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**Civil Air Patrol**  
**Board of Governors Meeting Minutes**  
1 December 2004  
Washington DC

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**MEMBERS PRESENT**

**Chairman, Civil Air Patrol Board of Governors**  
Colonel Robert C. Bess, CAP

**Vice Chairman, Civil Air Patrol Board of Governors**  
Lieutenant General Nicholas B. Kehoe, USAF (Ret)

**Members**

Brigadier General Paul M. Bergman, CAP  
Member-at-Large

Mister Michael L. Dominguez  
Assistant Secretary of the Air Force

Lieutenant General Ronald E. Keys, USAF  
Deputy Chief of Staff, Air & Space Operations

Rear Admiral David R. Nicholson, USCG (Ret)  
Department of Homeland Security

Brigadier General Tony J. Pineda, CAP  
Civil Air Patrol National Vice Commander

Lieutenant General John F. Regni, USAF  
Commander, Air University

Lieutenant General Charles Searock, USAF (Ret)  
General Aviation & Technology Consultant

Major General Dwight H. Wheless, CAP  
Civil Air Patrol National Commander

Mister Bruce N. Whitman, President  
FlightSafety International Incorporated

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**Schedule**

CALL TO ORDER  
Colonel Robert C. Bess, CAP

PLEDGE OF ALLEGIANCE  
Lieutenant General Nicholas B. Kehoe, USAF (Ret)

ROLL CALL  
Mr. Al Allenback

RECOGNITION OF NEW MEMBERS AND VISITORS  
OPENING REMARKS  
Colonel Robert C. Bess, CAP

CIVIL AIR PATROL BOARD OF GOVERNORS AGENDA

CLOSING REMARKS  
ADJOURNMENT  
Colonel Robert C. Bess, CAP

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**Table of Contents**

1.	Approval of previous minutes -----Col Bess-----	5
2.	Election of BoG Chairman and Vice Chairman -----Col Bess-----	6
3.	National Commander's Report -----Maj Gen Wheless -----	9
	a. Update on CAP activities -----	9
	b. Items referred by the Aug 04 National Board & Nov 04 NEC -----	10
	1. FY06 Appropriated Budget -----	10
	2. Civil Air Patrol Foundation -----	10
	3. Civil Air Patrol Member-at-Large -----	11
4.	Audit Committee Report -----Mr. Dominguez -----	13
5.	Status of CAP Initiatives -----Mr. Dominguez -----	17
6.	Report on Nevada Wing Fraud -----Col Charles -----	20
7.	Executive Director's Update -----Mr. Allenback -----	21
	a. Financial	
	1. FY04 Execution Report -----	21
	2. FY05 Year to Date -----	21
	3. FY07 POM -----	21
	4. Line of Credit -----	21
	5. Investments -----	22
	b. Litigation Status -----	22
8.	Membership Action Review Board Update & -----Col Bess----- Membership Confirmation	32
9.	Other Business -----Col Bess-----	34
10.	Next Meeting -----Col Bess-----	35

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**Civil Air Patrol**  
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1 December 2004  
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**Appendix**

1.	APPENDIX A-----Chairman & Vice Chairman Election Procedures-----	37
2.	APPENDIX B-----CAP Foundation – Proposed Bylaws & Articles of Incorporation-----	39
3.	APPENDIX C-----Status of CAP Initiatives -----	45
4.	APPENDIX D-----USAF/XOH-SA Briefing -----	58
5.	APPENDIX E-----Membership Action Review Board Report-----	69

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**Agenda Item: 1**

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**Approval of Previous Minutes**

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**Background**

The BoG met last on 1 June 2004 in Washington DC.

**BoG Action**

**LT GEN KEHOE, USAF (Ret), moved and LT GEN KEYS, USAF, seconded a motion that the BoG approve the minutes of the previous meeting, as published.**

**THE MOTION CARRIED UNANIMOUSLY.**

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**Agenda Item: 2**

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**Election of BoG Chairman & Vice Chairman**

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**Background**

The term of Chairman Col Robert Bess, CAP and Vice Chairman Lt Gen Kehoe, USAF (Ret) end 26 February 2005. The office of the chairman is required to be filled on a rotating basis between CAP appointed members and those appointed by the Secretary of the Air Force. Therefore, the next chairman shall be elected from the four members appointed by the Secretary of the Air Force and the vice chairman shall be elected from four members selected by Civil Air Patrol, in accordance with the procedures in **Appendix A.**

**BoG Action****Election of the Chairman**

COL BESS, CAP, announced that the eligible members are: Mr. Dominguez; Lt Gen Regni, USAF; Lt Gen Kehoe, USAF (Ret); and Lt Gen Keys, USAF.

**LT GEN KEHOE, USAF (Ret) nominated Mr. Michael L. Dominguez** with an endorsement that Mr. Dominguez understands Civil Air Patrol and the role of the Board of Governors. Additionally, Gen Kehoe stressed that, because of the position Mr. Dominguez holds, he is in a better situation to create or help facilitate a dialogue with the Air Force at a very high level, which has already been shown in several instances. He added that Mr. Dominguez has moved forward the audit process and the fiduciary responsibility of the BoG, has demonstrated favorable personal characteristics, and has shown great leadership.

**MR. WHITMAN seconded the nomination of Mr. Dominguez.** He stated that he had served with Mr. Dominguez on the audit committee where he did an outstanding job as chairman, and agreed with all the qualifications already expressed.

**MR. DOMINGUEZ nominated Lt Gen Kehoe, USAF (Ret)** with an endorsement that Gen Kehoe has experience in the job and has shown an enormous amount of dedication to Civil Air Patrol and great leadership. Mr. Dominguez stated that there would be risk in electing him as chairman, since he serves in his current position at the pleasure of the President, and Gen Kehoe does not.

**MAJ GEN WHELESS, CAP, seconded the nomination of Lt Gen Kehoe.**

**MAJ GEN WHELESS, CAP, moved and MR. DOMINGUEZ seconded a motion that the nominations be closed.**

**THE MOTION TO CLOSE NOMINATIONS CARRIED UNANIMOUSLY.**

MR. DOMINGUEZ stated that he appreciated the honor of being nominated and if the board desires, he will serve as its chairman. However, he stated the board should weigh these facts: (1) he is a political appointee with uncertain tenure, and (2) with the demands of serving on the audit committee, especially as its chairman, he would not have the time to do both jobs. Therefore, if elected chairman of the BoG, he would resign from the audit committee.

MAJ GEN WHELESS, CAP, explained that in seconding the nomination of Gen Kehoe, he did not know what Mr. Dominguez's position would be because of his political appointment status. Gen Wheless added that, while Gen Kehoe did a great job as the board's first chairman, he strongly urges the board to vote for Mr. Dominguez.

**BY MAJORITY VOTE, MR. MICHAEL L. DOMINGUEZ WAS ELECTED CHAIRMAN OF THE BOARD OF GOVERNORS (effective 27 Feb 05).****Election of the Vice Chairman**

COL BESS, CAP, announced that the eligible members are: Maj Gen Wheless, CAP; Maj Gen Bowling, CAP; Brig Gen Bergman, CAP; and Brig Gen Pineda, CAP.

**LT GEN KEHOE, USAF (Ret) nominated Maj Gen Wheless, CAP** with a statement that it would send a good signal to Civil Air Patrol to have their primary volunteer leader, Gen Wheless, in this position. The synergy between him and the elected chairman of the board at the Air Force level would be enhanced by the vice chairman position being filled by the CAP commander. Electing Gen Wheless would create a team that guides the Board of Governors that consists of a very capable Air Force leader and the person designated as the leader of the Civil Air Patrol.

**RADM NICHOLSON, USCG (Ret) seconded the nomination of MG Wheless, CAP.**

NOTE: There was clarification that the name of Maj Gen Bowling, CAP, is on the list of eligible nominees because the Civil Air Patrol National Executive Committee elected him as a member-at-large on the BoG, replacing Col Bess whose 4-year term expires on 26 February 2005. There was also clarification that Col Bess' tenure as a member and as chairman coincide and both expire on the same date.

**MAJ GEN WHELESS, CAP, moved and BRIG GEN PINEDA, CAP, seconded a motion that the privilege of the floor be granted to Maj Gen Bowling, CAP.**

**THE MOTION CARRIED UNANIMOUSLY.**

MAJ GEN BOWLING, CAP, respectfully requested that his name be removed from consideration since he has previously served as vice chairman.

**MAJ GEN WHELESS, CAP, nominated Brig Gen Paul Bergman, CAP.**

**MR. DOMINGUEZ seconded the nomination of Brig Gen Bergman, CAP**

**MAJ GEN WHELESS, CAP, moved and REAR ADMIRAL NICHOLSON, USCG (Ret) seconded a motion that the nominations be closed.**

**THE MOTION TO CLOSE NOMINATIONS CARRIED UNANIMOUSLY.**

MAJ GEN WHELESS, CAP, stated that he made the nomination of Brig Gen Bergman, CAP, not only because he is a strong candidate but also has a great business background and would make an excellent vice chairman. Also, he wanted board members to have a choice in case there is a question of a perceived conflict of interest in his serving as both CAP national commander and vice chairman of the BoG. He personally does not feel there would be a conflict.

There was clarification that comments made in an earlier meeting pertained to a perceived conflict of interest with the CAP national commander serving also as chairman of the BoG (not as vice chairman), but more so because of the evolving practice in corporate industry to have a separate chairman and president or CEO. Also, if Mr. Dominguez leaves his current office and is replaced on the BoG, Gen Wheless, if elected as vice chairman, would serve as chairman until the board elects a new chairman of the BoG from the Air Force representatives. Between meetings, the election of a new chairman could be handled by fax vote.

**BY MAJORITY VOTE, MAJ GEN DWIGHT H. WHELESS, CAP, WAS ELECTED VICE CHAIRMAN OF THE BOARD OF GOVERNORS (effective 27 Feb 05)**

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**Agenda Item: 3**

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**CAP National Commander's Report**

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**Background**

Maj Gen Dwight Wheless, CAP, discussed the following Civil Air Patrol issues, plus other items of interest since the last meeting of the Board of Governors

- a. Update on CAP activities
- b. Items referred to the BoG by CAP's August 2004 National Board Meeting and the November 2004 National Executive Committee Meeting.
  1. FY06 Appropriated Budget
  2. CAP Foundation
  3. CAP Member-at-Large

**BoG Action**

MAJ GEN DWIGHT WHELESS, CAP, read part of a letter from Maj Gen McKinley, Commander, 1<sup>st</sup> Air Force, written to CAP-USAF, dated 27 September 2004, and quoted: "We believe the Air Force Auxiliary is the most under-valued United States Air Force capability in the homeland security arena. Our 1<sup>st</sup> Air Force goal is to ensure the United States Air Force efficiently promotes and receives proper credit for Air Force Auxiliary contributions. We believe it is bound to make 1<sup>st</sup> Air Force and Civil Air Patrol permanent partners in homeland security. . . ."

MAJ GEN DWIGHT WHELESS, CAP, discussed the following Civil Air Patrol issues, plus other items of interest since the last meeting of the Board of Governors:

- A. Update on CAP activities
- B. Items referred to the BoG by CAP's August 2004 National Board Meeting and the November 2004 National Executive Committee Meeting.
  1. FY06 Appropriated Budget
  2. CAP Foundation – **Appendix B**
  3. CAP Member-at-Large

**Action:****A. Update on CAP activities**

No action required.

**B. Items referred to the BoG by CAP's August 2004 National Board Meeting and the November 2004 National Executive Committee Meeting.**

## 1. FY06 Appropriated Budget

MR. ALLENBACK/EX presented this portion of the National Commander's Update and explained the increased budget items and downward adjustments.

There was discussion about the ability to use training funds for emergency disasters. There was also a question about the ability to request a modification to the Cooperative Agreement as well as funds coming down from 1<sup>st</sup> Air Force.

MR. DOMINGUEZ stated that the Secretary of the Air Force has directed money be added to the Civil Air Patrol FY06 Cooperative Agreement to enable the hiring of 50 wing administrators.

**BRIG GEN PINEDA, CAP, moved and LT GEN KEYS, USAF, seconded a motion that the BoG approve the FY06 appropriated budget.**

**THE MOTION CARRIED UNANIMOUSLY**

## 2. CAP Foundation

MAJ GEN WHELESS, CAP, reminded the board members that the matter of a CAP Foundation was discussed at a prior meeting (June 2004). The BoG endorsed the idea of pursuing the establishment of a CAP Foundation but wanted an opportunity to review the Articles of Incorporation and Bylaws before filing. The National Executive Committee has also endorsed the idea of pursuing a CAP Foundation.

MR. LEIBOWITZ, HQ CAP/GC presented a slide briefing and stated that a copy of the proposed Articles of Incorporation and Bylaws were attached. He outlined the benefits of establishing a foundation and stated that the purpose of a foundation would be to promote and support CAP and its missions.

There was a lengthy discussion on how a foundation would be managed and the following questions or comments were expressed: (1) Would the foundation truly be independent? (2) Would there be any liability of BoG members? (3) How would a foundation impact the BoG? (4) What would be the role and responsibilities of BoG members? (5) Should there be oversight over the foundation by the BoG? (6) What would be the relationship between the foundation as it relates to CAP and the BoG? (7) The mission statement is generally too broad with no specific definition of how funds would be used. (8) There is no specificity in tying down compensation for foundation board members. (9) Are CAP members defined as CAP volunteers or could members of the BoG be construed under the law as CAP members for control of this separate entity?

