

(which provides information collection procedures for otherwise-authorized investigations) provide no basis for the GAO inquiry, and that the limited authority of Section 712 (authorizing investigation of use of public money) would provide support for only one of the questions asked, relating to costs. The letter therefore stated that the Office of the Vice President would search for documents responsive to the GAO question regarding the direct and indirect costs of the Group.

On June 21, 2001, the Vice President's counsel sent a letter to GAO forwarding 77 pages of documents responsive to the GAO question regarding the direct and indirect costs of the Group.

On June 22, 2001, GAO sent to the Vice President's counsel a letter claiming to have broad authority to investigate under Sections 712 and 717 of Title 31 and indicating that GAO may issue a "demand letter" under Section 716 of Title 31 that could lead to litigation.

On July 9, 2001, in response to the request of Executive Branch lawyers for an opportunity to meet with the GAO General Counsel to see if a proper accommodation were possible, the meeting occurred, but no proper accommodation was reached.

On July 18, 2001, the Comptroller General issued a letter to the Vice President of the United States demanding documents as follows:

"1. Your counsel identified nine meetings conducted by the National Energy Policy Development Group (NEPDG) in his May 4, 2001, letter to the Chairmen and Ranking Minority Members of the House Committee on Energy and Commerce and the House Committee on Government Reform (hereinafter May 4 letter). We request records providing the names of the attendees for each meeting, their titles, and the office represented.

"2. In the May 4 letter, your counsel indicated that six professional staff, referred to as the group support staff, were assigned to the Office of the Vice President to provide support to the NEPDG. We request records providing their names, titles, the office each individual represented, the date on which each individual began working for such office, and the responsibilities of the group support staff.

"3. In the May 4 letter, your counsel indicated that various members of the group support staff met with many individuals to gather information relevant to the NEPDG work. We request records providing the following information with regard to each of these meetings: (a) the date and location, (b) any person present, including his or her name, title, and office or clients represented, (c) the purpose and agenda, (d) any information presented, (e) minutes or notes, and (f) how members of the NEPDG, group support staff, or others determined who would be invited to the meetings.

"4. We request records providing the following information with regard to any meetings the Vice President as chair of the NEPDG had with individuals to gather information relevant to the NEPDG. (a) the date and location, (b) any person present, including his or her name, title, and office or clients represented, (c) the purpose and agenda, (d) any information presented, (e) minutes or notes, and (f) how the Vice President or others determined who would be invited to the meetings.

"5. We request any records containing information about the direct and indirect costs incurred in the development of the National Energy Policy. To date, we have been given 77 pages of miscellaneous records purporting to relate to these direct and indirect costs. Because the relevance of many of these records is unclear, we continue to request all records responsive to our request, including

any records that clarify the nature and purpose of these costs."

The GAO has also made separate requests for information relating to the Group to various executive departments and agencies and has received responses.

On July 31, 2001, the Comptroller General and the Counsel to the Vice President spoke by telephone regarding the Comptroller General's letter of July 187, 2001 to the Vice President.

On August 1, 2001, the General Counsel of the General Accounting Office and the Counsel to the Vice President spoke by telephone regarding the Comptroller General's letter of July 18, 2001 to the Vice President.

#### APPENDIX TWO: REASONS

With regard to documents not already provided that the Comptroller General has demanded from the Vice President, the reasons for not providing them are as set forth in this appendix. The statutes under which the Comptroller General purports to act, Sections 717, 712, and 716 of Title 31 of the U.S. Code, do not grant the authority he purports to exercise. Moreover, if his misconstruction of the statutes were to prevail, his conduct would unconstitutionally interfere with the functioning of the Executive Branch of our Government.

Section 717 permits the Comptroller General at the request of a House of Congress, a congressional committee of jurisdiction, or on his own initiative to "evaluate the results of a program or activity the Government carries out under existing law." The Comptroller General lacks authority under Section 717 to investigate the President's exercise of his constitutional powers. The National Energy Policy Development Group and its work constitute such an exercise. The Vice President and the other officers of the United States who serve on the Group act not pursuant to statute but instead only in relation to exercise of the President's constitutional authorities, including his authority to "require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices," to "take care that the Laws be faithfully executed," and, with respect to Congress, to "recommend to their Consideration such Measures as he shall judge necessary and expedient." Further, the Comptroller General is not evaluating the "results" of the Group's work; he is attempting to inquire into the process by which the results of the Group's work were reached. Finally, the Comptroller General has not claimed that he is conducting the proposed investigation on his own initiative, and has instead stated that he is conducting it at the request of two Congressional committees, yet no Committee (as distinguished from two individual Members of Congress who serve as the ranking minority members of two committees) has made such a request to the Comptroller General.

