

Civil Air Patrol Board of Governors - Minutes

1 June 2004 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
Washington DC

Member Present

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

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

Major General Richard L. Bowling, CAP
Civil Air Patrol National Commander

Lieutenant General (Sel) Roger Brady, USAF
Headquarters, United States Air Force Special Assistant to the Chief of Staff for Force
Development

Mister Michael L. Dominguez
Assistant Secretary of the Air Force

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

Major General Richard Mentemeyer, USAF
Headquarters, United States Air Force Assistant Deputy Chief of Staff, Air & Space
Operations

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

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

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

Mister Bruce N. Whitman, President
Flight Safety 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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Opening Remarks

CALL TO ORDER. Colonel Robert Bess, CAP, Chairman, Civil Air Patrol Board of Governors, called the meeting to order and welcomed the members of the BoG. Lt Gen Nicholas B. Kehoe, USAF (Ret), Vice Chairman, Civil Air Patrol Board of Governors, led the group in reciting the Pledge of Allegiance. Al Allenback, Executive Secretary, called the roll and noted that all members were present.

THE CHAIRMAN thanked everyone for attending the meeting of the Board of Governors and for their support of Civil Air Patrol. He acknowledged the new members of the board: Lt Gen (Sel) Roger Brady, USAF, Special Assistant to the Chief of Staff for Force Development, HQ USAF; Maj Gen Richard Mentemeyer, USAF, Assistant Deputy Chief of Staff Air & Space Operations, HQ USAF; and two of the new members in the jointly appointed positions, Lt Gen Charles Searock, USAF (Ret), General Aviation & Technology Consultant and Rear Admiral David Nicholson, USCG (Ret), Department of Homeland Security. He also welcomed Mr. Bruce Whitman, President of Flight Safety International, back for another 3-year term.

THE CHAIRMAN also introduced special guests: Ms. Mary Beth Tyler, Air Education & Training Command Grants Officer; Bill Whatley, Defense Contract Audit Agency; Billy Daniels, Chuck Jordan, and Clint Hart from Wilson, Price, Barranco, Blankenship & Billingsley—CAP auditors; Colonel George Vogt, Commander CAP-USAF; Colonel Russ Hodgkins, Vice Commander CAP-USAF; Colonel George Sciss, USAF, Chief of Air Force Homeland Security Auxiliary Branch (XOHA); Colonel Steve Doss, USAF, HQ USAF/XOs, Homeland Security; Colonel Tony Pineda, CAP, Commander, Southeast Region; Colonel Don Angel, CAP, National Finance Officer; Colonel Rock Palermo, CAP, National Legal Officer; Stan Leibowitz, Corporate Legal Counsel, and Colonel Mike Sheen, CAP, volunteer in office of HQ USAF/XOHA.

THE EXECUTIVE SECRETARY expressed appreciation to the staffs of Mr. Dominguez, Colonel Sciss and Colonel Vogt for their help in keeping this meeting on schedule for today.

THE EXECUTIVE SECRETARY noted that copies of press releases and a copy of the 2003 CAP Annual Report to Congress were distributed to board members for their review.

MAJ GEN BOWLING, CAP, thanked all members of the BoG for his time on the board. He said, "This is my last meeting. It has been quite an honor and a privilege to be here with you to help formulate the policies that have guided and will continue to guide CAP. Thank you very much."

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AGENDA ITEM

1. Approval of Previous Meeting Minutes

Issue:

For the BoG's review, minutes of the 2 December 2003 meeting are found at **APPENDIX A.**

Action:

LT GEN KEHOE, USAF (Ret), moved and MAJ GEN BOWLING, CAP, 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. National Commander's Report

MAJ GEN BOWLING, CAP, welcomed the new members of the BoG and noted, as they begin their tenure and he is ending his, that the first and foremost consideration is that this group is here to be the advocates for Civil Air Patrol - to advocate what this organization needs from best practices, best government, best legislation, best command, and best initiatives to help the organization to move forward and maintain its superiority as a homeland security force multiplier.

MAJ GEN BOWLING, CAP, discussed the following Civil Air Patrol issues, plus other items of interest since the last meeting of the Board of Governors. **(See Appendix B)**

a. Update on CAP activities

b. Items referred to the BoG by CAP's March 2004 National Board and May 2004 National Executive Committee meeting.

1. Constitution and Bylaw changes

2. CAP Foundation

3. Proposed Federal Law changes

4. CAP Top Issues

a. **Update on CAP activities**

b. **Items referred to the BoG by CAP's March 04 National Board meeting and May 2004 National Executive Committee meeting.**

Issue:

(1) Constitution and Bylaws:

MAJ GEN BOWLING, CAP, reviewed for the new members of the BoG the reason for a Civil Air Patrol Membership Action Review Board (MARB). Col Vogt, USAF, explained that

request to remove the Vice Commander CAP-USAF from membership on the MARB resulted from a HQ USAF/JA opinion saying that the CAP-USAF should not be involved in CAP personnel matters.

Major General Bowling explained that in anticipation of the BoG meeting, the CAP National Board recommended that the Constitution be changed to provide for three at-large members (appointed by the National Commander and confirmed by the Board of Governors) instead of the two currently required.

MAJ GEN BOWLING, CAP moved and LT GEN KEHOE, USAF (Ret) seconded a motion that the BoG approve the following recommended changes to Paragraph 2 of Article XVI of the CAP Constitution.

- Strike “the CAP-USAF vice commander (or their designees)”
- Add “(or his/her designee)” after “National Director of Leadership Development and Membership Services”
- Change “two” to “three” in Article XVI, paragraph 3 of the CAP Constitution

Paragraph 3 of ARTICLE XVI, MEMBERSHIP ACTION REVIEW BOARD, will read as follows:

“The Membership Action Review Board shall be chaired by the National Legal Officer (or his/her designee) and shall consist of the National Director of Leadership Development and Membership Services (or his/her designee) and three active senior members, in the grade of Colonel, not currently in the command of a region or wing. These three members will be appointed by the National Commander, from a list of candidates provided by the National Executive Committee, and confirmed by the Board of Governors for an indeterminate term until his/her successor is appointed and confirmed. Designees may serve only in the event the chair or named member is unable to participate.”

THE MOTION CARRIED UNANIMOUSLY

Issue:

(2) CAP Foundation

MAJ GEN BOWLING, CAP, briefed and recommended for approval the establishment of a nonprofit 501(c)(3) foundation to promote/support Civil Air Patrol and its missions. He outlined possible benefits of a foundation to include appointment of significant donors to the Council of Advisors; United Way & Combined Federal Campaign listings; a good vehicle for “planned giving,” provide funds for AE programs and/or scholarships. If established, the proposed foundation would bring into its fold other foundations operating in the name of Civil Air Patrol.

BRIG GEN WHELESS, CAP moved and MAJ GEN BOWLING, CAP seconded a motion that the BoG endorse the principle of pursuing the establishment of a CAP Foundation as a 501(c)(3) nonprofit entity, but that the BoG be given an opportunity to review the Articles of Incorporation and bylaws before they are filed.

MOTION CARRIED UNANIMOUSLY

FOLLOW-ON ACTION: National Headquarters staffing and a proposal developed for BoG approval. Inclusion in the December 2004 BoG agenda.

Issue:

(3) Proposed Federal Law Changes

These changes were included in the CAP “Top Issues”

Issue:

(4) CAP “Top Issues”

MAJ GEN BOWLING, CAP, stated that he is bringing forward the concerns of the National Executive Committee that are impacting the organization, internally and externally. He provided a prioritized list of the top issues in the organization, which the NEC unanimously voted be elevated to and addressed by the Board of Governors. These top issues are listed as follows:

1. FTCA/FECA Coverage—Corporate Insurance Crisis
2. Proposed Legislation—Making CAP the “Resource of Choice”
3. FAA Exemption
4. AFI 65-601, “Budget Guidance and Procedures”
5. Glider Program
6. Program Narrative
7. Wing Administrators
8. Fully Funded National Operations Center
9. Stabilize Funding for CAP
10. Location of CAP in Air Force Structure
11. Regulations Promulgated IAW 10 USC 9448
12. Air Force approval of CONEMP

MAJ GEN BOWLING, CAP, clarified that he did not expect any action today, but requested that consideration be given to how best the BoG could help resolve these issues.

COL VOGT, USAF, was asked how the Air Force is currently dealing with these issues or how the BoG could most effectively resolve them. He stated that the majority of these items are on-going issues. He explained the operation of the Air Force Auxiliary Board (AFAB), the membership of which is representatives from all the 2-letters on the Air Staff, the CAP-USA/CC; the National Commander, CAP and the Executive Director, CAP. The AFAB, which is chaired by Brig Gen Clary, USAF, is a methodology by which CAP, CAP-USA, or the BoG can raise issues, staff and research them and then present them to the Air Force. Each of the “Top Issues” is in various stages of being worked through, but for many there are no quick fixes.

COL SCISS, USAF, added that several of these issues can be handled through the normal staffing process; however, a few of them will need a “heavy lift,” they are bigger than can be handled at the AFAB level.

MR. DOMINGUZZ agreed with LT GEN KEHOE, USAF (Ret) that a possible solution might be for the BoG to send this list of issues as having come from the volunteer leadership to the Secretary of the Air Force noting that many which affect the operation of the CAP have been issues for some time and asking for expedited action thereby providing top-down emphasis.

BRIG GEN WHELESS, CAP, suggested that if Maj Gen Mentemeyer, USAF, on behalf of the BoG, were willing to ask his boss to go to the Chief of Staff just on the glider program that some decisions could be made that would get that program back flying. The glider program is one of the issues on the list and needs to be resolved for summer activities.

MR. DOMINGUEZ suggested there may be two ways of resolving these issues: A voluntary commitment from the three members of the BoG currently working on the Air Staff or a letter to the Secretary of the Air Force saying, "We need these issues worked in a hurry, please."

MAJ GEN MENTEMEYER, USAF, reminded that the way issues are resolved in the Air Force is a system by which all the major missions in the Air Force are assigned to major commands (MAJCOM) and that is where all the initiatives come from, except for a very, very few top-down directed initiatives. The majority of initiatives come from the MAJCOM as the advocate for whatever the function is, through the corporate process, and is either approved or disapproved, funded or non-funded. Because of this accepted process, the Air Force has given most of the resources, the money, to the MAJCOMS. He stated that since CAP has a MAJCOM—Air Education & Training Command (AETC)—that is where the action should start. Then, if it can't be resolved at that level, it is elevated to the Air Staff.

LT GEN KEHOE, USAF (Ret), stated that there is no perfect fit for CAP, especially when you look at the missions chartered by Congress. Also, it is not easy for a mission like CAP to compete with the primary Air Force missions. Because of this, he added that funds for CAP probably should be "fenced" and there was a previous attempt to do so.

MR. DOMINGUEZ reminded that CAP does not have to take "no" as an answer from AU, AETC, or even HQ USAF/XO because it has an entrée through the BoG to the Secretary when necessary to do so. So a determination needs to be made now as to whether the "top issues" are being addressed at AETC through either the POM process, the force planning/force operations process, and/or the AFAB.

COL VOGT, USAF, responding to the question of MAJCOM advocacy stated that CAP is different. In the AFPD 1027 directive, policy comes from SAF/MR and HQ USAF/XO. This document created the MIT—Management Improvement Team—that has migrated to the AFAB where issues dealing with CAP and its operations and how it would be employed, do get handled at Air Staff. CAP gets some legal review and some help through AETC in that regard before it goes to SAF General Counsel, but actually there is no AU or AETC advocacy or any real understanding of CAP issues between the levels of CAP-USAFA and the Air Staff.

BRIG GEN WHELESS, CAP, asked specifically what Mr. Dominguez would need in order to submit the list of "top issues" to the Secretary of the Air Force.

MR. DOMINGUEZ replied that he needed a letter of endorsement that the NEC has developed this prioritized list of areas they see as significant issues, all of which have some Air Force equity, and the NEC feels some urgency about resolution of these. The BoG should also ask that the Secretary look at how the CAP organization is connected to a

MAJCOM because there may be some ambiguity and confusion about the alignment of CAP within the United States Air Force that makes resolution of the issues more difficult than it otherwise ought to be.

LT GEN KEHOE, USAF (Ret) pointed out that some of the problems are much bigger than just the command structure process. It is a complex issue and there is no easy fix. He added that the Secretary may direct AETC to support CAP as a part of their mission or he may agree that CAP is unique and the Air Force has to find a way to make them effective as the Air Force Auxiliary and more effective in performing their missions as chartered by law.

MAJ GEN MENTEMEYER, USAF, expressed concern that since September 11, 2001, the mission for CAP has changed to a mission that comes under a war fighting combatant commander. He said that he has recently reviewed combatant commander type issues of CAP such as whether or not it will develop its own operations center, whether and how that operations center will integrate with 1st Air Force, how it is going to be part of that war fighting organization to protect the United States of America, its borders, and the waters surrounding it. He encouraged that the issues be worked through that process and some decisions made as to when CAP comes under AETC and when it is under NORTHCOM. He agreed that these issues need both MAJCOM input and top-down direction.

LT GEN (SEL) BRADY, USAF, recommended that HQ USAF/XO take a briefing to the Chief of Staff and Secretary of the Air Force stating that CAP post-911 has changed and things have to change in the way that the Air Force deals with CAP and make a proposal covering the issues of MAJCOM placement, and legislation. The CAP advocates on the Air Staff need to put a grand plan together for the Chief and the Secretary. The letter to the Secretary would pave the way for a XO briefing.

MR. DOMINGUEZ stated that in the letter to the Secretary, the BoG needs to advise that these are issues that the national volunteer leadership has brought to our attention as their top priorities, and we note that these have been working for some time. Also, we hope the Secretary will also look at the process the Air Force uses to resolve these issues and the alignment of CAP with the United States Air Force post 9/11—what is the right process to make sure issues get solved in the future. He recommended that the letter be drafted by the Executive Secretary and coordinated with the BoG. He also endorsed the grass-roots level work as proposed by Gen Brady.

BRIG GEN BERGMAN, CAP, moved and BRIG GEN WHELESS, CAP, seconded a motion that the BoG move the NEC prioritized list of “top issues” to the Secretary of the Air Force for proper staffing and resolution.

THE MOTION CARRIED UNANIMOUSLY

FOLLOW-ON ACTION: The Executive Director draft letter for BoG approval.

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AGENDA ITEM

3. Board of Governors Audit Committee Report

Issue:

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

Action:

MR. DOMINGUEZ gave the following report of the 1 June 04 audit committee meeting, following the outline of the agenda (See Atch).

I. Call to Order, Introductions and Opening Comments. MR. DOMINGUEZ commended the group of people who have been working very hard on financial management and controls for the last two years for the progress they are making and the time, attention, and talent that has been devoted to improving this aspect of CAP operations: In attendance were representatives from National Headquarters, the CAP National Finance Officer, the CAP Inspector General, the independent auditor Wilson, Price, Barranco, Blankenship & Billingsley, a representative from the Defense Contract Audit Agency, and CAP-USAF representatives.

II. Opening Comments and CFO's Assessment. MR. DOMINGUEZ summarized highlights from the CAP Chief Financial Officer's report on things that have been accomplished during the last year.

- Deployed a new financial management system that was successfully audited
- Rewritten regulations on financial management, controls, and auditing
- Drafted a regulation covering a fraud policy
- Developed a plan for getting to an unqualified opinion from the independent auditor
- Developed a manual for Financial Officers

III. Old Business. MR. DOMINGUEZ stated that, with regard to the depreciation schedule for aircraft, the committee is awaiting further input from the independent auditor in order to determine whether there is a good, sound basis for the currently used depreciation schedule. Also, there was a discussion of the scope of the audit that is done to make sure the

committee understood the plan for completing the single audit, which goes along with the plan for getting to an unqualified opinion. (Will be discussed later.) Important in the audit scope is that we make significant progress—as more and more wings come under the scope of the national audit—a lot more standardization in the financial management and accounting procedures.

IV. Plan for Unqualified Opinion. MR. DOMINGUEZ stated that, in the plan for an unqualified opinion, the big challenge is the 1500 units below wing that control cash assets in excess of \$4M and control an unidentified amount of capital assets of the corporation. These assets can involve appropriated dollars, corporate dollars, and locally raised funds. It is quite a complicated problem but there is some urgency to resolve this because of the appropriated and corporate dollars as well as the name of CAP that is at risk because an unqualified audit cannot be done. There is a 3-phase plan proposed. Phase I: To survey CAP units below wing level to find out what they have in both cash and capital assets. This effort will require the addition of a full-time, paid professional staff person in the National Headquarters for data collection and involvement of the independent auditors, with an estimated cost of \$125,000. Phase II: This would involve the National Headquarters and the independent auditor preparing an analysis of alternatives outlining ways to get to an unqualified audit with options and risk benefit analyses for coordination with the CAP leadership prior to coming to the BoG. Phase III: The BoG would make a decision for implementation.

V. Nevada Fraud. MR. DOMINGUEZ gave a follow-up report that, to date, the amount of \$284,000 has been identified as stolen. The person who was an employee of CAP has pled guilty and sentencing is scheduled for July 20. The CFO, Executive Director, and National Commander have already initiated actions (new and rewritten regulations) to prevent a recurrence of this situation. The strongest action taken to strengthening the CAP/IG compliance inspection process was to bring the wing financial analyst (corporate employees) into the IG team when going to conduct compliance inspections outside their region. The new regulations include enforcement actions associated with failure to comply. Also, the CAP/IG will soon begin an assessment of command accountability and lessons learned to determine what CAP has to do to educate, empower, and prepare commanders and staff to exercise their responsibilities appropriately. In this case, there were five wing commanders and three region commanders in office during the time of the Nevada fraud and there was a failure to act.

VI. Status of Audits. MR. DOMINGUEZ reported that the 2002 single audit is still open and numerous things have caused that audit's conclusion to be delayed. For immediate action of the National Commander, the Defense Contract Audit Agency (DCAA) has asked for physical inventory data and to date 10 wings have not provided the requested information. Non-receipt of this information impacts the completion of the audit. Also, with regard to cadet orientation flights, the DCAA is questioning expenditures in the amount of \$13,000 and is not yet able to determine whether these expenditures were in fact allowable. DCAA will continue to work with HQ CAP to resolve this issue, hopefully by certifying the expenditures as allowable. He added that measures have been taken to correct this risk area. But, if enough documentation cannot be provided to justify these expenditures (and possibly a higher figure) there may be a recoupment issue since they are appropriated funds. The 2003 single audit is on hold pending completion of 2002 because the HQ CAP staff can only efficiently work on one of them at a time. We have a goal to complete both 2002 and 2003 audits by the Dec 2004 meeting. In the future, we also have a goal to complete the audits by March following the end of the fiscal year so they can be briefed at the June BoG meeting.