The consensus of the BoG was that not enough information had been provided in order for them to approve this recommendation.

MAJ GEN WHELESS, CAP, stated that CAP would take these concerns back to the headquarters, rework the package, and send it to BoG members to allow ample time for them to look at it prior to the next meeting.

COL CHAVEZ, CAP, National Legal Officer offered an opinion that the proposed foundation, keying on two bodies of law—federal tax code and state non-profit corporation laws —answer a lot of the questions that have been raised. He stated that he believed a narrative response is needed more than a redraft of the bylaws and he has offered to help HQ CAP/GC work this issue.

FOLLOW-ON ACTION. More information provided for the establishment of a foundation, and inclusion in the Jun 05 BoG agenda.

**3. CAP Member-at-Large**

MAJ GEN WHELESS, CAP, announced, for the record, that the new CAP member-at-large selectee to the Board of Governors is Maj Gen Rick Bowling, CAP, the past CAP National Commander. Gen Bowling will replace Col Bess as a Civil Air Patrol member-at-large at the expiration of his 4-year term on 26 February 2005.

TALKING PAPER

ON

FY06 APPROPRIATED BUDGET

- Anticipated appropriated budget (O & M): \$22,726,000.00
- Comparison to FY05
  - Downward adjustments
    - NHQ salaries/benefits stay at FY05 levels
    - NHQ travel budget reduced to FY04 levels
  - Increased budget items
    - Satellite phone service grows from 41 to 52 phones (\$90/month per phone)
    - CD mission costs: + 31% due to anticipated higher mission demands & higher fuel costs
    - Operational mission costs: + 14% due to higher fuel costs
    - Life support certification costs: + 33% due to increased requirements
    - GPS database updates: + \$192,000 in fees

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**Agenda Item: 4**

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**Audit Committee Report**

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**Background**

Mr. Dominguez, chairman of the audit committee, provided an update on the activities and findings of the BoG Audit Committee.

**BoG Action**

MR. DOMINGUEZ gave a report of the audit committee meeting, 1 Dec 04, held prior to the BoG meeting. He expressed appreciation to Mr. Allenback and the National Headquarters staff and stated they had received superb support from the independent auditors.

MR. DOMINGUEZ stated that the financial audits and single audits that are required by the OMB Circular for 2002 and 2003 are completed and financial reporting is now on schedule for the first time. That is great progress and a huge step forward, a tribute to the hard work by Mr. Allenback and his staff and the CFO, Susan Easter, and her staff. The audit of FY04, which ended 30 Sep 04, should be completed on schedule in April 2005 for review and approval at the Jun 05 BoG meeting. There have been a lot of improvements from the 2002 and 2003 audits, and the corrective actions that were identified by the auditors and brought to management attention were universally agreed to by management.

MR. DOMINGUEZ added that the National Commander, Executive Director, and CFO are implementing additional plans to ensure that financial controls are in place and more importantly to have high quality financial information available to the CAP leadership. Also, computers are being distributed down to the squadron level. Adoption of a standard commercial off-the-shelf software package for accounting and financial management is being sent down to wing level. Identification of squadron financial officers is being compiled so that they can be trained and appropriate assistance provided.

MR. DOMINGUEZ reported on the Turtle Mountain issue. There was a significant write-off of capital equipment at a cost of \$.5M. During FY01 end of year spending, there was a rapid generation of a requirement to modernize a point-to-point imagery capability in CAP. The vendor provided what CAP asked for, but what CAP asked for and the process it used to go through resulted in the acquisition of assets that were not suitable for the mission. There is a subsequent problem with a couple of the items missing and the Civil Air Patrol has reimbursed the Air Force for those items. There was a significant breakdown in internal controls and processes, all of which have been remedied. It was an unfortunate incident, but that resulted in lessons learned and positive corrective actions implemented.

MR. DOMINGUEZ stated that financial training for wing commanders continues apace. There are major initiatives on-going in this endeavor.

MR. DOMINGUEZ referenced his earlier comments about wing administrators and reiterated that the wing administrators will play a key role in internal management controls, financial accountability, and will provide continuity in operations and safety. The Secretary of the Air Force has approved funding for the wing administrators for FY06, and will evaluate at his FY05 mid-year review whether any of those positions could be funded in FY05. In the opinion of the audit committee, that action is a significant contribution to internal management controls, financial accountability, and financial management improvement. The audit committee asked for review of the specifications and requirements of the job, the position descriptions, and the salary. We asked for that information not only to be able to provide input, advice, and counsel to the Executive Director and CFO, but also to ensure that it achieves what is needed. The wing administrators are going to be key assets in supporting the wing command and staff in the full spectrum of their responsibilities, including operational roles and safety roles.

MR. DOMINGUEZ stated that an ethics policy is being developed by CAP National Headquarters for CAP officers. It was earlier called a "fraud" policy, which has a negative connotation, so it was changed to an ethics policy. Mr. Whitman has examples of different organizational ethics policies, which he will share with the Executive Director to help inform and guide the National Headquarters. When developed, the BoG will review the ethics policy after approval by the National Executive Committee.

MR. DOMINGUEZ reported an update from the Inspector General on the Nevada fraud case, reporting that the perpetrator has been sentenced. That event triggered significant activity and improvements in the financial management and control process across Civil Air Patrol. The wing commander is probably the most important corporate officer for financial accountability, cadet safety, flight safety, and flight operations. Because the wing commander is a volunteer, the CAP regulation specifies only suggestions for the skills, abilities, knowledge, and experience the wing commander needs. The suggestions need to be balanced with what the National Commander and National Headquarters have done in terms of including them in a training program. The Audit Committee recommends that the National Commander review the qualifications for command, the process for selection for these critical corporate officers—the preparation, training, and timing thereof—and present to the Board of Governors at the next BoG. He pointed out that the National Headquarters has implemented a new compliance inspection process, which is working well. At this time, 19 wings have been identified with potential problems in their quarterly audits, an indication that they need help in tightening up financial controls and compliance with regulations and procedures. The Nevada case also raised the question of whether CAP has adequate insurance. There was a \$278,000 loss and CAP was only insured for \$25,000. Because appropriated funds were involved, there was also a requirement for reimbursement to the Air Force. The Audit Committee asked the CFO to reexamine the level of insurance coverage and costs with a report back to the Audit Committee.

MR. DOMINGUEZ provided an update on the depreciation of aircraft. The Audit Committee approved a change in the depreciation schedule from 10 year to 20 years, which is in line with the current plan for replacement of CAP aircraft. The practical effect of this action is to reduce the non-cash expenses on the income statements every year.

MR. DOMINGUEZ noted that the completed 2002 and 2003 financial statements and single audits contain qualified opinions, meaning that there continue to be material weaknesses. He added that the FY04 audit also will contain material weakness. The CAP leadership has taken action to address these material weaknesses. He reported that the committee has implemented a 3 phase plan to attack the remaining qualification, which exists because units below wing level are not audited. Phase I (hire a staff person and gather the data) and Phase II (develop options for BoG consideration), were earlier approved by the BoG. Phase I is now in process. Phase II will be presented before a decision on Phase III is made. The Audit Committee recommended approval of the 2002 and 2003 financial statements and single audits.

MR. DOMINGUEZ stated that in closed session the Audit Committee also approved a request to solicit for an independent auditor. The current contract is expiring and it will be re-competed. The selection for a 3-year contract with a 2-year extension option. The committee also approved the audit of certain financial system modules. Those systems require an audit to verify that they comply with the requirements of DoDGARs.

MR. DOMINGUEZ reported that, in order to comply with DoDGARs, the Aircraft Procurement Account (APA) had to be liquidated. As a result CAP has to finance major purchases until reimbursement is received.

The long-term correction is to work with the Grants officer to obtain advance funding.

MR. DOMINGUEZ closed with the statement that he would resign from the Audit Committee, effective 27 Feb 05. He re-capped the following actions at this meeting:

1. Request that the National Commander report to the Jun 05 BoG on selection of wing commanders.
2. Recommended approval of 2002 and 2003 financial and audit reports.
3. Suggest that BoG appoint a replacement audit committee member from the Secretary of the Air Force-appointed members, effective 27 Feb 05, and the audit committee select a new chairperson.

***LT GEN KEHOE, USAF (Ret) moved and LT GEN SEAROCK, USAF (Ret) seconded a motion that the BoG task the National Commander to assess the selection process for wing commanders and report back to the board.***

### **THE MOTION CARRIED UNANIMOUSLY.**

FOLLOW-ON ACTION: National Commander action and report at the Jun 05 BoG meeting.

**LT GEN KEHOE, USAF (Ret) moved and LT GEN SEAROCK, USAF (Ret) seconded a motion that the BoG approve the Financial Statements of the independent auditor for the periods ending September 30, 2002 and September 30, 2003.**

**THE MOTION CARRIED UNANIMOUSLY.**

**LT GEN KEHOE, USAF (Ret) moved and LT GEN SEAROCK, USAF (Ret) seconded a motion that the BoG receive the Single Audit Reports of the independent auditor for the periods ending September 30, 2002 and September 30, 2003.**

**THE MOTION CARRIED UNANIMOUSLY.**

**LT GEN KEHOE, USAF (Ret) moved and BRIG GEN BERGMAN, CAP, seconded a motion that the BoG appoint Lt Gen Kehoe, USAF (Ret) (who volunteered) to serve as the Air Force member of the audit committee, effective 27 Feb 05.**

**THE MOTION CARRIED UNANIMOUSLY.**

NOTE: Following the audit committee report, Lt Gen Regni, USAF, stated that Air University will make its schools available to CAP to provide education and training, including ethics training, to the wing commanders and wing administrators.

FOLLOW-ON ACTION: National Commander and National Headquarters follow-up.

OTHER FOLLOW-ON ACTIONS:

1. Audit Committee review of the specifications and requirements of the job of wing administrators, the position descriptions, and the salary.
2. The CFO was asked to reexamine the level of insurance coverage and costs with a report back to the Audit Committee.
3. The BoG will review the ethics policy after approval by the National Executive Committee.
4. In reference to the unit below wing problem, Phase II (develop options for BoG consideration) will be presented, hopefully by Jun 05, before a decision on Phase III is made.

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**Agenda Item: 5**

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**Status of CAP Initiatives**

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**Background**

Mr. Dominguez, SAF/MR, reported on the Secretary of the Air Force's response to initiatives forwarded to him by the Col Bess, Chairman of the BoG. See **Appendix C** for the CAP Initiatives.

**BoG Action**

MR. DOMINGUEZ asked that Col Sciss, USAF/XOH-SA brief this item. He stated that Col Sciss had been instrumental in moving these initiatives forward, along with the help of CAP-USAF, and expressed appreciation for these efforts. He added that the Secretary of the Air Force appreciated the communication from the Board of Governors.

COL SCISS, USAF/XOH-SA briefed this item (**Appendix D**). He briefed the 12 CAP initiatives, which he classified as:

**Critical:**

2. Proposed Legislation - Making CAP the Resource of Choice
3. FAA Exemptions - FAA Meeting
4. Problems with AFI 65-601, Vol. 1, *Budget Guidance and Procedures*
7. Wing Administrators for Every Wing
10. Location of CAP-USAF in the Air Force Structure

**Routine:**

1. FECA/FTCA Coverage - Corporate Insurance Crisis
5. Civil Air Patrol Glider Program
6. Program Narrative
8. National Operations Center Funding
12. Air Force Approval of CAP's Concept of Employment

**Closed:**

9. Stabilized Funding for the Civil Air Patrol
11. Regulations Promulgated IAW 10 USC 9448

**Discussion: Critical**

2. Proposed Legislation: Col Sciss stated that the Air Force feels that the current legislation is adequate and that CAP can effectively perform its Air Force mission under the current legislation. The Air Force process for mission approval through the 1<sup>st</sup> Air Force should be codified by Jun 05.
3. FAA Exemptions: Col Sciss clarified that CAP & XOS-HA are working with the FAA to obtain further written interpretations and guidance.
4. Problems with AFI 65-601, Vol 1: An interim change is being written to update this regulation, which was written before CAP went under the Cooperative Agreement. Col Sciss agreed that CAP/CAP-USAF will have input in the process.
7. Wing Administrators: The funding for the wing administrators has been included for FY06 with a possibility of some funds at the mid year FY05 review.
10. Location of Civil Air Patrol-USAF in the Air Force Structure: Col Sciss briefed that AETC has studied the question and recommended no change. XOS-HA is working with a consultant to evaluate whether CAP would be better positioned in ACC or some other command. Lt Gen Keys commented that the original missions of Civil Air Patrol were search and rescue, a cadet program, and aerospace education, but CAP is getting more involved in the Air Force homeland defense mission. He stated that there are operational missions that Civil Air Patrol will do, but there is a point beyond which CAP just cannot do them as an auxiliary. Gen Keys reminded that the more Civil Air Patrol becomes involved, the more visible it becomes.

