

Subject: FW: LRM JAB33 - - OMB Request for Views on S165 Air Cargo Security Act
From: "Bumatay, Patrick J."
Date: 3/20/03, 2:47 PM
To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Tue Oct 16 17:24:45 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

b(3),P3,P5

Notes:

50 USC 3507

Case ID: gwb.2018-0013-P

Additional Information:

From: "Kavanaugh, Brett M."
To: "Bumatay, Patrick J.," "Brown, James A."
Subject: Re: FW: LRM JAB33 - - OMB Request for Views on S165 Air Cargo Security Act
Received(Date): Wed, 26 Mar 2003 15:30:47 -0500
[S165RS.pdf](#)

No objections, but defer to DOJ, DOT, and WH DPC.

-----Original Message-----

From: Brown, James A.

Sent: Thursday, March 20, 2003 9:41 AM

P3/(b)(3)
50 USC 3507

To: dodlrs@osdgc.osd.mil; [redacted] dot.legislation@ost.dot.gov; llr@do.treas.gov; state-lrm@state.gov; laffairs@ustr.gov; justice.lrm@usdoj.gov; CLRM@doc.gov; Nsc Lrm

Cc: Ohs Lrm; McMillin, Stephen S.; Schwartz, Kenneth L.; Haun, David J.; Rosado, Timothy A.; Suh, Stephen; Mertens, Steven M.; Doherty, Clare C.; Benson, Meredith G.; Clarke, Edward H.; Dougherty, Elizabeth S.; Sharp, Jess; Knuffman, Nathan L.; Boden, James; Ostp Lrm; Jukes, James J.; Green, Richard E.; Lobrano, Lauren C.; Addington, David S.; Whgc Lrm; Perry, Philip J.; Wood, John F.; Schneider, Matthew J.; Joseffer, Daryl L.

Subject: LRM JAB33 - - OMB Request for Views on S165 Air Cargo Security Act

- S165RS.pdf << [S165RS.pdf](#) >>

LRM ID: JAB33

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Thursday, March 20, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: James A. Brown

PHONE: (202)395-3473 FAX: (202)395-3109

SUBJECT: OMB Request for Views on S165 Air Cargo Security Act

DEADLINE: 10:00 A.M. Thursday, March 27, 2003

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: As ordered reported by the Senate Commerce, Science and Transportation Committee.

DISTRIBUTION LIST

AGENCIES:

029-DEFENSE - Vic Bernson - (703) 697-1305

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025-COMMERCE - Michael A. Levitt - (202) 482-3151

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EOP:

OHS LRM

Stephen S. McMillin

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Philip J. Perry

John F. Wood

Matthew J. Schneider

Daryl L. Joseffer

LRM ID: JAB33 **SUBJECT:** OMB Request for Views on S165 Air Cargo Security Act

RESPONSE TO

LEGISLATIVE REFERRAL

MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109

Office of Management and Budget

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

108TH CONGRESS
1ST SESSION

S. 165

[Report No. 108-]

To improve air cargo security.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2003

Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MARCH —, 2003

Reported by Mr. MCCAIN, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To improve air cargo security.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Air Cargo Security
5 Improvement Act”.

1 **SEC. 2. INSPECTION OF CARGO CARRIED ABOARD PAS-**
2 **SENGER AIRCRAFT.**

3 Section 44901(f) of title 49, United States Code, is
4 amended to read as follows:

5 “(f) CARGO.—

6 “(1) IN GENERAL.—The Under Secretary of
7 Transportation for Security shall establish systems
8 to screen, inspect, or otherwise ensure the security
9 of all cargo that is to be transported in—

10 “(A) passenger aircraft operated by an air
11 carrier or foreign air carrier in air transpor-
12 tation or intrastate air transportation; or

13 “(B) all-cargo aircraft in air transpor-
14 tation and intrastate air transportation.

15 “(2) STRATEGIC PLAN.—The Under Secretary
16 shall develop a strategic plan to carry out paragraph
17 (1).”.

18 **SEC. 3. AIR CARGO SHIPPING.**

19 (a) IN GENERAL.—Subchapter I of chapter 449 of
20 title 49, United States Code, is amended by adding at the
21 end the following:

22 **“§44922. Regular inspections of air cargo shipping**
23 **facilities**

24 “The Under Secretary of Transportation for Security
25 shall establish a system for the regular inspection of ship-
26 ping facilities for shipments of cargo transported in air

1 transportation or intrastate air transportation to ensure
2 that appropriate security controls, systems, and protocols
3 are observed, and shall enter into arrangements with the
4 civil aviation authorities, or other appropriate officials, of
5 foreign countries to ensure that inspections are conducted
6 on a regular basis at shipping facilities for cargo trans-
7 ported in air transportation to the United States.”.

8 (b) **ADDITIONAL INSPECTORS.**—The Under Secretary
9 may increase the number of inspectors as necessary to im-
10 plement the requirements of title 49, United States Code,
11 as amended by this subtitle.

12 (c) **CONFORMING AMENDMENT.**—The chapter anal-
13 ysis for chapter 449 of title 49, United States Code, is
14 amended by adding at the end the following:

“44922. Regular inspections of air cargo shipping facilities”.

15 **SEC. 4. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

16 (a) **IN GENERAL.**—Subchapter I of chapter 449 of
17 title 49, United States Code, is further amended by adding
18 at the end the following:

19 “**§ 44923. Air cargo security**

20 “(a) **DATABASE.**—The Under Secretary of Transpor-
21 tation for Security shall establish an industry-wide pilot
22 program database of known shippers of cargo that is to
23 be transported in passenger aircraft operated by an air
24 carrier or foreign air carrier in air transportation or intra-
25 state air transportation. The Under Secretary shall use

1 the results of the pilot program to improve the known
2 shipper program.

3 “(b) INDIRECT AIR CARRIERS.—

4 “(1) RANDOM INSPECTIONS.—The Under Sec-
5 retary shall conduct random audits, investigations,
6 and inspections of indirect air carrier facilities to de-
7 termine if the indirect air carriers are meeting the
8 security requirements of this title.