Section 712, which permits the Comptroller General to investigate matters related to the "receipt, disbursement, and use of public money," applies if at all only to his question concerning the costs of the Group's work. Documents that pertain to the costs of the Group already have been produced to the Comptroller General as a matter of comity. The narrow authority conferred by Section 712 does not provide a basis for his other questions.

Section 716 allows the Comptroller General to seek to compel production of documents only when he has the requisite need for the documents for a lawful inquiry conducted in accordance with Section 712 or 717. Because Sections 712 and 717 do not provide a basis

for the Comptroller General's inquiries, and because Section 716 is not an independent source of authority to investigate, Section 716 provides no authority to demand or compel production of the Vice Presidential documents demanded. Moreover, the term "agency" as used in Section 716 does not include the Vice President of the United States, who is a constitutional officer of the Government.

If the Comptroller General's misconstruction of the statutes cited above were to prevail, his conduct would unconstitutionally interfere with the functioning of the Executive Branch. For example, due regard for the constitutional separation of powers requires respecting the independence of the President, the Vice President and the President's other senior advisers as they execute the function of developing recommendations for policy and legislation—a core constitutional function of the Executive Branch. Also, preservation of the ability of the Executive Branch to function effectively requires respecting the confidentiality of communications among a President, a Vice President, the President's other senior advisers and others. A President and his senior advisers must be able to work in an atmosphere that respects confidentiality of communications if the President is to get the good, candid advice and other information upon which wise decisionmaking depends. Note that while the Vice President is the President of the Senate, he also has executive duties and responsibilities in support of the President, as the Congress has by law recognized.

#### IN CELEBRATION OF HISPANIC HERITAGE MONTH

Mr. DOMENICI. Mr. President, as we celebrate Hispanic Heritage Month in America, I believe it is utmost in our minds and hearts to remember the horrendous attack on our nation's financial center in New York City, and on the Pentagon, on September 11, 2001. Hispanic Americans I speak with are anxious to support our nation's every effort to rid this world of the incredible evil that carried out such an attack.

Hispanic Americans have answered our country's call to arms in every previous war, and they have distinguished themselves as some of our nation's most heroic fighters. As President George W. Bush recently reminded us, "Hispanic Americans served with heroism in every major American military conflict."

Many of my colleagues might not be aware of the fact that Hispanics in World War II were over-represented among Medal of Honor winners. I would like to remember two of these distinguished medal winners from New Mexico.

Joseph P. Martinez, born in Taos, New Mexico, gave his life for our country during World War II. In the Aleutians, finding himself in snow covered trenches, he chose to advance against the enemy in the face of severe hostile machine gun, rifle, and mortar fire. His example inspired others to advance in this difficult and dangerous climb.

After successfully and personally silencing several enemy trenches, he reached the rim where he was fatally wounded. The U.S. Army recognized Joe Martinez's valor beyond the call of

duty by awarding him the United States Medal of Honor.

In Vietnam, 22-year old U.S. Army Specialist Fourth Class Daniel Fernandez of Albuquerque, New Mexico, sacrificed himself to save four of his comrades. Fernandez vaulted over his wounded sergeant and threw himself on a grenade that was not noticed in time for the men around him to save themselves. This action cost him his life. Fernandez also received the United States Medal of Honor.

There are many more stories about Hispanic Medal of Honor winners. Our nation is proud to have men and women like these in our ranks.

This month, I want Americans to remember Hispanic veterans from World War I, World War II, the Korean War, Vietnam and Desert Storm. I can predict with great confidence that Hispanics in every service will earn more Medals of Honor, Distinguished Service Crosses, and Silver and Bronze Stars for valor in combat.

If these wartime contributions by Hispanics have been and will continue to be remarkable, those made on the homefront through lives invested in communities are equally deserving of our recognition and gratitude. On August 15, President George W. Bush visited Albuquerque for the grand opening of the Hispano Chamber of Commerce's Barelvas Job Opportunity Center, a facility meant to help tear down barriers faced by Hispanics and others in finding employment or starting a new business.

Helping open this business development center, the President drew attention to the spirit of the facility, that of citizens asking what they could do to improve their community, and what they could do to help a neighbor in need. The President accurately and eloquently concluded that this was "the spirit of America, captured right here in Albuquerque, New Mexico."