**Discussion: Routine**

1. FECA/FTCA Coverage – Corporate insurance crisis: Mr. Dominguez asked if there were subjective policy issues that could be reviewed or that could be waived or interpreted differently. Col Sciss replied that the Glider Program was previously considered an Air Force assigned mission but, on close legal review, was determined not to be eligible for that status. This, and certain other missions are therefore no longer covered by FECA and FTCA, and the additional corporate exposure has caused a major increase in insurance premiums. Mr. Dominguez added that he felt it important for Gen Keys and Gen Regni to understand the policy issues in A, B, and C mission status and verify that withdrawing Air Force assigned mission status was, in fact, the right determination from the big picture Air Force perspective. He added that if the cost and consequences cause the Air Force appropriated funding to go up, then that needs to be welded to the decision.
5. Civil Air Patrol Glider Program: Lt Gen Keys stated that he is not comfortable with the legal determination that CAP cadet glider orientation flights are not Air Force assigned missions because it is an operational call. He stated that a legal opinion is an interpretation of the law, not an operational assessment. Lt Gen Kehoe agreed and commented that the legal opinion should have been sent to the appropriate commander who could accept it or reject it. He added there is a lot of judgment associated with the determination of what is an Air Force mission because you can look at it in a narrow

sense or a broad sense. Lt Gen Keys stated that if it is an opinion—and not a black or white question of legality—in his opinion the glider program is consistent because it leads people into flying or the USAF Academy. That is one of the three things that Civil Air Patrol does and he has been emphasizing the need to take care of the cadets. Mr. Dominguez stated that it is important to update AFD 10-27 and we may be able to overcome the legal opinion with a command determination that the CAP glider program is an Air Force mission.

6. Program Narrative: There was no discussion.

8. Funding for National Operations Center (NOC): Mr. Allenback reported that another employee had just been hired for the NOC. Maj Gen Wheless asked about the status of the 1<sup>st</sup> Air Force request to have a CAP representative in their Operations Center. Col Vogt, CAP-USAF/CC, stated that right now during contingency operations the CAP-USAF/XO represents CAP at 1<sup>st</sup> Air Force. He said that XOS-HA is studying the possibility of using a contract person or a CAP person to do this job and whether or not 1<sup>st</sup> Air Force can assign Air Force mission status to a CAP mission. Lt Gen Keys stated that a system should be developed to identify certain parameters necessary for automatic approvals Air Force assigned missions. Anything that doesn't fall within these parameters would have to be individually approved.

12. Air Force Approval of CAP's Concept of Employment (CONEMP): Lt Gen Keys stated that a lot of this is beyond CAP's and CAP-USAF's ability to control. He added that to advance this process NORTHCOM has to determine how the military will interface with the states to provide support to state and local civil agencies. This will take some time. Admiral Nicholson added some insight into the homeland security problems, stating there are many agencies that are not connected because they don't know what assets are available. The main thing is knowing who to talk to and what they are looking for.

### **Discussion: Closed**

9. Stabilized Funding for Civil Air Patrol: Mr. Dominguez stated that the Secretary of the Air Force wants to know if there is a problem with the priority of CAP's funding. He added that the XO is in a position to weigh and balance many things and CAP needs to make sure its needs gets the appropriate level of visibility. Gen Keys agreed that his office would try to protect CAP's appropriation without a reduction during the year.

11. Regulations Promulgated to be Promulgated IAW 10 USC 9448: There was no discussion.

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**Agenda Item: 6**

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**Report on Nevada Wing Fraud Issue**

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**Background**

Col Bill Charles, CAP Inspector General, updated the BoG on the findings and resolution of the fraud case involving the CAP Nevada wing.

**BoG Action**

COL CHARLES, CAP, presented a slide briefing covering only those items not covered in the Audit Committee. He reported that:

- A private attorney has been retained in Nevada to seek restitution of the loss.
- The compliance assessment regulation has been approved; the new cycle starts in Feb 05.
- The financial regulations will be reviewed by the winter 2005 National Board.
- The corporate fraud policy, now called ethics policy, is on the same track.
- The breakdown in command occurred primarily from commanders failing to perform quarterly audits as required by CAP regulations. The fix will require education, compliance inspections, and follow-through by higher command when issues are identified at the wing. In Nevada, there was a wholesale destruction of the records by the person now incarcerated.

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**Agenda Item: 7**

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**Executive Director's Update**

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**Background**

Mr. Al Allenback, Executive Secretary, updated the BoG on the following items:

- a. Financial
  1. FY04 Execution Report
  2. FY05 YTD Review
  3. FY07 POM
  4. Line of Credit Review
  5. Investments
- b. Litigation Status

**BoG Action**

MR. ALLENBACK/EX presented a slide briefing.

**Discussion:**

- a. Financial:
  1. FY04 Execution Report. There was no discussion.
  2. FY05 YTD Review. There was no discussion
  3. FY07 POM. There was no discussion
  4. Line of Credit: A question was raised about efforts being made to avoid the use of line of credit. CAP is obtaining an independent audit of its cash and accounting systems to provide the Grants Officer with the assurance that all controls are in place to comply with DoDGARS. The Grants Officer, Ms. Mary Beth Tyler, AETC/LGCQ, stated that payroll has been advanced even though Civil Air Patrol did not meet the DoDGARS financial management requirements. Ms. Tyler added that none of the financial management requirements will solve the problem of end-of-the-year funding. It takes awhile for money to come down through channels and the Air Force cannot advance money that is not there. Col Vogt, CAP-USAF/CC, stated that DoDGARS does allow for rare instances where exceptions can be made to the circulars and that exception is being investigated. The Executive Director stated that Civil Air Patrol is working toward

having sufficient reserves to cover its cash flow needs; at this time it needs approval to extend a line of credit for another year.

**BRIG GEN BERGMAN moved and MAJ GEN WHELESS seconded a motion that the BoG extend a line of credit for an additional year.**

### **THE MOTION CARRIED UNANIMOUSLY**

5. Investments: Lt Gen Kehoe, USAF (Ret), reminded that the Statement of Investment Policy needs to be brought back to the BoG. This item was deferred from the Jun 04 meeting.

FOLLOW-ON ACTION: To be included in the Jun 05 BoG agenda

LT GEN KEHOE, USAF (Ret) expressed appreciation to everyone in the system—CAP, CAP-USAF, AETC—on the year-end funding efforts which served to satisfy a lot of Civil Air Patrol's short-falls.

b. MR. LEIBOWITZ. HQ CAP/GC, reported on the status of current litigation involving CAP.

## TALKING PAPER

ON

## FY04 BUDGET EXECUTION

**- Corporate budget: \$3,601,904.00 Executed: 101%**

- Over-execution due to income shortfalls versus projections
  - Membership revenue down: Seniors - 6% (\$72,396), Cadets - 22% (\$179,505)
  - Other: Interest down 22% (\$11,558)
- Over-execution due to budget overages
  - CAPMart (\$174,777) - dwindling customer base, 5 months of free shipping, \$50,000 inventory write-off
  - Credit card expense (\$29,640) - increasing use of on-line registrations
  - IL Wing hot air balloon (\$7,000) - NEC approved
  - Line of credit (\$36,376) - disallowed as an appropriated budget cost by Grants Officer
  - NCASE (\$69,196) - expenses exceeded income
  - National Boards (\$38,680) - planned winter board at a loss to accommodate business meeting; cost over-runs at summer board

**- Appropriated budget (O & M): \$21,677,100.00 Obligated: 98% (as of 16 Nov)**

- No over-expenditures
- Some categories under-executed; Categories include:
  - Salaries & Benefits caused by vacancies (\$100,264)
  - Insurance couldn't pay any FY05 costs from FY04 funds (\$271,717)
  - Cadet uniforms provided without shoes (\$200,000)
  - SAR Training under-utilized (\$184,000)
- End-of-year purchases made from CAP Leadership / Air Force vetted and approved list
  - See attachment
- Air Force provided fall-out funds to buy down LMR requirement (\$370,100)

Susan Easter/CAP/FM/334-953-6031/mhr/16 Nov 04

		<p style="text-align: center;"><b>FY04 END OF YEAR REQUESTS</b></p>		<p style="text-align: center;"><b>Available EOY Funds</b> \$1,596,745</p>			
Priority	Volunteer Leadership Approved	Priority	Priority	Cumulative Total	EOY Purchases		
Order	ITEM DESCRIPTION	Quantity	Amount				
<b>O&amp;M FUNDS</b>		-	-	-	-		
1	Install Kit and Installation for 25 GPS units	25	\$120,000.00	\$120,000.00	\$120,000.00		
2	5030 Inter Squad (ISR) @ \$ 85 ea = \$ 427,550	1350	\$114,750.00	\$234,750.00	\$234,750.00		
3	31 new high resolution digital cameras to support the GA-8 fleet and SDIS kits, \$2k each If cannot support purchasing 31, but could support 17 would support all SDIS kits.	17	\$34,000.00	\$268,750.00	\$268,750.00		
4	60 Practice transmitter beacons to support training on 406MHz capabilities of aircraft with Becker DF units, \$850 each Purchase 26 @ \$850 ea. (first round)	26	\$22,100.00	\$290,850.00	\$290,850.00		
Insert	Reimburse 15 Wings for portion of audit expense. These Wings are not covered by the CAP audit umbrella.	15	\$75,000.00	\$365,850.00	\$365,850.00		
Insert	SDIS System: 10 Computers 10 high resolution digital cameras @ \$2k each	10 10	\$65,000.00	\$430,850.00	\$430,850.00		
4 (Continued)	Purchase balance of 34 transmitter beacons @ \$850 ea. (next round)	34	\$28,900.00	\$459,750.00	\$459,750.00		
5	Two servers (one web server and one database server) to	2	\$12,000.00	\$471,750.00	\$471,750.00		

	create a web testing/training environment the field can use to test new applications & train members (IT Committee request) Cost: \$6,000 each (This purchase would require AF approval) - AF Approved				
6	17 IR cameras to support the SDIS systems, \$15k each If cannot support all 17 units, purchasing a few to at least have some redundancy that can be shipped to other <b>locations would be helpful.</b> (This purchase would require AF approval and there may not be sufficient time to execute the purchase) AF Approved (Cancelled - price much more than projected)	0	\$0.00	\$471,750.00	\$471,750.00
7	Mounting brackets for the satellite phones to provide at least one in each wing. Purchase 36 kits at \$1900 each <u>plus installation</u> averaging @ \$1200 each., total \$3,100 ea. If could not support full purchase, a portion would be helpful. (Installation will not be provided from FY04 fall-out funds)	18	\$34,110.00	\$505,860.00	\$505,860.00
8	Hard cases for shipping of the 17 SDIS systems, \$600 each	8	\$4,800.00	\$510,660.00	\$510,660.00
9	420 Handhelds @ \$1,765 ea = \$ 741,300	100	\$176,500.00	\$687,160.00	\$687,160.00
10	51 Mobile Repeaters @ \$17,500 ea = \$ 892,500	10	\$175,000.00	\$862,160.00	\$862,160.00
11	Paint & interior rehab of aircraft @ approx \$15k each LGM has been funding the radio exchange program & repairs of crashed damaged aircraft with maintenance funds since the H.S.I. and AMP funds were depleted. This has created a shortfall of maintenance funds and caused LGM to delay paint and interior rehabs.	1 4	\$15,000.00 \$60,000.00	\$877,160.00 \$937,160.00	\$877,160.00 \$937,160.00
12	Inter Squad (ISR) @ \$ 85 ea	1000	\$85,000.00	\$1,022,160.00	\$1,022,160.00

CAP Board of Governors Agenda

1 Dec 04

13	Handhelds @ \$1,765 ea	100	\$176,500.00	\$1,198,660.00	\$1,198,660.00
14	Mobile Repeaters @ \$17,500 ea	10	\$175,000.00	\$1,373,660.00	\$1,373,660.00
15	IR cameras to support the SDIS systems, \$15k each (Skipped # 15 - Price much more than projected)	0	\$0.00	\$1,373,660.00	\$1,373,660.00
16	New high resolution digital cameras to support the GA-8	14	\$28,000.00	\$1,401,660.00	\$1,401,660.00
17	Paint & interior rehab of 6 aircraft @ approx \$15k each (Skipped # 17 - Additional AF funds for LMRs only)	0	\$0.00	\$1,401,660.00	\$1,401,660.00
18	Handhelds @ \$1,765 ea	110	\$194,150.00	\$1,595,810.00	\$1,595,810.00
19	Mobile Repeaters @ \$17,500 ea (Skipped # 19 - Lack of funds for one unit)	0	\$0.00	\$1,595,810.00	\$1,595,810.00
20	Inter Squad (ISR) @ \$ 85 ea	11	\$935.00	\$1,596,745.00	\$1,596,745.00
Completed through #20					
21	Mounting brackets for the satellite phones @ \$3100 ea	18	\$55,800.00	\$1,652,545.00	
22	Handhelds @ \$1,765 ea	110	\$194,150.00	\$1,846,695.00	
23	Mobile Repeaters @ \$17,500 ea	10	\$175,000.00	\$2,021,695.00	
24	Inter Squad (ISR) @ \$ 85 ea	1680	\$142,800.00	\$2,164,495.00	
25	Mobile Repeaters @ \$17,500 ea	11	\$192,500.00	\$2,356,995.00	
26	Hard cases for shipping of the 17 SDIS systems, @ \$600 ea	9	\$5,400.00	\$2,362,395.00	
27	Paint & interior rehab of aircraft @ approx \$15k each	6	\$90,000.00	\$2,452,395.00	
28	552 Mobile Radios @ \$2,000 ea = <u>\$1,104,000</u>	110	\$220,000.00	\$2,672,395.00	
29	Mobile Radios @ \$2,000 ea	110	\$220,000.00	\$2,892,395.00	