9 “(2) ENSURING COMPLIANCE.—The Under Sec-
10 retary may take such actions as may be appropriate
11 to promote and ensure compliance with the security
12 standards established under this title.

13 “(3) NOTICE OF FAILURES.—The Under Sec-
14 retary shall notify the Secretary of Transportation
15 of any indirect air carrier that fails to meet security
16 standards established under this title.

17 “(4) SUSPENSION OR REVOCATION OF CERTIFI-
18 CATE.—The Secretary, as appropriate, shall suspend
19 or revoke any certificate or authority issued under
20 chapter 411 to an indirect air carrier immediately
21 upon the recommendation of the Under Secretary.
22 Any indirect air carrier whose certificate is sus-
23 pended or revoked under this subparagraph may ap-
24 peal the suspension or revocation in accordance with

1 procedures established under this title for the appeal
2 of suspensions and revocations.

3 “(5) INDIRECT AIR CARRIER.—In this sub-
4 section, the term ‘indirect air carrier’ has the mean-
5 ing given that term in part 1548 of title 49, Code
6 of Federal Regulations.

7 “(c) CONSIDERATION OF COMMUNITY NEEDS.—In
8 implementing air cargo security requirements under this
9 title, the Under Secretary may take into consideration the
10 extraordinary air transportation needs of small or isolated
11 communities and unique operational characteristics of car-
12 riers that serve those communities.”.

13 (b) ASSESSMENT OF INDIRECT AIR CARRIER PRO-
14 GRAM.—The Under Secretary of Transportation for Secu-
15 rity shall assess the security aspects of the indirect air
16 carrier program under part 1548 of title 49, Code of Fed-
17 eral Regulations, and report the result of the assessment,
18 together with any recommendations for necessary modi-
19 fications of the program to the Senate Committee on Com-
20 merce, Science, and Transportation and the House of Rep-
21 resentatives Committee on Transportation and Infrastruc-
22 ture within 45 days after the date of enactment of this
23 Act. The Under Secretary may submit the report and rec-
24 ommendations in classified form.

1 (c) R E P O R T T O C O N G R E S S O N R A N D O M A U D I T S . —

2 The Under Secretary of Transportation for Security shall
3 report to the Senate Committee on Commerce, Science,
4 and Transportation and the House of Representatives
5 Committee on Transportation and Infrastructure on ran-
6 dom screening, audits, and investigations of air cargo se-
7 curity programs based on threat assessments and other
8 relevant information. The report may be submitted in clas-
9 sified form.

10 (d) A U T H O R I Z A T I O N O F A P P R O P R I A T I O N S . — T h e r e

11 are authorized to be appropriated to the Secretary of
12 Transportation such sums as may be necessary to carry
13 out this section.

14 (e) C O N F O R M I N G A M E N D M E N T . — T h e c h a p t e r a n a l -

15 ysis for chapter 449 of title 49, United States Code, as
16 amended by section 3, is amended by adding at the end
17 the following:

“44923. Air cargo security”.

18 **SEC. 5. TRAINING PROGRAM FOR CARGO HANDLERS.**

19 The Under Secretary of Transportation for Security
20 shall establish a training program for any persons that
21 handle air cargo to ensure that the cargo is properly han-
22 dled and safe-guarded from security breaches.

23 **SEC. 6. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.**

24 (a) I N G E N E R A L . — T h e U n d e r S e c r e t a r y o f T r a n s -
25 portation for Security shall establish a program requiring

1 that air carriers operating all-cargo aircraft have an ap-
2 proved plan for the security of their air operations area,
3 the cargo placed aboard such aircraft, and persons having
4 access to their aircraft on the ground or in flight.

5 (b) P L A N R E Q U I R E M E N T S .—The plan shall include
6 provisions for—

7 (1) security of each carrier's air operations
8 areas and cargo acceptance areas at the airports
9 served;

10 (2) background security checks for all employ-
11 ees with access to the air operations area;

12 (3) appropriate training for all employees and
13 contractors with security responsibilities;

14 (4) appropriate screening of all flight crews and
15 persons transported aboard all-cargo aircraft;

16 (5) security procedures for cargo placed on all-
17 cargo aircraft as provided in section 44901(f)(1)(B)
18 of title 49, United States Code; and

19 (6) additional measures deemed necessary and
20 appropriate by the Under Secretary.

21 (c) C O N F I D E N T I A L I N D U S T R Y R E V I E W A N D C O M -
22 M E N T .—

23 (1) C I R C U L A T I O N O F P R O P O S E D P R O G R A M .—

24 The Under Secretary shall—

1 (A) propose a program under subsection
2 (a) within 90 days after the date of enactment
3 of this Act; and

4 (B) distribute the proposed program, on a
5 confidential basis, to those air carriers and
6 other employers to which the program will
7 apply.

8 (2) COMMENT PERIOD.—Any person to which
9 the proposed program is distributed under para-
10 graph (1) may provide comments on the proposed
11 program to the Under Secretary not more than 60
12 days after it was received.

13 (3) FINAL PROGRAM.—The Under Secretary of
14 Transportation shall issue a final program under
15 subsection (a) not later than 45 days after the last
16 date on which comments may be provided under
17 paragraph (2). The final program shall contain time
18 frames for the plans to be implemented by each air
19 carrier or employer to which it applies.

20 (4) SUSPENSION OF PROCEDURAL NORMS.—
21 Neither chapter 5 of title 5, United States Code, nor
22 the Federal Advisory Committee Act (5 U.S.C.
23 App.) shall apply to the program required by this
24 section.

1 **SEC. 6. REPORT ON PASSENGER PRESCREENING PROGRAM.**

2 (a) *IN GENERAL.*—Within 90 days after the date of
3 enactment of this Act, the Secretary of Homeland Security,
4 after consultation with the Attorney General, shall submit
5 a report in writing to the Senate Committee on Commerce,
6 Science, and Transportation and the House of Representa-
7 tives Committee on Transportation and Infrastructure on
8 the potential impact of the Transportation Security Admin-
9 istration's proposed Computer Assisted Passenger
10 Prescreening system, commonly known as CAPPS II, on
11 the privacy and civil liberties of United States Citizens.