I believe our President has it right. I am proud that the lives of Hispanic New Mexicans are vital evidence of the spirit of America as they invest themselves in families, schools, businesses, and churches. And New Mexicans recognize that these modern achievements build on a centuries-long legacy of Hispanic history in our state, earning us a peerless role in our nation's diversity.

In New Mexico, we know that Hispanics were on the scene even before the Mayflower set sail. The Hispanic influence in New Mexico shaping our architecture and culture has been significant since the arrival of Spanish explorer Don Juan de Onate near San Juan Pueblo in 1598, 22 years before the landing at Plymouth Rock.

When the national media today talks and writes a lot about the recent "arrival" of Hispanics on our national scene, they're recognizing a talented, spirited people New Mexico has known for a long time.

I have mentioned the opening of the Albuquerque Hispano Chamber of Commerce's Barelvas Job Opportunity Cen-

ter, marking the start of its important work to rebuild the economic viability of a deteriorated neighborhood and increase job opportunity.

I would like to mention other examples of commitment to community around our state, such as the Roswell Hispano Chamber of Commerce of Roswell, New Mexico. This group has been a unifying force in their community's economic development issues, and have long supported the Character Counts program to see that the six pillars of character, Respect, Responsibility, Trustworthiness, Citizenship, Fairness, and Caring, are taught early in the classroom.

On September 24, Mr. I. Martin Mercado, President of Mercado Construction in Albuquerque, received the national Small Business Administration's Minority Small Business Person of the Year Award. The son of Mexican immigrants, Martin is a wonderful illustration of the American dream, and of the important contributions that Hispanic-owned small businesses make to our economy.

Achievements of this kind throughout New Mexico have helped increase the number of minority-owned businesses in our state by more than 50 percent in the last five years. There are now more than 22,000 Hispanic-owned businesses in New Mexico.

As Hispanics gain long-overdue national recognition as a force that cannot, and should not, be ignored, we are reminded of countless stories like those I have mentioned. I believe that there is no better time to work for federal policies that ensure that small businesses, community organizations, and schools have the support they need to make decisions in favor of economic success and strong families. This is the spirit of America.

Finally, I appreciate the opening for a new era in U.S.-Mexico relations as Presidents Bush and Fox work to develop a partnership for prosperity across our shared border. Both nations have much to gain through the implementation of win-win policies on trade, immigration and the war on drugs. As we celebrate New Mexico's and America's Hispanic heritage, I hope we will continue to capitalize on our common ground with Mexico, making the most of new opportunities for trade and cooperation with our neighbor.

New Mexicans regularly enjoy and celebrate the centuries-long influence of Hispanic culture and traditions on our society. This month in which our nation recognizes the special contributions of Hispanic Americans finds our country united as never before to rebuild and defend this great land after a devastating attack. This in mind, there could be no better time to honor Hispanic Americans for valiantly serving the needs of nation and community, defending our freedom, bettering our economy, and building strong families, for this is the spirit of America.

New Mexico's largest newspaper recently rendered a broad tribute to His-

panic Americans. I ask unanimous consent that this September 23 Albuquerque Journal article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Journal, Sept. 23, 2001]

LIST A SOURCE OF PRIDE FOR HISPANICS AND AMERICANS  
(By Dan Herrera)

The national celebration of Hispanic Heritage Month, which for some odd reason runs from Sept. 15 through Oct. 15, has been obscured by the overwhelming shock and sorrow created by the terrorist attacks of Sept. 11.

But Hispanic Heritage Month has never been that big a public spectacle, at least in these parts; instead, as elsewhere, the weekend-long beer-company-promoted Cinco de Mayo celebration has taken center stage among Hispanic-oriented celebrations.

In fact, it's hard to find many special Hispanic Heritage Month events in Albuquerque. Most notable is the free Chautauqua series now under way at the National Hispanic Cultural Center. Its opening performance, Jean Jordan as Queen Isabella, had to be delayed because of the attacks on the East Coast. History buffs can still catch several other shows. Call the center at 246-2261 for more information. I had a long conversation the other day with Ruben Salaz, author of "New Mexico: a Brief Multi-history," about Hispanic Heritage Month. He believes New Mexico could reduce its shamefully high Hispanic student dropout rate by putting a greater emphasis in history classes on our state's long, proud past.

He's got a point. Learning about important figures with names like Juan de Onate, Diego de Vargas and Juan Bautista de Anza, all early governors of the Spanish colony of New Mexico who played especially important roles, alongside names like George Washington, Thomas Jefferson and Abraham Lincoln couldn't hurt. Students also might like learning more about historically important Indians like Pope and Cuerno Verde while they're at it.