30	Mobile Radios @ \$2,000 ea	110	\$220,000.00	\$3,112,395.00
31	Mobile Radios @ \$2,000 ea	110	\$220,000.00	\$3,332,395.00
32	Mobile Radios @ \$2,000 ea	112	\$224,000.00	\$3,556,395.00
33	IR cameras to support the SDIS systems, \$15k each	11	\$165,000.00	\$3,721,395.00
34	Upgrade all desktop computers for the NHQ staff 90 computers @ \$1900 ea If not possible to purchase all computers in FY04, two-thirds (60) of the computers would allow all to be replaced in this calendar year since one-third (30) is budgeted using FY05 funds.	90	\$171,000.00	\$3,892,395.00
			\$3,892,395.00	
<b>TOTAL</b>			0	<b>\$3,892,395.00</b>
<b><u>AVAILABLE FUNDS</u></b>				
	<b>FMB Round 1</b>	<b>\$291,356</b>	291,356	
	<b>FMB Round 2</b>	<b>\$225,064</b>	225,064	
	<b>FMB Round 3</b>	<b>\$384,145</b>	384,145	
	<b>SAR Training Funds</b>	<b>\$ 34,000</b>	34,000	
	<b>Operations</b>	<b>\$ 16,077 (22 Sep 04)</b>	16,077	
	<b>AF for LMRs</b>	<b>\$312,100 (29 Sep 04)</b>	312,100	
	<b>AF for LMRs</b>	<b>\$ 58,000 (30 Sep 04)</b>	58,000	
	<b>SAR Training</b>	<b>\$150,000 (30 Sep 04)</b>	150,000	
	<b>Salaries</b>	<b>\$105,000 (30 Sep 04)</b>	105,000	

<b>Misc Accounts</b>	<b>\$ 7,599</b>	<b>(30 Sep 04)</b>	7,599		
<b>Fall-out from Pos</b>	<b><u>\$12,169</u></b>	<b>(30 Sep 04)</b>	13,403		
<b>TOTAL</b>	<b>1,596,745</b>	<b>(Comm used \$1,,097,835)</b>	1,596,745		

TALKING PAPER

ON

FY05 YEAR-TO-DATE REVIEW

**- Corporate budget: \$2,841,398.00 Executed as of 16 Nov 04: 8%**

-- Comparison to FY04

--- Downward adjustments: Membership Income (- 6% for seniors; - 8% for cadets); National Congress on Aviation & Space Education (NCASE) postponed in '05 (won't generate income); programmatic cuts across the board

--- Increased budget items: Wing commander travel (+ \$39,000); support to financial summit (+ \$4,000)

--- Revenue increase: \$5 dues increase will generate approx \$309,000

**- Appropriated budget (O & M): \$21,588,000.00 Obligated: 9% (as of 16 Nov)**

-- Comparison to FY04

--- Downward adjustments: cadet uniforms (- 17% due to reduced membership); CD missions (- 9% due to fewer missions); NCASE travel (- 100% due to postponement)

--- Increased budget items: International Air Cadet Exchange (IACE) travel (+ 10%); cadet education materials (+ \$170,000)

-- Reflects \$110,000 Air Force mandated cut and \$190,000 Congressional reduction to O & M

TALKING PAPER

ON

FY07 - 11 APOM

- This talking paper provides an update to the Board of Governors (BOG) concerning the Civil Air Patrol (CAP) Amended POM (APOM) submission for FY07 - FY11
- CAP submitted three initiatives to Air University (AU) for submission to Hq AETC
  - CAP Corporate Wing Administrators: Funds 50 Corporate Wing Administrator positions
  - Enhanced National Operations Center (NOC) Operations: Funds the supporting administration at the CAP NOC
  - Communication Equipment: Funds replacement of outdated wide-band Land Mobile Radio (LMR) Systems with “Mission Critical” narrow-band, compliant, LMRs
  - Air University anticipates forwarding all three initiatives. AU briefs AETC on Dec 7, 04.
- CAP Corporate Wing Administrators

-- Requested funding (\$M)

<b>FY07</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>
2.154	2.208	2.263	2.319	2.377

- AF had assisted in this requirement through the CAP-USAF Liaison structure, but following SECAF manpower reductions in Dec 02, the previously 50 AF funded Deputy State Director (GS-11) positions were eliminated, thus creating a critical void in Air Force support to its Auxiliary
- In recognition of this critical void in support, AF/XO signed a letter (23 May 03) promising a “good-faith effort” to restore this lost support by identifying “potential funding sources for one employee per state to transact day-to-day administration”
- Impact if not funded: CAP will be unable to meet DoD Grant and Agreement Regulations requirements for proper administration at wing level. Volunteer wing finance officers are working over 30 hours/week to complete burdensome requirements.

- Enhanced National Operations Center (NOC)

-- Requested funding (\$M)

<b>FY07</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>
1.004	1.038	1.073	1.110	1.148

-- DoD and other Federal Agency operational mission taskings will result in nearly 4,000 missions to coordinate through the NOC annually. CAP coordinated 3,699 missions in FY04. Initiative will fund the supporting administration at the CAP NOC.

-- CAP's Homeland Security (HLS) missions are increasing via Northern Command taskings issued through 1<sup>st</sup> AF. CAP is now listed on many federal agency checklists as a HLS first responder. NOC coordinated missions have increased exponentially since 1<sup>st</sup> AF taskings began.

-- Impact if not funded: CAP will be unable to perform AF-assigned HLS missions of aerial reconnaissance of critical infrastructure and special events or damage assessment as formalized in recently signed MOU with 1<sup>st</sup> AF

- Communications Equipment - Narrow-band Land Mobile Radios (LMRs)

-- Requested funding (\$M)

<b>FY07</b>	<b>FY08</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>
4.162	0	0	0	0

-- The National Telecommunications and Information Administration (NTIA) has mandated replacement of all federal Land Mobile Radio Systems (CAP's maintains 681 repeaters, 811 base stations and 2959 mobile stations). Narrow band compliance is an AF wide issue.

-- Only funds replacement of CAP's "Mission Critical" LMRs

-- Impact if not funded: CAP's communication system will be unusable after FY07 due to the NTIA mandate. Operational and training missions will have to be cancelled.

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**Agenda Item: 8**

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**Membership Action Review Board Report  
& Confirmation of New Member**

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**Background**

The Membership Action Review Board is established by the Constitution as a board of final review for adverse membership actions taken by commanders at all levels. It has the authority to independently review demotions, removal from command, membership suspensions in excess of 60 days, and membership terminations. It has jurisdiction when a member claims that the adverse membership action was motivated by retaliation, reached without due process, or involved a material failure to follow applicable CAP regulations and has the authority to affirm, reverse, or modify in favor of the member, the final adverse membership action. The three "at large" members of the MARB are appointed for an indefinite term by the National Commander from a list of nominees submitted by the NEC. To insure independence, and the appearance of independence, the appointees are confirmed by the BoG and serve until a replacement is properly appointed by the National Commander and confirmed by the BoG.

See **Appendix E** for the current MARB report.

**BoG Action**

MAJ GEN WHELESS, CAP, stated that the MARB is the board established to ensure fairness, particularly in membership removal actions. He added that, with a change to the CAP Constitution eliminating an Air Force member (at the request of the Air Force), there is now a CAP member-at-large vacancy on the MARB. Gen Wheless has selected Col Ernest C. Pearson, CAP, to fill that vacancy and asked for confirmation by the BoG, and added that Col Pearson is a past California Wing Commander and past Pacific Region Commander who is a very fair-minded person. A question was asked if his position as an advisor to the California Wing Commander would affect his independence. Gen Wheless stated that he believed that position was just a way to keep him on the roster and, that to his knowledge, Col Pearson has not been active in any command capacity since he left region command over 3 years ago.

***MR. DOMINGUEZ moved and BRIG GEN BERGMAN, CAP, seconded a motion that the BoG confirm Maj Gen Wheless' selection, Colonel Ernest C. Pearson, CAP, for the vacant position on the Membership Action Review Board, subject to Gen Wheless' communication to him that, in his role as advisor to the CA Wg/CC, he must reclude himself from any advice to the wing commander or anyone else in the chain of command with regard to personnel matters.***

**THE MOTION CARRIED UNANIMOUSLY.**

FOLLOW-ON ACTION: Notification of selection to Col Pearson, with instructions.

MR. LEIBOWITZ, HQ CAP/GC reviewed the Membership Action Review Board activities during fiscal year 2004. His report is at Appendix E.

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**Agenda Item: 9**

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**Other Business**

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**Background**

Other business brought to the table by members of the Board of Governors.

**BoG Action**

LT GEN KEHOE, USAF (Ret) suggested that another effort be made to get Civil Air Patrol, as the Auxiliary of the Air Force, included in the Air Force Association Magazine Almanac issue. This may require some Air Force intervention with the Air Force Association.

LT GEN KEYS, USAF, stated that this is the kind of issue that his office could help make happen.

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**Agenda Item: 10**

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**Next Meeting Date**

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**Background**

The BoG normally meets twice a year. Mr. Allenback proposed that the next meeting be Wednesday, 8 June 2005 in the Washington DC area.

**BoG Action**

***LT GEN KEYS, USAF, moved and LT GEN KEHOE, USAF (Ret) seconded that the Board of Governors approve 8 June 2005 as the date for the next meeting and that it be held in the Washington, DC, area.***

**THE MOTION CARRIED UNANIMOUSLY.**

**APPRECIATION:**

The Chairman presented a plaque to Lt Gen Keys, USAF, since this is his last meeting as a member of the Board of Governors, and expressed appreciation to Lt Gen Keys for his service on the board.

Lt Gen Kehoe, USAF (Ret) presented a crystal gavel with a plaque to Col Bess, since this is his last meeting as a member and as Chairman of the Board of Governors, and expressed appreciation on behalf of the board for his efforts as chairman during the last 2 years.

Brig Gen Bergman, CAP, stated that as one of the newer members of the BoG he was very impressed with the dialogue at this meeting. He added that he thought it was excellent and he really appreciated the attitude from the uniformed side to ensure that a common sense approach is being taken.

Lt Gen Kehoe, USAF (Ret) added that the dialogue did not exist earlier and it is helpful even if it takes a lot of time and effort.

**LT GEN KEYS, USAF moved and LT GEN KEHOE, USAF (Ret) seconded a motion that the BoG adjourn.**

**THE MOTION CARRIED UNANIMOUSLY.**

**THE MEETING ADJOURNED AT 3:15 PM, WEDNESDAY, 8 DECEMBER 2004.**

# APPENDIX A

## Election of Chairman and Vice Chairman of the Board of Governors

### Civil Air Patrol Constitution Requirements:

#### ARTICLE IX-A CHAIRMAN AND VICE CHAIRMAN OF THE BOARD OF GOVERNORS

##### Procedures:

1. Chairman announces that the next order of business is the election of the chairman.
2. Chairman reads the *Constitutional* requirements for chairman (Article IX-A, Section 1):

The Chairman of the Board of Governors shall be chosen by the Members of the Board of Governors from among the Members appointed by the Secretary of the Air Force and the Members selected by the Civil Air Patrol and shall serve a term of two (2) years. The position of Chairman shall be held on a rotating basis between members of the Board of Governors appointed by the Secretary of the Air Force and members of the Board of Governors selected by the Civil Air Patrol.

3. Chairman announces that, since the current chairman was chosen from among the members appointed by the Civil Air Patrol, the next chairman must be selected from among the members appointed by the Secretary of the Air Force, to serve for a two-year term.
4. Chairman accepts nominations for the next chairman of the Board of Governors (nominations can come from any member). When there are no further nominations, chairman announces that nominations are closed.
5. Chairman asks if anyone requests a secret ballot. If so, get vote and proceed with either open or secret ballot.
6. Chairman calls for the vote. Nominee must receive majority of those present and voting. An abstention is not counted as those present and voting. If there is no majority, another vote is taken until there is a majority.
7. Chairman announces the chairman-select.
8. Chairman announces that the next order of business is the election of the vice chairman.

9. Chairman reads the *Constitutional* requirements for vice chairman (Article IX-A, Section 1):

The Vice Chairman of the Board of Governors shall be chosen by the Members of the Board of Governors from among the Members appointed by the Secretary of the Air Force and the Members selected by the Civil Air Patrol and shall serve a term of two (2) years. The position of Vice Chairman shall be held on a rotating basis between Members of the Board of Governors appointed by the Secretary of the Air Force and Members of the Board of Governors selected by Civil Air Patrol and shall not come from the same appointment group as the Chairman.

10. Chairman announces that, since the current vice chairman was chosen from among the members selected by the Secretary of the Air Force, the next vice chairman must be selected from among the members appointed by the Civil Air Patrol, to serve for a two-year term.