12 (b) *SPECIFIC ISSUES TO BE ADDRESSED.*—The report
13 shall address the following:

14 (1) *Whether and for what period of time data*
15 *gathered on individual travelers will be retained, who*
16 *will have access to such data, and who will make de-*
17 *isions concerning access to such data.*

18 (2) *How the Transportation Security Adminis-*
19 *tration will treat the scores assigned to individual*
20 *travelers to measure the likelihood they may pose a*
21 *security threat, including how long such scores will be*
22 *retained and whether and under what circumstances*
23 *they may be shared with other governmental, non-gov-*
24 *ernmental, or commercial entities.*

25 (3) *The role airlines and outside vendors or con-*
26 *tractors will have in implementing and operating the*

1 (2) *by striking “A person” in that new para-*
2 *graph and inserting “(1) I N GENERAL.—A person”;*

3 (3) *by redesignating paragraphs (1) and (2) as*
4 *subparagraphs (A) and (B), respectively;*

5 (4) *by striking “any aircraft having a maximum*
6 *certificated takeoff weight of 12,500 pounds or more”*
7 *and inserting “an aircraft”;*

8 (5) *by striking “paragraph (1)” in paragraph*
9 *(1)(B), as redesignated, and inserting “subparagraph*
10 *(A)”;* and

11 (6) *by adding at the end the following:*

12 “(2) *EXCEPTION.—The requirements of para-*
13 *graph (1) shall not apply to an alien who—*

14 “(A) *has earned a Federal Aviation Admin-*
15 *istration type rating in an aircraft; or*

16 “(B) *holds a current pilot’s license or for-*
17 *foreign equivalent commercial pilot’s license that*
18 *permits the person to fly an aircraft with a*
19 *maximum certificated takeoff weight of more*
20 *than 12,500 pounds as defined by the Inter-*
21 *national Civil Aviation Organization in Annex*
22 *1 to the Convention on International Civil Avia-*
23 *tion.”.*

24 (b) *COVERED TRAINING.—Section 44936(c) of title 49,*
25 *United States Code, is amended to read as follows:*

1 “(c) COVERED TRAINING.—

2 “(1) IN GENERAL.—For purposes of subsection
3 (a), training includes in-flight training, training in
4 a simulator, and any other form or aspect of train-
5 ing.

6 “(2) EXCEPTION.—For the purposes of subsection
7 (a), training does not include classroom instruction
8 (also known as ground training), which may be pro-
9 vided to an alien during the 45-day period applicable
10 to the alien under that subsection.”.

11 (c) PROCEDURES.—

12 (1) IN GENERAL.—Not later than 30 days after
13 the date of enactment of this Act, the Attorney Gen-
14 eral shall promulgate regulations to implement sec-
15 tion 44939 of title 49, United States Code.

16 (2) USE OF OVERSEAS FACILITIES.—In order to
17 implement the amendments made to section 44939 of
18 title 49, United States Code, by this section, United
19 States Embassies and Consulates that have
20 fingerprinting capability shall provide fingerprinting
21 services to aliens covered by that section if the Attor-
22 ney General requires their fingerprinting in the ad-
23 ministration of that section, and transmit the finger-
24 prints to the Department of Justice and any other
25 appropriate agency. The Attorney General shall co-

1 *operate with the Secretary of State to carry out this*
2 *paragraph.*

3 (d) *EFFECTIVE DATE.*—Not later than 120 days after
4 *the date of enactment of this Act, the Attorney General shall*
5 *promulgate regulations to implement the amendments made*
6 *by this section. The Attorney General may not interrupt*
7 *or prevent the training of any person described in section*
8 *44939(a)(1) of title 49, United States Code, who commenced*
9 *training on aircraft with a maximum certificated takeoff*
10 *weight of 12,500 pounds or less before, or within 120 days*
11 *after, the date of enactment of this Act unless the Attorney*
12 *General determines that the person represents a risk to*
13 *aviation or national security.*

14 (e) *REPORT.*—Not later than 1 year after the date of
15 *enactment of this Act, the Secretary of Transportation and*
16 *the Attorney General shall jointly submit to the Senate*
17 *Committee on Commerce, Science, and Transportation and*
18 *the House of Representatives Committee on Transportation*
19 *and Infrastructure a report on the effectiveness of the activi-*
20 *ties carried out under section 44939 of title 49, United*
21 *States Code, in reducing risks to aviation and national se-*
22 *curity.*

23 **SEC. 8. PASSENGER IDENTIFICATION.**

24 (a) *IN GENERAL.*—Not later than 180 days after the
25 *date of enactment of this Act, the Under Secretary of Trans-*

1 *portation for Security, in consultation with the Adminis-*
2 *trator of the Federal Aviation Administration, appropriate*
3 *law enforcement, security, and terrorism experts, represent-*
4 *atives of air carriers and labor organizations representing*
5 *individuals employed in commercial aviation, shall develop*
6 *guidelines to provide air carriers guidance for detecting*
7 *false or fraudulent passenger identification. The guidelines*
8 *may take into account new technology, current identifica-*
9 *tion measures, training of personnel, and issues related to*
10 *the types of identification available to the public.*

11 *(b) AIR CARRIER PROGRAMS.—Within 60 days after*
12 *the Under Secretary issues the guidelines under subsection*
13 *(a) in final form, the Under Secretary shall provide the*
14 *guidelines to each air carrier and establish a joint govern-*
15 *ment and industry council to develop recommendations on*
16 *how to implement the guidelines.*

17 *(c) REPORT.—The Under Secretary of Transportation*
18 *for Security shall report to the Senate Committee on Com-*
19 *merce, Science, and Transportation and the House of Rep-*
20 *resentatives Committee on Transportation and Infrastruc-*
21 *ture within 1 year after the date of enactment of this Act*
22 *on the actions taken under this section.*

