garment workers, and the CNMI Department of Labor and Immigration by giving work permits to thousands of Philippine citizens who came to the CNMI on visitor permits in violation of*

the CNMI-Philippine memorandum of understanding.

o CNMI attempts at fixing the symptoms of the problem often spawn their own sets of problems. Such is the case with the CNMI's limited immunity and illegal alien registration act which gave temporary immunity to undocumented workers who identify themselves and then seek to secure work within the law's 3 month limit. Several personnel or resident managers began charging workers for guaranteed permanent employment. Payments between \$300 and \$1,500 are reported to have been made. With the close of the immunity period on June 1, 1999, many workers who had paid such fees to the managers of several garment factories were informed that they would not only not be processed for one-year contracts, but, in fact, would be terminated upon the expiration of the immunity temporary work permits. The end result, besides losing their money, is that the workers are again out-of-status and illegal due to this scam.

o Last Spring, when some Bangladeshi workers, believing in their constitutional right to petition for redress of their grievances, did so, and were fired by their employers (United International, Inc. and the Saipan Hotel Corporation). They had sought to communicate with the visiting congressional delegation led by Chairman Don Young of the House Resources Committee. An agent of the employers was seen photographing, at close range, those who appeared at a rally in connection with the congressional visit. Generally, in the fifty states, workers are not fired for speaking to a Congressman.

o In February 1999, Micronesian Garment Manufacturers, Inc. (MGM) was cited again by the United States Department of Labor for withholding from employees nearly \$1 million in employee wages. The factory paid nearly \$500,000 for a similar offense in 1998, and was the subject of an injunction in which it was ordered not to withhold wages and ordered not to extort work "off the clock." A separate company was reported this past month for illegally withholding wages, and illegally blacklisting employees with other companies.

o In 1999 three incidents of apparent work place food poisoning affected hundreds of workers. The most recent incident involved more than 1,000 garment factory employees of Tan Holdings who were the victims of food poisoning on March 24, 1999. This most recent food poisoning was the largest in United States history.

o Despite the CNMI's establishment of a minimum wage committee, there has been no increase in the \$3.05 per hour CNMI minimum wage (less for domestic and agricultural workers) since July 1996.

o Last week, the Bangladeshi Embassy complained to the Department of State over the treatment of its citizens working in the CNMI - one of many complaints by different countries seeking to protect their nationals.

Serious Consequences

For the past 15 years, the Reagan, Bush, and Clinton Administrations have expressed serious concerns regarding the overwhelming and increasing CNMI dependence on an immigration and labor system that requires the massive importation of poverty-stricken, low-paid, indentured alien workers. It has harmful effects for the interests of the Federal government, including:

o Loss of jobs for U.S. citizens in the CNMI

- o Legal circumvention of the U.S. textile import quotas by countries that have reached their quota limits
- o Avoidance of over \$200 million annually in U.S. tariffs -- benefitting the overwhelmingly alien-owned CNMI garment companies
- o A concession to the CNMI government of Federal control over the conferring of United States citizenship in the CNMI
- o An exception to the basic Federal immigration principle that aliens admitted on a **temporary** basis may not fill **permanent** jobs
- o Smuggling of aliens from the CNMI to Guam by organized crime syndicates, with some seeking United States asylum
- o Exposure of the mainland United States citizens to tuberculosis through travelers from the CNMI where a large number of aliens carry the disease
- o Embarrassment for the United States in the international community due to complaints from nations whose nationals are mistreated in the CNMI

The CNMI system also harms CNMI interests:

- o 16.1% unemployment in 1999 among locally-born United States citizens -- an increase of nearly 2 percent in 2 years
- o aliens account for 76% of the total working population of the CNMI, and more than 90% of private sector employment while 56% of locally-born United States citizens work for the CNMI government.
- o 35% poverty rate among locally-born United States citizens
- o 32,822 non-United States citizens born in Asia were in the Saipan labor force in the first quarter of 1999 -- an increase of nearly 10,000 from the 1995 census and about 2,000 from the June 1998 survey
- o a tuberculosis rate six times higher than on the United States mainland
- o severe strain on infrastructure (mostly Federally funded) and social services due to unanticipated population growth
- o expansion of organized crime, including extortion, prostitution and smuggling of illegal aliens into nearby Guam
- o inefficient use of a large portion of CNMI government funding and personnel to perpetuate this immigration and labor system.