VII. Investment Policy. MR. DOMINGUEZ reported that the audit committee had previously identified the lack of a CAP investment policy. The National Financial Officer developed an investment policy and offered to present it to the audit committee when we realized that investment policy is not an audit committee function. The governance, control, establishment, and ratification of an investment policy would ordinarily come under a finance committee, but since the BoG does not have one, the proposed investment policy needs ratification by the BoG.

VIII. Financial Management IT System Audit. MR. DOMINGUEZ reported that CAP has deployed a new financial management and control system. The independent auditor looked at that system and gave it an unqualified opinion. Additional capabilities have since been deployed and those will be looked at in the 2004 single audit.

IX. Audit Committee Training Plan. MR. DOMINGUEZ stated that the committee talked about a training program for audit committee members that would be tailored to individual members, based on their need. When needed, the training will ensure that audit committee members are knowledgeable enough about the CAP and about audit committee responsibilities to be able to effectively carry out their missions. Any training plan would be presented through the Executive Secretary for coordination with the chairman of the audit committee.

MR. DOMINGUEZ stated that, following the open session, he had two closed sessions, one with the CAP Inspector General and the CAP-USAF Commander who sat in for the CAP-USAF Inspector General. This session was to make sure we had established lines of communication between the inspectors general and the members of the audit committee on the financial management and control issues. The second session was with the independent auditors. Again, we established the need for open communications to the committee and National Headquarters with emphasis on the importance of establishing open communications with the CAP-USAF team and the Grants Officer through CAP-USAF, when appropriate.

MR. WHITMAN moved and LT GEN SEAROCK, USAF (Ret), seconded a motion that the BoG approve the Audit Committee Report and the implementation of Phases I and II of the Unqualified Audit Plan.

THE MOTION CARRIED UNANIMOUSLY

MR. WHITMAN commended Mr. Dominguez for his performance and the job he is doing as Chairman of the Audit Committee. Mr. Dominguez has given the Board of Governors a focus that it didn't have before.

MR. DOMINGUEZ recommended deferring the investment policy for action under the discussion of the Charter (Agenda Item 4). He stated that the BoG will need to decide how it wants to deal with the investment policy, which would be the appropriate turf of a finance committee, for example. In response to a question, Mr. Dominguez answered that the audit committee noted the absence of a policy that governed, directed, and shaped controls around the investment accounts. Representatives of the Auditor General worked with the National

Headquarters staff to think about these issues. The National Finance Officer then took the initiative and developed a draft policy and presented it to the committee as a forum to get it to the BoG for approval.

LT GEN KEHOE, USAF (Ret) commented that the subject of committees was considered by the BoG in an earlier meeting. A decision was made whereby the BoG would draw upon committees already in existence, when the board chose or they fit. He did not favor establishing a BoG Finance Committee and adding more structure would make the BoG more complex. He recommended sending the Statement of Investment Policy to the existing Finance Committee with a report directly back to the BoG. The National Commander concurred.

COL ANGEL/NFO distributed the draft Statement of Investment Policy. He asked the BoG members to read it and fax comments directly back to Col Angel at 901/278-2408.

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AGENDA ITEM

4. Adoption of the Charter for the Audit Committee & Appointment of new committee members

Issue:

Mr. Dominguez, chairman of the audit committee, presented a proposed charter for the audit committee (**See Appendix C**). Additionally, Mr. Dominguez recommended the appointment of new members to the Audit Committee.

ACTION:

a. Adoption of the Charter for the Audit Committee:

MR. DOMINGUEZ reviewed the charter with members of the BoG.

Discussion of Paragraph 5: Responsibilities and Duties:

LT GEN SEAROCK, USAF (Ret), recommended that CAP's annual financial statements be approved by the BoG instead of the Audit Committee—bullet 5 under paragraph 5.1., Financial Statements. The BoG agreed to amend the last sentence, as follows: "Forward and recommend BoG approval of the CAP's annual financial statements for publication and distribution."

BRIG GEN BERGMAN, CAP, moved and MAJ GEN BOWLING, CAP, seconded a motion that the BoG approve the Audit Committee Charter, as amended.

THE MOTION CARRIED UNANIMOUSLY

b. Appointment of New Committee Members:

MAJ GEN BOWLING, CAP moved and BRIG GEN WHELESS, CAP, seconded the nomination of Brig Gen Paul Bergman, CAP, for appointment by the BoG as a member of the Audit Committee.

THE MOTION CARRIED UNANIMOUSLY

THE CHAIRMAN asked if the BoG wanted to consider more members.

MR. DOMINGUEZ did not recommend adding more members and reminded that audit committee meetings are open.

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5. FY05 Appropriated and Corporate Budgets

Issue:

Mr. Al Allenback, Board of Governors executive secretary, briefed the BoG on the FY05 Appropriated and Corporate budgets. The budget spread sheets are located at Appendix D.

ACTION:

MR. ALLENBACK stated that both of these budgets have been recommended by the NEC for forwarding to the BoG for final approval. He briefed and outlined major changes to the Appropriated Budget. He recommended approval by the BoG.

MR. DOMINGUEZ asked if there was an initiative within the Air Force to deal with the wing administrators. Mr. Allenback deferred to Col Sciss.

COL SCISS/HQ USAF/XOHA responded there was not in FY05, but it is included in the FY06-10 POM request. However, AETC did not carry forward the wing administrator or the state director as a validated unfunded priority. Therefore, it is difficult at the Air Staff level “for us to advocate it.” AETC’s position is that these positions are not validated. Col Vogt requested the positions, and AU said that these were “Chief of Staff directed—go do.” AETC said “We don’t agree. Take it off the ‘go do’ and we move it out of the unfunded. We do not support it.” The board was provided a copy of HQ USAF/XO MEMORANDUM FOR HQ AETC/CV, Subject: Reallocation of 13 State Director GS Positions, dated 27 May 2004, requesting that AETC reconsider those positions, specifically for the State Directors—not the Wing Administrators.

MR. DOMINGUEZ reminded the board of the Nevada fraud case where \$284,000 was lost and there is another fraud case being investigated, and there are 1500 units below wing with \$4M unaccounted for with total volunteer control, which seems to be a high risk proposition.

LT GEN KEHOE, USAF (Ret) also reminded the BoG that there used to be full-time deputy state directors providing day-to-day oversight, but these positions were abolished.

MR. DOMINGUEZ recommended that the BoG write a second letter to the Secretary of the Air Force advising him of our concern about these positions, about the importance they add to the continuity and integrity of operations in Civil Air Patrol, and call to his attention the importance we attach to these positions being funded as soon as possible.

COL SCISS/XOHA suggested that if the BoG were to write such a letter, it should include not only the 50 wing administrators but also advocate for the 13 state directors that would give the CAP-USAF Commander the oversight and presence in each of the wings that he doesn't have now. He clarified the 13 state directors would be GS-12 Air Force employees providing direct oversight of the wing. They are missing 13 positions to allow one for every wing, and appropriated funds are required to pay them to accomplish tasks required by the Air Force. This is separate from the 50 wing administrators that will be corporate positions for people who actually do the work at wing level

COL VOGT/CAP-USAF/CC reviewed the history of these positions. We had 39 state directors and 52 deputy directors. In the small wings, there was one state director and three deputy state directors for three states. When they took away the deputy state directors, they took away the administrative presence for the wings and they took away oversight presence in those states. The Air Force was downsizing civilian personnel and a decision was made to outsource these wing administrators, but skipped the step of providing the \$2M to pay for outsourcing to CAP. What CAP-USAF lost was Air Force oversight of fiduciary accountability, safety accountability, etc., and that is still missing in 13 wings where you have one state director covering three states. He just doesn't have the presence he needs. That is a civilian personnel issue versus an outsourcing funding issue.

MR. DOMINGUEZ stated that the BoG can highlight for the Secretary a shortfall in his ability to oversee the execution of the CAP relationship. CAP needs 52 wing administrators to carry out CAP responsibilities of effective, efficient, safe operations of CAP, prevention of fraud and support to volunteer commanders and staff. It is not happening because there is no paid staff out there. That is a BoG issue. The other issue is whether the Secretary decides how he is going to provide effective Air Force oversight, so we probably need to keep these two separate.

MR. DOMINGUEZ moved and MAJ GEN BOWLING, CAP, seconded a motion that the BoG write to the Secretary of the Air Force expressing our urgent concern about these 52 positions as they relate to the smooth, safe, effective, and efficient functioning of the CAP and our ability to ensure that this organization does what we expect of it.

THE MOTION CARRIED UNANIMOUSLY.

FOLLOW-ON ACTION: That the Executive Secretary draft a letter for BoG approval.

LT GEN SEAROCK, USAF (Ret) moved and LT GEN KEHOE, USAF (Ret) seconded a motion that the BoG approve the FY05 Appropriated Budget.

THE MOTION CARRIED UNANIMOUSLY.

MR. ALLENBACK briefed and outlined major changes to the Corporate Budget. He recommended approval by the BoG.

LT GEN SEAROCK, USAF (Ret) moved and LT GEN KEHOE, USAF (Ret) seconded a motion that the BoG approve the FY05 Corporate Budget.

THE MOTION CARRIED UNANIMOUSLY.

Civil Air Patrol Board of Governors - Minutes

1 June 2004 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
Washington DC

AGENDA ITEM

6. Executive Director's Update

Mr. Al Allenback, Board of Governors executive secretary, updated the BoG on the following items: (See Appendix E)

- a. POM Update
- b. FY05 Year-to-Date Budget Execution
- c. Line of Credit
- d. CAP Investments
- e. Membership
- f. CAP Litigation Update
- g. Aircraft Purchases
- h. "ARCHER" Update

Issue:

- a. POM Update:

Responding to a question about unfunded vehicles, the Program Manager explained that the requirement for vehicles is included in the POM, but funding is at the same level the Air Force funds its vehicles, which is only about 50 percent of the requirement. The Program Manager also responded that CAP does not qualify for GSA procurement.

- b. FY04 Year-to-Date Budget Execution:

There was no discussion.

- c. Line of Credit

There was no discussion

- d. CAP Investments:

There was no discussion

e. Membership:

There was no discussion

f. CAP Litigation:

MR. LEIBOWITZ/HQ CAP/GC briefed the status of CAP litigation.

BRIG GEN WHELESS, CAP, following the briefing on the Estate of Ashley (FTCA coverage not yet determined), asked General Counsel to explain the variable rate of commercial insurance premiums that CAP now has to pay because some of the missions are no longer covered by FTCA and FECA so that the financial consequences can be understood by the board.

MR. LEIBOWITZ explained that CAP currently has an 18-month liability insurance policy that covers general liability, aviation liability, and airport owner's liability. As the policy came up for renewal in March 2004, there was a great deal of uncertainty as to which missions the Air Force would determine to be Air Force-assigned missions and which ones would not. As a result, the underwriter didn't know how to rate CAP. In the past, the underwriter rated CAP based on the fact that an estimated 90 percent of CAP's flying was Air Force-assigned mission flying covered by FTCA/FECA. Through some negotiation, CAP ended up with a premium for this 18 month period based on a sliding scale so that whatever CAP's experience is, the premium is shared by the insurer and by CAP. Our initial "bogey" premium is \$1.25M for an 18-month period for those three liability coverages. At the end of that period, the insurance company will do an analysis of what claim's ratio was—claims versus the amount of the premium. If CAP had a good year, the premium will be approximately \$840,000, which is approximately what we paid for the previous 18-month period, and we will receive a refund. If we have a very bad year, CAP will be assessed and the premium will be in the range of \$1.575M.

BRIG GEN WHELESS, CAP, clarified that annual membership dues bring in approximately \$1.8M and emphasized that these figures depict the huge impact of not having the Federal Tort Claims Act and Federal Employee's Compensation Act coverage.

g. Aircraft Purchases

There was no discussion.

h. "ARCHER" Update

There was no discussion.

i. Initiatives Status

There was no discussion.

Civil Air Patrol Board of Governors - Minutes

1 June 2004 – 10:30 a.m.
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Washington DC

AGENDA ITEM

7. CAP-USAF Update

COL VOGT, USAF, stated that in the interest of time he would pass on his presentation. A copy of his update is included in these minutes. (See Appendix F)

Civil Air Patrol Board of Governors - Minutes

1 June 2004 – 10:30 a.m.
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Washington DC

AGENDA ITEM

8. AF/XOHA & Air Force Auxiliary Board Issues Update

Col George Sciss, AF/XOHA, provided a slide briefing (See Atch G) to the BoG on issues pertaining to the Air Force Auxiliary Board and Homeland Security that will impact CAP operations.

Issue:

Glider Program.

MAJ GEN BOWLING, CAP, stated that previously the Air Force endorsed the Glider Program as a valuable program, but that changed this FY.

COL SCISS, USAF, clarified that actually the change took place when an accident occurred and the claim was denied because there was no documentation of CAP glider flying being an Air Force program. We are now in the process of trying to get the glider program validated as an Air Force requirement. There was also clarification that the Air Force Academy Glider Program is an accessions program. Those cadets have already signed up to be Air Force members. The CAP Glider Program is a civic, leadership program. There is a legal distinction.

During discussion there was also clarification that CAP cadets under the age of 18 are not covered by FECA. After the age of 18, cadets can fly as aircrew members in search and rescue missions and are performing Air Force missions. That is the reason that the Cadet Flight Orientation program stops at age 18. The cadets do participate as ground team members from the age of 16 up.

COL VOGT, USAF, stated that he would push the glider program from AETC in a package that says we think it is a viable mission of Air University as part of its citizenship programs to compliment the top CAP issues and initiative embraced this morning.

MR. DOMINGUEZ stated that CAP has an aerospace education program, which the Air Force has an interest in, but it is not an Air Force mission. It is a character and leadership program at the cadet level, which the Air Force has a keen interest in but is not an Air Force mission. So, there is need to get a determination that character, leadership, and aerospace education are in fact something the Air Force can do as an Air Force mission, or change the law to make it clear that the Air Force can provide support for these other things, which are

not combat related or traditional missions of the Air Force, and provide appropriated funds to support them.

Civil Air Patrol Board of Governors - Minutes

1 June 2004 – 10:30 a.m.
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Washington DC

AGENDA ITEM

9. Any Other Business

Issue:

Mr. Hall appeal of his membership termination to the BoG.

The Executive Secretary explained that this item was on the agenda at the request of Lt Gen Keys, USAF, a member of the BoG at the time the appeal was received.

LT GEN KEHOE, USAF (Ret) made a point that the BoG is not intended to be another appeal board unless on an exception basis, a board member wants to bring a case forward. There is an established process for appeals. He reviewed the decision at an earlier board that when complaints come to individual board members, they are to forward the information back to the executive secretary for a review of whether the processes were followed.

MR. DOMINGUEZ confirmed that there is an established membership appeals process that we have looked at several times in the past and, in fact, have ordered changes in the composition of the Membership Action Review Board (MARB), based on our review. Therefore, the BoG is comfortable with that process being allowed to work. Without a member of this board putting something associated with membership on the table for us to consider, the board is not going to hear appeals.

The sense of the BoG is that it has looked at the MARB process and has amended the MARB process. The MARB process is the one chosen by the BoG to handle membership issues. The executive secretary is directed to answer this complaint, since it got on the agenda, with a statement: to the effect that the BoG has reviewed and endorses the existing MARB process. For future replies, unless a member of the BOG puts it on the agenda, the executive secretary should respond to appeals to the BoG with a statement like, "The BoG is not an appeals body and the MARB process is the process the BoG has empowered to deal with these issues."

Issue:

CAP Security Clearances

COL SCISS, USAF, stated that XOHA is working on obtaining security clearances for certain CAP members and employees. The current policy will authorize security clearances for the

National Commander and his staff, the National Headquarters, region commanders, and certain mission pilots and crew that are going to do very specific, limited homeland security missions, and certain people in the National Headquarters.

BRIG GEN BERGMAN, CAP, stated that to look to future planning, he recommends that consideration be given to providing security clearances to BoG members in case they need to act on some important decisions regarding future missions that could potentially affect CAP.

LT GEN KEHOE, USAF (Ret) stated that there is a provision for reading somebody into something on a case-by-case basis. As a general rule, this board and CAP in a general sense should not need security clearances to do its basic mission, but there is always a means to get a security clearance for specific purposes and for a limited period of time when needed.

COL SCISS, USAF, added that if something came to the BoG that required a read-in because the particular topic needed board approval that could be worked as a separate issue.

MR. DOMINGUEZ suggested that the National Commander and Executive Director, when they see a need for security clearances, not to wait for a BoG meeting to communicate that requirement. The Executive Director added that security clearance requirements would be handled as they have been so far, initiating access through XOHA and CAP-USAF.

Civil Air Patrol Board of Governors - Minutes

AGENDA ITEM

10. Next Meeting

Issue:

Mr. Al Allenback, Board of Governors executive secretary, recommends that the next meeting of the BoG be held on Wednesday, 8 December 2004, in the Washington DC area.

ACTION:

The BoG agreed with the recommended date and location for the next meeting: Wednesday, 8 December 2004, in the Washington, DC area.

LT GEN KEHOE, USAF (Ret) moved and MAJ GEN BOWLING, CAP, seconded a motion that the BoG adjourn.

MOTION CARRIED UNANIMOUSLY.

THE MEETING ADJOURNED AT 3:30 PM, TUESDAY, 4 JUNE 2004.

Appendix A
Minutes of the 2 December 2003
BoG Meeting

Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
Washington DC

Members Present

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

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

Major General Richard L. Bowling, CAP
Civil Air Patrol National Commander

Mister Michael L. Dominguez
Assistant Secretary of the Air Force

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

Lieutenant General Ronald E. Keys, USAF
Headquarters, United States Air Force Deputy Chief of Staff, Plans & Operations

Lieutenant General Donald A. Lamontagne, USAF
Commander, Air University, Maxwell Air Force Base, Alabama

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

Mister Bruce N. Whitman, President
Flight Safety International Incorporated

Members Absent

Mister Bruce P. Baughman
Director, Alabama Emergency Management Agency

Doctor Benjamin F. Payton, President
Tuskegee University

Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
Washington DC

Opening

CALL TO ORDER. Colonel Robert Bess, CAP, Chairman, Civil Air Patrol Board of Governors, called the meeting to order. He welcomed all the members of the BoG present for this meeting. Lt Gen Nicholas B. Kehoe, USAF (Ret), Vice Chairman, Civil Air Patrol Board of Governors, led the group in reciting the Pledge of Allegiance. Mr. Al Allenback, Executive Secretary, called the roll and noted there was a quorum.

