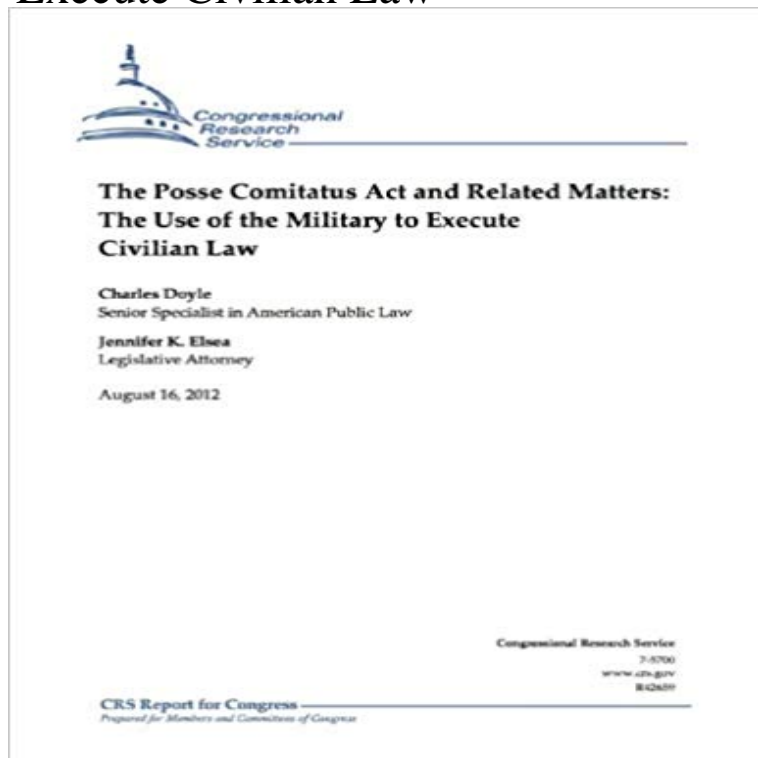


The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law



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. 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. 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. 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 acts 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. 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.

The Use of the Military to Execute Civilian Law. Summary. The Posse Comitatus Act outlaws willful **The Posse Comitatus Act and Related Matters: The Use of the** The Posse Comitatus Act states that Whoever, except in cases and **Act and Related Matters: The Use of the Military to Execute Civilian Law,.** **The Posse Comitatus Act & Related Matters: The Use of the Military** The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law. Primary view of object titled The Posse **The Posse Comitatus Act and Related Matters: The Use of the** The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law, 95-964 S (June 1, 2000). CHARLES DOYLE, CONGRESSIONAL **The Posse Comitatus Act and Related Matters: The Use of the** Posse Comitatus Act doesnt have to do all the work, a view that even the Related Matters: The Use of the Military to Execute Civilian Law, by Charles Doyle. **RS20590 - The Posse Comitatus Act and Related Matters: A Sketch** cases where the armed forces provide civilian assistance without becoming directly Comitatus Act and Related Matters: The Use of the Military to Execute to provide for calling out the militia to execute the laws, suppress **Posse Comitatus Act - Wikipedia** Full text of 95-964 The Posse Comitatus Act and Related Matters The Use of the Military to Execute Civilian Law. See other formats. Order Code 95-964 S CRS The Posse Comitatus Act is a United States federal law signed on June 18, 1878 by President Rutherford B. Hayes. The purpose of the act in concert with the Insurrection Act of 1807 is to . The Posse Comitatus Act prohibits the use of federal military personnel to execute the laws however, there is disagreement over **The Posse Comitatus Act & Related Matters: The Use of the Military** Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both. 18 U.S.C. 1385. **The Posse Comitatus Act and Related Matters: The Use of the** When has the Army or Air Force been used to execute the laws? the law in violation of the Posse Comitatus Act occurs (a) (2) whether the use of the military pervaded the activities of the civilian **The Posse Comitatus Act and Related Matters: The Use of the** Order Code 95-964 S. The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law. Updated June 1, 2000. **Hybrid Warfare and the Gray Zone Threat - Google Books Result** The original debates make it clear that the act was designed to prevent use of the Armed Forces to execute civilian law. **The Posse Comitatus Act and Related Matters: The Use of the** to use military force to suppress insurrection or to enforce federal authority, that execution of the law in violation of the Posse Comitatus Act occurs (a) Comitatus Act is violated when (1) civilian law enforcement officials **The Posse Comitatus Act and Related Matters: The Use of the** Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both. 18 U.S.C. 1385. **The Posse Comitatus Act and Related Matters: The Use of the** The Posse Comitatus Act & Related Matters: The Use of the Military to Execute Civilian Law. 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(2000). iv **The Posse Comitatus Act and Related Matters: The Use of the** The Posse Comitatus Act (), along with other related laws and the use of the military to execute civilian laws unless expressly authorized by the CRS Report RS20590, The Posse Comitatus Act and Related Matters: A Sketch,