The Speaker of the CNMI House of Representatives spoke cogently in a Palau conference on development in June 1998. Mr. Benevente said:

In 1996, the CNMI garment industry exported \$554.7 million worth of garments to the United

States. This generated over 27 million dollars of direct revenues for the CNMI government, plus a significant multiplier boost to the local economy.

What this industry has also generated is a culture of disregard for the law and an expectation that corruption is the way to get business done. Garment factories have been implicated in repeated and large scale labor abuse, failure to pay appropriate wages, unsafe working conditions human rights violations, illegal contracts. . . . Personally, I would like to see not only a moratorium but an annual attrition rate placed on the industry.

Administration Legislation

Attrition - gradual and predictable - of alien workers in the CNMI is precisely the aim of Administration-proposed legislation so that businesses can adjust in an orderly fashion. The Administration will be submitting its proposed bill shortly. In large part, it will be the same as the prior Administration submission with provisions applying the Immigration and Nationality Act including a long transition period, applying a phased-in minimum wage, and increasing the use of United States labor and freely associated state citizen labor as requirements for using the "Made in the USA" label and tariff concession. We expect provisions to address the needs of the hotel industry as well. Due to the passage of two years' time since the Administration bill was originally presented, the transition period will be reduced from "up to 10 years" to "up to 8 years."

Letter from Cabinet Members

The Attorney General, the Secretary of the Interior, the Secretary of Labor, and the Secretary of Commerce, in a letter to Congress dated October 6, 1998, which is attached to my written statement, strongly endorses the enactment of Federal legislation as the only viable means for correcting the aberrant immigration and labor system in the Northern Mariana Islands. The position of these cabinet members remains Administration policy today.

Mr. Chairman, I urge this Committee and the House to pass legislation that will permit the effective Federal law enforcement we all seek.

Attachment A

FEDERAL-CNMI INITIATIVE

ON

IMMIGRATION, LABOR, AND LAW ENFORCEMENT

Activities

In 1994, Congress appropriated \$7,000,000 for fiscal year 1995 to address the problems of labor, immigration, and law enforcement in the Commonwealth of the Northern Mariana Islands (CNMI). The Department of the Interior coordinated efforts from the Departments of Justice, Labor, and Treasury to work in partnership with the CNMI to develop a plan to address the problems by establishing the Federal-CNMI Initiative on Labor, Immigration and Law Enforcement.

In the first year of the Initiative, the result of these interagency and intergovernmental efforts was the

allocation of the \$7,000,000 appropriation through direct grants and reimbursable support agreements. CNMI was awarded \$3,000,000, of which \$1,500,000 was used to develop a computerized alien identification and tracking system and \$1,500,000 was used in local immigration and labor projects. The Department of the Interior entered into a several reimbursable support agreement amounting to \$4,000,000 with the Departments of Labor and Justice; U.S. Customs Service; the Bureau of Alcohol, Tobacco, and Firearms; and the U.S. Secret Service to strengthen enforcement of federal laws. The funds were used to hire additional investigative agents, attorneys, marshals, and provide technical law enforcement assistance to the CNMI.

Congress continued to provide additional annual appropriations from fiscal year 1995 to the present with the enactment of Public Law 104-134, which authorizes for the purposes of labor, immigration, and law enforcement in the CNMI a maximum annual \$3,000,000 allocation through fiscal year 2002. The maximum \$3,000,000 was appropriated in fiscal year 1997, \$2,000,000 in fiscal year 1998, \$2,000,000 in fiscal year 1999, and \$2,000,000 is sought in fiscal year 2000. Additional federal agencies have joined the Initiative including the National Labor Relations Board, the Equal Employment Opportunities Commission, the Bureau of Census, the Office of the Inspector General for the Department of the Interior, Center for Disease Control, Immigration Health Services, and the Diplomatic Security Service.