THE CHAIRMAN also welcomed the members of Civil Air Patrol and other guests attending the meeting of the Board of Governors. He introduced special guests Ms. Traci Williams, House Select Committee on Homeland Security; Brig Gen Dave Clary, USAF, Director of Air Force Homeland Security; Colonel George Sciss, USAF, Chief of Air Force Homeland Security Auxiliary Branch; and Ms. Marybeth Tyler, Air Education & Training Command Grants Officer. He also recognized Brig Gen Paul M. Bergman, CAP, who replaced Col Michael P. Pannone, CAP, as a CAP member-at-large.

THE CHAIRMAN also extended congratulations to Mr. Bruce Whitman on his promotion to President, Flight Safety International Incorporated.

THE CHAIRMAN announced that he had received a letter of resignation from Dr. Benjamin F. Payton, President, Tuskegee Institute, effective 10 November 2003. He stated that replacements for this position and for other members, whose terms will expire February 2004, are under consideration.

Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 10:30 a.m.
Alexandria Room
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Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
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AGENDA ITEM

1. Approval of Previous Meeting Minutes

Issue:

Approval of the 3 June 2003 Board of Governors meeting minutes.

Action:

MAJ GEN BOWLING, CAP, made the following correction: Agenda Item 2, first paragraph, under Discussion—delete the word “Auxiliary.”

BRIG GEN WHELESS, CAP, moved and MAJ GEN BOWLING, CAP, seconded a motion to table this item for the consideration of some minor corrections until the conclusion of Other Business.

THE MOTION CARRIED UNANIMOUSLY

Later in the meeting, this item was brought back from the table for discussion.

LT GEN KEHOE, USAF (RET), stated that he had reviewed and agreed with the corrections submitted by Gen Wheless and offered another correction on page 28, last paragraph, line two: add the word “not” between “was” and “prepared.”

LT GEN KEYS, USAF, moved and LT GEN LAMONTAGNE, USAF, seconded a motion that the BoG approve the minutes of the previous meeting, as corrected.

THE MOTION CARRIED UNANIMOUSLY

Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
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AGENDA ITEM

2. National Commander's Report

Issue:

Maj Gen Richard L. Bowling, CAP, discussed the following Civil Air Patrol issues.
See APPENDIX A.

a. Items referred to the BoG by CAP's Nov 03 National Executive Committee meeting.

1. Constitution & Bylaw changes. The Aug 03 National Board endorsed two changes to the Constitution. These changes were due to changes in office symbols at CAP Headquarters.

2. Membership Action Review Board (MARB) appointment. Maj Gen Bowling will nominate a CAP member for the vacant position on the MARB.

b. Process for removal of CAP appointed members-at-large to the BoG.

Under agenda item 2 of the 3 Jun 03 BoG meeting, the BoG tasked the NEC with developing:

1. A process for review and consultation with the member of the BoG as to the NEC's rationale for its proposed action to remove the member from the BoG.

2. A process for advance consultation with the BoG explaining its intent and rationale therefore.

3. The principles and performance standards that would constitute acceptable grounds for removal.

Action:

a. Items referred to the BoG by CAP’s Nov 03 National Executive Committee meeting.

1. Constitution & Bylaw changes

LT GEN KEYS, USAF, moved and LT GEN KEHOE, USAF (RET), seconded a motion that the BoG approve the recommended changes to the CAP Constitution to delete “Director of Personnel (DP)” and add “Director of Leadership Development and Membership Services (LM)” on the Membership Action Review Board and the Constitution and Bylaws Committee. The changes read as follows:

ART XVI—Membership Action Review Board

3. The Membership Action Review Board shall be chaired by the National Legal Officer (or his/her designee) and shall consist of the National Director of Leadership Development and Membership Services-ex officio . . .

Section 18—Constitution and Bylaws Committee

18.1. A National Constitution and Bylaws Committee is established and shall consist of the following members . . .

c. The CAP National Director of Leadership Development and Membership Services-ex officio

THE MOTION CARRIED UNANIMOUSLY

2. Membership Action Review Board (MARB) appointments

There was clarification that the current Membership Action Review Board consists of the National Legal Officer, Chairman, two ex-officio members (Director of Personnel and Vice Commander, CAP-USAF), and two at-large members appointed by a process in which the National Executive Committee submits a list of nominees for the National Commander’s selection, subject to approval of the Board of Governors.

There was discussion about whether a vice commander, who might be perceived by some members as being in the chain of command, should be considered eligible to serve on the MARB. There was agreement that the MARB needs to be a completely independent group so that everyone feels comfortable that a member has received an honest review and that the response is credible and has integrity.

MR. DOMINGUEZ moved and MR. WHITMAN seconded a motion expressing the sense of the Board that the restriction found in paragraph 3 of Section XVI of the Constitution (“not currently in the command of a region or wing”), and the policy statement found in paragraph 1.a. of CAPR 35-8 (“The Membership Action Review Board is independent from the Civil Air Patrol volunteer chain of command”) restricts the national vice commander or a vice commander of a region or wing from being a member of the Membership Action Review Board.

THE MOTION CARRIED

Follow On Action: The Constitution and CAPR 35-8 will be amended to reflect this change.

MAJ GEN BOWLING, CAP, reported to the BoG that he had received three nominations from the NEC for the vacant position on the Membership Action Review Board. Gen Bowling appointed Col Charles R. Davenport, CAP, to fill the current vacant position on the Membership Action Review Board.

LT GEN KEHOE, USAF (USAF), moved and LT GEN KEYS, USAF, seconded a motion that the BoG confirm Colonel Charles R. Davenport, CAP, as a member of the Membership Action Review Board.

THE MOTION CARRIED UNANIMOUSLY

The BoG took note that Col Andrew Skiba, CAP, a member of the MARB, had recently been appointed vice commander of the Southeast Region and could not maintain both positions. Following the conclusion of the BoG meeting Col Skiba was contacted and elected to resign from the MARB. General Bowling appointed Col Frederic K. Weiss, CAP, one of the three persons nominated by the NEC, to fill the vacancy on the MARB. The BoG confirmed Col Weiss by unanimous fax vote.

b. Process for removal of CAP appointed members-at-large to the BoG.

Following a presentation of the NEC response to the BoG request for a process to handle removal of CAP appointed members-at-large to the BoG, there was discussion on the need for further specificity of reasons for starting the process for removal. Additionally, there was discussion that the proposal lacked a definition of what might cause the NEC to want to remove a member at large from the BoG.

THE CHAIRMAN stated that he, as an at-large member, had been given input on this subject from some wing commanders that may help with the language in rewriting the proposal. He added that some of the commanders feel that, since the members-at-large represent the membership, they would like to have input into the selection and removal of members-at-large.

MAJ GEN BOWLING, CAP, stated that the region and wing commanders are the members' representatives from the field and input should be forwarded to the National Board or the NEC.

Opinions were expressed that, since the BoG tasked the NEC to look at the removal process and bring it back, that tasking should not be expanded.

MR. DOMINGUEZ moved and MAJ GEN BOWLING, CAP, seconded a motion to table until a change is written for the NEC response.

THE MOTION CARRIED UNANIMOUSLY

Later in the meeting, this item was brought back from the table for discussion.

COL PALERMO, CAP, stated that he, Col Leibowitz, HQ CAP/GC, and Gen Kehoe, USAF, rewrote the NEC proposal, as discussed earlier in the meeting. It reads:

“The CAP members appointed to the two Members-at-Large seats on the CAP Board of Governors represent the entire membership of Civil Air Patrol. They are expected to keep abreast of the needs and concerns of the membership by maintaining dialogue with the wing and region commanders.

“A Member-at-Large has the same duties towards Civil Air Patrol as all other members of the Board of Governors. These duties include the duty of care, the duty of loyalty, the duty to avoid conflicts of interest, and the duty of confidentiality.

“A Member-at-Large may be removed from that position by two-thirds vote of the National Executive Committee for the following:

- 1. Loss of Confidence in the member’s ability to represent the interests of the volunteer members of CAP;**
- 2. Personal misconduct involving moral turpitude which creates an appearance of serious impropriety to the public or which may discredit or embarrass the Civil Air Patrol or the United States Air Force; or**
- 3. If there is an automatic loss of the member’s membership due to failure to renew membership, voluntary resignation of membership, or failure to maintain initial membership eligibility criteria.**

“Removal Procedures: The National Executive Committee, by majority vote, may set a date not less than twenty days there from at which it will meet to review the continued fitness of a Civil Air Patrol Board of Governors at-large member to serve on the Board.

“Notice of the date, time, and location of the meeting shall be mailed to the member’s last known address by Registered or Certified United States Postal Service mail, Return Receipt Requested.

“The notice shall notify the member that he/she may appear and address the issue or may submit written comments.

“The member shall be considered to have been given adequate notice upon mailing of the same.

“A copy of the notice shall be mailed to the Board of Governors through the Executive Director of Civil Air Patrol in his/her capacity as Secretary to the Board of Governors.

“No Civil Air Patrol at-large member may be removed from the Board of Governors except by 2/3rds or greater vote of the National Executive Committee membership.

“In the event of such a removal by the National Executive Committee, a report shall be sent to the Executive Director of Civil Air Patrol in his/her capacity as Secretary to the Board of Governors setting forth the action taken and a summary of the reasons.”

LT GEN KEHOE, USAF (RET), moved and MAJ GEN BOWLING, CAP, seconded a motion that the BoG approve the amended NEC proposal.

THE MOTION CARRIED

Civil Air Patrol Board of Governors - Minutes

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Alexandria Room
Marriott Crystal Gateway
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AGENDA ITEM

3. Board of Governors Audit Committee Report

Issue:

Mr. Dominguez chaired a meeting of the BoG Audit Committee.

Action:

MR. DOMINGUEZ (chair) gave an update on events preceding the 3 December 2003 meeting: (1) the audit committee selected (through electronic communications) the independent auditor for the 2003 financial audit. (2) Mr. Dominguez spent a day at HQ CAP and while in Montgomery, Alabama, visited the independent auditor, learning about the approach to the audit and their expertise in this area. He complimented Mr. Allenback and the auditor selected, the CPA firm of Wilson, Price, Barranco, Blankenship & Billingsley.

MR. DOMINGUEZ gave the following report of the audit committee meeting of 2 Dec 03:

The meeting was noteworthy in that observers, who were helpful, included the Grants Officer who manages the AETC Cooperative Agreement with Civil Air Patrol and the Defense Contract Audit Agency (DCAA) auditor, who is a partner in the single audit with the CPA firm doing the financial audits. He stated that the DCAA audits certain aspects of reporting and internal controls, which when taken together with the audit of the financial statements, comprise the OMB required single audit.

A major portion of the meeting was devoted to a discussion of the fiscal year 2002 single audit. The 2002 single audit report was late and the audit committee recognized that late audit reports are unacceptable. The committee noted that we are on a path to get to an acceptable level of performance. Mr. Dominguez added that we all need to recognize how far Civil Air Patrol and its relationship with these audit agencies has come. The financial aspects of this audit are extraordinarily complex with the coordination of the two audit agencies, each region and wing requiring an independent audit, and some states imposing their own audit requirements. However, the National Commander and Executive Director have mapped out an audit process to make effective use of our CPA firm in performing the audits of regions and most wings. He noted that we don't anticipate a final completion of the

2002 single audit, which includes the financials, until April 2004. The committee established the goal that all future audits be completed by March 31 of the following year.

The second major issue the committee addressed was the repeat write-up of “material weaknesses” in internal controls and processes, and several “reportable conditions”. Mr. Dominguez assured the BoG that the committee was on course to get those corrected. He emphasized that management recognized and accepted the findings of the auditors and has agreed on a course of action to correct each material weakness and reportable condition.

The next issue addressed is that the auditor’s opinion on the 2002 financial statements will be “qualified”, meaning the auditor can’t state with confidence, without reservation, that the accounts are correct. He expressed that the reason for the qualified opinion is that there are 1700 units below wing level that handle cash but are not audited. While recognizing that this is a difficult issue, the committee tasked our CPA firm to lead an effort to develop possible alternatives to enable them to issue an unqualified opinion. The committee suggested that the BoG think about the role that the CAP and CAP-USAF Inspectors General might play to help get us to an unqualified audit opinion. The committee asked that alternatives, along with a cost benefit analysis be brought back to the audit committee in June 2004; and ideally, the committee will be able to present its recommendations to the BoG if they represent a significant investment or a significant change in how the CAP is structured.

The next issue discussed was the charter for the audit committee. Consistent with the tasking from the last meeting, the auditor prepared a draft charter, which the committee had intended to distribute to the BoG for review and comments. However, because of the scope of potential recommendations regarding the qualified audit opinion, the committee proposes to wait until after we see the plan and then rework the charter so that it is consistent with how the BoG decides to implement that plan.

The committee was informed that, in reviewing the fiscal year 2001 audit report, the Grants Officer had some concerns about CAP’s investments – how investments are managed, investment policies, and investment activity. Mr. Dominquez will ask the Air Force Auditor General to review Civil Air Patrol’s investment policies and make appropriate recommendations.

Mr. Dominguez commented about some things he learned from his visit to Maxwell AFB and CAP HQ. First, it is clear the management team understands the importance of the internal controls and the financial integrity process of the accounting system. CAP HQ is making a superb effort to get CAP into the green in that area. These efforts include an extraordinary level of commitment to obtaining professional training and staff development to understand the rules and ramifications of CAP’s relationship with the Air Force under a cooperative agreement.

Second is the importance of true internal controls and how financial integrity is the result of clear, unequivocal statements from the leadership of the organization about the importance of values and integrity. Mr. Dominguez noted that, although there are Civil Air Patrol publications about core values, the BoG has not issued a policy statement. Mr. Dominguez remarked that maybe Gen Bowling should think about issuing such a statement, and the BoG should consider undertaking a communication to the organization about our values and integrity, and set the tone at the top.

Mr. Dominguez noted the only action item is whether the BoG desires to make a statement setting the tone at the top, reinforcing the Civil Air Patrol core values and their importance to the members, to CAP's role as a public entity, and to the maintenance of the excellent relationship CAP has with the Air Force.

MAJ GEN BOWLING, CAP, suggested that this statement be worked at the National Commander level with a report back to the BoG for approval.

LT GEN KEHOE, USAF (RET), suggested that a strong statement on the importance of integrity and accountability from the National Commander, the duly elected leader of this volunteer organization, to the members of Civil Air Patrol should suffice, as opposed to a statement from the BoG.

MR. WHITMAN commented that the BoG should embrace such a statement.

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Alexandria Room
Marriott Crystal Gateway
Washington DC

AGENDA ITEM

4. Executive Director's Update

Issue:

Col Al Allenback updated the BoG on the following items (See **APPENDIX B**):

- b. CAP Financial Report
- c. Membership
- d. National Headquarters' Transformation Results
- e. FY04 Business Plans
- f. CAP Litigation Update
- g. CAP "Cadet Week" Initiative
- h. Cooperative Agreement "Program Narrative" Initiative
- i. Aircraft Purchases
- j. "ARCHER" Hyperspectral Imaging Program Update

Action

Discussion:

- a. CAP Financial Report

MR. ALLENBACK recommended approval of the BoG to go forward with the FY06-10 POM.

LT GEN LAMONTAGNE, USAF, commented on the unfunded portion of the total budget. He said that the land mobile radios (LMR) are "unfunded" because the Air Force has chosen not to fund them separate from the other programs that are funded inside Civil Air Patrol. He added that the Air Force has to outfit its force with the same radios for the same exact requirement. He stated that, in his opinion, CAP shouldn't include this as an added requirement because the Air Force won't get an extra Table of Allowance for this

requirement. He also expressed concern about the manner in which the POM was done. He repeated from the last meeting a concern that there is a \$42M requirement of which \$25M is funded. There are 25,000 to 30,000 cadets in CAP which is the reason the United States Air Force is in this program—for CAP cadets. He noted that very little money is spent on cadet programs. He expressed concern that CAP is getting more involved and spending money in the homeland security area and CAP needs to be a little more conscious of where it is spending the money.

MAJ GEN BOWLING, CAP, responded that one of the reasons CAP was enacted in 1941 was to support a homeland security need and that the cadet program is a product of the operational aspect of CAP. He added that air operations and exposure to the active duty component are big draws for cadets.

There was further discussion on the lack of an established requirement for CAP to become involved in homeland security, but that Civil Air Patrol is positioning itself to be ready to assist in homeland security efforts when the call comes. There was clarification that homeland security customers of CAP will reimburse expenses as outlined in the Memorandum of Understanding.

MR. DOMINGUEZ added that what is uncertain is the effect on CAP programs if CAP does not get the unfunded portion of the POM and has to finance the radios themselves. The homeland security effort is a legitimate concern but the BoG hasn't endorsed capitalizing the operational aspect of CAP in anticipation of customers coming to fund CAP's operation. Maybe that is the right move, but the Air Force is the source of that capital and it may not be able to recoup that investment. He felt that there are two issues here: (1) the unfunded land mobile radios, and (2) the need for a POM discussion organized around what it is we want the organization to achieve.

LT GEN KEYS, USAF, agreed that cadets want to be involved in flying, but commented that it is a matter of balance. He added that when reading the congressionally chartered purposes of CAP, there is more balance than what is being discussed today. He emphasized that no one is going to get a 25 percent increase in the budget no matter how badly it is needed, so some decisions will have to be made.

BRIG GEN WHELESS, CAP, commented that this is the type of policy consideration that he hoped the Board of Governors would at some point discuss. He also commented on the cadet program and raised the question about when CAP has enough cadets. After discussing the ratio of cadets to senior members involved in the cadet program, he concluded that as the nation handles the homeland security crisis we think it will look to us to help. Later, we can go back and say 'now is the time we can divert some of these funds back into getting more adult leadership for cadets specifically.' He continued that then you can potentially grow the program to 50,000, but that right now is not the time.