11. Chairman accepts nominations for the next vice chairman of the Board of Governors (nominations can come from any member). When there are no further nominations, chairman announces that nominations are closed.

12. Chairman asks if anyone requests a secret ballot. If so, get vote and proceed with either open or secret ballot.

13. Chairman calls for the vote. Nominee must receive majority of those present and voting. An abstention is not counted as those present and voting. If there is no majority, another vote is taken until there is a majority.

14. Chairman announces the vice chairman-select.

# APPENDIX B

## CAP Foundation – Proposed Bylaws & Articles of Incorporation

### BYLAWS

#### CIVIL AIR PATROL FOUNDATION, INC.

##### Article 1. Name

The name of the Corporation shall be "Civil Air Patrol Foundation, Inc."

##### Article 2. Purposes

The purposes of the Corporation shall be to promote and support Civil Air Patrol and its missions.

##### Article 3: Office

The registered office of the corporation shall be located at 105 South Hansell Street, Maxwell Air Force Base, Alabama 36112-6332.

##### Article 4: Members

There shall be no members of the Corporation.

##### Article 5. Board of Directors

Section 1. Powers: The business and affairs of the corporation shall be managed by the board of directors. The board may appoint committees for any purpose, including an executive committee that may exercise any of the authority of the board.

Section 2. Number, Tenure, and Qualifications: The board of directors of the Corporation shall consist of three *ex officio* members who shall be the National Commander of Civil Air Patrol, the National Vice Commander of Civil Air Patrol and the National Finance Officer of Civil Air Patrol. The number of directors may increase or decrease from time to time by amendment of the bylaws, provided that a majority of directors shall also be members of Civil Air Patrol and shall include the three *ex officio* members. Each *ex officio* director shall serve as a director while holding the qualifying Civil Air Patrol office. Other directors shall be elected at the annual meeting of board of directors, and the term of office of each elected director shall be until the next annual meeting of the board of directors and the election and qualification of his or her successor.

Section 3. Regular Meetings: A regular meeting of the board of directors shall be held without notice other than this bylaw in conjunction with, and at the same place as the general membership annual meeting of Civil Air Patrol.

Section 4. Special Meetings: Special meetings of the board of directors may be called by or at the request of the president or any two directors, and shall be held at the principal office of the corporation or at such other place as the directors may determine. Any or all directors may participate in a special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means, except to protest on the record notice of such meeting, is deemed to be present in person at the meeting.

Section 5. Notice: Notice of any special meeting shall be given at least forty-eight (48) hours before the time fixed for the meeting, by written notice delivered personally or mailed to each director at his business address, or by fax or electronic mail. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid, not less than three days prior to the commencement of the above-stated notice period. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

Section 6. Quorum: A majority of the number of directors fixed in these bylaws shall constitute a quorum for the transaction of business. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Any action consented to in writing by each and every director shall be as valid as if adopted by the board of directors at a duly warned and held meeting of the board, provided such written consent is inserted in the minute book.

Section 7. Proxies: Proxies shall not be allowed.

Section 8. Vacancies: Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 9. Rules. Meetings of the board of directors shall be governed by the latest edition of *Robert's Rules of Order*.

## Article 6. Officers

Section 1. Number: The officers of the Corporation shall be a president, vice-president, secretary, and a treasurer, each of whom shall be elected by the board of directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

Section 2. Election and Term of Office: The officers of the Corporation shall be elected annually at the regular meeting of the board of directors. If the election is not held at such

meeting, such election shall be held as soon as possible thereafter as is convenient. Each officer shall hold office until his or her successor has been duly elected and qualified or until his or her death, resignation, or removal in the manner hereinafter provided.

Section 3. Removal: Any officer or agent elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create contract rights.

Section 4. Vacancies: A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section 5. Powers and Duties: The powers and duties of the several officers shall be as provided from time to time by resolution or other directive of the board of directors. In the absence of such provisions, the respective officers shall have the powers and shall discharge the duties associated with such offices. The secretary shall prepare minutes of all meetings of the members and the board, and shall authenticate the records of the corporation upon request.

Section 6. Salaries: The salaries of the officers may be fixed from time to time by the board of directors, and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a director of the corporation. There shall be no right to a salary and a salary may not be paid unless the board of directors so orders.

#### Article 7. Contracts, Loans, Checks, and Deposits

Section 1. Contracts: The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific business.

Section 2. Loans: No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, or Orders: All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as from time to time shall be determined by resolution of the board of directors.

Section 4. Deposits: All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the board of directors shall select.

#### Article 8. Fiscal Year.

The fiscal year of the Corporation shall be January 1 to December 31.

## Article 9. Waiver of Notice

Whenever any notice is required to be given to any director of the corporation under the provisions of law or these bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## Article 10. Amendments

These bylaws may be altered, amended, or repealed, and new bylaws may be adopted by the board of directors at any regular or special meeting of the board; provided, however, that the number of directors shall not be increased or decreased without the prior approval of two-thirds of the directors.

## Article 11. Books and Records

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its board of directors and committees having and exercising any of the authority of the board of directors, and shall keep at the principal office a record giving the names and addresses of the directors and officers. All books and records of the corporation may be inspected by any director or officer, or his agent or attorney, for any proper purpose at any reasonable time.

## Article 12. Dissolution or Sale of Assets

A two-thirds vote of the directors shall be required to sell or mortgage assets of the corporation not in the regular course of business or to dissolve the corporation. Upon dissolution of the corporation, any assets remaining after payment of or provision for its debts and liabilities shall, consistent with the purposes of the organization, be paid over to charitable organizations exempt under the provisions of Section 501(c)(3) of the U.S. Internal Revenue Code or corresponding provisions of subsequently enacted federal law. No part of the net assets or net earnings of the corporation shall inure to the benefit of or be paid or distributed to an officer, director, employee, or donor of the organization.

**STATE OF ALABAMA**

**DOMESTIC NON-PROFIT CORPORATION  
ARTICLES OF INCORPORATION**

**CIVIL AIR PATROL FOUNDATION, INC.**

The undersigned, all of whom are citizens of the United States, desiring to form a Non-Profit Corporation under the Non-Profit Corporation Law of Alabama, do hereby certify:

Article I The name of the corporation:  
Civil Air Patrol Foundation, Inc.

Article II The duration of the corporation is perpetual.

Article III The corporation has been organized exclusively for charitable and educational purposes, including, for such purposes, the making of distributions principally to Civil Air Patrol (a Non-Profit corporation established under 36 U.S.C. 40301) but also to other organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Article IV The corporation shall have no members.

Article V The street address of the registered office is 105 South Hansell Street, Maxwell Air Force Base, Alabama 36112-6332 and the name of the registered agent at that office is Stanley H. Leibowitz, General Counsel, Civil Air Patrol.

Article VI The names and addresses of the three Initial Directors are:

Dwight H. Wheless, P.O. Box 500, Manteo, NC 27954  
Antonio J. Pineda, 1101 NW 114 Ave, Plantation, FL 33323  
Donald B. Angel, 550 Ellsworth Street, Memphis, TN 38111

Article VII The name and address of the Incorporator is:

Civil Air Patrol  
(a Non-Profit corporation established under 36 U.S.C. 40301)  
105 South Hansell Street  
Maxwell Air Force Base, AL 36112-6332

Article VIII No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its trustees, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in

(including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of the articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Article IX Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

Article X The number of Directors shall be not less than three and the number of Directors may be increased or decreased from time to time by amendment of the bylaws, provided that a majority of Directors shall also be members of Civil Air Patrol and shall include the Civil Air Patrol National Commander, National Vice Commander and National Legal Officer.

**IN WITNESS THEREOF, the undersigned incorporator executed these Articles of Incorporation on this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.**

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Civil Air Patrol, by  
Albert A. Allenback  
Executive Director

# APPENDIX C

## Status of CAP Initiatives

### Package 1

26 July 2004

The Honorable James G. Roche  
Secretary of the Air Force  
1670 Air Force Pentagon  
Washington DC 20330-1670

Dear Secretary Roche

The Civil Air Patrol needs your assistance on an urgent matter that seriously affects the safe, effective, and efficient functioning of the organization. This is related to the funding for 52 wing administrators, one for each state plus the District of Columbia and Puerto Rico. At its meeting on June 1, 2004, the Board of Governors agreed unanimously that I should bring this matter to your attention because there is a clear Air Force interest.

By way of background, the Cooperative Agreement between the Air Force and CAP extends considerable administrative documentation requirements down to the Wing level. However, since 30 Sep 03, there has been no funding or manpower provided to complete these tasks. Consequently, CAP's 52 wing headquarters lack the day-to-day administrative continuity for maintaining flying, financial, logistical and other records required by the Department of Defense Grant and Agreement Regulations (DoDGARs, DoD 3210.6-R) and the Cooperative Agreement.

From 1995 to 2000, CAP was funded for 2 corporate employees in each wing. These employees provided the dual function of CAP wing assistance and AF oversight. Those positions along with the associated funding were transferred back to the Air Force in 2000 when it was determined that it was inappropriate for employees paid by CAP to provide oversight of CAP activities.

In March, 2002, the position of "Deputy State Director" (GS-11) was created and, although working for the Air Force, the 52 Deputy State Directors continued to provide administrative assistance and continuity to the wings, as well as performing their legitimate oversight role. Then, effective 30 Sep 03, the Air Force eliminated these civil service positions as part of a "Balance-the-Books" manpower reduction for FY04. This immediately created a void in critical day-to-day administrative continuity at all CAP wing headquarters and left non-paid, part-time volunteers as the only means for meeting the administrative requirements levied on CAP by the DoDGARs and the Cooperative Agreement. In some cases, volunteers are

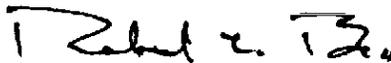
putting in more than 30 hours per week to fulfill the critical finance officer function, and there is excessive turnover.

The wing administration requirement has been validated through the AF POM process. In a 23 May 03 memo, the AF/XO pledged a “good faith effort” to fund these 52 wing administrator positions; however, at the Board of Governors meeting on 1 June, we learned that AETC deleted the funding for the wing administrative positions from their list of unfunded requirements.

The bottom line is that the Civil Air Patrol has lost both the funding and the manpower needed to meet Air Force mandated compliance requirements. On behalf of the Board of Governors, I respectfully ask for your assistance in obtaining the approximately \$2.2 million annual additional funding that is needed for the 52 wing administrators in order to restore continuity and stability to CAP wing headquarters.

Mr. Secretary, thank you for your time and support.

Very respectfully

A handwritten signature in black ink, appearing to read "Robert C. Bess".

ROBERT C. BESS  
Colonel, CAP  
Chairman, Board of Governors

## **Package 2**

26 July 2004

The Honorable James G. Roche  
Secretary of the Air Force  
1670 Air Force Pentagon  
Washington DC 20330-1670

Dear Secretary Roche

I am very pleased to forward the minutes of the June 1, 2004 Civil Air Patrol (CAP) Board of Governors (BoG) meeting. Since our first meeting on March 1, 2001, the BoG has had the unique opportunity to meld the collective vision and insight of CAP's volunteer leadership, Air Force senior leaders, and a valuable mix of corporate America, other Federal agencies, and academia. We believe our work continues to frame CAP's strategic direction.

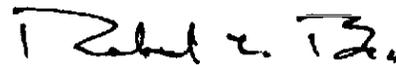
During this meeting, we had a very productive discussion on issues affecting CAP's current capabilities and, below, we will ask for your help in resolving some of these that are within the Air Force purview. In addition, the National Commander reported on CAP's major mission activities, including support for the recently completed G8 Economic Summit. He also briefed the Board on items referred by CAP's National Executive Committee (NEC). CAP's Executive Director updated the Board on the status of CAP's POM submission, as well as current year funding. He closed with an update on the major technological advance of hyperspectral imaging, which will keep CAP aircrews at the forefront of CONUS Search and Rescue and our other airborne missions. The chairman of the audit committee updated the board on its activities and findings and a new audit committee charter was adopted.

It was a pleasure to welcome two new members to the board: Lieutenant General (retired) Charlie Searock, a consultant for aviation and technology products, and Rear Admiral (retired) Dave Nicholson, presently the director of resources for the Borders and Transportation Security Directorate in the Department of Homeland Security. The board also welcomed back Mr. Bruce Whitman, president of FlightSafety International.

Mr. Secretary, as I mentioned above, the Board of Governors needs your help in resolving several high priority issues brought to our attention by CAP's national volunteer leadership. Some of these issues are hindering CAP's ability to provide our Nation and the Air Force the fullest support possible in a post 9/11 Homeland Security environment and we believe that a little "top-down" emphasis will help to resolve them.

Once again, we thank you for your support of this great volunteer organization!