23 **SEC. 9. PASSENGER IDENTIFICATION VERIFICATION.**

24 *(a) PROGRAM REQUIRED.—The Under Secretary of*
25 *Transportation for Security may establish and carry out*

1 *a program to require the installation and use at airports*
2 *in the United States of the identification verification tech-*
3 *nologies the Under Secretary considers appropriate to assist*
4 *in the screening of passengers boarding aircraft at such air-*
5 *ports.*

6 (b) *TECHNOLOGIES EMPLOYED.—The identification*
7 *verification technologies required as part of the program*
8 *under subsection (a) may include identification scanners,*
9 *biometrics, retinal, iris, or facial scanners, or any other*
10 *technologies that the Under Secretary considers appropriate*
11 *for purposes of the program.*

12 (c) *COMMENCEMENT.—If the Under Secretary deter-*
13 *mines that the implementation of such a program is appro-*
14 *priate, the installation and use of identification verification*
15 *technologies under the program shall commence as soon as*
16 *practicable after the date of that determination.*

17 **SEC. 10. BLAST-RESISTANT CARGO CONTAINER TECH-**
18 **NOLOGY.**

19 *Not later than 6 months after the date of enactment*
20 *of this Act, the Under Secretary of Transportation for Secu-*
21 *rity, and the Administrator of the Federal Aviation Admin-*
22 *istration, shall jointly submit a report to Congress that*
23 *contains—*

1 (1) *an evaluation of blast-resistant cargo con-*
2 *tainer technology to protect against explosives in pas-*
3 *senger luggage and cargo;*

4 (2) *an examination of the advantages associated*
5 *with the technology in preventing damage and loss of*
6 *aircraft from terrorist action and any operational*
7 *impacts which may result from use of the technology*
8 *(particularly added weight and costs);*

9 (3) *an analysis of whether alternatives exist to*
10 *mitigate the impacts described in paragraph (2) and*
11 *options available to pay for the technology; and*

12 (4) *recommendations on what further action, if*
13 *any, should be taken with respect to the use of blast-*
14 *resistant cargo containers on passenger aircraft.*

15 **SEC. 11. ARMING PILOTS AGAINST TERRORISM.**

16 (a) *FINDINGS AND PURPOSE.—*

17 (1) *FINDINGS.—Congress makes the following*
18 *findings:*

19 (A) *During the 107th Congress, both the*
20 *Senate and the House of Representatives over-*
21 *whelmingly passed measures that would have*
22 *armed pilots of cargo aircraft.*

23 (B) *Cargo aircraft do not have Federal air*
24 *marshals, trained cabin crew, or determined pas-*
25 *sengers to subdue terrorists.*

1 (C) Cockpit doors on cargo aircraft, if
2 present at all, largely do not meet the security
3 standards required for commercial passenger air-
4 craft.

5 (D) Cargo aircraft vary in size and many
6 are larger and carry larger amounts of fuel than
7 the aircraft hijacked on September 11, 2001.

8 (E) Aircraft cargo frequently contains haz-
9 ardous material and can contain deadly biologi-
10 cal and chemical agents and quantities of agents
11 that caused communicable diseases.

12 (F) Approximately 12,000 of the Nation's
13 90,000 commercial pilots serve as pilots and
14 flight engineers on cargo aircraft.

15 (G) There are approximately 2,000 cargo
16 flights per day in the United States, many of
17 which are loaded with fuel for outbound inter-
18 national travel or are inbound from foreign air-
19 ports not secured by the Transportation Security
20 Administration.

21 (H) aircraft transporting cargo pose a seri-
22 ous risk as potential terrorist targets that could
23 be used as weapons of mass destruction.

1 *(I) Pilots of cargo aircraft deserve the same*
2 *ability to protect themselves and the aircraft they*
3 *pilot as other commercial airline pilots.*

4 *(J) Permitting pilots of cargo aircraft to*
5 *carry firearms creates an important last line of*
6 *defense against a terrorist effort to commandeer*
7 *a cargo aircraft.*

8 *(2) SENSE OF CONGRESS.—It is the sense of*
9 *Congress that a member of a flight deck crew of a*
10 *cargo aircraft should be armed with a firearm to de-*
11 *fend the cargo aircraft against an attack by terrorists*
12 *that could result in the use of the aircraft as a weap-*
13 *on of mass destruction or for other terrorists purposes.*

14 *(b) ARMING CARGO PILOTS AGAINST TERRORISM.—*
15 *Section 44921 of title 49, United States Code, is amended—*

16 *(1) in subsection (a), by striking “passenger”*
17 *each place that it appears; and*

18 *(2) in subsection (k)—*

19 *(A) in paragraph (2)—*

20 *(i) by striking “or,” and all that fol-*
21 *lows; and*

22 *(ii) by inserting “or any other flight*
23 *deck crew member.”; and*

24 *(B) by adding at the end the following new*
25 *paragraph:*

1 “(3) *ALL-CARGO AIR TRANSPORTATION.*—*For the*
2 *purposes of this section, the term air transportation*
3 *includes all-cargo air transportation.*”.

4 (d) *IMPLEMENTATION.*—

5 (1) *TIME FOR IMPLEMENTATION.*—*The training*
6 *of pilots as Federal flight deck officers required in the*
7 *amendments made by subsection (b) shall begin as*
8 *soon as practicable and no later than 90 days after*
9 *the date of enactment of this Act.*

10 (2) *EFFECT ON OTHER LAWS.*—*The requirements*
11 *of subparagraph (1) shall have no effect on the dead-*
12 *lines for implementation contained in section 44921*
13 *of title 49, United States Code, as in effect on the day*
14 *before the date of enactment of this Act.*

15 **SEC. 12. REPORT ON DEFENDING AIRCRAFT FROM MAN-**
16 **PORTABLE AIR DEFENSE SYSTEMS (SHOUL-**
17 **DER-FIRED MISSILES).**