LT GEN KEHOE, USAF (RET), referred to the three legislative missions of CAP—emergency services, cadet programs, and aerospace education—and stated there is a balance established over a long period of time. He asked if there had been a significant shift in the resources allocated to each program.

BRIG GEN WHELESS, CAP, responded that 14.1 percent of our appropriated money and 7.1 percent of our corporate money is spent on cadet programs. About 2 years ago, 14 percent of the corporate money was spent on cadet programs. He attributed the decrease to the loss of corporate income from the ROTC program.

MR. DOMINGUEZ commented that the board needed to give guidance on the POM and the board needs to discuss how it gets to closure on this very important discussion.

There was clarification that the POM has already been submitted to Air University and it is moving forward.

MR. DOMINGUEZ suggested that the Executive Director be asked to look at how CAP would reprogram to absorb the LMR requirement. The Executive Director responded that he would cut the money out of flying.

MR. DOMINGUEZ reiterated the need for the board to have a carefully structured discussion about the allocation of resources across the mission areas, the outcome sought, the goals within each mission area and the strategies in getting to those goals. He stated that this would lead to where you put the money and how much the Air Force should fund.

MAJ GEN BOWLING, CAP, stated that when the BoG was formed, it was to be an advocate for CAP. He further stated that it was difficult to figure out how to proceed in the homeland security area without an MOU with Homeland Security or First Air Force, and without clear direction from the Air Staff.

LT GEN KEYS, USAF, responded that the two organizations need to sit down and have a discussion and a handshake on what the future of CAP is and how it is going to be used. He continued that if there is a problem with the MOUs, then there needs to be a working group to sit down and resolve the differences. He added that he wanted to be involved in the oversight of what gets put in the MOU.

MR. DOMINGUEZ suggested that the BoG commission a working group to include the National Commander, Executive Director and staff, a representative of XO, Gen Clary, and a representative of AU, and this task force gather to discuss a strategic direction that is outcome based.

There was discussion on the Concept of Operations (CONOPS) and its status. There was clarification that the CONOPS that went forward was a statement of capabilities, not necessarily a concept of how CAP is going to operate.

LT GEN KEHOE, USAF (RET), recognized that the Chief of Staff and the Secretary of the Air Force invited CAP to submit the CONOPS. He added that it might have been the cart before the horse. What is being debated cannot be solved today, since the government itself is not clear on how it sorts out homeland security. A top-down, clear-cut requirement has not been identified.

COL ALLENBACK offered to adjust the POM to remove the \$4M for HLS and have it ready for discussion at the next meeting. He stated that the POM briefing was really for information and the request for approval was really for the kind of discussion that happened today to determine if the POM submission is going in the right direction. He stated that his staff had

begun to work very closely with the Air Force and that he wanted to make sure the POM was done well. He also wants the board members to independently have an opportunity to assimilate the information so that it can be approved at the June 2004 meeting.

THE EXECUTIVE DIRECTOR'S UPDATE CONTINUED

LT GEN LAMONTAGNE, USAF, moved and LT GEN KEHOE, USAF (RET), seconded a motion that the BoG approve the CAP FY04 budget adjustments, as presented.

THE MOTION CARRIED UNANIMOUSLY

LT GEN LAMONTAGNE, USAF, moved and LT GEN KEHOE, USAF (RET), seconded a motion that the BoG approve a 3 percent CAP HQ 2004 Cost of Living Adjustment.

THE MOTION CARRIED UNANIMOUSLY

- b. Membership. No discussion (See Appendix B)
- c. National Headquarters Transformation Results. No discussion (See Appendix B)
- d. FY04 Business Plans. No discussion (See Appendix B)
- e. CAP Litigation Update. No discussion (See Appendix B)
- f. CAP "Cadet Week" Initiative. No discussion (See Appendix B)
- g. Cooperative Agreement "Program Narrative" Initiative.

Discussion:

BRIG GEN WHELESS, CAP, commented on the statement that the Program Narrative is used by federal agencies in conjunction with grants and cooperative agreements and asked if there were examples.

COL LEIBOWITZ, CAP, HQ CAP/GC, responded that a program narrative is used by virtually all of them, and just recently the Office of Management and Budget issued a directive dealing with standard elements and government-wide guidance for grants and cooperative agreements.

BRIG GEN WHELESS, CAP, asked if there were any down sides as opposed to what CAP is presently doing with the Statement of Work.

COL LEIBOWITZ, CAP, responded that he could see none.

- h. Aircraft Purchases. No discussion (See Appendix B)
- i. "ARCHER" Hyperspectral Imaging Program. No discussion (See Appendix B)

Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 10:30 a.m.
Alexandria Room
Marriott Crystal Gateway
Washington DC

AGENDA ITEM

5. Any Other Business

Action

a. Line of Credit for Civil Air Patrol

Discussion:

COL ALLENBACK stated that the prior documentation authorizing a Line of Credit with Regions Bank has expired and the recommended action will fulfill a request from Regions Bank.

LT GEN LAMONTAGNE, USAF moved and LT GEN KEYS, USAF, seconded a motion that the Board of Governors grants the National Commander or the Executive Director the authority to sign a Line of Credit with Regions Bank.

THE MOTION CARRIED UNANIMOUSLY

b. Constitution of Membership Action Review Board (MARB) – Col Buschmann Case

Issue: THE CHAIRMAN presented a letter from Col David N. Simmons, CAP, Personal Representative of Col John R. Buschmann, CAP, to the Board of Governors, dated 30 November 2003, RE: Constitution of Membership Action Review Board.

Discussion:

COL BESS, CAP, stated that Col Simmons, CAP, called into question the qualifications of the members appointed and whether the MARB was duly constituted under the regulations at the time Col Buschmann's case was decided. There was a request for review of this issue by the Board of Governors.

COL LEIBOWITZ, CAP, HQ CAP/GC, explained that Col Simmons, CAP, alleges the action of the MARB may not be valid because of the following status of the membership:

Brig Gen Wheless, CAP, not eligible because the Constitution says members of the MARB need to be in the rank of colonel—after his promotion to brig gen, he was no longer qualified under the Constitution.

There were two vacancies on the MARB until this meeting. One was the Director of Personnel, ex officio—the position no longer exists. The second was the CAP-USAF vice commander, ex officio—vacant position.

There were only two remaining voting members eligible to make the decision: The National Legal Officer (chairman), and Col Andrew Skiba, CAP.

MAJ GEN BOWLING, CAP, expressed an opinion that the MARB rendered a good, solid decision and the sitting members demonstrated independence and integrity.

BRIG GEN WHELESS, CAP, asked HQ CAP/GC and the National Legal Officer (NLO) if they, in their respective positions, had had an adequate opportunity to review the request from Col Simmons, CAP.

COL LEIBOWITZ, HQ CAP/GC, stated that he first saw the letter shortly before the meeting today.

COL PALERMO/NLO stated that he had also had just seen the letter. He questioned whether the MARB had a quorum with Brig Gen Wheless disqualified, and whether or not it would result in harmless error. He expressed an opinion that Col Buschmann, CAP, has a right to ask for a rehearing by the MARB.

BRIG GEN BERGMAN, CAP moved and LT GEN KEHOE, USAF, seconded a motion that the BoG take no action and that the BoG send this matter back to the MARB for appropriate action.

THE MOTION CARRIED UNANIMOUSLY

NOTE: Col Vogt, USAF, CAP-USAF/CC noted that due to an Air Force decision with regard to the CAP-USAF vice commander serving on the MARB, he would propose a change to the Constitution at a subsequent meeting.

Civil Air Patrol Board of Governors - Minutes

2 December 2003 – 11:00 a.m.
Alexandria Room
Marriott Crystal Gateway
Washington DC

AGENDA ITEM

6. Next Meeting

Issue:

Col Al Allenback, Board of Governors executive secretary, recommended that the next meeting of the BoG be held on Tuesday, 1 June 2004 in the Washington DC area.

Action

BRIG GEN BERGMAN, CAP, stated that he is an elected county official with meetings held on Mondays, and, if possible, he would appreciate BoG meetings not being scheduled so close to Mondays.

LT GEN KEHOE, USAF (RET) moved and MAJ GEN BOWLING, CAP, seconded a motion that the BoG accepts the recommendation.

THE MOTION CARRIED UNANIMOUSLY

THE MEETING ADJOURNED AT 2:45 PM, TUESDAY, 2 DECEMBER 2003

Appendix B

National Commander's Update

1. Constitution and Bylaw changes
2. CAP Foundation
3. Proposed Federal Law Changes
4. CAP Top Issues



Major Missions

- ◆ **NOC has coordinated over 1,000 missions to include:**
 - ◆ FALCON VIRGO
 - ◆ DC ADIZ
 - ◆ National Capital Region Air Defense Artillery (ADA) Evaluation
 - ◆ Ft. Bliss ADA Evaluation
 - ◆ DETERMINED PROMISE '04
 - ◆ Hurricane / Nuclear Reactor / Terrorist Scenario
 - ◆ Southwest Region CAP Participated
 - ◆ 24 Lives Saved this FY
-

PERFORMING MISSIONS FOR AMERICA!

Upcoming Missions

- ◆ **G8 Economic Summit - Jun 04**
 - ◆ Supports: NORTHCOM
 - ◆ Location: Sea Island Georgia
 - ◆ Tasking: On call photo reconnaissance & airlift
 - ◆ **Advanced Radar/Sensor Test/Evaluation - Monthly Jun - Sep**
 - ◆ Supports: Joint Staff - Joint Theater Air Missile Defense
 - ◆ Location: National Capitol Region
 - ◆ Tasking: Target aircraft
 - ◆ **Determined Promise Exercise - Aug 04**
 - ◆ Supports: NORTHCOM
 - ◆ Locations: Virginia, Southern California, & Florida
 - ◆ Tasking: photo reconnaissance and hyperspectral imaging
-

PERFORMING MISSIONS FOR AMERICA!

Items Referred:
March 04 National Board
May 04 NEC

PERFORMING MISSIONS FOR AMERICA!

Constitution & Bylaws Changes

- ◆ At request of CAP-USAF, Vice Commander of CAP-USAF no longer a MARB member
- ◆ Constitution & Bylaws committee recommends the following to replace CAP-USAF/CV with CAP/LM
 - ◆ Strike “, the CAP-USAF Vice Commander (or their designees)”
 - ◆ Add “(or his/her designee)” after “National Director of Leadership Development and Membership Services”
 - ◆ Change “two” to “three” in Article XVI, paragraph 3 of the CAP Constitution

PERFORMING MISSIONS FOR AMERICA!

Civil Air Patrol Foundation

- ◆ Nonprofit 501(c)(3) to promote / support CAP & its missions
- ◆ Benefits
 - ◆ Include significant donors to the Council of Advisors
 - ◆ United Way & Combined Federal Campaign listings
 - ◆ Good vehicle for “planned giving”
 - ◆ Funds CAP programs and/or scholarships
- ◆ Considerations
 - ◆ Administration - Initially “out of hide” then self-support as grows
 - ◆ CAP & Foundation: Must treat as separate legal entities
- ◆ Board of Directors/Officers
 - ▶ National Commander - Chairman ▶ Vice Commander - Vice Chairman
 - ▶ National Legal Officer - Secretary ▶ National Finance Officer - Treasurer

PERFORMING MISSIONS FOR AMERICA!

Proposed Legislation Change

- ◆ Gives USAF Aux status only when doing missions within DoD
- ◆ Allows CAP to accept public benefit missions from any other federal agency
- ◆ Provides for FECA/FTCA coverage when doing missions for any federal agency (and state agency through MOU)

PERFORMING MISSIONS FOR AMERICA!



CAP “Top Issues”

1. FTCA / FECA Coverage – Corporate Insurance Crisis
2. Proposed Legislation – Making CAP the “Resource of Choice”
3. FAA Exemption
4. AFI 65-601, “Budget Guidance and Procedures”
5. Glider Program
6. Program Narrative
7. Wing Administrators
8. Fully Fund National Operations Center
9. Stabilize Funding for CAP
10. Location of CAP-USAF in Air Force Structure
11. Regulations Promulgated IAW 10 USC 9448
12. Air Force approval of CONEMP

PERFORMING MISSIONS FOR AMERICA!

INFORMATION BACKGROUND ON PROPOSED FEDERAL LAW CHANGE:

Current Federal law provides that “Civil Air Patrol is a volunteer civilian auxiliary of the Air Force when the services of the Civil Air Patrol are used by any department or agency in any branch of the Federal Government” It further provides that “The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by the Secretary of the Air Force.”

We have recently seen that the Air Force is severely restricting the missions it will assign to Civil Air Patrol, and that the Air Force will generally not assign to Civil Air Patrol missions requested by state or local government agencies. We have learned that the DoD considers the homeland security mission to be primarily a civilian mission, and primarily at the state and local level. In recent Congressional hearings, the DoD Undersecretary for Homeland Defense stated that in the area of Homeland Security, the DoD is a safety net, not a first responder. This position is incongruent with CAP’s ability to provide short-notice response at the local level.

This mismatch can be corrected through legislation. One possible fix would be to amend Title 10 to make Civil Air Patrol a volunteer civilian auxiliary of the Air Force only when the services of the Civil Air Patrol are used by and department or agency in the Department of Defense. To provide FTCA protection for CAP and its members when performing missions for any Federal department or agency, the language deeming CAP a federal instrumentality could be moved to *Title 36 (our corporate charter) and generalized to missions assigned by the head of any federal department or agency. The section currently in Title 10 that allows CAP to use assets purchased with appropriated funds for any of our corporate missions could also be moved to Title 36. Finally, to provide FECA coverage when we do missions for any federal department or agency, Title 41 (the FECA provisions) could be changed to provide FECA benefits when the head of any federal department or agency certifies that it was a department or agency assigned mission.*

Comprehensive Law Changes

U.S. Code as of: 01/23/00

5 U.S.C. §8141. Civil Air Patrol volunteers

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet under 18 years of age.

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section -

(1) the monthly pay of a member is deemed the rate of basic pay payable for step 1 of grade GS-9 in the General Schedule under section 5332 of this title for the purpose of computing compensation for disability or death;

(2) the percentages applicable to payments under section 8133 of this title are -

(A) 45 percent for section 8133(a)(2) of this title, if the member dies fully or currently insured under subchapter II of chapter 7 of title 42, with no additional payments for a child or children while the widow or widower remains eligible for payments under section 8133(a)(2) of this title;

(B) 20 percent for section 8133(a)(3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of 75 percent, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and

(C) 25 percent for section 8133(a)(4) of this title, if one parent was wholly dependent on the deceased member at the time of his death and the other was not dependent to any extent; 16 percent to each, if both were wholly dependent; and if one was or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) a payment may not be made under section 8133(a)(5) of this title;

(4) "performance of duty" means only active service, and travel to and from that service, rendered in performance or support of operational missions of the Civil Air Patrol under ~~section 40302 of title 36 direction of the Department of the Air Force~~ and under written authorization by competent authority covering a specific assignment and prescribing a time limit for the assignment; and

(5) the Secretary of Labor or his designee shall inform the Commissioner of Social Security when a claim is filed and eligibility for compensation is established under section 8133(a)(2) or (3) of this title, and the Commissioner of Social Security shall certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under subchapter II of chapter 7 of title 42 at the time of his death.

(c) The Secretary of Labor or his designee may inform the *head of the federal government department or agency utilizing CAP* ~~Secretary of the Air Force~~ or his designee when a claim is filed. The *head of the federal government department or agency utilizing CAP* ~~Secretary of the Air Force~~, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

10 USC 9441-9448

Sec. 9441. Status as federally chartered corporation; purposes

~~———— (a) STATUS— (1) The Civil Air Patrol is a nonprofit corporation that is federally chartered under section 40301 of title 36.~~

~~———— (2) Except as provided in section 9442(b)(2) of this title, the Civil Air Patrol is not an instrumentality of the Federal Government for any purpose.~~

~~———— (b) PURPOSES— The purposes of the Civil Air Patrol are set forth in section 40302 of title 36.~~

Sec. 9442. Status as volunteer civilian auxiliary of the Air Force

(a) VOLUNTEER CIVILIAN AUXILIARY- The Civil Air Patrol is a volunteer civilian auxiliary of the Air Force when the services of the Civil Air Patrol are used by any department or agency of the Federal Government Department of Defense.

(b) USE BY AIR FORCE- (1) The Secretary of the Air Force may use the services of the Civil Air Patrol to fulfill the noncombat programs and missions of the Department of the Air Force.