**Very respectfully**



**ROBERT C. BESS**  
**Colonel, CAP**  
**Chairman, CAP Board of Governors**

## CIVIL AIR PATROL ISSUES FOR BOARD OF GOVERNORS

1. *FECA/FTCA Coverage – Corporate insurance crisis*
2. *Proposed Legislation – Making Civil Air Patrol the Resource of Choice*
3. *FAA Exemptions*
4. *Problems with AFI 65-601, Vol I, Budget Guidance and Procedures*
5. *Civil Air Patrol Glider Program*
6. *Program Narrative*
7. *Wing Administrators for Every Wing*
8. *Fully funded National Operations Center (NOC)*
9. *Stabilized Funding for Civil Air Patrol*
10. *Location of Civil Air Patrol-USAF in Air Force Structure*
11. *Regulations Promulgated/to be Promulgated IAW 10 USC 9448*
12. *Air Force Approval of CONEMP*

**ISSUE NO. 1: FECA/FTCA Coverage – Corporate insurance crisis**

**BACKGROUND:** The Air Force withdrawal of “Air Force assigned mission” status for many missions that were formerly given that status has caused our commercial insurance carrier to raise our premiums significantly and placed long-term coverage in jeopardy. Our current insurance underwriter is the only underwriter that would bid on our aviation liability insurance coverage.

**IMPACT:** Uncertainty about which missions would be covered by Federal Employee Compensation Act/Federal Tort Claims Act (FECA/FTCA) has caused our insurance carrier to raise our premium by an estimated 34%, but possibly as much as 88%, over the prior period premium (depending on our loss ratio over the term of the policy).

**POSSIBLE SECAF ASSISTANCE:** Perform a Broad Area Review of the noncombat programs and missions of the Air Force that can be assigned to Civil Air Patrol under 10 U.S.C. 9442.

**ISSUE NO. 2: Proposed Legislation – Making Civil Air Patrol the Resource of Choice**

***BACKGROUND:***

*The Air Force will generally not assign to Civil Air Patrol missions requested by state or local government agencies, requiring that all such missions be requested by a federal agency through SECDEF and NORTHCOM. This position is incongruent with Civil Air Patrol’s ability and desire to provide short-notice response at the local level.*

**IMPACT:** Excessive delays and red tape discourage state and local agencies from using the services of Civil Air Patrol.

***POSSIBLE SECAF ASSISTANCE:*** *Support legislation that will allow Civil Air Patrol to respond directly to requests from any Federal, state or local governmental agency.*

**ISSUE NO. 3: FAA Exemptions**

**BACKGROUND:** Civil Air Patrol requires certain exemptions from the Federal Aviation Regulations (FARs) in order to legally perform certain missions under FAR Part 91 (instead of the more stringent FAR Part 135) and to perform certain missions using private pilots. Current exemptions are somewhat confusing to Civil Air Patrol operations personnel, to the pilots who fly these sorties, and even to members who are also FAA employees.

**IMPACT:** The current exemptions severely restrict the contributions private pilots can make to the Civil Air Patrol’s missions.

***POSSIBLE SECAF ASSISTANCE:*** *Air Force act as Civil Air Patrol’s advocate for the position that additional exemption is needed in order for Civil Air Patrol to accomplish the public purposes for which it was chartered.*

**ISSUE NO. 4:** Problems with AFI 65-601, Vol I, Budget Guidance and Procedures

**BACKGROUND:** The instruction purports to define the specific types of expenses for which the Air Force can reimburse Civil Air Patrol. Since Civil Air Patrol is subject to a Cooperative Agreement, Civil Air Patrol asserts that the applicability of Air Force Instructions is in conflict with Department of Defense Grant and Agreement Regulations (DoDGARs) Section 32.3, which explicitly states that “all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part [of DoDGARs] shall be superseded, except to the extent that they are required by statute, or authorized in accordance with the deviations provision in section 32.4.”

**IMPACT:** This is an issue of disagreement with CAP-USAF and is an impediment to full implementation of DoDGARs.

**POSSIBLE SECAF ASSISTANCE:** Initiate a Broad Area Review to review the Cooperative Agreement in light of the provisions of DoDGARs.

**ISSUE NO. 5:** Civil Air Patrol Glider Program

**BACKGROUND:** From FY 1996 until FY 2003, cadet glider flight training and the Cadet Glider Orientation Flight program were flown as Air Force assigned missions (AFAM). In a November 2003 letter, AF/XOH directed that such missions would not be flown as AFAMs.

**IMPACT:** This change results in a loss of funding for glider cadet orientation flights, glider acquisition, and glider maintenance. The change also resulted in loss of FTCA/FECA for the glider program and forced our insurance underwriter to assume liability protection for the cadet orientation and cadet flight training portion of the glider program.

**POSSIBLE SECAF ASSISTANCE:** *Determine the Civil Air Patrol cadet glider program to be a noncombat mission of the Air Force.*

**ISSUE NO. 6:** Program Narrative

**BACKGROUND:** The current “Statement of Work” (SOW), which is attachment 1 to our Cooperative Agreement with the Air Force, needs to be rewritten and expanded. Among the areas that need to be better addressed are the definition of the “program”, the extent of the government’s “substantial involvement”, and the methods for monitoring program performance.

**POSSIBLE SECAF ASSISTANCE:** Initiate a Broad Area Review to review the Cooperative Agreement in light of the provisions of DoDGARs.

#### **ISSUE NO. 7: Wing Administrators for Every Wing**

**BACKGROUND:** For a five-year period (1995-2000) Civil Air Patrol was funded for two corporate employees in each wing. These corporate employees provided the dual function of Civil Air Patrol Wing assistance and Air Force oversight. Those positions were later transferred, along with the funding, back to the Air Force when it was determined that it was inappropriate for Civil Air Patrol corporate employees to provide oversight over their own activities. The Air Force “Balance-the-Books” manpower reduction in FY04 eliminated these Air Force Deputy State Director (DSD) civil service positions and immediately created a void in critical day-to day administrative continuity at all Civil Air Patrol Wing Headquarters.

**IMPACT:** Only non-paid volunteers are at the wing level to meet the extensive administrative demands levied on Civil Air Patrol by the Cooperative Agreement.

**POSSIBLE SECAF ASSISTANCE:** *Obtain additional Air Force funding of \$2.2M annually in the POM and the Defense Appropriations Act and increase funding to the Cooperative Agreement.*

#### **ISSUE NO. 8: Fully funded National Operations Center (NOC)**

**BACKGROUND:** *Since 9/11, and with the standing up of NORTHCOM and AF/XOS, many more details must be reviewed/presented/coordinated before an AF mission number can assigned to Civil Air Patrol. To implement these changes, the Civil Air Patrol NOC became operational 1 Oct 02 with personnel who were previously assigned other duties. However, appropriated funding is not in the current POM to properly man and equip the NOC. It will take \$900K annually to operate the NOC 24/7 in a manner similar to the way AFRCC operates.*

**IMPACT:** Civil Air Patrol is not sufficiently funded to provide a fully manned, 24/7 NOC. Funding is not in the POM baseline. The NOC is an unfunded requirement, and continued implementation of the NOC without additional funding adversely impacts National Headquarters’ ability to fund other Civil Air Patrol mission requirements.

**POSSIBLE SECAF ASSISTANCE:** *Obtain additional AF funding of \$900K annually in the POM and the Defense Appropriations Act and increase funding to the Cooperative Agreement.*

#### **ISSUE NO. 9: Stabilized Funding for Civil Air Patrol**

**BACKGROUND:** In FY02, HQAF and Civil Air Patrol completed a Top-to-Bottom baseline budget revision that set the level of support for Civil Air Patrol programs at about \$20M. Since this revision, Civil Air Patrol has experienced a baseline reduction of \$550K in FY03, and forecast reductions of \$110K in FY05 and \$220K in FY07, for a total of \$880K reduction.. The FY02 baseline revision was important to reestablish AF’s support for Civil Air Patrol programs. Civil Air Patrol believed this revision also included an agreement by AF that Civil Air Patrol’s baseline would be “insulated” from AF budget drills and not be “bill payers” for other AF programs.

**IMPACT:** Civil Air Patrol’s baseline continues to shrink and compounding the baseline reductions, real inflation in operating aircraft, added cooperative agreement compliance tasking, and rising personnel benefit costs have actually resulted in fewer dollars for programs.

**POSSIBLE SECAF ASSISTANCE:** *Initiate a Broad Area Review to validate Civil Air Patrol requirements and set AF support. Establish rules to “fence” the Civil Air Patrol budget from other AF programs.*

**ISSUE NO. 10:** Location of CAP-USAF in Air Force Structure

**BACKGROUND:** *The location of the Civil Air Patrol program in the Air Force structure plays an important role in determining how Civil Air Patrol functions.*

**IMPACT:** With CAP-USAF falling under an Air Force major command (such as AETC), Civil Air Patrol must compete within that major command for budget dollars, for support and for manpower. For example, the loss of 50 Deputy State Directors was a result of AETC being tasked to meet a portion of the FY04 Air Force manpower ceiling. Another example is the decrease of \$550,000 from the Cooperative Agreement in FY03 because of AETC’s levy of the “war tax”.

**POSSIBLE SECAF ASSISTANCE:** *Initiate a Broad Area Review to determine if the Civil Air Patrol program would be more effective if it was an independent Field Operating Agency, or under USAF/XOS-HA, or a part of Air Combat Command.*

**ISSUE NO. 11:** Regulations Promulgated/to be Promulgated IAW 10 USC 9448

**BACKGROUND:** 10 USC §9448 requires SECAF to promulgate regulations (a) governing the conduct of Civil Air Patrol performing its duties as the civilian auxiliary of the Air Force and (b) providing support by the Air Force and arranging assistance by other federal agencies. Civil Air Patrol believes that these regulations are subject to the Administrative Procedures Act and must be published in the Code of Federal Regulations.

**IMPACT:** The regulations providing support by the Air Force and arranging assistance by other federal agencies are need as, from time to time, Civil Air Patrol has been refused assistance due to a lack of these regulations and at other times, such regulations might facilitate Civil Air Patrol access during period of heightened security.

**POSSIBLE SECAF ASSISTANCE:** *Obtain ruling from AF/GC regarding the need for regulations under 10 U.S.C. 9448 to comply with the Administrative Procedures Act and issue such regulations.*

**ISSUE NO. 12:** Air Force Approval of Civil Air Patrol's Concept of Employment (CONEMP)

**BACKGROUND:** Approval of Civil Air Patrol's CONEMP is needed to facilitate employment as a resource in homeland security. The CONEMP states that Civil Air Patrol resources can support homeland security efforts through airborne reconnaissance, imaging, monitoring, and transportation; by operation of a national air and ground communications net; and by providing support to other homeland security activities. The CONEMP shows how Civil Air Patrol can employ assets to support the *President's National Strategy for Homeland Security*.

**IMPACT:** Approval of Civil Air Patrol's CONEMP is needed to facilitate employment as a resource in homeland security.

**POSSIBLE SECAF ASSISTANCE:** *Make top-down inquiry into status of Civil Air*



SECRETARY OF THE AIR FORCE  
WASHINGTON

OCT 27 2004

CAP Colonel Robert C. Bess  
Chairman, CAP Board of Governors  
CAP National Headquarters  
105 S. Hansell St, Bldg 714  
Maxwell AFB, AL 36112-6332

Dear Colonel Bess:

Thank you for the update from the Civil Air Patrol's (CAP) June Board of Governors meeting. I can see the Board is helping CAP tackle numerous issues that impact the organization.

In response to your request, I have asked my staff to prepare decision briefings on a number of your priority issues. SAF/MR, Mr. Mike Dominguez, will review those briefings and determine which topics require my personal attention. For your convenience, my staff has provided brief status updates on the issues you outlined.

Please feel free to contact my POC, Col George Sciss, AF/XOS-HA, at (703) 696-0040 if you need further details. I value the contribution that the CAP makes to our nation's defense and the outstanding support it provides the Air Force.

A handwritten signature in black ink, appearing to read "J. R. Sciss", is located in the center-right of the page.

Attachment:  
HAF Update on CAP Issues

cc:  
CSAF

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HQ Air Force Update

On

CAP Priority Issues

**FTCA/FECA Coverage – Corporate Insurance Crisis**

**Update:** In March 2004, HQ CAP-USAF and the Air Staff conducted a review of the current guidance regulating how Air Force mission status is assigned. This Broad Area Review was performed as a result of several CAP accidents and apparent misunderstandings highlighted the need to clarify when Air Force mission status can be extended. The resulting joint memorandum signed by both HQ CAP-USAF/CC and CAP/CC brought CAP procedures fully into compliance with Air Force policy and federal law. This ensured clear and unambiguous guidance on federal protections for the CAP volunteer force when flying CAP missions. Unfortunately, as part of this effort, some missions that had been previously—but erroneously—characterized as Air Force non-combat missions were moved to the ‘CAP Corporate’ category; this resulted in higher premiums charged by CAP’s private insurance carrier. AF/XOS-HA is currently working with HQ CAP-USAF and SAF/GCM to refine the guidance as needed. In addition, AF/XOS-HA and HQ CAP-USAF are working to determine if the CAP POM baseline needs to be adjusted for the higher insurance rates since this coverage is paid with appropriated funds. In addition, HQ CAP-USAF/CC has decided to use some end-of-year funds to offset the impact of the higher insurance premiums in FY04.

**Proposed Legislation – Making CAP the Resource of Choice**

**Update:** The Secretary of Defense has clearly stated policy regulating how Department of Defense assets are presented to other federal agencies, states, and local governments. Essentially, once DoD has tasked the Air Force to provide military support or assistance to civil authorities, the Air Force then decides which components, to include the AF Auxiliary, should be utilized. The process, as you know, flows through the JDOMS to the appropriate combatant commander. The proposed legislation you cite is not congruent with SECDEF policy. AF-XOS/HA is involved in planning logistical aspects of the JDOMS construct and is mindful that the process must be efficient and timely. The new construct obviates the need for legislative changes.