18 *Not later than 90 days after the date of the enactment*
19 *of this Act, the Secretary of Homeland Security shall issue*
20 *a report to the Senate Committee on Commerce, Science,*
21 *and Transportation and the House of Representatives Com-*
22 *mittee on Transportation and Infrastructure on how best*
23 *to defend turbo and jet passenger aircraft from Man-Port-*
24 *able Air Defense Systems (shoulder-fired missiles). The re-*
25 *port shall also include actions taken to date, counter-*

- 1 *measures, risk mitigation, and other activities. The report*
- 2 *may be submitted in classified form.*

Æ

Subject: Re: FW: LRM JAB33 - - OMB Request for Views on S165 Air Cargo Security Act
From: "Kavanaugh, Brett M."
Date: 3/26/03, 8:30 PM
To: "Bumatay, Patrick J.", "Brown, James A."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Mon Aug 06 15:11:01 EDT 2018

Releasability: Withheld In Part

Reasons for Withholding:

b(3),P3

Notes:

50 USC 3507

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : Re: FW: LRM JAB33 -- OMB Request for Views on S165 Air Cargo Security Act
From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
Date: 3/26/03, 8:35 PM
To: James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB]), Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Thu Aug 16 11:01:06 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

b(3),P5,P3

Notes:

50 USC 3507

Case ID: gwb.2018-0012-P

Additional Information:

Subject: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: "Bumatay, Patrick J."
Date: 5/20/03, 6:29 PM
To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Wed Oct 24 14:39:55 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

b(3),P3,P5

Notes:

50 USC 3507

Case ID: gwb.2018-0013-P

Additional Information:

Subject: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: "Bumatay, Patrick J."
Date: 5/28/03, 7:45 PM
To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Tue Oct 23 11:00:56 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P3,b(3),P5

Notes:

50 USC 3507

Case ID: gwb.2018-0013-P

Additional Information:

Subject: Re: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: "Kavanaugh, Brett M."
Date: 5/28/03, 8:09 PM
To: "Bumatay, Patrick J.", "Messenger, P. Thaddeus"

THIS RECORD IS A WITHDRAWAL SHEET
Date created: Thu Aug 02 12:03:48 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

b(3),P5,P3

Notes:

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : Re: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP [OMB])
Date: 5/28/03, 8:17 PM
To: James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB])
CC: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET
Date created: Fri Oct 26 16:04:25 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

b(7f),b(3),P5, P3

Notes:

b(3): 50 USC 3507

Case ID: gwb.2018-0014-P

Additional Information:

Subject: : Re: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
Date: 5/28/03, 8:17 PM
To: P. Thaddeus Messenger (CN=P. Thaddeus Messenger/OU=OMB/O=EOP@EOP [OMB]),
Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])

THIS RECORD IS A WITHDRAWAL SHEET
Date created: Wed Aug 08 16:26:03 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5,b(7f)

Notes:

Unreadable file - attach. 1 and 2.

Case ID: gwb.2018-0012-P

Additional Information:

Subject: : Re: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: James A. Brown (CN=James A. Brown/OU=OMB/O=EOP [OMB])
Date: 5/30/03, 6:17 PM
To: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Thu Oct 11 16:01:03 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5,P3,b(3)

Notes:

50 USC 3507

Case ID: gwb.2018-0013-P

Additional Information:

Subject: : Re: FW: LRM JAB93 - - TRANSPORTATION Report on S165 Air Cargo Security Act
From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
Date: 5/30/03, 6:23 PM
To: James A. Brown (CN=James A. Brown/OU=OMB/O=EOP@EOP [OMB])

THIS RECORD IS A WITHDRAWAL SHEET
Date created: Fri Aug 10 12:21:48 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

b(7f),P5,b(3),P3

Notes:

50 USC 3507

unreadable files

Case ID: gwb.2018-0012-P

Additional Information:

Subject: FW: LRM JAB119 - - OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

From: "Bumatay, Patrick J."

Date: 6/17/03, 2:27 PM

To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Wed Oct 24 12:48:22 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0013-P

Additional Information:

Subject: : FW: LRM JAB119 -- OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

From: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])

Date: 6/17/03, 3:03 PM

To: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Tue Oct 09 11:09:17 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0013-P

Additional Information:

Subject: : FW: UPDATE -- LRM JAB119 -- OMB Request for Views on HR2115 Flight 100--(House and Senate Passed Versions)

From: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])

Date: 6/20/03, 11:18 AM

To: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])

CREATION DATE/TIME:20-JUN-2003 11:18:28.00

SUBJECT:: FW: UPDATE -- LRM JAB119 -- OMB Request for Views on HR2115 Flight 100--(House and Senate Passed Versions)

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

End Original ARMS Header

-----Original Message-----

From: Brown, James A.

Sent: Friday, June 20, 2003 10:43 AM

To: justice.lrm@usdoj.gov; dot.legislation@ost.dot.gov;

Scott.Murphy@dhs.gov; usdaobpa.leg@obpa.usda.gov; usdaocrleg@obpa.usda.gov;

CLRM@doc.gov; dodlrs@dodgc.osd.mil; epalrm@epamail.epa.gov; Cea Lrm; Ceq

Lrm; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov;

llr@do.treas.gov; ola@opm.gov; lrm@osc.gov; laffairs@ustr.gov;

mccullc@nts.gov; NASA_LRM@hq.nasa.gov; Ostp Lrm; Leg@flra.gov;

legteam@oge.gov

Cc: McMillin, Stephen S.; Schwartz, Kenneth L.; Mertens, Steven M.; Doherty, Clare C.; Benson, Meredith G.; Rosado, Timothy A.; Suh, Stephen; Kelly, Kenneth S.; Cea Lrm; Nec Lrm; Whgc Lrm; Ovp Lrm; Addington, David S.; Dougherty, Elizabeth S.; Sharp, Jess; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Joseffer, Daryl L.; Lobrano, Lauren C.; Goldberg, Robert H.; McClelland, Alexander J.; Neyland, Kevin F.; Dennis, Carol R.; Blum, Mathew C.; Gerich, Michael D.; Radzanowski, David P.; Grippando, Hester C.; Nichols, Julie L.; Cea Lrm; Ohs Lrm; Jukes, James J.; Green, Richard E.; Collender, Robert N.; Shawcross, Paul; Boling, Edward A.; Bear, Dinah; Dove, Stephen W.; Call, Amy L.; Aguilera, Ricardo A.