New Mexico has always been much more than a stop along the trail ultimately leading to California and Manifest Destiny. But Hispanics also have played important roles in American history outside of New Mexico.

So, in recognition of this special month, here is an assortment of Americans you may not have known about or may not have known were Hispanic. There was a time not too long ago that nobody was counting, after all.

Most of the information was compiled using Salaz's information-packed book and another wonderful book called "Hispanic Firsts: 500 Years of Extraordinary Achievement" by Nicolas Kanellos, which contains a 372-page listing of accomplishments. Both belong in every library in New Mexico.

Joseph Hernandez: In 1822, the Whig party member from Florida became the first Hispanic representative in the U.S. Congress.

Octaviano Larrazolo: A New Mexico Republican, Larrazolo became the first Hispanic U.S. Senator in 1928.

Dennis Chavez: In 1944, the New Mexico senator, a Democrat, introduced the first Fair Employment Practices bill, which prohibited discrimination because of race, creed or national origin. The bill was defeated, but it was an important step toward the 1964 Civil Rights Act.

Bernardo de Galvez: A governor of Louisiana and brigadier general during the Revolutionary War, he fought British forces for

three years along the Gulf of Mexico and captured Mobile and Pensacola in 1781, forcing the British to fight the war on two fronts. Galveston Bay in Texas is named after him.

Jorge Farragut: A Revolutionary War hero who fought at the battle of Savannah and at the second defense of Charleston, he would be outdone by his son, David.

David G. Farragut: He became the first admiral of the U.S. Navy in 1866. As a Union commander during the Civil War, Farragut gained immortality during the victory at Mobile where, after being warned that the bay was filled with mines, said, "Damn the torpedoes! Full speed ahead!" Today, a guided missile destroyer bears his name.

Philip Bazaar: In 1865, he became the first Hispanic American to win the Congressional Medal of Honor.

Marcelino Serna: He was a soldier from Albuquerque who became the first Hispanic to win the Distinguished Service Cross in 1918 after single-handedly capturing 24 German soldiers. He reportedly was not recommended for a Medal of Honor because he was just a buck private and also could not read or write English well enough to sign reports.

Guy Gabaldon: The 1960 movie "Hell to Eternity" is based on this California's heroism in World War II, which led to the surrender of 2,000 Japanese soldiers on Saipan Island.

Luis Walter Alvarez: Alvarez was one of the most distinguished physicists in U.S. history. A member of the Manhattan Project, he is credited with the development of the triggering device for the first plutonium bomb. He flew in a B-29 following the Enola Gay to observe the atomic bomb explosion over Hiroshima. Among his many awards are the Nobel Prize and the National Medal of Science.

George Santayana: The poet-philosopher in 1889 became the first Hispanic writer to receive a Ph.D. from Harvard. In 1927 he became the first U.S. Hispanic to be awarded the Gold Medal from the Royal Society of Literature in London.

Lucrezia Bori: She made her debut at the Metropolitan Opera in New York in 1912 and became an operatic diva. She led the effort credited with saving the Met during the Depression.

Esteban Bellan: In 1871, Bellan became the first Hispanic professional baseball player in the United States. He was a black Cuban. Around the turn of the 20th century, when blacks were no longer allowed to play in the majors, teams often had to prove the "racial purity" of Hispanic players. Hispanics from Vernon "Lefty" Gomez, to Juan Marichal, to Rod Carew, to Sammy Sosa have long played star roles in professional baseball.

Jim Plunkett: Of German, Irish and Mexican descent, Plunkett was the first Hispanic Heisman Trophy winner and the first to start as quarterback in the National Football League.

Desi Arnaz: The first Hispanic television star and a network broadcast pioneer, along with his wife Lucille Ball, created one of the most popular series of all times: "I Love Lucy."

The entertainment industry is packed with stars who either had names that were not Spanish or changed their names to mask their heritage during times of prejudice. Some are Raquel Welch, Rita Hayworth, Anthony Quinn, Joan Baez, Linda Ronstadt, Vicki Carr, Richie Valens, Mariah Carey and Freddy Fender. I had one friend, a Deadhead, who never realized that Jerry Garcia of the Grateful Dead was Hispanic until I told him.

The list could go on and on, but you get the picture.

One thing to remember, though: While it may be Hispanic Heritage Month, that heritage is being celebrated by Americans.