~~(2) The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by the Secretary of the Air Force.~~

Sec. 9443. Activities performed as federally chartered nonprofit corporation

~~———— (a) USE OF FEDERALLY PROVIDED RESOURCES— In its status as a federally chartered nonprofit corporation, the Civil Air Patrol may use equipment, supplies, and other resources, including aircraft, motor vehicles, computers, and communications equipment, provided to the Civil Air Patrol by a department or agency of the Federal Government or acquired by or for the Civil Air Patrol with appropriated funds (or with funds of the Civil Air Patrol, but reimbursed from appropriated funds)--~~

~~———— (1) to provide assistance requested by State or local governmental authorities to perform disaster relief missions and activities, other emergency missions and activities, and nonemergency missions and activities; and~~

~~———— (2) to fulfill its other purposes set forth in section 40302 of title 36.~~

~~———— (b) USE SUBJECT TO APPLICABLE LAWS— The use of equipment, supplies, or other resources under subsection (a) is subject to the laws and regulations that govern the use by nonprofit corporations of federally provided assets or of assets purchased with appropriated funds, as the case may be.~~

~~———— (c) AUTHORITY NOT CONTINGENT ON REIMBURSEMENT— The authority for the Civil Air Patrol to provide assistance under subsection (a)(1) is not contingent on the Civil Air Patrol being reimbursed for the cost of providing the assistance. If the Civil Air Patrol elects to require reimbursement for the provision of assistance under such subsection, the Civil Air Patrol may establish the reimbursement rate at a rate less than the rates charged by private sector sources for equivalent services.~~

~~———— (d) LIABILITY INSURANCE— The Secretary of the Air Force may provide the Civil Air Patrol with funds for paying the cost of liability insurance to cover missions and activities carried out under this section.~~

Sec. 94443. Activities performed as auxiliary of the Air Force

(a) AIR FORCE SUPPORT FOR ACTIVITIES- The Secretary of the Air Force may furnish to the Civil Air Patrol in accordance with this section any equipment, supplies, and other resources that the Secretary determines necessary to enable the Civil Air Patrol to fulfill *its corporate purposes under section 40302 of title 36.* ~~the missions assigned by the Secretary to the Civil Air Patrol as an auxiliary of the Air Force.~~

(b) FORMS OF AIR FORCE SUPPORT- The Secretary of the Air Force may, under subsection (a)--

(1) give, lend, or sell to the Civil Air Patrol without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)--

(A) major items of equipment (including aircraft, motor vehicles, computers, and communications equipment) that are excess to the military departments; and

(B) necessary related supplies and training aids that are excess to the military departments;

(2) permit the use, with or without charge, of services and facilities of the Air Force;

(3) furnish supplies (including fuel, lubricants, and other items required for vehicle and aircraft operations) or provide funds for the acquisition of supplies;

(4) establish, maintain, and supply liaison officers of the Air Force at the national, regional, State, and territorial headquarters of the Civil Air Patrol;

(5) detail or assign any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any liaison office at the national, regional, State, or territorial headquarters of the Civil Air Patrol;

(6) detail any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training programs of the Civil Air Patrol;

(7) authorize the payment of travel expenses and allowances, at rates not to exceed those paid to employees of the United States under subchapter I of chapter 57 of title 5, to members of the Civil Air Patrol while the members are carrying out programs or missions specifically assigned by the Air Force;

(8) provide funds for the national headquarters of the Civil Air Patrol, including--
(A) funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent, utilities, other operational expenses of the national headquarters; and

(B) to the extent considered necessary by the Secretary of the Air Force to fulfill Air Force requirements, funds for the payment of compensation and benefits for key staff at regional, State, or territorial headquarters;

(9) authorize the payment of expenses of placing into serviceable condition, improving, and maintaining equipment (including aircraft, motor vehicles, computers, and communications equipment) owned or leased by the Civil Air Patrol;

(10) provide funds for the lease or purchase of items of equipment that the Secretary determines necessary for the Civil Air Patrol;

(11) support the Civil Air Patrol cadet program by furnishing--

(A) articles of the Air Force uniform to cadets without cost; and

(B) any other support that the Secretary of the Air Force determines is consistent with Air Force missions and objectives; and

(12) provide support, including appropriated funds, for the Civil Air Patrol aerospace education program to the extent that the Secretary of the Air Force determines appropriate for furthering the fulfillment of Air Force missions and objectives.

(c) ASSISTANCE BY OTHER AGENCIES- (1) The Secretary of the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency of the United States as the Secretary of the Air Force considers to be needed by the Civil Air Patrol to carry out its missions *under section 40302 of title 36*.

(2) An arrangement for use of facilities or services of a military department or other department or agency under this subsection shall be subject to the agreement of the Secretary of the military department or head of the other department or agency, as the case may be.

(3) Each arrangement under this subsection shall be made in accordance with regulations prescribed under section 9448 of this title.

Sec. 94454. Funds appropriated for the Civil Air Patrol

Funds appropriated for the Civil Air Patrol shall be available only for the exclusive use of the Civil Air Patrol.

Sec. 94465. Miscellaneous personnel authorities

(a) USE OF RETIRED AIR FORCE PERSONNEL- (1) Upon the request of a person retired from service in the Air Force, the Secretary of the Air Force may enter into a personal services contract with that person providing for the person to serve as an administrator or liaison officer for the Civil Air Patrol. The qualifications of a person to provide the services shall be determined and approved in accordance with regulations prescribed under section 9448 of this title.

(2) To the extent provided in a contract under paragraph (1), a person providing services under the contract may accept services on behalf of the Air Force.

(3) A person, while providing services under a contract authorized under paragraph (1), may not be considered to be on active duty or inactive-duty training for any purpose.

(b) USE OF CIVIL AIR PATROL CHAPLAINS- The Secretary of the Air Force may use the services of Civil Air Patrol chaplains in support of the Air Force active duty and reserve component forces to the extent and under conditions that the Secretary determines appropriate.

Sec. 94476. Board of Governors

(a) GOVERNING BODY- The Board of Governors of the Civil Air Patrol is the governing body of the Civil Air Patrol.

(b) COMPOSITION- The Board of Governors is composed of 11 members as follows:

(1) Four members appointed by the Secretary of the Air Force, who may be active or retired officers of the Air Force (including reserve components of the Air Force), employees of the United States, or private citizens.

(2) Four members of the Civil Air Patrol, selected in accordance with the constitution and bylaws of the Civil Air Patrol.

(3) Three members appointed or selected as provided in subsection (c) from among personnel of any Federal Government agencies, public corporations, nonprofit associations, and other organizations that have an interest and expertise in civil aviation and the Civil Air Patrol mission.

(c) APPOINTMENTS FROM INTERESTED ORGANIZATIONS- (1) Subject to paragraph (2), the members of the Board of Governors referred to in subsection (b)(3) shall be appointed jointly by the Secretary of the Air Force and the National Commander of the Civil Air Patrol.

(2) Any vacancy in the position of a member referred to in paragraph (1) that is not filled under that paragraph within 90 days shall be filled by majority vote of the other members of the Board.

(d) CHAIRMAN- The Chairman of the Board of Governors shall be chosen by the members of the Board of Governors from among the members of the Board referred to in paragraphs (1) and (2) of subsection (b) and shall serve for a term of two years. The position of Chairman shall be held on a rotating basis between members of the Board appointed by the Secretary of the Air Force under paragraph (1) of subsection (b) and members of the Board selected under paragraph (2) of that subsection.

(e) POWERS- (1) The Board of Governors shall, subject to paragraphs (2) and (3), exercise the powers granted to the Civil Air Patrol under section 40304 of title 36.

(2) Any exercise by the Board of the power to amend the constitution or bylaws of the Civil Air Patrol or to adopt a new constitution or bylaws shall be subject to approval by a majority of the members of the Board.

(3) Neither the Board of Governors nor any other component of the Civil Air Patrol may modify or terminate any requirement or authority set forth in this section.

(f) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY- (1) Subject to paragraph (2), the Board of Governors may take such action as is necessary to limit the personal liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for a breach of fiduciary duty while serving as a member of the Board.

(2) The Board may not limit the liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for any of the following:

(A) A breach of the member's duty of loyalty to the Civil Air Patrol or its members.

(B) Any act or omission that is not in good faith or that involves intentional misconduct or a knowing violation of law.

(C) Participation in any transaction from which the member directly or indirectly derives an improper personal benefit.

(3) Nothing in this subsection shall be construed as rendering section 207 or 208 of title 18 inapplicable in any respect to a member of the Board of Governors who is a member of the Air Force on active duty, an officer on a retired list of the Air Force, or an employee of the United States.

(g) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY- (1) Except as provided in paragraph (2), no member of the Board of Governors or officer of the Civil Air Patrol shall be personally liable for damages for any injury or death or loss or damage of property resulting from a tortious act or omission of an employee or member of the Civil Air Patrol.

(2) Paragraph (1) does not apply to a member of the Board of Governors or officer of the Civil Air Patrol for a tortious act or omission in which the member or officer, as the case may be, was personally involved, whether in breach of a civil duty or in commission of a criminal offense.

(3) Nothing in this subsection shall be construed to restrict the applicability of common law protections and rights that a member of the Board of Governors or officer of the Civil Air Patrol may have.

(4) The protections provided under this subsection are in addition to the protections provided under subsection (f).

Sec. 94487. Regulations [Omitted here as no changes recommended and not related to other changes.]

36 USC 40301 et. Seq.

Sec. 40301. Organization

(a) Federal Charter. - Civil Air Patrol (in this chapter, the "corporation") is a federally chartered corporation.

(b) Perpetual Existence. - Except as otherwise provided, the corporation has perpetual existence.

Sec. 40301a. Status

(1) Except as provided in subparagraph (2) below, the Civil Air Patrol is not an instrumentality of the Federal Government for any purpose.

(2) The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by any department or agency in any branch of the Federal Government.

Sec. 40302. Purposes

The purposes of the corporation are to as follows: -

(1) To provide an organization to -

(A) encourage and aid citizens of the United States in contributing their efforts, services, and resources in developing aviation and in maintaining air supremacy; and

(B) encourage and develop by example the voluntary contribution of private citizens to the public welfare.

(2) To provide aviation education and training especially to its senior and cadet members.

(3) To encourage and foster civil aviation in local communities; and.

(4) To provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies.

(5) To assist the Department of the Air Force in fulfilling its noncombat programs and missions.

(6) To conduct missions for America by assisting Federal departments and agencies, as consistent with its other corporate purposes.

Sec. 40303. Membership and governing body

(a) Eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) GOVERNING BODY - The Civil Air Patrol has a Board of Governors. The composition and responsibilities of the Board of Governors are set forth in section 9447 of title 10.

Sec. 40304. Powers

The corporation may -

- (1) adopt and amend a constitution, bylaws, and regulations;
- (2) adopt and alter a corporate seal;
- (3) establish and maintain offices in the District of Columbia and the States, territories, and possessions of the United States to conduct its affairs;
- (4) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (5) sue and be sued; and
- (6) do any other act necessary and proper to carry out the purposes of the corporation.

Sec. 40305. Restrictions

The corporation may not engage in business for profit or issue stock.

Sec. 40306. Exclusive right to name, insignia, copyrights, emblems, badges, marks, and words

The corporation has the exclusive right to use the name "Civil Air Patrol" and all insignia, copyrights, emblems, badges, descriptive or designating marks, words, and phrases the corporation adopts. This section does not affect any vested rights.

Sec. 40307. Annual report

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year.

Sec40308. Assets acquired with Federal funds

(a) USE OF FEDERALLY PROVIDED RESOURCES- In its status as a federally chartered nonprofit corporation, the Civil Air Patrol may use equipment, supplies, and other resources, including aircraft, motor vehicles, computers, and communications equipment, provided to the Civil Air Patrol by a department or agency of the Federal Government or acquired by or for the Civil Air Patrol with appropriated funds (or with funds of the Civil Air Patrol, but reimbursed from appropriated funds)--

(1) to provide assistance requested by State or local governmental authorities to perform disaster relief missions and activities, other emergency missions and activities, and nonemergency missions and activities; and

(2) to fulfill its other purposes set forth in section 40302.

(b) USE SUBJECT TO APPLICABLE LAWS- The use of equipment, supplies, or other resources under subsection (a) is subject to the laws and regulations that govern the use by

nonprofit corporations of federally provided assets or of assets purchased with appropriated funds, as the case may be.

(c) AUTHORITY NOT CONTINGENT ON REIMBURSEMENT- The authority for the Civil Air Patrol to provide assistance under subsection (a)(1) is not contingent on the Civil Air Patrol being reimbursed for the cost of providing the assistance. If the Civil Air Patrol elects to require reimbursement for the provision of assistance under such subsection, the Civil Air Patrol may establish the reimbursement rate at a rate less than the rates charged by private sector sources for equivalent services.

(d) LIABILITY INSURANCE- The Secretary of ~~the the Air Force~~ *any Federal department* may provide the Civil Air Patrol with funds for paying the cost of liability insurance to cover missions and activities carried out under this section.

CAP ISSUES FOR BOARD OF GOVERNORS

1. FECA/FTCA Coverage – Corporate insurance crisis
2. Proposed Legislation – Making CAP the Resource of Choice
3. FAA Exemptions
4. Problems with AFI 65-601, Vol I, Budget Guidance and Procedures
5. CAP Glider Program
6. Program Narrative
7. Wing Administrators for Every Wing
8. Fully funded National Operations Center (NOC)
9. Stabilized Funding for CAP
10. Location of CAP-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

ISSUE SUMMARY: 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.

DISCUSSION: Uncertainty about which missions would be covered by 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). The missions which caused the uncertainty at the time our policy renewed were primarily B missions – cadet orientation flights, flights to attend corporate meetings, maintenance flights, and flights done in support of state and local agencies. Since the policy renewed, these missions which were covered by FECA/FTCA have been withdrawn by the Air Force and the loss exposure has been shifted to our corporate insurer. Due to the increased cost of the insurance, a larger proportion of federal funds appropriated for the exclusive use of CAP have to be programmed to pay for insurance – thereby diverting them from training and other uses. This is an inefficient use of the federal funds.

SHORT TERM/LONG TERM: Both

STATUS: CAP has implemented interim guidance to commanders to try to reduce the liability exposure through ORM and enforcement of existing procedures.

POSSIBLE SOLUTIONS: The National Executive Committee requests that the BoG ask the Air Force, at the highest levels, to review the decision to shift these missions, which were formerly Air Force assigned missions, and to redesignate them as Air Force assigned missions. In the alternative, the NEC asks the BoG to support legislative changes which would allow CAP to perform missions for other federal agencies and would extend FECA/FTCA coverage to all CAP flight activity performed for any federal agency.

ISSUE NO. 2: Proposed Legislation – Making CAP the Resource of Choice

ISSUE SUMMARY: Pursuing CAP’s approved Long Term Objectives: "Make CAP the “resource of choice” for public agencies requiring HLS, SAR, DR, CD, and other operational missions," and "Secure multiple sources of additional funding to support sustained growth of CAP beyond current funding constraints. (LTO's 3 and 8, respectively.)

DISCUSSION: Current Federal law provides that “Civil Air Patrol is a volunteer civilian auxiliary of the Air Force when the services of the Civil Air Patrol are used by any department or agency in any branch of the Federal Government.” It further provides that “The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by the Secretary of the Air Force.”

The Air Force will generally not assign to Civil Air Patrol missions requested by state or local government agencies. DoD considers the homeland security mission to be primarily a civilian mission, and primarily at the state and local level. In recent Congressional hearings, the DoD Undersecretary for Homeland Defense stated that in the area of Homeland Security, the DoD is a safety net, not a first responder. This position is incongruent with CAP’s ability to provide short-notice response at the local level.

SHORT TERM/LONG TERM: Long Term

STATUS: A proposed solution (summarized below) has been drafted and is attached for discussion. (See Attachment 1.)

POSSIBLE SOLUTION(S): This mismatch can be corrected through legislation. One possible fix would be to amend Title 10 to make Civil Air Patrol a volunteer civilian auxiliary of the Air Force only when the services of the Civil Air Patrol are used by any department or agency in the Department of Defense. To provide FTCA protection for CAP and its members when performing missions for any Federal department or agency, the language deeming CAP a federal instrumentality could be moved to Title 36 (our corporate charter) and generalized to missions assigned by the head of any federal department or agency. The section currently in Title 10 that allows CAP to use assets purchased with appropriated funds for any of our corporate missions could also be moved to Title 36. Finally, to provide FECA coverage when we do missions for any federal department or agency, Title 5 (the FECA provisions) could be changed to provide FECA benefits when the head of any federal department or agency certifies that it was a department or agency assigned mission.

ISSUE 2 - ATTACHMENT 1: PROPOSE LEGISLATIVE CHANGES

U.S. Code as of: 01/23/00

5 U.S.C. §8141. Civil Air Patrol volunteers

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet under 18 years of age.

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section -

(1) the monthly pay of a member is deemed the rate of basic pay payable for step 1 of grade GS-9 in the General Schedule under section 5332 of this title for the purpose of computing compensation for disability or death;

(2) the percentages applicable to payments under section 8133 of this title are -

(A) 45 percent for section 8133(a)(2) of this title, if the member dies fully or currently insured under subchapter II of chapter 7 of title 42, with no additional payments for a child or children while the widow or widower remains eligible for payments under section 8133(a)(2) of this title;

(B) 20 percent for section 8133(a)(3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of 75 percent, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and

(C) 25 percent for section 8133(a)(4) of this title, if one parent was wholly dependent on the deceased member at the time of his death and the other was not dependent to any extent; 16 percent to each, if both were wholly dependent; and if one was or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) a payment may not be made under section 8133(a)(5) of this title;

(4) "performance of duty" means only active service, and travel to and from that service, rendered in performance or support of operational missions of the Civil Air Patrol under section 40302 of title 36 ~~direction of the Department of the Air Force~~ and under written authorization by competent authority covering a specific assignment and prescribing a time limit for the assignment; and

(5) the Secretary of Labor or his designee shall inform the Commissioner of Social Security when a claim is filed and eligibility for compensation is established under section 8133(a)(2) or (3) of this title, and the Commissioner of Social Security shall certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under subchapter II of chapter 7 of title 42 at the time of his death.

(c) The Secretary of Labor or his designee may inform the head of the federal government department or agency utilizing CAP ~~Secretary of the Air Force~~ or his designee when a claim is filed. The head of the federal government department or agency utilizing CAP ~~Secretary of the Air Force~~, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

10 USC 9441-9448

Sec. 9441. Status as federally chartered corporation; purposes

~~_____ (a) STATUS—(1) The Civil Air Patrol is a nonprofit corporation that is federally chartered under section 40301 of title 36.~~

~~_____ (2) Except as provided in section 9442(b)(2) of this title, the Civil Air Patrol is not an instrumentality of the Federal Government for any purpose.~~

~~_____ (b) PURPOSES—The purposes of the Civil Air Patrol are set forth in section 40302 of title 36.~~

Sec. 9442. Status as volunteer civilian auxiliary of the Air Force

(a) VOLUNTEER CIVILIAN AUXILIARY- The Civil Air Patrol is a volunteer civilian auxiliary of the Air Force when the services of the Civil Air Patrol are used by any department or agency of the Federal Government Department of Defense.

(b) USE BY AIR FORCE- (1) The Secretary of the Air Force may use the services of the Civil Air Patrol to fulfill the noncombat programs and missions of the Department of the Air Force.