Subject: UPDATE -- LRM JAB119 -- OMB Request for Views on HR2115 Flight 100--(House and Senate Passed Versions)

We expect to circulate a proposed letter to the conferees on H.R. 2115 for comment next week. Agencies and other commentators should be prepared with any issues which they believe should be addressed in the letter. Agencies and others who have concerns they would like considered for inclusion in the draft conference letter circulated for comment should submit such concerns to me NO LATER THAN 5:00 P.M. MONDAY, JUNE 23RD. Thanks.

----- Forwarded by James A. Brown/OMB/EOP on 06/20/2003 10:43 AM -----

From: James A. Brown on 06/17/2003 10:25:28 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: LRM JAB119 -- OMB Request for Views on HR2115 Flight

100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

LRM ID: JAB119
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, June 17, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: James A. Brown
PHONE: (202)395-3473 FAX: (202)395-3109
SUBJECT: OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

DEADLINE: 10:00 A.M. Friday, June 27, 2003
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Timing of conference action on this bill is uncertain. The versions passed by both the House and the Senate are attached.

DISTRIBUTION LIST

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061-JUSTICE - William E. Moschella - (202) 514-2141
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007-AGRICULTURE - Jacquelyn Chandler - (202) 720-1272
006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
025-COMMERCE - Michael A. Levitt - (202) 482-3151
029-DEFENSE - Vic Bernson - (703) 697-1305
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
019-Council on Environmental Quality - Debbie S. Fiddelke - (202) 395-3113
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
118-TREASURY - Thomas M. McGivern - (202) 622-2317
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
093-Office of the Special Counsel - Jane McFarland - (202) 653-9001
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
085-National Transportation Safety Board - David Balloff - (202) 314-6120
069-National Aeronautics and Space Administration - Charles T. Horner III - (202) 358-1948
095-Office of Science and Technology Policy - Maureen O'Brien - (202) 456-6037
043-Federal Labor Relations Authority - Jill Crumpacker - (202) 218-7945

088-Office of Government Ethics - Jane Ley - (202) 208-8022

EOP:

Stephen S. McMillin
Kenneth L. Schwartz
Steven M. Mertens
Clare C. Doherty
Meredith G. Benson
Timothy A. Rosado
Stephen Suh
Kenneth S. Kelly
CEA LRM
NEC LRM
WHGC LRM
OVP LRM
David S. Addington
Elizabeth S. Dougherty
Jess Sharp
Philip J. Perry
John F. Wood
Kimberley S. Luczynski
Daryl L. Joseffer
Lauren C. Lobrano
Robert H. Goldberg
Alexander J. McClelland
Kevin F. Neyland
Carol R. Dennis
Mathew C. Blum
Michael D. Gerich
David P. Radzanowski
Hester C. Grippando
Julie L. Nichols
CEA LRM
OHS LRM
James J. Jukes
Richard E. Green
Robert N. Collender
Paul Shawcross
Edward A. Boling
Dinah Bear
Stephen W. Dove
Amy L. Call
Ricardo A. Aguilera

LRM ID: JAB119 SUBJECT: OMB Request for Views on HR2115 Flight
100--Century of Aviation Reauthorization Act (House and Senate Passed
Versions)
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no
comment), we prefer that you respond by e-mail or by faxing us this
response sheet.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be

connected to voice mail if the analyst does not answer); or
(2) faxing us a memo or letter.
Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
Office of Management and Budget

FROM: _____ (Date)
_____ (Name)
_____ (Agency)
_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent

To: _____

justice.lrm@usdoj.gov @ inet
dot.legislation@ost.dot.gov @ inet
Scott.Murphy@dhs.gov @ inet
usdaobpaleg@obpa.usda.gov @ inet
usdaocrleg@obpa.usda.gov @ inet
CLRM@doc.gov @ inet
dodlrs@dodgc.osd.mil @ inet
epalrm@epamail.epa.gov @ inet
CEA LRM
CEQ LRM
ocl@ios.doi.gov @ inet
justice.lrm@usdoj.gov @ inet
dol-sol-leg@dol.gov @ inet
llr@do.treas.gov @ inet
ola@opm.gov @ inet
lrms@osc.gov @ inet
laffairs@ustr.gov @ inet
mccullc@ntsb.gov @ inet
NASA_LRM@hq.nasa.gov @ inet
OSTP LRM
Leg@flra.gov @ inet
legteam@oge.gov @ inet

Message Copied

To:

Stephen S. McMillin/OMB/EOP@EOP
Kenneth L. Schwartz/OMB/EOP@EOP
Steven M. Mertens/OMB/EOP@EOP
Clare C. Doherty/OMB/EOP@EOP
Meredith G. Benson/OMB/EOP@EOP
Timothy A. Rosado/OMB/EOP@EOP
Stephen Suh/OMB/EOP@EOP
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Hester C. Grippando/OMB/EOP@EOP
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Dinah Bear/CEQ/EOP@EOP
Stephen W. Dove/OMB/EOP@EOP
Amy L. Call/OMB/EOP@EOP
Ricardo A. Aguilera/OMB/EOP@EOP
ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VFIDH003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00
File attachment <P_VFIDH003_WHO.TXT_2>

— Attachments:

P_VFIDH003_WHO.TXT_1.doc	1.1 MB
P_VFIDH003_WHO.TXT_2.doc	1.1 MB

Subject: FW: UPDATE -- LRM JAB119 -- OMB Request for Views on HR2115 Flight 100--(House and Senate Passed Versions)
From: "Bumatay, Patrick J."
Date: 6/20/03, 3:16 PM
To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Fri Oct 26 14:44:18 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0013-P

Additional Information:

Subject: FW: UPDATE -- LRM JAB119 -- OMB Request for Views on HR2115 Flight 100--(House and Senate Passed Versions)
From: "Bumatay, Patrick J."
Date: 6/23/03, 7:42 PM
To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Sat Oct 27 15:12:59 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0013-P

Additional Information:

Subject: : FW: LRM JAB119 - - OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)
From: Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
Date: 6/27/03, 10:07 AM
To: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

Begin Original ARMS Header #####
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR:Patrick J. Bumatay (CN=Patrick J. Bumatay/OU=WHO/O=EOP@Exchange [WHO])
CREATION DATE/TIME:27-JUN-2003 10:07:22.00
SUBJECT:: FW: LRM JAB119 - - OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)
TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN
End Original ARMS Header

Just a reminder, this was due at 10 am.