## RECOGNITION OF THE GOVERNMENT OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. SMITH of New Hampshire. Mr. President, the evil acts perpetrated on September 11, which took thousands of innocent lives in New York, Washington, D.C. and Pennsylvania, have brought out the best and worst in man. In the days following the terrorist attacks on the United States, Americans gained a clearer picture of who our friends were by their sincere words and by their actions. In particular, I applaud the Government of the Republic of China on Taiwan which quickly offered its assistance, support, and strong condemnation of terrorism.

Recently, I learned that the Republic of China on Taiwan has canceled here in the United States what should have been a great day of celebration for the Taiwanese people living in this country. The Republic of China's National Day was to have been held today, October 10, in order to honor and remember those who perished in the September 11 attacks. I am touched by the Republic of China's actions and their sympathy for the victims.

Despite continual attempts by the People's Republic of China politically and militarily to threaten the Republic of China on Taiwan, that island nation has remained committed to democracy and has matured into a prosperous nation. On Taiwan's National Day, I believe Taiwan needs a greater international presence, and I support that island nation's desire to share its resources and ideas. This can only be done through Taiwan's inclusion into international organizations. As we struggle to recover from the catastrophic events of September 11, 2001, let us always be mindful of who America's true allies and friends are.

## HONORING DEFENSE INTELLIGENCE AGENCY EMPLOYEES WHO LOST THEIR LIVES

Mr. WARNER. Mr. President, I rise today to honor the memory of seven employees of the Defense Intelligence Agency who lost their lives in the horrific terrorist attacks that befell our Nation on the morning of September 11, 2001, and to pay tribute to the duty and sacrifice these citizens have rendered in service to their country. Today, Vice Admiral Thomas R. Wilson, Director, Defense Intelligence Agency, will preside over a memorial service at Bolling Air Force Base for these innocent victims of terrorism. As part of the ceremony, the names of these brave citizens will be added to DIA's Patriots Memorial at the Defense Intelligence Analysis Center at Bolling, joining other members of DIA who were killed in service to their Nation.

As I read the biographies of these fellow countrymen, I was struck by the picture they paint of our great Nation, young and old, ethnically diverse, two

veterans, family men and women. They represent the very fabric of America and embody the American values of opportunity and freedom. They also represent the finest traditions of selfless service to family, community, and Nation to which we all aspire. We mourn with their families.

I now call the roll of those seven citizens, members of the Defense Intelligence Agency, who died, in service to their Nation at the Pentagon on September 11, 2001: Rosa Marie Chapa of Springfield, VA; Sondra N. Foster of Clinton, MD; Robert J. Hymel of Woodbridge, VA; Shelley A. Marshall of Marbury, MD; Patricia E. Michley of Springfield, VA; Charles E. Sabin of Burke, VA; and Karl W. Teepe of Centreville, VA.

Rosa M. Chapa served as a Senior Management Officer in the Office of the Comptroller, Deputy Comptroller for Force Structure and Management. Ms. Chapa began her civilian career with DIA on November 23, 1997 and served with the Federal Government for over 30 years. Ms. Chapa was responsible for ensuring that critical manpower information flowed smoothly to automated management systems. Ms. Chapa is survived by her husband, Jose Chapa, and five children, Roger, John, Elza, Gracie, and Julie.

Sandra N. Foster served as a Senior Management Officer in the Office of the Comptroller, Deputy Comptroller for Force Structure and Management. Ms. Foster began her civilian career with DIA on August 27, 1978. Ms. Foster was responsible for conducting analysis and evaluations of the manpower and functional implications of plans and programs, and developing and executing complex resource management activities. Ms. Foster is survived by her husband, Kenneth Foster.

Robert J. Hymel served as a Senior Management Officer in the Office of the Comptroller, Deputy Comptroller for Force Structure and Management. Mr. Hymel began his civilian career with DIA on March 7, 1994 after retiring from the Air Force with over 23 years of active duty service. Mr. Hymel was responsible for DIA joint manpower issues that focused on military human intelligence management and organization. Mr. Hymel is survived by his wife, Pat Hymel and daughter, Natalie Connors.

Shelley A. Marshall served as a Senior Management Officer in the Office of the Comptroller, Deputy Comptroller for Force Structure and Management. Ms. Marshall began her civilian career with DIA on June 6, 1987. Ms. Marshall was responsible for budget formulation, budget execution, and preparing agency budget plans. Ms. Marshall is survived by her husband, Donn E. Marshall, and two children, Drake and Chandler.

Patricia A. Mickley served as a Senior Financial Resources Manager in the Office of the Comptroller, Deputy Comptroller for Program and Budget. Ms. Mickley began her civilian career