**FAA Exemptions**

**Update:** AF/XOS-HA has been working with the Air Force Flight Standards Agency (AFFSA) and the FAA to resolve outstanding issues related to CAP waivers, we discovered the need to split the negotiations into those involving corporate missions and those involving Air Force missions. Since the Air Force can only assist with waivers needed for Air Force missions, AF/XOS-HA and AFFSA will continue to work with the FAA to ensure that Air Force waivers impacting CAP Auxiliary missions are correctly worded and in compliance with FAA regulations. CAP Corporate will need to negotiate exemptions for corporate missions.

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**AFI 65-601, Budget Guidance and Procedures Problems**

**Update:** AF/XOS-HA concurs that AFI 65-601 requires revision. The language relating to Civil Air Patrol financial reimbursement in the current version was written prior to the Cooperative Agreement and conflicts with the guidance contained in DoD Grant and Agreement Regulations (DoDGARs). AF/XOS-HA and CAP-USAF/FM personnel have engaged SAF/FMBMM through the AFAB process to correct these discrepancies. We anticipate resolution of these conflicts in the next revision of the AFI.

**CAP Glider Program**

**Update:** The CAP Cadet Program provides an outstanding service to our nation's youth by providing aviation opportunities and technical education, as well as leadership training. As you know, however, the program is solely a CAP corporate mission. I anticipate a briefing from the AETC Commander on this topic this fall. However, I don't anticipate any change to that status in the near future.

**CAP Program Narrative**

**Update:** Currently, CAP-USAF and CAP NHQ are jointly rewriting the Statement of Work (SOW). We anticipate the new SOW will be ready for coordination within the Air Force and CAP this fall. This revised SOW will more fully define the services the CAP will perform when operating in Air Force Auxiliary status, better delineate the Air Force's involvement with CAP, and provide clear processes to monitor program performance. This new SOW will also address previous audit and inspection failures by giving CAP clear guidance on property accountability and financial management that is consistent with DoD Grant and Agreement Regulations.

**Wing Administrators**

**Update:** I am addressing this issue in a separate letter to you, as I received additional correspondence. Please refer to that letter, which is currently being coordinated, for a status.

**National Operations Center Funding**

**Update:** While I recognize the CAP National Operations Center (NOC) is a key part of the Air Force Auxiliary's integration into the NORTHCOM command and control process, the \$900,000 you request for additional NOC manning must be submitted as a POM request through HQ CAP-USAF.

**Stabilized CAP Funding**

**Update:** The Civil Air Patrol Corporation (PE 91223F) is not usually subject to any Executive Review Account (ERA) taxes during the execution year by SAF/FMB or AETC/FMA. However, like all other Air Force programs, I reserve the right to utilize funding that might have been dedicated to AF Auxiliary mission to pay for other Air Force initiatives when mission needs dictate.

**Location of the CAP-USAF in the Air Force Structure**

**Update:** In July, I directed HQ AETC to examine where HQ CAP-USAF should be. This study is currently underway and I expect the AETC commander to present me with his

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recommendations next month. My goal is to ensure that HQ CAP-USAF's location maximizes the potential for the Civil Air Patrol. I will update you once I receive AETC's briefing and make a decision.

**Regulations Promulgated IAW 10 USC 9448**

**Update:** AFPD 10-27, as well as AFIs 10-2701 and 10-2702, were issued pursuant to 10 U.S.C. 9448. These documents are all dated 27 Feb 2001, and they represent my exercise of the discretionary powers conferred by 10 U.S.C. 9448. Further, while there are certain proposed regulations that must be printed in the Code of Federal Regulations for potential public comment, there is no such requirement for the current Air Force publications relevant to CAP.

**CAP CONEMP**

**Update:** The draft CAP CONEMP is currently in coordination. AF/XOS-HA is working with various Air Staff offices, HQ CAP-USAF, and the Civil Air Patrol to finish the document in a timely manner.

# APPENDIX D

## USAF/XOH-SA BRIEFING

### *Headquarters U.S. Air Force*

*Integrity - Service - Excellence*

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## CAP 12 Top Issues Update

CAP Board of Governors Meeting  
1 Dec 2004

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### *Issues*

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- **Critical:**
  2. Proposed Legislation - [Making CAP the Resource of Choice](#)
  3. FAA Exemptions - [FAA Meeting](#)
  4. Problems with AFI 65-601, Vol. 1, [Budget Guidance and Procedures](#)
  7. [Wing Administrators](#) for Every Wing
  10. Location of [CAP-USAF](#) in the Air Force Structure
- **Routine:**
  1. FECA/FTCA Coverage - [Corporate Insurance](#) Crisis
  5. Civil Air Patrol [Glider Program](#)
  6. [Program Narrative](#)
  8. [National Operations Center](#) Funding
  12. Air Force Approval of CAP's [Concept of Employment](#)
- **Closed:**
  9. [Stabilized Funding](#) for the Civil Air Patrol
  11. [Regulations](#) Promulgated IAW 10 USC 9448

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*Integrity - Service - Excellence*

## ***Proposed Legislation Making CAP Resource of Choice***

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- **Background**
  - Air Force Mission Status cannot be assigned for state & local missions without federal 'validation'
- **Impact**
  - Excessive delay discourages states & local agencies from using the CAP
- **Request**
  - Support legislation that will allow Civil Air Patrol to respond directly to requests from any Federal, state or local governmental agency

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*Integrity - Service - Excellence*

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## ***Proposed Legislation Making CAP Resource of Choice***

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- **Discussion**
  - Proposed legislation is incongruent with SECDEF policy
  - CAP missions flown for non-DoD fall into the category of Military Support to Civil Authorities (MSCA)
    - Request for Assistance sent to OSD for staffing & approval, Execution by NORTHCOM
  - OSD policy dictates that SECDEF approves all MSCA requests due to impact on combat forces
    - OSD has indicated that they do not need to approve Auxiliary missions since requesting LFA pays for the sorties and there is no effect on combat capability
    - SAF/GCM & AF/JAA working with OSD to write required policy documents
      - AF is OSD Executive Agent for CAP Civil Support missions
      - AF process for mission request/approval/C<sup>2</sup>/reporting
      - Policy must maintain concept of "tasking from higher authority" required for instrumentality status

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*Integrity - Service - Excellence*

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## ***Proposed Legislation Making CAP Resource of Choice***

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- **HQ CAP-USAF, NORTHAF-1AF, and NORTHCOM C<sup>2</sup> relationship codified by MOU**
  - LIMFAC for increased Auxiliary mission tasking is a lack of personnel at 1AF and HQ CAP-USAF to work mission approval
    - 1AF/CC letter asked HQ CAP-USAF/CC for full-time representative in the 1AF CAOC (1)
    - HQ CAP-USAF needs additional personnel for operations and training support to CAP (4)
    - CAP NOC needs additional personnel (2-3) to process requests
- **Way Ahead**
  - **Actual manning requirements will not be firm until C<sup>2</sup> process is fully defined**
    - \$\$\$ for IMA reserve support at HQ CAP-USAF & 1AF
    - CAP NOC Manning is one of CAP 12 Top Issues
  - **Need appropriate policy documents from OSD and AF concerning CAP civil support process**

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[Back](#) <sup>5</sup>

## ***FAA Exemptions***

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- **Background**
  - CAP needs specific exemptions to FARs
- **Impact**
  - Current exemptions restrict when CAP can use private pilots and be reimbursed
- **Request**
  - Air Force advocate exemptions to the FAA

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<sup>6</sup>

## ***FAA Exemptions***

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- **Discussion**
  - CAP needs three categories of FAA exemptions
    - Allow Private Pilots to fly AFAMs other than "Search and Locate"
    - Allow Private Pilots to fly CAP Corporate public purpose missions (state/local search and locate, cadet orientation flights, routine training) other than "transport"
    - Allow CAP to fly "Transport" missions outside of FAR Part 135 for AFAMs
  - **Key points**
    - Allow the corporation to receive payment
    - Private Pilots to log the flight time
  - **AF can advocate for waivers that affect our missions**
- **Way Ahead**
  - **23 Nov 04 FAA Meeting**
    - Ms. Peggy Giligan – Deputy Associate Administrator for Regulation and Certification
    - Three points
      - CAP may have some relief under existing exemptions
      - CAP has some missions that will always require a CPL
      - Some missions may require exemption or legislative relief

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[Back](#) <sup>7</sup>

## ***Problems with AFI 65-601 Vol. 1 Budget Guidance and Procedures***

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- **Background**
  - Instruction defines specific types of expenses for which the Air Force can reimburse CAP
  - CAP asserts that AFI doesn't apply since corporation is funded through a Cooperative Agreement
- **Impact**
  - Disagreement between CAP & HQ CAP-USAF
- **Request**
  - Broad Area Review to review the Cooperative Agreement in light of DoDGARs

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8

## ***Problems with AFI 65-601 Vol. 1 Budget Guidance and Procedures***

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- **Discussion**
  - HQ CAP-USAF is regulated by AFI 65-601 so AFI is relevant
    - Defines how AF can transfer \$\$\$ to CAP
    - Transfer mechanism is the Cooperative Agreement
  - Current AFI 65-601 version predates CAP Cooperative Agreement and Statement of Work
    - Update needed to reflect current funding procedures
    - Some procedures in current AFI 65-601 conflict with OMB circulars and DoDGARs
  - **Requested changes in COORD**
    - AF/JAA Comments:  
"Need to make a determination required by 10 U.S.C. § 9444 that the proposed changes are consistent with Air Force missions and objectives"
- **Way Ahead**
  - **Work with AF/JAA and SAF/GCM to resolve specific policy questions**
    - Some should be resolved when the update to AAFP 10-27 is finished
    - Others will need specific HAF coordination

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[Back](#)

9

## ***Wing Administrators***

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- **Background**
  - AETC eliminated Deputy State Director position in FY04
    - DSD duties included assisting CAP with administrative duties required by AFIs & DoDGARs
    - CAP volunteer labor not best solution – training & time
  - AETC did not support \$2.2M FY06 POM request to hire 50 corporate positions to replace DSDs
- **Impact**
  - Administrative procedures required by AF are not consistently adhered to across all wings
- **Request**
  - Obtain funding for Wing Administrator positions

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10

## Wing Administrators

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- Discussion
  - SECAF has decided to fund WA request
- Way Ahead
  - SAF/MR will work with SAF/FM, AF/XP, and AETC to determine the funding source
    - Hire 25 in FY05 (1 May 05) using current year funds
    - Add WA request to the FY06-11 POM
  - Need firm cost estimate from CAP NHq
  - Issues WRT AFI 65-601 will require resolution prior to hiring any new WAs

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[Back](#) <sup>11</sup>

## HQ CAP-USAF Location in AF Structure

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- Background
  - HQ CAP-USAF currently subordinate to AU & AETC
  - HQ CAP-USAF location plays important role in CAP advocacy and resources
- Impact
  - CAP must compete with other AETC requirements for funding and resources
- Request
  - Broad Area Review to determine where HQ CAP-USAF should be located

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<sup>12</sup>

## HQ CAP-USAF Location in AF Structure

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- Discussion
  - SECAF directed AETC to examine 'where in AETC' CAP should be located
  - AETC/CC answer was to keep under AU while SAF/MR and AF/XO jointly studied issue
  - XOS-HA has prepared survey for AETC, ACC, and ANG
- Way Ahead
  - SAF/MR tasker – 5 Jan 05
  - Package (cover letter, survey) ready for mailing

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[Back](#) <sup>13</sup>

## **FECA/FTCA Coverage Corporate Insurance Crisis**

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- **Background**
  - March 2004 'Mission Status' guidelines reduced the number of Air Force assigned missions
- **Impact**
  - CAP commercial insurance increased 34% - could go up to 88% based on loss ratio
- **Request**
  - Perform a Broad Area Review on the non-combat missions where CAP could receive Air Force Mission Status

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14

## **FECA/FTCA Coverage Corporate Insurance Crisis**

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- **Discussion**
  - New guidance (March 2004 Broad Area Review) appropriately categorizes when CAP should have Air Force Assigned Mission (AFAM) status
    - Refinement of these new categories will not significantly change the number of AFAM missions, it will only affect the margins
  - Insurance premium increased approximately \$450,000 on an 18-month policy
    - After the current policy expires, the insurance underwriter will re-assesses CAPs safety record and claims history with the additional covered missions and adjust the rate accordingly
  - Top-line POM did not go up so increased premium reduced available appropriated \$\$\$ for other CAP programs – equipment purchases, training, etc.
- **Way Ahead**
  - FY04: AETC, AU, and HQ CAP-USAF allocated \$370,100 of end-of-year money to allow CAP to purchase equipment deferred due to increased insurance premiums
  - FY05 & FY06: Push Unfunded Request through AETC and HAF to cover increased insurance premiums
  - FY07: POM input for long term solution

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[Back](#) <sup>15</sup>

## **Civil Air Patrol Glider Program**

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- **Background**
  - CAP glider program ruled not consistent with Air Force mission
  - Funding changed from appropriated to corporate \$\$\$
- **Impact**
  - Other corporate programs affected
  - Loss of FTCA/FECA for those missions
- **Request**
  - Determine the CAP cadet glider program to be consistent with AF missions