-----Original Message-----
From: Brown, James A.
Sent: Tuesday, June 17, 2003 10:13 AM
To: justice.lrm@usdoj.gov; dot.legislation@ost.dot.gov; Scott.Murphy@dhs.gov; usdaobpaleg@obpa.usda.gov; usdaocrleg@obpa.usda.gov; CLRM@doc.gov; dodlrs@dodgc.osd.mil; epalrm@epamail.epa.gov; Cea Lrm; Ceq Lrm; ocl@ios.doi.gov; justice.lrm@usdoj.gov; dol-sol-leg@dol.gov; llr@do.treas.gov; ola@opm.gov; lrm@osc.gov; laffairs@ustr.gov; mccullc@nts.gov; NASA_LRM@hq.nasa.gov; Ostp Lrm; Leg@flra.gov; legteam@oge.gov
Cc: McMillin, Stephen S.; Schwartz, Kenneth L.; Mertens, Steven M.; Doherty, Clare C.; Benson, Meredith G.; Rosado, Timothy A.; Suh, Stephen; Kelly, Kenneth S.; Cea Lrm; Nec Lrm; Whgc Lrm; Ovp Lrm; Addington, David S.; Dougherty, Elizabeth S.; Sharp, Jess; Perry, Philip J.; Wood, John F.; Luczynski, Kimberley S.; Joseffer, Daryl L.; Lobrano, Lauren C.; Goldberg, Robert H.; McClelland, Alexander J.; Neyland, Kevin F.; Dennis, Carol R.; Blum, Mathew C.; Gerich, Michael D.; Radzanowski, David P.; Grippando, Hester C.; Nichols, Julie L.; Cea Lrm; Ohs Lrm; Jukes, James J.; Green, Richard E.; Collender, Robert N.; Shawcross, Paul; Boling, Edward A.; Bear, Dinah; Dove, Stephen W.; Call, Amy L.; Aguilera, Ricardo A.
Subject: LRM JAB119 - - OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

LRM ID: JAB119
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, June 17, 2003

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for

Legislative Reference

OMB CONTACT: James A. Brown

PHONE: (202)395-3473 FAX: (202)395-3109

SUBJECT: OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

DEADLINE: 10:00 A.M. Friday, June 27, 2003

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts.

COMMENTS: Timing of conference action on this bill is uncertain. The versions passed by both the House and the Senate are attached.

DISTRIBUTION LIST

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006-AGRICULTURE (CR) - Wanda Worsham - (202) 720-7095
025-COMMERCE - Michael A. Levitt - (202) 482-3151
029-DEFENSE - Vic Bernson - (703) 697-1305
033-Environmental Protection Agency - Edward Krenik - (202) 564-5200
018-Council of Economic Advisers - Liaison Officer - (202) 395-5084
019-Council on Environmental Quality - Debbie S. Fiddelke - (202) 395-3113
059-INTERIOR - Jane Lyder - (202) 208-4371
061-JUSTICE - Daniel Bryant - (202) 514-2141
062-LABOR - Robert A. Shapiro - (202) 693-5500
118-TREASURY - Thomas M. McGivern - (202) 622-2317
092-Office of Personnel Management - Harry Wolf - (202) 606-1424
093-Office of the Special Counsel - Jane McFarland - (202) 653-9001
128-US Trade Representative - Carmen Suro-Bredie - (202) 395-4755
085-National Transportation Safety Board - David Balloff - (202) 314-6120
069-National Aeronautics and Space Administration - Charles T. Horner III - (202) 358-1948
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043-Federal Labor Relations Authority - Jill Crumacker - (202) 218-7945
088-Office of Government Ethics - Jane Ley - (202) 208-8022

EOP:

Stephen S. McMillin
Kenneth L. Schwartz
Steven M. Mertens
Clare C. Doherty
Meredith G. Benson
Timothy A. Rosado
Stephen Suh
Kenneth S. Kelly
CEA LRM
NEC LRM
WHGC LRM
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David S. Addington

Elizabeth S. Dougherty
 Jess Sharp
 Philip J. Perry
 John F. Wood
 Kimberley S. Luczynski
 Daryl L. Joseffer
 Lauren C. Lobrano
 Robert H. Goldberg
 Alexander J. McClelland
 Kevin F. Neyland
 Carol R. Dennis
 Mathew C. Blum
 Michael D. Gerich
 David P. Radzanowski
 Hester C. Grippando
 Julie L. Nichols
 CEA LRM
 OHS LRM
 James J. Jukes
 Richard E. Green
 Robert N. Collender
 Paul Shawcross
 Edward A. Boling
 Dinah Bear
 Stephen W. Dove
 Amy L. Call
 Ricardo A. Aguilera

LRM ID: JAB119 SUBJECT: OMB Request for Views on HR2115 Flight
 100--Century of Aviation Reauthorization Act (House and Senate Passed
 Versions)
 RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

If your response to this request for views is short (e.g., concur/no
 comment), we prefer that you respond by e-mail or by faxing us this
 response sheet.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be
 connected to voice mail if the analyst does not answer); or
- (2) faxing us a memo or letter.

Please include the LRM number and subject shown above.