~~(2) The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by the Secretary of the Air Force.~~

Sec. 9443. Activities performed as federally chartered nonprofit corporation

~~_____ (a) USE OF FEDERALLY PROVIDED RESOURCES—In its status as a federally chartered nonprofit corporation, the Civil Air Patrol may use equipment, supplies, and other resources, including aircraft, motor vehicles, computers, and communications equipment, provided to the Civil Air Patrol by a department or agency of the Federal Government or acquired by or for the Civil Air Patrol with appropriated funds (or with funds of the Civil Air Patrol, but reimbursed from appropriated funds)—~~

~~_____ (1) to provide assistance requested by State or local governmental authorities to perform disaster relief missions and activities, other emergency missions and activities, and nonemergency missions and activities; and~~

~~_____ (2) to fulfill its other purposes set forth in section 40302 of title 36.~~

~~_____ (b) USE SUBJECT TO APPLICABLE LAWS—The use of equipment, supplies, or other resources under subsection (a) is subject to the laws and regulations that govern the use by nonprofit corporations of federally provided assets or of assets purchased with appropriated funds, as the case may be.~~

~~_____ (c) AUTHORITY NOT CONTINGENT ON REIMBURSEMENT—The authority for the Civil Air Patrol to provide assistance under subsection (a)(1) is not contingent on the Civil Air Patrol being reimbursed for the cost of providing the assistance. If the Civil Air Patrol elects to require reimbursement for the provision of assistance under such subsection, the Civil Air Patrol may establish the reimbursement rate at a rate less than the rates charged by private sector sources for equivalent services.~~

~~_____ (d) LIABILITY INSURANCE—The Secretary of the Air Force may provide the Civil Air Patrol with funds for paying the cost of liability insurance to cover missions and activities carried out under this section.~~

Sec. 9443. Activities performed as auxiliary of the Air Force

(a) AIR FORCE SUPPORT FOR ACTIVITIES- The Secretary of the Air Force may furnish to the Civil Air Patrol in accordance with this section any equipment, supplies, and other resources that the Secretary determines necessary to enable the Civil Air Patrol to fulfill

its corporate purposes under section 40302 of title 36. ~~the missions assigned by the Secretary to the Civil Air Patrol as an auxiliary of the Air Force.~~

(b) FORMS OF AIR FORCE SUPPORT- The Secretary of the Air Force may, under subsection (a)--

(1) give, lend, or sell to the Civil Air Patrol without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)--

(A) major items of equipment (including aircraft, motor vehicles, computers, and communications equipment) that are excess to the military departments; and

(B) necessary related supplies and training aids that are excess to the military departments;

(2) permit the use, with or without charge, of services and facilities of the Air Force;

(3) furnish supplies (including fuel, lubricants, and other items required for vehicle and aircraft operations) or provide funds for the acquisition of supplies;

(4) establish, maintain, and supply liaison officers of the Air Force at the national, regional, State, and territorial headquarters of the Civil Air Patrol;

(5) detail or assign any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any liaison office at the national, regional, State, or territorial headquarters of the Civil Air Patrol;

(6) detail any member of the Air Force or any officer, employee, or contractor of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training programs of the Civil Air Patrol;

(7) authorize the payment of travel expenses and allowances, at rates not to exceed those paid to employees of the United States under subchapter I of chapter 57 of title 5, to members of the Civil Air Patrol while the members are carrying out programs or missions specifically assigned by the Air Force;

(8) provide funds for the national headquarters of the Civil Air Patrol, including--
(A) funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent, utilities, other operational expenses of the national headquarters; and

(B) to the extent considered necessary by the Secretary of the Air Force to fulfill Air Force requirements, funds for the payment of compensation and benefits for key staff at regional, State, or territorial headquarters;

(9) authorize the payment of expenses of placing into serviceable condition, improving, and maintaining equipment (including aircraft, motor vehicles, computers, and communications equipment) owned or leased by the Civil Air Patrol;

(10) provide funds for the lease or purchase of items of equipment that the Secretary determines necessary for the Civil Air Patrol;

(11) support the Civil Air Patrol cadet program by furnishing--

(A) articles of the Air Force uniform to cadets without cost; and

(B) any other support that the Secretary of the Air Force determines is consistent with Air Force missions and objectives; and

(12) provide support, including appropriated funds, for the Civil Air Patrol aerospace education program to the extent that the Secretary of the Air Force determines appropriate for furthering the fulfillment of Air Force missions and objectives.

(c) ASSISTANCE BY OTHER AGENCIES- (1) The Secretary of the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency of the United States as the Secretary of the Air Force considers to be needed by the Civil Air Patrol to carry out its missions under section 40302 of title 36.

(2) An arrangement for use of facilities or services of a military department or other department or agency under this subsection shall be subject to the agreement of the Secretary of the military department or head of the other department or agency, as the case may be.

(3) Each arrangement under this subsection shall be made in accordance with regulations prescribed under section 9448 of this title.

Sec. 94454. Funds appropriated for the Civil Air Patrol

Funds appropriated for the Civil Air Patrol shall be available only for the exclusive use of the Civil Air Patrol.

Sec. 94465. Miscellaneous personnel authorities

(a) USE OF RETIRED AIR FORCE PERSONNEL- (1) Upon the request of a person retired from service in the Air Force, the Secretary of the Air Force may enter into a personal services contract with that person providing for the person to serve as an administrator or liaison officer for the Civil Air Patrol. The qualifications of a person to provide the services shall be determined and approved in accordance with regulations prescribed under section 9448 of this title.

(2) To the extent provided in a contract under paragraph (1), a person providing services under the contract may accept services on behalf of the Air Force.

(3) A person, while providing services under a contract authorized under paragraph (1), may not be considered to be on active duty or inactive-duty training for any purpose.

(b) USE OF CIVIL AIR PATROL CHAPLAINS- The Secretary of the Air Force may use the services of Civil Air Patrol chaplains in support of the Air Force active duty and reserve component forces to the extent and under conditions that the Secretary determines appropriate.

Sec. 94476. Board of Governors

(a) GOVERNING BODY- The Board of Governors of the Civil Air Patrol is the governing body of the Civil Air Patrol.

(b) COMPOSITION- The Board of Governors is composed of 11 members as follows:

(1) Four members appointed by the Secretary of the Air Force, who may be active or retired officers of the Air Force (including reserve components of the Air Force), employees of the United States, or private citizens.

(2) Four members of the Civil Air Patrol, selected in accordance with the constitution and bylaws of the Civil Air Patrol.

(3) Three members appointed or selected as provided in subsection (c) from among personnel of any Federal Government agencies, public corporations, nonprofit associations, and other organizations that have an interest and expertise in civil aviation and the Civil Air Patrol mission.

(c) APPOINTMENTS FROM INTERESTED ORGANIZATIONS- (1) Subject to paragraph (2), the members of the Board of Governors referred to in subsection (b)(3) shall be appointed jointly by the Secretary of the Air Force and the National Commander of the Civil Air Patrol.

(2) Any vacancy in the position of a member referred to in paragraph (1) that is not filled under that paragraph within 90 days shall be filled by majority vote of the other members of the Board.

(d) CHAIRMAN- The Chairman of the Board of Governors shall be chosen by the members of the Board of Governors from among the members of the Board referred to in paragraphs (1) and (2) of subsection (b) and shall serve for a term of two years. The position of Chairman shall be held on a rotating basis between members of the Board appointed by the Secretary of the Air Force under paragraph (1) of subsection (b) and members of the Board selected under paragraph (2) of that subsection.

(e) POWERS- (1) The Board of Governors shall, subject to paragraphs (2) and (3), exercise the powers granted to the Civil Air Patrol under section 40304 of title 36.

(2) Any exercise by the Board of the power to amend the constitution or bylaws of the Civil Air Patrol or to adopt a new constitution or bylaws shall be subject to approval by a majority of the members of the Board.

(3) Neither the Board of Governors nor any other component of the Civil Air Patrol may modify or terminate any requirement or authority set forth in this section.

(f) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY- (1) Subject to paragraph (2), the Board of Governors may take such action as is necessary to limit the personal liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for a breach of fiduciary duty while serving as a member of the Board.

(2) The Board may not limit the liability of a member of the Board of Governors to the Civil Air Patrol, or to any of its members, for monetary damages for any of the following:

(A) A breach of the member's duty of loyalty to the Civil Air Patrol or its members.

(B) Any act or omission that is not in good faith or that involves intentional misconduct or a knowing violation of law.

(C) Participation in any transaction from which the member directly or indirectly derives an improper personal benefit.

(3) Nothing in this subsection shall be construed as rendering section 207 or 208 of title 18 inapplicable in any respect to a member of the Board of Governors who is a member of the Air Force on active duty, an officer on a retired list of the Air Force, or an employee of the United States.

(g) PERSONAL LIABILITY FOR BREACH OF A FIDUCIARY DUTY- (1) Except as provided in paragraph (2), no member of the Board of Governors or officer of the Civil Air Patrol shall be personally liable for damages for any injury or death or loss or damage of property resulting from a tortious act or omission of an employee or member of the Civil Air Patrol.

(2) Paragraph (1) does not apply to a member of the Board of Governors or officer of the Civil Air Patrol for a tortious act or omission in which the member or officer, as the case may be, was personally involved, whether in breach of a civil duty or in commission of a criminal offense.

(3) Nothing in this subsection shall be construed to restrict the applicability of common law protections and rights that a member of the Board of Governors or officer of the Civil Air Patrol may have.

(4) The protections provided under this subsection are in addition to the protections provided under subsection (f).

Sec. 94487. Regulations [Omitted here as no changes recommended and not related to other changes.]

36 USC 40301 et. Seq.

Sec. 40301. Organization

(a) Federal Charter. - Civil Air Patrol (in this chapter, the "corporation") is a federally chartered corporation.

(b) Perpetual Existence. - Except as otherwise provided, the corporation has perpetual existence.

Sec. 40301a. Status

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(2) The Civil Air Patrol shall be deemed to be an instrumentality of the United States with respect to any act or omission of the Civil Air Patrol, including any member of the Civil Air Patrol, in carrying out a mission assigned by any department or agency in any branch of the Federal Government.

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The purposes of the corporation are to as follows: -

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(B) encourage and develop by example the voluntary contribution of private citizens to the public welfare.

(2) To provide aviation education and training especially to its senior and cadet members.

(3) To encourage and foster civil aviation in local communities; and.

(4) To provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies.

(5) To assist the Department of the Air Force in fulfilling its noncombat programs and missions.

(6) To conduct missions for America by assisting Federal departments and agencies, as consistent with its other corporate purposes.

Sec. 40303. Membership and governing body

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(b) GOVERNING BODY - The Civil Air Patrol has a Board of Governors. The composition and responsibilities of the Board of Governors are set forth in section 9447 of title 10.

Sec. 40304. Powers

The corporation may -

(1) adopt and amend a constitution, bylaws, and regulations;

(2) adopt and alter a corporate seal;

(3) establish and maintain offices in the District of Columbia and the States, territories, and possessions of the United States to conduct its affairs;

- (4) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (5) sue and be sued; and
- (6) do any other act necessary and proper to carry out the purposes of the corporation.

Sec. 40305. Restrictions

The corporation may not engage in business for profit or issue stock.

Sec. 40306. Exclusive right to name, insignia, copyrights, emblems, badges, marks, and words

The corporation has the exclusive right to use the name "Civil Air Patrol" and all insignia, copyrights, emblems, badges, descriptive or designating marks, words, and phrases the corporation adopts. This section does not affect any vested rights.

Sec. 40307. Annual report

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year.

Sec40308. Assets acquired with Federal funds

(a) USE OF FEDERALLY PROVIDED RESOURCES- In its status as a federally chartered nonprofit corporation, the Civil Air Patrol may use equipment, supplies, and other resources, including aircraft, motor vehicles, computers, and communications equipment, provided to the Civil Air Patrol by a department or agency of the Federal Government or acquired by or for the Civil Air Patrol with appropriated funds (or with funds of the Civil Air Patrol, but reimbursed from appropriated funds)--

(1) to provide assistance requested by State or local governmental authorities to perform disaster relief missions and activities, other emergency missions and activities, and nonemergency missions and activities; and

(2) to fulfill its other purposes set forth in section 40302.

(b) USE SUBJECT TO APPLICABLE LAWS- The use of equipment, supplies, or other resources under subsection (a) is subject to the laws and regulations that govern the use by nonprofit corporations of federally provided assets or of assets purchased with appropriated funds, as the case may be.

(c) AUTHORITY NOT CONTINGENT ON REIMBURSEMENT- The authority for the Civil Air Patrol to provide assistance under subsection (a)(1) is not contingent on the Civil Air Patrol being reimbursed for the cost of providing the assistance. If the Civil Air Patrol elects to require reimbursement for the provision of assistance under such subsection, the Civil Air Patrol may establish the reimbursement rate at a rate less than the rates charged by private sector sources for equivalent services.

(d) LIABILITY INSURANCE- The Secretary of ~~the the Air Force~~ any Federal department may provide the Civil Air Patrol with funds for paying the cost of liability insurance to cover missions and activities carried out under this section.

ISSUE NO. 3: FAA Exemptions

ISSUE SUMMARY: CAP 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 CAP operations personnel, including the pilots who fly these sorties, including members who are also FAA employees.

DISCUSSION: Currently CAP has two FAA exemptions, one allows private pilots to be reimbursed when performing Air Force assigned “search and locate” missions and the other permitting qualified commercial pilots to carry passengers or property, for expense reimbursement, on flights incidental to CAP business. The current exemptions do not permit private pilots to receive compensation of any type (including making logbook entries of the flight) for other types of missions, such as CAP or AFROTC cadet orientation flights, communication relay flights, or air work flights not involving “search and locate.” In addition, the exemption only covers flights performed as Air Force assigned missions.

SHORT TERM/LONG TERM: Part short term, part long term

STATUS: USAF/XOHA has asked for clarification from the FAA regarding ambiguities in our current exemption. CAP-USAF/XO is working with CAP/DO and CAP/GC to draft an exemption request to encompass the rest of CAP’s needs.

POSSIBLE SOLUTION(S): An additional FAA exemption may resolve some of the issues, if granted. The Air Force will advocate the position that the additional exemption is needed in order for CAP to accomplish the public purposes for which it was chartered. However, there is indication from the FAA that granting CAP’s request to permit “transportation flights” where either the pilot or CAP receives “compensation” is not “in the public interest”. Also, we do not know how the FAA will respond to the request to authorize flights by private pilots when it is not an Air Force assigned mission, or when the purpose of the mission is not “search and locate.” Long term, legislative relief may be needed if the FAA does not grant the exemption.

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

ISSUE SUMMARY: Does AFI apply to CAP? If so, rules are outdated and contradictory.

DISCUSSION: Section 7E addresses Civil Air Patrol and Air Force Civil Air Patrol Liaison Offices. The instruction purports to define the specific types of expenses for which the Air Force can reimburse Civil Air Patrol. CAP questions the application of AF Instructions to Civil Air Patrol, both because CAP and its members are not part of the Air Force, and because the authority for funding CAP comes from the Cooperative Agreement between the Air Force and CAP. Further, if the Air Force asserts that this AFI applies to Civil Air Patrol under 10 U.S.C. 9448(b)(1), CAP argues that the instruction, to be valid, needs to comply with the Administrative Procedures Act, 5 USC 551. Even if the AFI applies to CAP, it is in conflict with DoDGARs in that the preferred funding method is advance funding, but the AFI is limited to reimbursement. The regulation has not been updated to reflect the significant change in Title 10 that went into effect 27 Feb 2001 and is, therefore, overly restrictive. The AFI is also contradictory in that section 7.32.3.1.2 establishes "The Air Force will reimburse CAP National Headquarters for aircraft maintenance on all corporate owned aircraft based on actual expense", yet section 7.32.2 limits reimbursement to certain specific types of missions (currently referred to as Air Force assigned and reimbursable missions, or "A" missions). The contradiction is obvious when considering a specific item of maintenance. How much of the actual cost of an alternator, for instance, is chargeable to "A" missions?

SHORT TERM/LONG TERM: Short term

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

POSSIBLE SOLUTIONS: 1. BoG obtain determination that AF Instructions are not applicable to CAP. 2. Rewrite Cooperative Agreement to establish workable solution to use appropriated funds for minor maintenance expenses associated with aircraft purchased with appropriated funds or used for Air Force assigned missions. 3. Update AFI to reflect current statute and DoDGARs.

ISSUE NO. 5: CAP Glider Program

ISSUE SUMMARY: From FY 1996 until FY 2003, certain CAP Glider Program missions were flown as Air Force assigned missions (AFAM). These missions were cadet flight training and the Cadet Orientation Flight program. These missions were approved by CAP-USAF and flown in accordance with CAP Regulations. In a November 2003 letter, XOH directed that such missions would not be flown as AFAMs. 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 (B-15 & B-16) portion of the glider program.

DISCUSSION: While the CAP Glider Program performs an identical function as the powered program, the program is not clearly defined in current AF regulations. Suggested changes to AF guidance have been respectfully offered, however to date the guidance has not been changed to accommodate the CAP Glider Program. Therefore, the only logical explanation for the glider program being treated different than the powered program is the lack of up-to-date AF guidance.

While an increase in CAP's insurance premiums are attributable to a major increase in the percentage of corporate missions flown as a result of the loss of AFAM status, a meeting with the underwriter suggested the CAP Glider Program had an excellent liability loss record. The fact is the CAP Glider Program has only resulted in a liability loss of approximately \$15,000 since 1996. The CAP Glider Program safety record and the nature of glider flying suggest a continued low liability risk.

SHORT TERM/LONG TERM: To date, in FY 04, the glider program has reported 620 Cadet Orientation Flights at a cost of \$18,000 (\$30.00 per flight). Cadet Orientation Flights are the only Glider Program flights that are funded. Also CAP Glider Cadet Orientation flights have never received minor maintenance reimbursement and all minor maintenance costs are paid by the individual CAP Glider activity.

Short-term suggest continued funding of the CAP Glider Orientation Flight Program with corporate funds for FY 04. Approximate cost: \$50,000.00 (FY 03 costs were \$68,000). CAP Glider flight training and National and Wing flight academies are funded from the individual glider activity or other CAP HQ program funds.

Long term HQ CAP/DO will continue to work with CAP-USAF with the goal of reinstating funding regardless of the AFAM status. HQ CAP/DO will continue to implement approved CAPR 60-1 glider risk management guidance to ensure the program remains a low liability risk

STATUS: New

POSSIBLE SOLUTION(S): Fund the CAP Glider Orientation Program with corporate funds for the rest of FY04 while HQ CAP negotiates with CAP-USAF and Air Staff for a funding solution.

ISSUE NO. 6: Program Narrative

ISSUE SUMMARY: The current “Statement of Work” (SOW), which is attachment 1 to our Cooperative Agreement with the Air Force, needs to be rewritten and expanded.

DISCUSSION: The current SOW was last modified 1 Oct 2001. Since then CAP has learned that a SOW is primarily a contracting term, while a “Program Narrative” is more appropriate for a Cooperative Agreement.

