

**The Posse Comitatus Act of 1878:
A Documentary History**

Compiled by

Stephen Young

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PREFACE

This volume is comprised of a number of key documents tracing the history and application of the Posse Comitatus Act of 1878.¹ The documents selected include materials that might assist researchers in compiling a legislative history of the statute, together with important Congressional reports, regulations, Executive Orders of the President of the United States, opinions of the Attorneys General of the United States, Department of Defense directives, armed forces regulations, and the opinions from the “Wounded Knee” cases. A select bibliography of additional resources is included at the end of the volume.

In the 125 years since the statute first became part of the law of the land it has been called upon on numerous occasions to help resolve the complex issues surrounding the use of the military in domestic law enforcement.² However, at no time has the act been more relevant than over the past two years. The events of September 11, 2001 precipitated an urgent need to improve homeland security and bring the fight against terrorism to the domestic front. The unavoidable need to prosecute a war against terrorism on U.S. soil coupled with the unrelated sniper shootings in the Washington, D.C. area in 2002 brought into sharp focus the purpose, application and limitations of the Posse Comitatus Act of 1878.³

Even before the events of the past two years the act had played a key role in actions such as the resolution of the “Wounded Knee” cases in the 1970’s, and the government’s war on drugs in the 1980’s. It is certain to be an important legal tool in future instances where the use of the military to resolve or assist in civilian law enforcement arises.

¹ 18 U.S.C. 1385 (2000).

² These instances are well documented in CHARLES DOYLE, *THE POSSE COMITATUS ACT & RELATED MATTERS: THE USE OF THE MILITARY TO EXECUTE CIVILIAN LAW* (Congressional Research Service, 2000).

³ OFFICE OF HOMELAND SECURITY, *NATIONAL STRATEGY FOR HOMELAND SECURITY* 47 (2002).

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Stephen Young

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