

# Legal Basis for CAP

## CAP Officer Basic Course

### Introduction

The Civil Air Patrol (CAP) finds its roots before WW II in the idea that civilians can save general aviation while serving their county by playing a role in domestic aerial security as envisioned by Mr. Gill Robb Wilson, founder of the Civil Air Patrol. This idea was fostered by aviation pioneers, military leaders, and politicians alike while the threat of impending war loomed over the nation.

### 1. Identify the purposes of the documents and public laws that affect CAP.

With the help of Gen Henry "Hap" Arnold and a timely conversation of the subject with Mrs. Eleanor Roosevelt, the idea of a Civil Air Patrol gained political favor.

Located in Washington D.C., the recently established Office of Civil Defense, headed by Director Fiorello La Guardia received notice of the Civil Air Patrol concept. By the signing of Administrative Order No. 9 on December 1, 1941 by Director La Guardia, the Civil Air Patrol became a reality and was to be lead by Brig Gen John F. Curry, USAAC.



Gill Robb Wilson, Founder of Civil Air Patrol

With the early dedication of staff at National Headquarters, to the men and women assigned to local air fields, the Civil Air Patrol succeeded in its immediate assignments (see Highlights in CAP and USAF History lesson). In recognition of CAP's success and its paramilitary establishment, President Franklin D. Roosevelt on April 29, 1943 signed Executive Order 9339. This order transferred the command of the Civil Air Patrol from the Office of Civilian Defense to the War Department and gave it the status as the auxiliary to the Army Air Forces. Just a few days later, on May 4, 1943, the War Department issued Memorandum W95-12-43, assigning to the Army Air Forces the responsibility for supervising and directing operations of the Civil Air Patrol.

With national recognition and support, the Civil Air Patrol was eventually woven into the fabric

of American citizen service with the passing of several US congressional laws. These laws set forth the legal bases for our organization, including its definition, role, missions, and governing structure. (CAPP 50-5)

## FEDERAL LAWS ESTABLISHING & DEFINING THE CIVIL AIR PATROL

With the passing of the second world war, the original role as sub chasers, border patrol, and target towers no longer were in the future of the Civil Air Patrol. Additionally, the post war military budget cuts threatened CAP funding. Gen Henry "Hap" Arnold, a long proponent and friend of the CAP called a conference of CAP wing commanders to discuss the usefulness and feasibility of a postwar Civil Air Patrol. From the efforts of the post war flying minute men, new roles were defined.

### Public Law 476

On July 1, 1946, a little over five years from Civil Air Patrol's inception, the 79<sup>th</sup> Congress passed and President Harry S. Truman signed into law Public Law 79-476. The law stated that the objects and purposes of the corporation were to be "solely of a benevolent character."

Simply stated, Civil Air Patrol would never again participate in combat operations. The objects and purposes stated:

- To provide an organization to encourage and aid American citizens in the contribution of their efforts, services, and resources in the development of aviation and in the maintenance of air supremacy, and to encourage and develop by example the voluntary contribution of private citizens to the public welfare;
- To provide aviation education and training especially to the senior and cadet members; to encourage and foster civil aviation in local communities and to provide an organization of private citizens with adequate facilities to assist in meeting local and national facilities.



President Harry S. Truman, Signer of PL 476 and PL 557

As a newly federally chartered corporation of the U.S. Congress, the Civil Air Patrol established its Constitution and By-Laws. These documents have been amended over the years, however the core essence is the same today. One of the important roles of the Constitution and By-Laws is the defining of the National Board, terms of office, and major committees. (CAPP 50-5)

### **Public Law 557**

The United States Air Force (USAF) was officially established on July 26, 1947. Steps were soon taken to study the relationship between the Civil Air Patrol and the USAF. In October 1947, a special CAP board convened to meet with USAF officials and plan the establishment of the Civil Air Patrol as the USAF auxiliary. After several meetings between CAP and USAF officials, certain agreements were reached concerning CAP and USAF objectives; and a plan was adopted to legalize US Air Force assistance to Civil Air Patrol.