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16

## Civil Air Patrol Glider Program

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- Discussion
  - Legal opinion states that the glider program is not “consistent with Air Force missions and objectives”
    - By law, the Air Force can only provide appropriated funds to CAP to accomplish programs that are “consistent” with AF missions
    - Term “consistent” not clearly defined in Title 10
  - AETC/CC briefed Aviation Outreach and Minority Representation plan at CORONA
    - Aviation opportunities provided by the CAP Cadet Program are featured as part of their overall “strategy to task”
    - If approved, then some connectivity to tie the glider & powered programs to an Air Force mission and thus restore funding
  - SAF/MRE has been working two initiatives
    - Strategic Community Outreach for Promoting Diversity in Critical Skill Areas
    - Air Force Plan for Diversity Integration
    - Plan is to roll both initiatives into AF/DP Strategic Plan

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17

## Civil Air Patrol Glider Program

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- Discussion
  - Two Options
    - Specify in AF policy that the CAP Cadet Program aviation activities is consistent with AF missions and objectives
      - Policy Memo
      - AFPD 10-27 Update
    - Change CAP legislation
      - Removes need to tie back to AF mission
      - No budgetary impact -> glider program is \$80K/year (< 1% of CAP yearly appropriation)
  - Way Ahead
    - Update to AFPD 10-27, Air Force Auxiliary and Civil Air Patrol includes aviation-related language

\*The CAP conducts a cadet program with emphasis on aerospace education, leadership skills, physical fitness, and values education. The cadet program may include the opportunity for cadets to fly in powered or glider aircraft and is consistent with the Air Force's community outreach and diversity in operations missions. This program will also support the Air Force Drug Demand Reduction (DDR) program. The Air Force will provide support for the CAP Cadet Program consistent with Title 10 United States Code 9444.\*
    - MAJCOM-level coordination began 23 Nov 04

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[Back](#) 18

## Program Narrative

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- Background
  - Current Statement of Work needs to be rewritten
  - Need to determine definition of a ‘program’ and the extent of the government’s ‘substantial involvement’
- Impact
  - Disagreement between CAP & HQ CAP-USAF
- Request
  - Broad Area Review to review the Cooperative Agreement in light of DoDGARs

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19

## Program Narrative

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### ■ Discussion

- HQ CAP-USAF & CAP has drafted a new Statement of Work
  - More fully define the services the CAP will perform when operating in Air Force Auxiliary status
  - Better delineate the Air Force's involvement with CAP
  - Provide a clear processes to monitor program performance
  - Address previous audit and inspection write-ups by giving clear guidance on property accountability and financial management that is consistent with DoD Grant and Agreement Regulations

### ■ Way Ahead

- Draft SOW at SAF/GCQ for 'legal sufficiency' review
- CAP & CAP-USAF meeting scheduled for 3 Dec 04 to discuss the document and define differences

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[Back](#) <sup>20</sup>

## National Operation Center Funding

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### ■ Background

- Auxiliary HLS missions are increasing
- CAP's National Operations Center (NOC) acts as clearinghouse for requests
- Current manning (3) is insufficient for current and expected workload

### ■ Impact

- Auxiliary cannot accept more missions without additional manning

### ■ Request

- Obtain \$900K for NOC positions

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<sup>21</sup>

## National Operation Center Funding

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### ■ Discussion

- NOC manning is key to continued integration into the AF C<sup>2</sup> process
  - This manning should be rolled up into the proposed C<sup>2</sup> manning process discussed in 'Resource of Choice' issue
- AU sent NOC POM initiative to AETC as a "Mission Critical" unfunded input

### ■ Way Ahead

- Finalize CAP Civil Support integration process
- Determine where staff support is needed
  - NOC, HQ CAP-USAF, 1AF CAOC
- Build Decision Briefing, refine POM input & advocate through the AETC and AF Corporate process

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[Back](#) <sup>22</sup>

## ***AF Approval of CAP CONEMP***

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- **Background & Impact**
  - AF Approval of CAP CONEMP needed to facilitate employment for HLS missions
- **Request**
  - Make inquiry into CONEMP status

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23

## ***AF Approval of CAP CONEMP***

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- **Discussion**
  - **CAP CONEMP is currently on hold**
    - Cannot be completed until policy regarding CAP integration into AF C<sup>2</sup> procedures is finalized
  - **Way Ahead**
    - CONEMP will work through the normal staffing process as needed policy is developed

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[Back](#) 24

## ***Stabilized Funding for CAP***

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- **Background**
  - CAP funding baselined in FY02
  - \$550K 'war tax' in FY03
  - \$110K reduction forecast for FY05
- **Impact**
  - Decreasing baseline and increased operations costs have affected CAPs programs
- **Request**
  - Broad Area Review to validate CAP requirements and 'fence' CAP budget

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25

## ***Stabilized Funding for CAP***

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- **Discussion**
  - CAP PE 91223F is not usually subject to any Executive Review Account (ERA) taxes during the execution year by SAF/FMB or AETC/FMA
  - SECAF reserves the right to utilize funding that might have been dedicated to AF Auxiliary mission to pay for other Air Force initiatives when mission needs dictate
  - Recent FY06 POM Budget Drill illustrated AU's & AETC's advocacy for CAP's budget
- **Way Ahead**
  - Issue Closed

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[Back](#) <sup>26</sup>

## ***Regulations Promulgated by 10 U.S.C. 9448***

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- **Background**
  - 10 U.S.C. 9448 requires SECAF to promulgate regulations
    - Governing the conduct of the CAP
    - Provide support by the AF and arranging assistance by other federal agencies
  - CAP believes these regulations are governed by the Administrative Procedures Act
    - Must be published in the Code of Federal Regulations
- **Impact**
  - CAP asserts they have been refused assistance due to the lack of these regulations
  - Such regulations might facilitate CAP access during heightened security
- **Request**
  - Obtain SAF/GC ruling regarding the need for regulations under 10 U.S.C. to comply with the Administrative Procedures Act

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27

## ***Regulations Promulgated by 10 U.S.C. 9448***

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- **Discussion**
  - AFPD 10-27, as well as AFIs 10-2701 and 10-2702, were issued pursuant to 10 U.S.C. 9448
  - Certain regulations must be printed in the Code of Federal Regulations for potential public comment,
    - No such requirement for the current Air Force publications relevant to CAP
- **Way Ahead**
  - Issue closed
    - SAF/GC has answered the question

# APPENDIX E

## MEMBERSHIP ACTION REVIEW BOARD

### REPORT TO BOARD OF GOVERNORS ACTIVITIES DURING FISCAL YEAR 2004

Case 03-03 - Colonel John R. Buschmann. On 4 November 2003 the Membership Action Review Board (MARB) considered the appeal of Col. Buschmann. His appeal alleged that he was removed from the position of Colorado Wing Commander in retaliation for publishing a wing supplement to a CAP regulation. He also alleged that the decision was “arbitrary” as defined in CAPR 35-8, paragraph 2.a. and that the removal from office was without cause, thereby materially failing to comply with the Civil Air Patrol Constitution, Article XV, paragraph 3. The MARB concluded that Col. Lynda C. Robinson, Rocky Mountain Region Commander, had given Col. Buschmann a legal order to rescind the wing supplement. It further found that Col. Buschmann failed to acknowledge her order or to advise her within a reasonable period of time that he would comply. The MARB concluded that under the circumstances, Col. Buschmann’s actions amounted to insubordination, which constituted misconduct under Article XV, paragraph 3 of the Constitution. Having determined that there was no retaliation, and that Col. Robinson’s actions provided due process and were in accordance with applicable CAP regulations, the MARB denied Col. Buschmann’s requested relief.

Case 04-01 - On April 5, 2004, the Membership Action Review Board (MARB) considered the appeal of Colonel Phillip S. Groshong of his removal from the position of Pacific Region Commander by Major General Bowling. Gen. Bowling removed Col. Groshong for two instances of misconduct, pursuant to Constitution Article XV, Paragraph 3. The first instance of misconduct was stated to be improper interference in the affairs of another region by personally investigating the circumstances surrounding the removal of a wing commander from command, despite repeated orders not to. The second instance of misconduct was stated to be improperly furnishing confidential information about applicants for the Board of Governors to a person who was not a member of the National Executive Committee. Col. Groshong, while neither admitting nor denying his alleged actions, argued that they were not “misconduct” sufficient to justify removal from command.

In upholding Gen. Bowling’s removal of Col. Groshong as Pacific Region Commander, the MARB determined that the evidence supported Gen. Bowling’s allegation that Col. Groshong improperly interfered in the affairs of another region, and concluded that such interference constituted misconduct justifying removal from office. It also determined that there was insufficient evidence to conclude that the confidential information about the Board of Governors applicants was provided by Col. Groshong to a person who was not a member of the National Executive Committee.

During the course of this case, the MARB learned that a CAP member had contacted a member of the MARB regarding another case then before the MARB. The MARB wishes to make known that contacting any member of the MARB with respect to a case before the MARB, outside of the formal procedures established in CAPR 35-8, is improper.

Case 04-02 - First lieutenant Charles G. Harrison, Miami Senior Squadron I (Florida Wing), appealed his demotion from major, removal from command of the Coral Springs Cadet Squadron, transfer to a senior squadron, restrictions in the positions to which he can be appointed, restrictions on participation in cadet activities, and requirement to attend a Cadet Protection Program training class. Lt Harrison asserted that these actions were taken in retaliation, without stating a specific activity or event for which the retaliation was allegedly taken. The MARB found that it had jurisdiction only over adverse membership actions as defined in CAPR 35-8, which included only demotion and removal from command. It also found that the adverse membership actions were taken because Lt Harrison violated paragraph 1-4b of CAPR 52-16 by having the "Protective Security Training Academy" engage in a demonstration hostage-taking activity at a CAP meeting during which smoke bombs and firearms were used and a pistol was held to the head of a cadet. The unanimous vote the MARB sustained the adverse membership actions.

Case 04-03 - Mr. Steven Douglas Hays, formerly of the Fort Worth (Texas) Senior Squadron, appealed the termination of his membership in CAP, alleging consistent failure of individuals involved to follow CAP regulations 35-1 and 35-3 by disregarding the time guidelines for holding a membership termination appeal board. He also alleged failure of due process because the CAP commander who initiated his termination was not present at the appeal board hearing. Mr. Hays' membership was terminated for violating orders to cease verbal and written communications with federal, state or local agencies to try to obtain authorization for Civil Air Patrol to assist with the Columbia recovery effort, thereby bringing serious harm and discredit to CAP, the Southwest Region and the Texas Wing. The MARB found that there was no requirement for the initiating commander to attend the appeal board hearing, and therefore no failure of due process. It further found that the delays in holding the membership termination appeal board were caused by reappointing a board at Mr Hays' request and by the involved commanders having to respond to voluminous mail and email from Mr Hays. In sustaining the adverse membership action, the MARB noted that the delays were not a material failure to follow CAP regulations in part because they were caused by the member and in part because the results would not have been different had the delays not occurred.

Case 04-04 - Captain Machacek, Colorado Wing, appealed his membership termination, alleging that the action was taken in retaliation for failure to surrender a CAP owned camera to the wing commander, was the result of prejudicial errors arising out of material failures to follow applicable CAP regulations, and violation of due process because of lack of independence of the appeal board. The MARB found that the termination was based on Captain Machacek's cancellation of a Western Area Defense Sector mission assigned by the National Operations Center one day before the mission was to be flown and the manner in which the mission was cancelled. The MARB determined that the camera had nothing to do with the membership termination

and that there was no evidence of retaliation. However, the MARB reinstated Captain Machacek's membership based on the lack of independence of the appeal board and an adverse personnel action that was so disproportionate to the alleged offense as to violate due process. The lack of independence was due to the appointing authority (the Rocky Mountain Region Commander) assigning her vice commander and chief of staff to be two of the three members of the appeal board.

Case 04-05 - Second Lieutenants Glenn and Shelly Thibodaux, Louisiana Wing, appealed their demotions from captain to second lieutenant, their involuntary reassignment from LA-093 to LA-000, and certain restrictions in their CAP participation and duty assignments. These actions were taken by the wing commander, who was the appeal authority for a membership termination action initiated by the squadron commander at the direction of the wing commander, for allegedly improper actions taken at a wing conference when Lieutenants Thibodaux encountered cadets who had been drinking. The actions were taken because the appeal board appointed by the wing commander did not concur in the membership termination. The Thibodauxs alleged that the actions were taken in retaliation and that the appointment of the wing commander as the appeal authority for an action taken at his direction, violated due process. The MARB noted that there is no restriction in CAP regulations to preclude a wing commander from instructing a squadron commander to take an adverse membership action and then be the appeal authority in the same action. Thus, there was no violation of due process or substantial violation of CAP regulations in the appointment of the appeal authority. There was no indication of retaliation. The facts were not in dispute and, based on the facts presented, the MARB concluded there was no basis for an adverse membership action. Having jurisdiction only over adverse membership actions, as defined in CAPR 35-8, the MARB reversed the demotions, but had no authority to address the other personnel actions taken by the wing commander.