

The book was found

The Posse Comitatus Act And Related Matters: The Use Of The Military To Execute Civilian Law



The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law

Charles Doyle
Senior Specialist in American Public Law

Jennifer K. Elzea
Legislative Attorney

August 16, 2012

Congressional Research Service
7-5700
www.crs.gov
R42407

CRS Report for Congress
Prepared for Members and Committees of Congress



Synopsis

The Constitution permits Congress to authorize the use of the militia to execute the Laws of the Union, suppress Insurrections and repel Invasions. And it guarantees the states protection against invasion or usurpation of their republican form of government, and, upon the request of the state legislature, against domestic violence. These constitutional provisions are reflected in the Insurrection Acts, which have been invoked numerous times both before and after passage of the Posse Comitatus Act, 18 U.S.C. Â§ 1385, in 1878. Congress has also enacted a number of statutes that authorize the use of the land and naval forces to execute their objective. The Posse Comitatus Act outlaws the willful use of any part of the Army or Air Force to execute the law unless expressly authorized by the Constitution or an act of Congress. History supplies the grist for an argument that the Constitution prohibits military involvement in civilian affairs subject to only limited alterations by Congress or the President, but the courts do not appear to have ever accepted the argument unless violation of more explicit constitutional command could also be shown. The express statutory exceptions include the legislation that allows the President to use military force to suppress insurrection or to enforce federal authority, 10 U.S.C. Â§Â§ 331- 335, and laws that permit the Department of Defense to provide federal, state and local police with information, equipment, and personnel, 10 U.S.C. Â§Â§ 371-382. Case law indicates that execution of the law in violation of the Posse Comitatus Act occurs (a) when the Armed Forces perform tasks assigned to an organ of civil government, or (b) when the Armed Forces perform tasks assigned to them solely for purposes of civilian government. Questions concerning the act's application arise most often in the context of assistance to civilian police. At least in this context, the courts have held that, absent a recognized exception, the Posse Comitatus Act is violated when (1) civilian law enforcement officials make direct active use of military investigators; or (2) the use of the military pervades the activities of the civilian officials; or (3) the military is used so as to subject citizens to the exercise of military power which was regulatory, prescriptive, or compulsory in nature. The act is not violated when the Armed Forces conduct activities for a military purpose. The language of the act mentions only the Army and the Air Force, but it is applicable to the Navy and Marines by virtue of administrative action and commands of other laws. The law enforcement functions of the Coast Guard have been expressly authorized by act of Congress and consequently cannot be said to be contrary to the act. The act has been applied to the National Guard when it is in federal service, to civilian employees of the Armed Forces, and to off-duty military personnel. The act probably only applies within the geographical confines of the United States, but the supplemental provisions of 10 U.S.C. Â§Â§ 371-382 appear to apply

worldwide. Finally, the act is a criminal statute under which there has been but a handful of known prosecutions. Although violations will on rare occasions result in the exclusion of evidence, the dismissal of criminal charges, or a civil cause of action, as a practical matter compliance is ordinarily the result of military self-restraint. This report provides an historical analysis of the use of the Armed Forces to execute domestic law and of the Posse Comitatus Act, including their apparent theoretical and constitutional underpinnings. The report then outlines the current application of the act as well as its statutory exceptions, and reviews the consequences of its violation. This report appears in abridged form as CRS Report RS20590, The Posse Comitatus Act and Related Matters: A Sketch.

Book Information

File Size: 449 KB

Print Length: 141 pages

Simultaneous Device Usage: Unlimited

Publisher: Congressional Research Service (August 16, 2012)

Publication Date: August 16, 2012

Sold by: Digital Services LLC

Language: English

ASIN: B00BUFLUFS

Text-to-Speech: Enabled

X-Ray: Not Enabled

Word Wise: Enabled

Lending: Not Enabled

Enhanced Typesetting: Enabled

Best Sellers Rank: #120,425 Paid in Kindle Store (See Top 100 Paid in Kindle Store) #6 in Kindle Store > Kindle eBooks > Law > Specialties > Military #15 in Books > Law > Specialties > Military #1265 in Kindle Store > Kindle eBooks > History > Military

Customer Reviews

I did not know it exist and what it limit the federal gov't to what it could do. most American don't know.

[Download to continue reading...](#)

The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law The Military Advantage, 2016 Edition: The Military.com Guide to Military and Veterans Benefits (Military Advantage: The Military.com Guide to Military and Veteran Benefits) Case Studies in Special

Education Law: No Child Left Behind Act and Individuals with Disabilities Education Improvement Act Walt Disney World For Military Families: Expert Advice By Military - For Military Drones: Their Many Civilian Uses and the U.S. Laws Surrounding Them. Hong Kong Internment, 1942-1945: Life in the Japanese Civilian Camp at Stanley (Royal Asiatic Society Hong Kong Studies Series) A Code To Keep: The True Story of America's Longest-Held Civilian POW in the Vietnam War (Hellgate Memories Series) Traveller Supplement 5: Civilian Vehicles (Traveller Sci-Fi Roleplaying) What Really Matters for Struggling Readers: Designing Research-Based Programs (3rd Edition) (What Really Matters Series) More Joel on Software: Further Thoughts on Diverse and Occasionally Related Matters That Will Prove of Interest to Software Developers, Designers, ... or Ill Luck, Work with Them in Some Capacity Innovative Teaching Strategies In Nursing And Related Health Professions (Bradshaw, Innovative Teaching Strategies in Nursing and Related Health Professions) Crs Computer-Related Syndrome: The Prevention & Treatment of Computer-Related Injuries ACT LIKE A LADY, THINK LIKE A MAN:By Steve Harvey:Act Like a Lady, Think Like a Man: What Men Really Think About Love, Relationships, Intimacy, and Commitment [Hardcover] 1st Edition The ADA Companion Guide: Understanding the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the Architectural Barriers Act (ABA) Barron's ACT with CD-ROM (Barron's Act (Book & CD-Rom)) The College Panda's ACT Essay: The Battle-tested Guide for ACT Writing Americans with Disabilities Act of 1990, Incorporating the Changes made by the ADA Amendments Act of 2008 The Essential Guide to the ACT Matrix: A Step-by-Step Approach to Using the ACT Matrix Model in Clinical Practice Use Now Dollhouse Wallpaper Vol 3: 6 Ready To Use Dollhouse Wallpapers To Decorate 6 Rooms; Full Color! (Use Now Dollhouse Series) Roget's Thesaurus of Words for Intellectuals: Synonyms, Antonyms, and Related Terms Every Smart Person Should Know How to Use

[Dmca](#)