Shortly thereafter, a bill introduced in the US House of Representatives permanently established CAP as the official auxiliary of the US Air Force and authorized the Secretary of the Air Force to extend aid to CAP. On 26 May 1948, this legislation became Public Law 80-557 as approved by the 80<sup>th</sup> Congress and signed by President Harry S. Truman. The new law known as the CAP Supply Bill states:

- CAP is the official auxiliary of the United States Air Force;
- The Secretary of the Air Force has the authority to assign military and civilian personnel to liaison offices at all levels of CAP. (CAPP 50-5)

### **Public Law 398**



**President William J. Clinton, Signer of PL 398**

The start of a new millennium offered more changes to the Civil Air Patrol. The 106<sup>th</sup> Congress passed the National Defense Authorization Act and on October 30, 2000 it was signed by President William J. Clinton. The new law changed fundamental elements of the Civil Air Patrol. It addressed a few specific items. It:

- Clarified the status of auxiliary as a conditional state dependent on CAP performing actual services for a federal department or agency;
- Specified the funding mechanisms the US Air Force must use to provide funds to CAP for operations, maintenance, and procurement of property;
- Identified funds for the Civil Air Patrol as being only available for the Civil Air Patrol;
- Created the CAP Board of Governors to serve as the principal governing body of the organization.

The three public laws outlined have had the largest impact in the definition, role, and structure of the Civil Air Patrol. Public Laws 476 and 557 are considered as the foundation of CAP whereas Public Law 398 clarifies the auxiliary status, funding, and creates a Board of Governors. With these laws today, the Civil Air Patrol's national definition, role, missions, and governing structure are well defined. (CAPP 50-5)

Having a sound understanding of these laws is important for all member of the Civil Air Patrol. They set the legal bases for our actions in serving America.

**2. Describe the different governing bodies of Civil Air Patrol to include how they interact.**

**GOVERNING BODIES**

The Civil Air Patrol consists of three primary governing bodies. Each of these bodies plays an essential role in the successful operations of CAP. Following, we will discuss these bodies, their authority, and purpose.

**Board of Governors (BoG)**

The chief governing body is the Board of Governors. The BoG gains its authority as directed by Public Law 398. The Board provides strategic direction and guidance to CAP and delegates many of the day-to-day operations of CAP to the CAP National Commander and his/her staff. They also oversee the Executive Director and through them the NHQ staff. The BOG can direct programs, set policy (regulations) acquire and dispose of corporate assets, " Do any other act necessary and proper to carry out the purposes of the corporation." (AFI 10-2701) but in most cases they review policy and procedure to make sure it is consistent with the strategic direction. The one specific item they must approve is the budget.

The Board of Governors is comprised of eleven members. Four members are appointed by the Secretary of the Air Force, four members are Civil Air Patrol volunteers as defined by the Constitution and By-Laws, and three members agreed upon by the Secretary of the Air Force and CAP, are from among personnel of any Federal Government agencies, public corporations, nonprofit associations, or other organizations that have an interest and expertise in civil aviation and the Civil Air Patrol.

**National Board (NB)**

Another governing body is the National Board. It controls the volunteer members. The board consists of members from various national staff positions as defined in the Constitution and By-Laws, each region commander, each wing commander and the commander of CAP-USAF for a total of 69 members. Due to the size of the board, it is only practical to meet twice a year to conduct business regarding internal CAP matters. None-the-less, the NB has the exclusive authority to:

- Elect a National Commander and National Vice Commander;
- Establish regulations for the removal of a National or National Vice Commander;
- Establish membership dues;
- Confirm the appointment of volunteer national staff positions;
- Approve hall of honor nominees and life members
- Creates policy to achieve the strategic direction set by the BOG;
- Recommend a budget to the BOG

In addition, the National Board performs the following; however these duties may also be executed by the National Executive Committee when the NB is not in session:

- Recommend policy to the Board of Governors;
- Carry out duties defined by the Board of Governors;
- Propose to the Board of Governors amendments to the Constitution and Bylaws and regulations. (CAP Constitution and By-laws)

The biannual meetings of the National Board are traditionally conducted in the summer and winter. The summer meeting of the board coincides with the annual national conference and is attended by members from all levels and from all over the country.