The existing SOW is deficient in a number of ways and fails to respond to issues raised in the 2002 Air Force Inspection Agency special review of Civil Air Patrol. Chief among the list of items that must be addresses are the definition of the “program”, the extent of the government’s “substantial involvement”, and the methods for monitoring program performance. The revised Program Narrative is envisioned as an agreement on the programs CAP is to perform for the Air Force in carrying out appropriate public purposes and the manner in which these programs are to be performed. The current SOW is merely a description of CAP as it existed at the time the SOW was written.

SHORT TERM/LONG TERM: Short Term

STATUS: A task force consisting of key CAP employees and CAP-USAF personnel has been formed to review the SOW and the requirements to be incorporated into a new Program Narrative. CAP volunteer leadership will be included in the process as the new document is developed.

POSSIBLE SOLUTION(S): A revised Program Narrative is the first step in correctly defining the roles and limitations of Civil Air Patrol as the U.S. Air Force Auxiliary. Assistance from the Board of Governors may become necessary to resolve specific strategic and/or governing issues as the Program Narrative develops. The Board of Governors may also become involved if identified issues require legislative or regulatory solutions.

ISSUE NO. 7: Wing Administrators for Every Wing

ISSUE SUMMARY: In FY 03, the Deputy State Directors (AF civilian employees) were terminated (RIF'd) by Air Force. CAP seeks to replace that function with a Wing Administrator in each CAP Wing. This function is a vital requirement in each Wing.

DISCUSSION: Prior to FY 03, a CAP-USAF State Director (39) and/or a Deputy State Director (50) was assigned to each wing. AF manpower reductions led to decision to terminate the 50 Deputy State Director positions, leaving only 39 Directors to cover all 52 Wings. AF/XO "pledges good faith effort" to fund these 50 wing administrator positions in a 23 May 03 memo to CAP/CC.

SHORT TERM/LONG TERM: Long Term

STATUS: As of the 2-3 May 2003 NEC meeting, CAP-USAF was "working the issue hard" (See Attachment 4: 2-3 May 2003 NEC Minutes, Item 16 at page 39.) This initiative is still intact as a POM item, having been forwarded by AU and accepted by AETC as a "Lead Command" issue. Will require AF/XO "sponsorship" to survive POM deliberations, currently under way at Hq AF.

POSSIBLE SOLUTION(S): Only solution is for full funding of 50 positions.

**SUBJECT: Deputy State Directors
CAP USAF/CC – Col Vogt**

INFORMATION BACKGROUND:

Col Vogt will brief the NEC on the current status of the Deputy State Directors.

COL VOGT/CAP-USAF/CC presented a slide briefing (See Atch 11). He explained in detail the transition of Deputy State Directors to civil service status, the manpower cuts affecting them and steps being taken to clearly identify Air Force tasks versus CAP tasks in an attempt to reach a solution to fill the void of the loss of the Deputy State Directors. In summary, he stated: “We are working this issue hard. We are not looking at it as just a loss of employees. I am looking at the impact on your organization because I know that over the years they are doing work for you that you need to have done. I want to go through it as a process, and Gen Bowling agrees, ‘let’s fix this and get you all poised correctly to run the corporation the way you want to in the field.’ We need your ideas and your inputs.”

In response to a request, COL VOGT also provided an update status of the Memorandum of Understanding. He is working on a format for MOUs and will shortly send out a survey for input from the field. Col Vogt explained that there have been huge policy changes in the last year that have slowed this process, but expressed hope that there will be some rapid progress on this project in the near future.

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

ISSUE SUMMARY: CAP is not sufficiently funded to provide a fully manned, 24/7 NOC. Funding is not in baseline POM.

DISCUSSION: NOC became operational 1 Oct 02 with personnel who were previously assigned other duties. DoD directives have changed as a result of 9/11 and NORTHCOM standing up. DoD and AF guidance now require many more details be reviewed/presented/coordinated before an AF mission number can assigned. As a result, CAP doctrine is moving towards centralized control/decentralized execution of missions. 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.

SHORT TERM/LONG TERM: Long Term

STATUS: The NOC is an unfunded requirement.

POSSIBLE SOLUTION(S): 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 CAP

ISSUE SUMMARY: In FY02, HQAF and CAP completed a Top-to-Bottom baseline budget revision that set the level of support for CAP programs at about \$20M. Since this revision, CAP has experienced baseline a reduction of \$550K in FY03, and forecast reductions of \$110K in FY05 and \$220K in FY07, for a total of \$880K reduction.

DISCUSSION: Prior to FY 2002, CAP's appropriated budget was 50% disconnected from the AF's planned baseline. Congressional adds had bolstered CAP programs for several fiscal years which, because of the growing gap in planned-to-actual support, eventually caused the AF/CAP relationship to strain. The FY02 baseline revision was important to reestablished AF's support for CAP programs. CAP believed this revision also included an agreement by AF that CAP's baseline would be insulated from AF budget drills and not be "bill payers" for other AF programs. CAP's baseline continues to shrink and compounding the baseline reductions, real inflation in operating aircraft, added grant compliance task, and rising personnel benefit costs have actually resulted in fewer dollars for programs.

SHORT TERM/LONG TERM: Long Term

STATUS:

POSSIBLE SOLUTION(S): Broad Area Review to validate CAP requirements and set AF support.

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

ISSUE SUMMARY: Determination of most advantageous location of CAP-USAF in the Air Force structure.

DISCUSSION: The location of CAP-USAF in the Air Force structure plays an important role in determining how CAP functions. With CAP-USAF falling under an Air Force major command (such as AETC), CAP 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".

SHORT TERM/LONG TERM: Long Term

STATUS:

POSSIBLE SOLUTION(S):

1. Make CAP-USAF an independent Field Operating Agency
2. Move CAP-USAF to become a part of USAF/XOHA
3. Since CAP will be supporting First Air Force as the Air Force's operational arm of Northern Command, move CAP-USAF to become a part of Air Combat Command

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

ISSUE SUMMARY: 10 USC §9448 (See Attachment 10.) requires SAF to promulgate regulations (a) governing the conduct of CAP performing its duties as the civilian auxiliary of the Air Force (under 10 USC §9442, hereinafter "9442") and (b) providing support by the Air Force and arranging assistance by other federal agencies (under 10 USC §9444, hereinafter "9444."). We are unaware of any such regulations being promulgated.

DISCUSSION: It has been suggested that AFI 10-2701 (and others) are intended to regulate the conduct of CAP personnel. (Notwithstanding the language "[This instruction] applies to Air Force personnel and organizations supporting CAP and CAP units.") CAP is unaware of any AFIs that expressly state that they apply to CAP and its personnel.

Section 9448 of title 10 provides, in pertinent part:

- (a) **AUTHORITY-** The Secretary of the Air Force shall prescribe regulations for the administration of this chapter.
- (b) **REQUIRED REGULATIONS-** The regulations shall include the following:
 - (1) Regulations governing the conduct of the activities of the Civil Air Patrol when it is performing its duties as a volunteer civilian auxiliary of the Air Force under section 9442 of this title.
 - (2) Regulations for providing support by the Air Force and for arranging assistance by other agencies under section 9444 of this title.
 - (3) Regulations governing the qualifications of retired Air Force personnel to serve as an administrator or liaison officer for the Civil Air Patrol under a personal services contract entered into under section 9446(a) of this title.
- (c) **APPROVAL BY SECRETARY OF DEFENSE-** The regulations required by subsection (b)(2) shall be subject to the approval of the Secretary of Defense.

We are unaware of any regulations being prescribed under these provisions. CAP Regulations approved by CAP-USAF may be in compliance with those required by subsection (b)(1), although it is not clear that that is the intent. Regulations under subsection (b)(2) are needed as, from time to time, CAP has been refused assistance due to a lack of these regulations and at other times, such regulations might facilitate CAP access during period of heightened security.

In general, are the regulations required under 10 USC §9448 (copy attached) required to be "noticed rulemaking" under the Administrative Procedures Act (5 USC §§551 et. seq.)?

SHORT TERM/LONG TERM: Long Term

STATUS: New

POSSIBLE SOLUTION(S): *

ISSUE NO. 12: Air Force Approval of CONEMP

ISSUE SUMMARY: Approval of CAP's CONEMP is needed to facilitate employment as a resource in homeland security.

DISCUSSION: The CAP Concept of Employment focuses on the application of CAP resources to Homeland Security. The CONEMP states CAP 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. With a nationwide organization linked through a National Operations Center, CAP provides the capability to support homeland security efforts in multiple mission areas. CAP assets can also provide great assistance in both consequence and crisis management actions. CAP's CONEMP provides the framework for further planning, and describes resource requirements to prepare CAP units to be employed for homeland security efforts. The CONEMP shows how CAP can employ assets to support the President's National Strategy for Homeland Security.

SHORT TERM/LONG TERM: Short Term

STATUS: Delivered to AF/XOH at August 2003 National Board Meeting. Awaiting HQ AF response.

POSSIBLE SOLUTION(S): *

Appendix C

Proposed Audit Committee Charter



BOARD OF GOVERNORS
NATIONAL HEADQUARTERS
CIVIL AIR PATROL
UNITED STATES AIR FORCE AUXILIARY

25 MAR 2004

MEMORANDUM FOR THE CHAIRMAN AND MEMBERS OF THE CIVIL AIR
PATROL (CAP) BOARD OF GOVERNORS (BOG)

Subject: Proposed Charter for the BoG's Audit Committee

Enclosed is the draft charter for the BoG's Audit Committee. The charter is based on inputs provided by the board's independent auditor (Wilson, Price, Barranco, Blankenship & Billingsley, PC), and upon information I gleaned from Audit Committees: A Guide for Directors, Management, and Consultants (Burke, Guy, and Tatum; published by Aspen Law and Business, 2002). This draft has been reviewed by the independent auditor, the CAP headquarters staff, the Auditor General of the Air Force, and the Air Force General Counsel. I have incorporated their suggestions and there are no objections or concerns with the document as written. I believe this draft is adequate for consideration by the Board of Governors at our next meeting, and commend it to your review.

The proposed charter limits the audit committee to oversight of three functions:

1. Financial reporting;
2. Internal controls affecting financial reporting and affecting compliance with laws and regulations addressing financial reporting and accounting; and
3. The external audit process.

In defining this scope of responsibility, two observations are noteworthy:

1. Many organizations have an "internal audit" organization. (The Air Force Auditor General's office is an example of such an organization.) The CAP does not, and, at this time, I am not suggesting one be established. However, Inspectors General (IG) perform some aspects of that internal audit function. The IGs oversee, evaluate, and test internal controls across the full breadth of the CAP's activities-including financial accounting and financial reporting. For this reason, the proposed charter envisions an open line of communications among the audit committee and the CAP and CAP-USAF Inspectors General. The line of communication, as envisioned, is not an oversight or control role. Importantly, the CAP's By-Laws are silent on the relationship between the CAP Inspector General and the Board of Governors.
2. Audit committees in many organizations have a scope of responsibility much broader than that proposed in the enclosed draft charter. Often, audit committees are charged with oversight of an organization's code of conduct, its strategic planning and budgeting programs, its entire legal compliance regimen, and even controls related to the efficiency and effectiveness of the organization's "business" operations. (For comparability, the CAP's "business" operations would be its aerospace education program, its flying

operations, its counter-narcotics, search and rescue, and homeland security missions, etc.)
I do not recommend our audit committee have such a broad scope.

Based on this work and above observations, I recommend that at our next meeting the Board of Governors:

1. Discuss, modify if necessary, and adopt, the enclosed charter for an audit committee;
2. Invite the CAP and CAP-USAF Inspectors General to present briefings on the scope of their internal control oversight responsibilities and their reporting relationships;
3. Discuss whether a BoG-CAP IG relationship should be specified in the CAP By Laws, and, if so, what that might be;
4. Discuss and decide whether, how, and will, whom tire board should conduct its oversight of:
 - The efficiency and effectiveness of CAP operational activities and tile risks associated with the conduct of those activities;
 - Activities and controls designed to ensure compliance with tile full range of statutes and regulations affecting the activities oft he CAP;
 - The organization's strategic direction and related plaits and budgets; and
 - Compliance with the CAP's code of conduct.

Michael L. Dominguez
Member, CAP Board of Governors

Enclosure:
As Stated

Board of Governors of the Civil Air Patrol
Audit Committee Charter
06/01/2004

1. Purpose. The Audit Committee is a permanent standing committee of the Board of Governors (BoG). Its function is to assist the BoG in fulfilling the Board's oversight responsibilities for the:

- A. Financial reporting process;
- B. System of internal controls over accounting, finance, financial reporting, and compliance with laws governing these activities; and
- C. External audit functions.

2. Authority. The BoG delegates to the Audit Committee authority to:

- A. Appoint, compensate, and oversee the work of any certified public accounting firm employed by the CAP;
- B. Appoint, compensate, oversee, and terminate external auditors;
- C. Resolve any disagreements between management and the external auditor regarding financial reporting or accounting principles;
- D. Meet with company officers, external auditors, Inspectors General, and General Counsels or Judge Advocates General of the CAP or USAF;
- E. Seek any information it requires from employees or volunteers—all of whom are directed to cooperate with the committee's requests;
- F. Seek and obtain advice, counsel, or assistance as required from appropriate offices of the USAF and OMB;
- G. Authorize and initiate special investigations or audits by the external auditor into any matters within its scope of responsibility.

3. Compositions and Membership. The audit committee will consist of at least two members of the BoG selected from among those members appointed by the Secretary of the Air Force and those members jointly appointed by the Secretary of the Air Force and the CAP National Commander and at least one member selected by CAP who is not a corporate officer. The BoG will appoint the members and the committee chair.

Each committee member will be:

- A. Independent of the CAP that is, having no financial, professional, or personal relationships with the CAP, or CAP management (including the National Executive Committee, the National Board, Wing, Region, Group, and Squadron commands or staff, the Executive Director, or the CAP full-time staff), except as a member of the BoG, that would impair, impede, interfere or influence committee decisions, judgments, conclusions, or actions in exercise of the committee's fiduciary duties and responsibilities
- B. Within six months of appointment, financially literate—that is, able to read, understand, interpret, and question basic financial statements, and the basic accounting principles used to construct those statements.

Board of Governors of the Civil Air Patrol
Audit Committee Charter
06/01/2004

One member of the committee must be expert in finance and/or accounting disciplines as evidenced by professional experience in these fields, professional certification, or management and leadership experience that included responsibility and accountability for organizational or program budgets, financial operations and results.

4. Meetings. The committee will meet at least two times a year. All committee members are expected to attend each of these required meetings, in person or via telephone or videoconference. A simple majority, but at least two members, comprises a quorum.

The committee will have sole discretion in determining meeting agendas and attendees, but it is expected that each of the required meetings will include:

- An "open session" involving the CAP National Commander (or designated representative), the CAP Executive Director (or designated representative), the CAP CFO, the Inspectors General of the CAP and CAP-USAF (or designated representative), and the external auditor. Other uninvited members of the BoG, CAP-USAF, or other interested members of the government or community may attend after giving 1 week prior notice of their intent to do so to the Committee Chair via the CAP Executive Director. The Committee Chair may waive the requirement for advance notice for any person wishing to attend the open session.
- Private discussions with the external auditors (see below); and
- Executive sessions including only committee members.

The Committee may hold such other meetings as deemed necessary to accomplish its purposes. The CAP Executive Director will assist the Committee Chair in preparing and distributing in advance meeting agendas and briefing materials.

The CAP Executive Director will designate staff to prepare, distribute for Committee approval, and maintain minutes of open sessions.

5. Responsibilities and Duties. The Committee will carry out the following responsibilities:

5.1. Financial Statements:

- Review with management and the external auditor significant accounting and reporting issues, including complex or unusual transactions, disagreements with management, and highly judgmental areas.
- Discuss with the independent auditor their qualitative judgments about the appropriateness, not just the acceptability, of accounting principles and

Board of Governors of the Civil Air Patrol
Audit Committee Charter
06/01/2004

financial disclosure practices used or proposed to be adopted. Obtain from management and the external auditor a list of uncorrected misstatements that are a result of the audit. Discuss with the external auditor areas of significant financial risks and exposures, and discuss with management management's plans for mitigating these risks

- Review with the external auditors the results of the audit, including any difficulties encountered. Approve and accept the completed audit.
- Review with the external auditors all matters required to be communicated to the committee under generally accepted auditing standards and specifically including areas of disagreement with management, material weaknesses and reportable conditions.
- Review the annual financial statements, and consider whether they are complete, consistent with information known to Committee members, and reflect appropriate accounting principles. Approve the CAP's annual financial statements for publication and distribution.

5.2. Internal Control

- Consider, and discuss with management, Inspectors General, and the external auditor audit findings reflecting upon the adequacy of internal controls over financial reporting and over ensuring compliance with laws and regulations governing finance, accounting, and financial reporting.
- Discuss with management, Inspectors General, and the external auditor the risks these findings pose to the financial integrity of the CAP, the accuracy of its financial statements, and its ability to carry out its operations. Review with management management's plans (including costs and schedules) for mitigating these risks, and the appropriateness of those plans to the risk identified.

5.3. External Audit

- Consider, in consultation with CAP management and the external auditor, plans for conducting and coordinating the Single Audit required by federal policy and regulation.
- Review the performance of the external auditors, and exercise final approval on the appointment or discharge of the audit firm. Ensure management and the external auditor understand the auditor's client is the BoG and the BoG's designated agent in these matters is the Audit Committee.
- Review and confirm the independence of the external auditors by inquiring of the auditors on relationships between the auditors and the CAP. Exercise prior approval for any non-audit services provided to the CAP by the external auditor.
- On a regular basis, meet separately with the external auditors to discuss any matters the committee or auditors believe should be discussed privately.

Board of Governors of the Civil Air Patrol
Audit Committee Charter
06/01/2004

- Remain accessible and responsive to communications from the external auditor, CAP or CAP-USAF Inspectors General, CAP management, and the CAP CFO

5.4. Other Responsibilities:

- At the BoG meeting following each of the two required Committee meetings, prepare and provide to the BoG an oral report summarizing the committee's activities, actions, findings, and recommendations.
- Review and assess annually the adequacy of the committee charter, requesting BoG approval for proposed changes. Ensure appropriate disclosure of this charter as may be required by law or regulation.
- Confirm annually that all responsibilities outlined in this charter have been carried out.
- The Board of Governors will evaluate the committee's and individual member's performance at least annually.
- Through the CAP Executive Director, arrange for and participate in appropriate training activities to enable Committee members to become financially literate and competent in the discharge of their duties.
- Perform other activities related to this charter as requested by the BoG.

