

## **Renewal of the Posse Comitatus ACT, to meet the needs of the Nation.**

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LO 08

01 November 2005

In the aftermath of 911, the people of the United States have strong position towards the renewal of Posse Comitatus Act (PCA) to meet the needs of Homeland Security. Posse Comitatus means “the power of the county” reflecting the day of the town sheriff that would call upon all healthy men to join a posse to help law enforcement to maintain the peace.

The Original PCA was passed to remove the Army from domestic law enforcement duties. The PCA was passed in 1878, in response to abuses committed by federal troops during the Reconstruction period in the South after the Civil War. In addition many suspected that federal troops influenced the election of 1876 where Ruther B. Hayes was chosen. Then President Grant had sent federal troops as a *posse Comitatus* to run some polling places in the South during the election. Also Fort Commanders began to exercise civilian law enforcement responsibilities on the western frontier in arbitrary fashion.

To meet the demands of Homeland Security local and Federal law enforcement have to rely on the military. From time to time regular law enforcement assets prove to be inadequate, for man power, special training and technology which the military contains. Some citizens believe that any use of the military for law enforcement is not ethical and violates the PCA, and suggest that the military only be used outside the U.S., or when our boundaries are attacked. When PCA was passed there was a clear distinction between criminal law enforcement and defense of the nation's borders. Now the lines are blurred between criminal acts and terrorist acts, with the introduction of weapons of mass destruction. This is where the dilemma lies, what is meant by attacked. Was 911 a criminal act or an act of war, should it be handle in the courts or on the battle fields. During the President Clinton's administration before the 911, terrorist act where handle has a criminal matter. That is why 911 happened, the failure of our nation to face up to fact that Al Qaeda was at war with us. Should US military airplane be used to shoot down high jacked planes full of Americans before the fly into buildings? Absolutely, the US military should be used to shoot down a high jacket plane full of US citizens to protect to better good of all citizens during an attack, has painful as that would be to do as a nation. Today most people believe that we were attack on 911, therefore the use of the Military would have been justified to stop the attack if possible.

Congress and the president have circumvented or eroded the PCA to meet law enforcement or Homeland Security needs of the nation since 1980. The federal courts have defined under PCA that the military can be used in support of civilian law enforcement. The test to be applied by the courts has been, is the military role active or

passive participation. Active would be such as making an arrest were as passive would be logistical support. Over the pass 20 years the military has had a passive role in the “war on drugs”. Again the lines have been burred between active and passive support, due to what takes place outside our nation borders when battling the drug lords. Should our military chase a drug lord to the border then stop and let local law enforcement try a pick them up, or arrest them, how about we just call them POWs or detainees? As a nation we have limited resources and we need to use them wisely, we can not afford not to use our military in support of local law enforcement.

With all the press given to our Nation’s borders to South due to illegal immigration, “war on drugs” possible use of weapons of mass destruction by terrorist, many citizens call for our Military to be place on our Southern border. Now that could cause possible blurring of the intent of the PCA has it stands now.

President Bush has suggested to Congress that the Military be given a bigger role in natural disaster relief. After all the failures that followed the hurricane Katrina in New Orleans, the military demonstrated it capabilities to make things happen when other could not. New Orleans would have been the prefect time and place to have active and a passive military presents. The military should have been allowed to make arrest while feeding the people of New Orleans. Some would argue that the military is not train to handle civilian law enforcement, what are they doing in Iraq if not law enforce most of the time. It ok for our military to arrest an Iraq looter but not a New Orleans looter. There are many Reservist and Nation Guard members that work in Civilian Law enforcement.

Their civilian law enforcement training and military training makes some of our troops the most suited for the task of law enforcement during natural disaster. But as it stands the PCA does not permit active support during times of natural disaster, which I believe needs to be addressed by Congress has, President Bush has requested.

In the case of an epidemic President Bush asked Congress to give him powers to use the military to enforce quarantines in case of an avian influenza epidemic. This is a matter that needs to be addressed sooner than later if you believe the press, that an avian influenza epidemic could take millions of our citizen's lives.

The PCA has served its purpose well so far, but does it need to be modified to meet the new world that we live in. Yes the PCA should be addressed to meet the needs of Homeland Security, with possible use of WMDs, and in cases of natural disaster.

“The means of defense against foreign danger historically have become the instruments of tyranny at home” James Madison