### **National Executive Committee (NEC)**

The National Executive Committee can be thought of as an abbreviated version of the National Board. It consists of all the members of the National Board except the wing commanders for a total of 17 members. This smaller board exists out of the practical need to conduct business through out the year when the NB is not in session. While the NEC meets face to face twice a year for three or so days, it routinely meets on teleconferences and conducts votes/business by fax and email a number of times a month.

When the National Board is not in session (which is 50 weeks a year), the National Executive Committee is vested all the powers of the National Board with the exception of those powers exclusively reserved for the NB such as elections. In addition, the NEC is also charged with the acceptance of applications for the selection of the " Member at Large" position to be seated on the Board of Governors.

All members should be familiar with each of CAP's governing bodies and the roles they serve in the management of CAP. The Board of Governors is the primary ruling body and focuses on the strategic vision and oversight of CAP. The National Board serves to appoint members to higher level positions, to recommend changes to the policies and the Constitution and Bylaws to the BoG, and to carry out duties defined by the BoG. The National Executive Committee serves as an abbreviated version of the NB solely for practical reasons. The NEC performs all the functions of the NB that are not exclusive to the NB and when the NB is not in session. (CAP Constitution and By-laws)

## **3. Describe the implementing documents covering the Civil Air Patrol.**

### **CIVIL AIR PATROL DOCUMENTS**

The Civil Air Patrol has several documents that assist in guiding day-to-day operations. The primary documents are the Constitution and By-Laws. However, other documents such as a

Statement of Work, and Cooperative Agreements have been drafted to further define the details in the relationship between the Civil Air Patrol and United States Air Force.

### **Constitution and Bylaws**

When congress created the federal corporation, Civil Air Patrol, a set of documents called the Constitution and Bylaws were created. A constitution contains the fundamental principles that outline the purpose, structure, and limits of an organization. Essentially, the constitution provides a foundation upon which an organization operates. Bylaws are secondary principles that govern the internal affairs of an organization. Bylaws are essentially an expansion of the articles or sections of the constitution. They describe in detail the procedures and steps the organization must follow in order to conduct business effectively and efficiently.

The Constitution contains several elements typical in corporate documents such as the object and purpose, powers, setup of the governing body, selection of officers, terms of office, and rules for amending any portion of the documents. Some key elements are worth noting in CAP's Constitution are:

- CAP is a private nonprofit corporation chartered by Congress;
- CAP is a volunteer civilian auxiliary of the US Air Force;
- National Headquarters shall be located at Maxwell AFB, AL;
- CAP shall have perpetual existence;
- Membership is a privilege and not a right
- Establish and maintain regulations which are applicable to all members

The last two items are the ones you are most interested in. Membership privileges are discussed in other lessons in this course. The Board of Governors sets "strategic direction". The National Board sets policy on how the direction will be achieved/implemented. This gets turned into the regulations, by the NHQ staff, and implemented by the staff and members. As a member of the Civil Air Patrol, we are obligated to abide by CAP regulations.

The Bylaws describe the internal affairs of CAP and are adopted as outlined in the Constitution. Although most of the internal affairs are defined in CAP regulations, some are specifically defined in the bylaws as well. Some of the key elements in the bylaws are:

- Membership Categories
- Membership Dues
- Units
- Unit Meetings
- Unit Funds and Property
- Unit Records
- Indemnification
- Resolutions
- Termination and Nonrenewal of Membership
- Corporate Officers
- Committees

### **Statement of Work (SoW)**

A statement of work is a description of contracted work required to complete a project or task.

The purpose of the Civil Air Patrol's Statement of Work is describing the working relationship between the US Air Force and the Civil Air Patrol. The SoW is required in accordance with Air Force Policy Directive 10-27, *Civil Air Patrol*.