Appendix D

FY05 Budgets



FY05 Appropriated Budget

- ◆ **\$21,778,000 O&M (reflects \$110,000 baseline reduction)**
 - ◆ FY04 \$21,432,000 (reflects \$551,000 baseline reduction)
- ◆ **Real inflation outpaced 2% budget increase FY04 to FY05**
- ◆ **Add: Cadet education materials -- \$170,000**
- ◆ **Increase: International Air Cadet Exchange travel -- +10%**
- ◆ **Decreases:**
 - ◆ Cadet uniforms (- 17% due to lower requirement)
 - ◆ Counterdrug missions (- 9% fewer missions)
 - ◆ NCASE deferred to FY07 (travel portion)

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FY05 Corporate Budget

- ◆ **\$2,861,398 (20% reduction over FY04)**
 - ◆ FY04 \$3,591,482
- ◆ **Adds:**
 - ◆ Wing CC travel to National Boards (+ \$39,000)
 - ◆ Financial Summit support (+ \$4,000)
- ◆ **Decreases:**
 - ◆ Programs across the board
 - ◆ Income from membership dues and CAPMart
 - ◆ NCASE postponed

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Appendix E

Executive Director Update

FY06 – 10 POM

Calendar

Apr 04	MAJCOM CCs/XPs Executive Summary brief to SECAF/CSAF
May 04	AF Group briefed on POM
Jul 04	MAJCOM/CCs debrief with SECAF/CSAF CSAF/SECAF approve POM
Aug 04	AF POM goes to OSD

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FY06 – 10 POM

Status of CAP POM Initiatives

-
- ◆ Land Mobile Radios (LMRs)
 - ◆ 2008 Mandate
 - ◆ AF Communication Agency (AFCA) is “Lead Command”
 - ◆ FY06 - \$4.3M
 - ◆ FY07 - \$3.6M
 - ◆ Received \$5.85M funding from AFCA
 - ◆ SAF/GCQ approved modification to Cooperative Agreement

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FY06 – 10 POM

Status of CAP POM Initiatives

-
- ◆ Wing Administrators (50)
 - ◆ Approx. \$2M/year + inflation
 - ◆ AETC carried as “Lead Command” with AF/XO as sponsor
 - ◆ RAPIDS slide: “. . . pledges good-faith effort to work to identify potential sources for one CAP Corporate employee per state to transact day-to-day administration.”
 - ◆ Impact acknowledges: “CAP is unable to meet DoD Grant and Agreement Regulation requirements for administration at wing level; Creates administrative burdens on CAP volunteers; 8 Nov 02 Eagle Look recommended CAP hire wing administrators to handle the workload”

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CAP Corp Wing Admin

BACKGROUND:

(U) AF/XO letter of May 2003, as the AF response to Civil Air Patrol (CAP) letter to Gen Foglesong (AF/CV), pledges good-faith effort to work to identify potential sources for one CAP Corporate (Corp) employee per state to transact day-to-day administration.

ADJUSTMENT:

(U) Funds 50 CAP Corporate Wing Administrators (\$2M per year plus inflation)

\$M:06R2P134TN	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11
CURRENT PRG	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
ADJUSTMENT			2.1	2.2	2.2	2.3	2.3	2.4
REV PGM TOTAL			2.1	2.2	2.2	2.3	2.3	2.4

PROCUREMENT	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11
MPWR	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11
OFF	0	0	0	0	0	0	0	0
ENL	0	0	0	0	0	0	0	0
CIV	0	0	0	0	0	0	0	0

IMPACTS:

- (U) COCOM: N SPG: N CONOPS: ACS UFR: N I-CRRA: N
- (U) REQUIREMENT: AF/XO Letter, May 2003
- (U) CAP is unable to meet DoD Grant and Agreement Regulation (DODGAR) (DoD 3210.6-R) requirements for administration at wing level
- (U) Creates administrative burdens on CAP volunteers
- (U) 8 Nov 2002 Eagle Look recommended CAP hire wing administrators to handle the workload

Baker, Craig Capt AU/XPP 493-7047
Date: 2004/02/18 10:04:23.0

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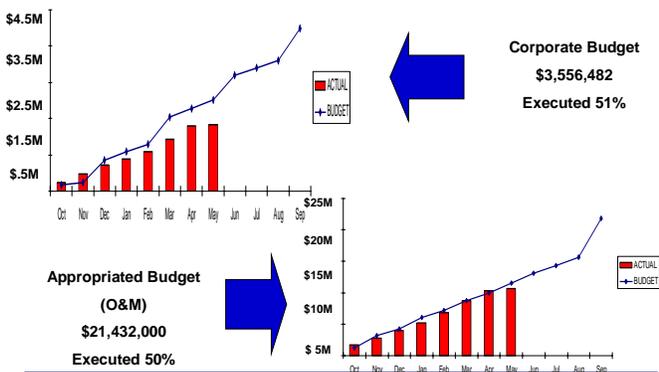
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FY06 – 10 POM POM Initiatives Not Forwarded

- ◆ **Homeland Security “wedge” (FY06 - \$4.0M)**
 - ◆ Withdrawn - guidance from 1st AF: funds not deposited with CAP, but will pay by reimbursement
- ◆ **Vehicle Procurement & Maintenance (FY06 - \$1.3M)**
 - ◆ Will submit as “Unfunded” during next Budget Review
- ◆ **Aircraft Procurement (FY06 - \$2.7M)**
 - ◆ FY04 Appropriation helped make CAP “healthy”
 - ◆ Continue to work in Budget Reviews and future POM to fix disconnect in current cost of aircraft

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FY04 Budget Execution





FY04 Corporate Budget Revisions

- ◆ **Income Reduced**
 - ◆ Limited membership growth
 - ◆ CAPMart revenue less than projected
 - ◆ Total deficient: \$221,000
- ◆ **Added requirement: glider flights -- \$80,000**
- ◆ **Adjustments**
 - ◆ Most programs across the board reduced
 - ◆ Public awareness cut 50% (\$33,000)
 - ◆ Cadet flight scholarships unfunded (\$30,000)
 - ◆ Cadet competition subsidy cut 50% (\$27,000)

Bottom line: Budget now balanced

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Line of Credit

<u>Borrowed</u>	<u>Repaid</u>
21 Nov 2003: \$1,500,000 Cessna	19 Feb 2004
31 Dec 2003: \$1,484,400 Cessna	19 Feb 2004
30 Mar 2003: \$1,000,000 Cessna	28 Apr 2004

Total Interest Expense: \$25,000

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Investments

(as of 30 April 2004)

	<u>Cost</u>	<u>Market Value</u>	<u>% Change</u>
CAP Res. Funds	\$764,040	\$767,780	0.49%
CAP Unres. Funds	\$3,023,118	\$3,075,248	1.72%
Donor Res. Funds	\$166,857	\$167,331	0.28%
Totals	\$3,954,015	\$4,010,359	1.01%

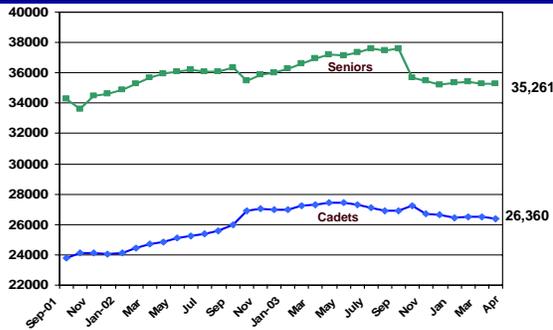
Unrealized Gain: \$40,364

Investment Income YTD: \$69,226

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13

Membership (as of 30 Apr 04)



	Cadets	Seniors	Total
April 2004	26,360	35,261	61,621
Delta from Apr 03	- 3.2%	- 5.2%	- 4.7% (- 1.7% w/o ROTC)

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Allen v Morrison et al.

- ◆ **Venue:** US District Court – Kentucky
- ◆ **Filing Date:** 02/15/00
- ◆ **Allegations:** Defamation/Negligence– TV Camera caught cover of IG investigation report on desk showing Allen as subject of investigation
- ◆ **Status:** One deposition taken (CAP/IG). No discovery or motions in over a year.

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Campbell et al. v CAP

- ◆ **Venue:** Alabama U.S. District Court
- ◆ **Filing Date:** 01/04/99
- ◆ **Allegations:** Retaliatory termination
- ◆ **Status:** 12 of 13 counts dismissed
Jury Trial: 7/02 – Verdict for CAP
 - ◆ Appealed to 11th Cir Ct of App – Vacated and remanded
 - ◆ Awaiting trial court determination of trial de novo, trial on damages, or no remedy due to procedural errors by plaintiff

PERFORMING MISSIONS FOR AMERICA!

CAP et al. v Indiana Co. Mun. Auth.

- ◆ **Venue:** Pennsylvania Court of Common Pleas
- ◆ **Filing Date:** 09/10/98
- ◆ **Allegations:** Negligence – Hangar fire destroyed C-172 and the log book for C-206
- ◆ **Status:** Partial settlement by defendant FBO. Settlement with remaining defendant, Indiana County, 5/17/04

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Estate of Ashley

- ◆ **Allegation:** Wrongful death of non-member law enforcement officer killed in CAP airplane crash
- ◆ **Status:** Filed claim against Government. Awaiting determination of Air Force Assigned Mission (being investigated by Seymour Johnson AFB). Received verbal notice of intent to sue to preserve claims against running of statute of limitations.

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Aircraft Purchases

Gippsland GA8 Airvan
Ordered 15
Will support ARCHER

Cessna 206
Ordered 1

Cessna 182
Ordered 41
20 with the G1000 Glass Cockpit

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ARCHER HSI Update

- ◆ April: Development testing
 - ◆ May - Jun: System refinement
 - ◆ July: Acceptance testing
 - ◆ August: Production begins
 - ◆ All 15 systems will be delivered within 270 days of first article approval
 - ◆ Operator training to be provided in all CAP regions
 - ◆ Deliveries will be complete in FY05
 - ◆ April testing revealed need for precise ground-path control
 - ◆ Gippsland working autopilot option
-

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Initiatives Status

- ◆ Uniform – brushed metal, AF-style nametag ✓
 - ◆ Reattack leather jacket and metal rank / blue epaulets
 - ◆ CAP Directory ✓
 - ◆ CAP Listed in AFA Almanac ✗
 - ◆ Program Narrative ▲
 - ◆ Cadet Week ▲
 - ◆ Glider program ▲
 - ◆ AF Mission Status ▲
-

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Appendix F

CAP-USAF Update

Overview

- CAP-USAF Mission Statement
- CAP-USAF Organization
- Personnel Challenges
- Cooperative Agreement Modifications
- AFAB Process

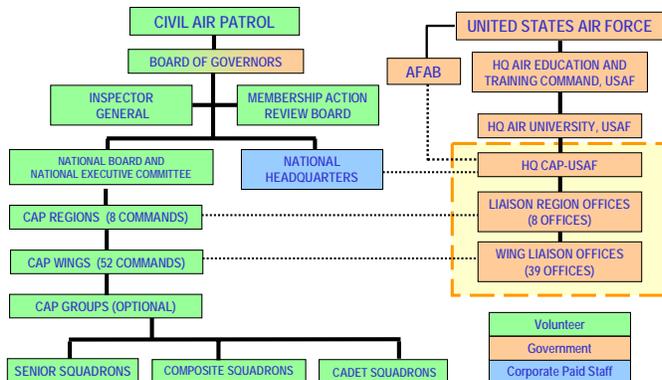
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CAP-USAF Mission

Guide, Assist, and provide Oversight to the Air Force's Auxiliary, the Civil Air Patrol, as they serve America by performing Homeland Security and humanitarian missions for our communities, states, and nation; developing our country's youth; and educating our citizens on the importance of air and space power.

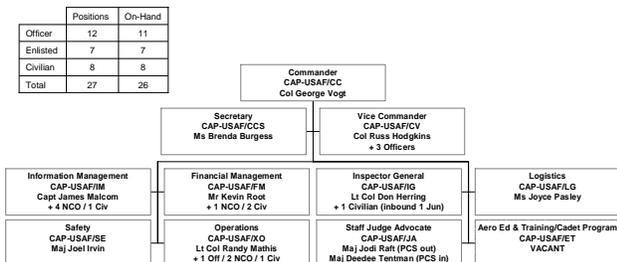
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CAP-USAF Relationship to CAP



4

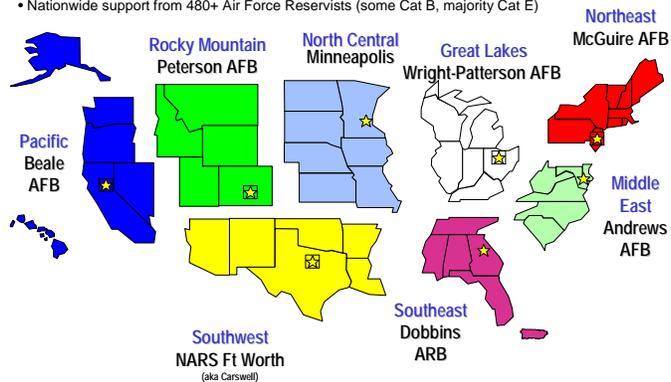
HQ CAP-USAF Organization



5

CAP-USAF Liaison Regions

- Each Region HQ manned by 3 Active duty officers, 1 NCO, 1 civilian
- Nationwide support from 480+ Air Force Reservists (some Cat B, majority Cat E)



6

Current Personnel Challenges

- CAP-USAF manning
 - Increase number of State Director (GS-12) positions to one per wing
 - Currently only 39 nationwide
 - Need for Manpower Study
 - Proper depth and breadth of expertise
 - Rated Entitlements
- Air Force Reserve support to CAP
 - Revamping program
 - Recent issue: Allowable missions for Reservists, such as use of AFRES/ANG cooks to support Cadet Program summer encampments
 - OPTEMPO considerations
 - Degree and nature of support to Cadet Program

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Cooperative Agreement Modifications

- Needed to develop streamlined method to modify Cooperative Agreement
 - Modification requires Air Staff level approval – not trivial process
 - Modifications required for both substantive (type missions to be flown) and administrative changes
 - CA modified to support FALCON VIRGO 04-9
 - Air Defense Exercise at Ft Bliss, TX
 - CAP-USAF/XO and JA worked in coordination with AETC/LGCQ, CAP/DO, and SAF/GCM
 - Results: Exercise supported successfully and future CA mods will be easier
- CA/SOW re-write in progress

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AFAB Process

- Air Force Auxiliary Board
 - Chaired by XOH
 - Membership from two-letter directorates
- AFAB issues can be raised by CAP, CAP-USAF, or XOHA
 - Issue/Problem/Idea is raised
 - CAP-USAF Helps CAP NHQ Frame Issue
 - CAP-USAF Refines Issue with XOHA
 - XOHA Continues to Work Identified Issues
 - AFAB Meetings
 - Track to Closure
- Single Air Staff level process to address CAP-related Issues
 - Prioritization
 - Tracking

9

Appendix G

AF/XOHA Update

Overview

- Auxiliary Integration Into AF Operations
- Air Force Auxiliary Board Topics
- AF Support to the Cadet Program

Auxiliary Integration

- 1AF/HQ CAP-USAF Memorandum of Agreement
 - Defines manning requirements when NORTHAF JFACC utilizes Auxiliary for large-scale exercise or contingency
 - HQ CAP-USAF and CAP personnel will augment CAOC
- DoD – DHS Memorandum of Understanding
 - Process for DoD to offer Auxiliary capability to other lead federal agencies requesting civil support
 - Meets AFD 10-8, Homeland Security requirement
 - Auxiliary Air Force ... in civil support operations ... remain under military operational control at all times

Auxiliary Integration

- Exercises
 - Determined Promise 03 – Las Vegas, NV
 - Unified Defense 04 – Cotulla, TX
 - Heartland Response 04 – Memphis, TN
 - Determined Promise 04 – Norfolk, VA
- Contingencies & Real-World Taskings
 - Hurricane Isabel – Virginia
 - G-8 Summit – Sea Island, GA
 - Recent AFNSEP Missions – Louisiana, Texas, Nebraska

AFAB Topics

- Changes to Air Force Auxiliary Financial Processes
- Establishing CAP Glider Program as an Aux Mission
- Auxiliary Land Mobile Radio (LRM) funding to meet 2008 Narrow-Band Requirement
- Auxiliary Use of Defense Reutilization and Marketing Service (DRMS)
- CAP ID Cards & Military Base Access
- Auxiliary Security Clearances
- Auxiliary Use of DoD Satellite Phone Contract
- Auxiliary Chaplain Support to the Air Force Chaplain Service

CAP Cadet Program Support

- 10 U.S.C, Chapter 909, Sec. 9444 – Activities performed as auxiliary of the Air Force
 - (a) Air Force Support for Activities. - The Secretary of the Air Force may furnish to the Civil Air Patrol in accordance with this section any equipment, supplies, and **other resources that the Secretary determines necessary** to enable the Civil Air Patrol to fulfill the missions assigned by the Secretary to the Civil Air Patrol as an auxiliary of the Air Force.
 - (b) Forms of Air Force Support. - The Secretary of the Air Force may, under subsection (a) -

CAP Cadet Program Support

- (11) Support the Civil Air Patrol cadet program by furnishing
 - (A) articles of the Air Force uniform to cadets without cost; and
 - (B) **any other support** that the Secretary of the Air Force determines is **consistent** with Air Force missions and objectives;
- Historical AF support
 - Cadet Orientation Flights -- Powered & Glider
 - Cadet Encampment Logistical Support

CAP Cadet Program Support

- Recent AF/JAA opinion now brings all this into doubt:
 - “There is no legal basis for HQ USAF to provide gliders or appropriated funds to the CAPGP (Glider Program)”
 - “We are unable to conceive how support of the CAPGP is consistent with “Air Force missions and objectives.”
 - “..., as there is no legal basis to provide support to the CAPGP, there is likewise no legal basis to fund liability insurance for this program.”

CAP Cadet Program Support

- XOHA Recommendation:
 - Work with HQ CAP-USAF and AETC to validate Glider Program as an AETC Mission Requirement
 - Coordinate effort with AF/JAA, SAF/GC, & SAF/LL if legislative changes are required