Since the inception of this initiative in fiscal year 1995, the CNMI has received \$5,000,000. The CNMI used its share of the fiscal year 1995 and fiscal year 1997 funds amounting to \$4,000,000 to address specific needs in its government institutions that could otherwise not have been funded in its operational budget. This included development of a special investigation unit for the Attorney General's office, creation of a non-government protective service agency for guest workers, the hiring of additional prosecutors and investigators, and the updating of the CNMI criminal and labor codes. The Labor and Immigration Identification system (LIIDS) database to track and control immigrants and immigration labor permit holders was created by this initiative. Although the system is not yet fully functioning, it is used to issue and track labor permits.

In fiscal year 1999, the CNMI used \$1,000,000: 1) to assist the Department of Public Health with its health screening program (\$320,000); 2) to provide assistance for emergency housing and shelter for alien workers (\$200,000); 3) to continue joint law enforcement efforts by the FBI-CNMI Joint Task Force (\$60,000); 4) to further supplement the Attorney General's Investigative Unit to identify and prosecute corruption relating to alien smuggling, organized and white collar crime, immigration and labor violations (\$245,000); and 5) to enhance the canine unit at the Customs Department to detect drug trafficking, particularly in the arrival and departure of aliens to the CNMI (\$175,000).

Federal officials have used the additional funds to establish a more active presence in the CNMI. This funding has increased law enforcement activities, technical assistance and training by the Wage and Hour Division, Solicitor's Office, Occupational Safety and Health Administration, and the Employment Training Administration in the Department of Labor; the Immigration and Naturalization Service, the Federal Bureau of Investigations, the U.S. Marshals Service the Drug Enforcement Agency, the U.S. Attorney's Office, Civil Rights Division, and the Criminal Division/Child Exploitation and Obscenity Division of the Justice Department; the Secret Service, U.S. Customs Service, and the Bureau of Alcohol, Tobacco and Firearms of the Department of Treasury; and the Diplomatic Security Service of the Department of State.

Law enforcement personnel on-island has increased from four law enforcement related personnel in 1994 (1 Assistant U.S. Attorney, 2 FBI agents, and 1 U.S. Marshal) to 18 in 1999 (3 Assistant U.S. Attorneys, 5 FBI agents, 2 DEA agents, 2 U.S. Marshals, 1 INS officer, 4 Wage and Hour labor investigators, and 1 part-time

DOI Inspector General criminal investigator) . In addition, attorneys from these agencies, the National Labor Relations Board, and the Equal Employment Opportunity Commission have been temporarily assigned on occasion to the CNMI on special detail to litigate and prosecute cases and additional Stateside federal personnel have been utilized. All the federal agencies have provided technical law enforcement assistance to the CNMI, including the National Institute of Corrections has provided specialized expertise to plan for a new correctional facility. The Federal District Court criminal cases, cases filed by the U.S. Attorney, and incarcerations have all increased dramatically since the beginning of this Initiative.

In fiscal year 1998, the Department of Justice increased its base operations budget to assume total financial responsibility for the additional law enforcement personnel in the CNMI. The Department of Labor increased its base operations budget to assume twenty-five percent of its additional presence in the CNMI.

Through the Initiative, the Department of the Interior has provided assistance to the Northern Marianas College to convene an economic development conference. A report is to be written by a steering committee under the direction of the College. The Department has also provided funding assistance to the Bureau of Census and the CNMI Bureau of Statistics to produce population and labor surveys with statistical data. In addition, funding was used to prepare two reports by the Department of the Interior consultant regarding labor, immigration and garment issues in the CNMI in February 1998. The first report, on the living and working conditions of the workers, consisted of hundreds of interviews. It was considered a "sample snapshot" of the situation in the CNMI.⁽¹⁾ The second report, on garment companies and transshipment, compiled by a national expert on transshipment of garments from Asia via Saipan to the United states. While the report did not document the full extent of transshipments through Saipan, it did confirm that specific incidents had occurred in the past. Both reports were turned over to the Department of Justice and Treasury respectively.

Signed letter by Cabinet members attached to hard copy of statement.

1. The consultants who prepared this report were originally retained to assist a Congressional delegation from the U.S. House of Representatives, Committee on Resources, in obtaining first-hand experience. The delegation's fact-finding mission was canceled, the consultants who were already in the area, were asked to compile the information on personal interview and site visits.

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