The SoW describes the responsibility for CAP to develop regulations, policies, plans, and programs to govern the safety, training, qualification, conduct, and performance of all CAP personnel in the accomplishment of Air Force-assigned missions. These documents and waivers to same are subject to approval by the Air Force.

The SOW also outlines the details for:

- CAP support to the USAF - The Air Force may use CAP units and personnel in fulfilling Air Force non-combat missions. (Also see CAPR 77-1)
- USAF support to the CAP - The Air Force may provide personnel, materiel, and financial support for CAP, in accordance with applicable law and Air Force personnel, fiscal, and material restraints. The items provided must support AF missions and may remain AF property or be loaned or sold or given to CAP. Common examples of things assigned or loaned to CAP are personnel, aircraft, vehicles, radios and computers.
- CAP structure, status, and uniforms - CAP's grade structure, grade titles, and grade insignia will comply with AFI 10-2701, *Organization and Function of the Civil Air Patrol*. CAP members are authorized to wear Air Force-style or other CAP uniforms in accordance with CAP regulations.
- Logistics
  - Aircraft and Vehicles - CAP shall request, through CAP-USAF, federally appropriated funds for the acquisition of aircraft for use in support of Air Force-assigned missions. The Air Force will have approval authority for all aircraft and vehicle acquisitions for use in support of Air Force-assigned missions.
  - CAP Cadet Uniform Program - CAP shall operate a program for the acquisition and distribution of CAP Cadet uniforms. The Air Force will have approval authority over policy and procedures of the program.
  - Defense Reutilization and Marketing Office (DRMO) - CAP may screen certain excess personal property materiel from the DRMO system.
- Finance - In order to allow Air Force to fund CAP programs, CAP shall provide to CAP-USAF a Program Objective Memorandum (POM) request, a Financial Plan, and a Budget Execution Report annually in accordance with CAP-USAF established timeframes, guidelines, and formats.
- Inspector General - CAP shall operate an inspector general program similar to the Air Force program described in the 90 series of Air Force publications. CAP-USAF/CC will first attempt to resolve all concerns with the CAP leadership. If further review is necessary, concerns will be passed to the CAP Board of Governors, which has the final authority over the CAP IG program.
- Safety - CAP shall maintain a safety program that complies with all applicable sections of the following regulations/directives, as determined by HQ CAP-USAF: Air Force safety publications, Occupational Health and Safety Administration guidelines, and Department of Defense Explosives Safety Board regulations.
- Flight Operations - CAP shall operate a flight management program governing all CAP flight activities. CAP-USAF will have approval authority over all flight management programs and activities in support of Air Force-assigned missions.

- Strategic Planning - CAP shall develop a strategic plan that will be used to form the basis for planning and programming near-term goals and future mission requirements. (Statement of Work)

### **Cooperative Agreement (CA)**

A cooperative agreement is an assistance agreement that is used when there is substantial federal involvement with the recipient during the performance of an activity/project. The CA addresses programmatic requirements and outlines the responsibilities of both the CAP and USAF. The CA is required in accordance with Air Force Policy Directive 10-27, *Civil Air Patrol*.

CAP Members should have a working knowledge of the Constitution and Bylaws governing the internal business of CAP including the appointment of national volunteer staff, boards, committees, and authorized powers of regulations. Members should also have an understanding of the relationship between CAP and the USAF being defined in detail by the Civil Air Patrol Statement of Work and Cooperative Agreement.

### **Lesson Summary and Closure**

In this section, you should now have an understanding of the legal basis that allows for the existence of the Civil Air Patrol. You also should know how the CAP has come to be defined as the United States Air Force Auxiliary, the limitations as an auxiliary, and the specific roles approved by Congress. The documents outlining the specific governing bodies of the Civil Air Patrol as well as a well defined relationship between the CAP and USAF should also be recognized by all CAP members.

### **Works Cited**

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Title 36, United States Code §§ 20 (P.L. 79-476)

Title 10, United States Code §§ 9441 - 9448 (P.L. 80-557)

Title 36, United States Code §§ 40301 - 40307 (P.L. 106-398)