TO: James A. Brown Phone: 395-3473 Fax: 395-3109
 Office of Management and Budget

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages _____
- Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_LOLJH003_WHO.TXT_1>

ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_LOLJH003_WHO.TXT_2>

— Attachments: _____

P_LOLJH003_WHO.TXT_1.doc	1.1 MB
P_LOLJH003_WHO.TXT_2.doc	1.1 MB

Subject: FW: LRM JAB119 - - OMB Request for Views on HR2115 Flight 100--Century of Aviation Reauthorization Act (House and Senate Passed Versions)

From: "Bumatay, Patrick J."

Date: 6/27/03, 2:05 PM

To: "Kavanaugh, Brett M."

THIS RECORD IS A WITHDRAWAL SHEET

Date created: Mon Oct 29 15:24:39 EDT 2018

Releasability: Withheld In Full

Reasons for Withholding:

P5

Notes:

Case ID: gwb.2018-0013-P

Additional Information:

Subject: FW: AP Enterprise: Administration picks disgraced judge for Homeland Security anti-terrorism post
From: "Gottesman, Blake"
Date: 7/28/04, 4:34 PM
To: "Kavanaugh, Brett M."

[just wanted to make sure that you saw this.](#)

-----Original Message-----

From: Sherzer, David

Sent: Wednesday, July 28, 2004 4:06 PM

Subject: AP Enterprise: Administration picks disgraced judge for Homeland Security anti-terrorism post

AP Enterprise: Administration picks disgraced judge for Homeland Security anti-terrorism post

By MICHAEL J. SNIFFEN and LESLIE MILLER, Associated Press Writers

WASHINGTON (AP) A key overseer of the Bush administration's unsuccessful efforts to create a more comprehensive screening process for airline passengers resigned in disgrace four years ago from the New Hampshire Supreme Court to avoid prosecution over his conduct on the bench.

W. Stephen Thayer III, who left New Hampshire's high court in 2000 under a deal with prosecutors, is now serving as deputy chief of the Transportation Security Administration's Office of National Risk Assessment.

Thayer resurrected his public career with a stint at a conservative political group in Washington before landing the job last summer where he oversees the administration's Computer-Assisted Passenger Prescreening System. The project encountered such technical difficulty and so much resistance from privacy advocates that it was sent back to the drawing board earlier this month.

The project, which was known as CAPPS II, was to develop software to bar any passenger from getting on an airplane if a computer analysis of unidentified government terrorist watchlists and private commercial electronic records judged him or her to be a security threat. The project has been sharply criticized by congressional auditors.

The administration's selection of Thayer made with no fanfare last summer has raised some eyebrows.

"To appoint someone who had to resign in public disgrace in lieu of being indicted is incredibly offensive," said Charles Lewis, executive director the Center for Public Integrity, a private ethics watchdog. CAPPS II has been "one of the most sensitive projects in the U.S. government," because "we are talking about data-mining the records of millions of Americans. The people in charge have got to be beyond reproach in every way."

Thayer declined to be interviewed.

But TSA spokesman Mark Hatfield said Thayer was qualified for the job because he helped the American Conservative Union organize a task force with other conservative and liberal groups, including the American Civil Liberties Union, to lobby on the government's handling of citizens' personal information, including CAPPS II.

"That was as direct involvement in that field as you can get," Hatfield said.

Hatfield said the New Hampshire controversy was reviewed by those who appointed Thayer and posed no bar to his getting the federal job because no charges were filed and no action was taken against him by the state judicial conduct committee or the bar association.

"He faced the allegations for a significant time and significant cost and at some point he chose to withdraw from the battle as it was in the best interests of himself and his family," Hatfield

said.

Months behind schedule, the two-year-old CAPPs II was sharply criticized in February by the Government Accountability Office, the auditing arm of Congress, for failing to fully address seven of eight targets for accuracy, privacy and security.

Concerned that the program would invade privacy and leave air travelers with no way of correcting its errors, Congress has prohibited the program's deployment until those benchmarks are met. Earlier this month, Transportation Security Administration chief David Stone told Congress the program is being "reshaped and repackaged."

Thayer's fast-moving legal career U.S. attorney at 35, state supreme court justice at 40 came to an abrupt halt March 31, 2000, when he resigned from the state's highest court in a deal with New Hampshire Attorney General Philip McLaughlin.

In return for Thayer's resignation, McLaughlin agreed to drop plans to indict him. In a public report, McLaughlin criticized Thayer for participating in deliberations on a case he was recused from. He also said he would have sought felony or misdemeanor charges against Thayer for allegedly trying to influence the choice of a judge to hear his wife's appeal of their divorce and threatening fellow justices if they allowed his conduct to be reported to judicial oversight groups.

McLaughlin's report said Supreme Court Justice John T. Broderick quoted Thayer as saying if his conduct were reported to oversight groups "I'm done. It's over for me We all do it. We can either hang together on this or hang separately." Chief Justice David Brock said Thayer told him, "I'm not going to hang alone."

Thayer insisted at the time, "I committed no criminal act." But McLaughlin had decided to seek the criminal indictment when Thayer volunteered to resign.

Two years after the episode, McLaughlin wrote Thayer in December 2002 and cited Thayer's reputation for scholarship and fairness as a judge. He added that during the investigation, Thayer acted "in a most professional, forthright and honest manner." But McLaughlin did not back off his findings, noting his report "will be a matter of public record forever."

In a rare public appearance last fall, Thayer did not supply a biography like other witnesses who testified before a Pentagon advisory committee on privacy and computerized data-mining.

When asked about his qualifications to supervise CAPPs II, Thayer said then he had been executive director of a nonprofit group that reviewed privacy rights in post-Sept. 11 legislation and was a lawyer and former U.S. attorney. He made no mention of his 14 years on New Hampshire's highest court.

On May 26, 2000, while trying to get his alimony and child support reduced from almost \$36,000 a year to \$6,000 a year, he told a New Hampshire court he had had trouble finding work after his Supreme Court resignation.

"Large law firms are not into risk. They do not want my name associated with them so long as we have this kind of publicity in New Hampshire," he said, according to the Portsmouth, N.H., Herald.