



Written by [Joe Wolverton, II, J.D.](#) on October 30, 2009

## **Barack Obama Continues Bush Administration Policy Regarding Posse Comitatus**

It has been just over one year since the U.S. Army announced that the 3rd Infantry Division's 1st Brigade Combat Team was being placed under the direct control of the US Army Northern Command (NORTHCOM), and was being indefinitely reassigned as an "on-call federal response force" for emergencies of all sorts, natural and man-made, including terrorist attacks, within NORTHCOM's area of responsibility — the United States, Mexico, and Canada.



Although the assignment went mostly unheralded at the time, it marked the first time in the history of the United States that an active unit of the regular Army was placed under the immediate and exclusive command of NORTHCOM.

The number of uniformed soldiers assigned to this duty continues to increase annually and the force is estimated to reach a strength of 20,000 by the year 2011. This massive force will all be trained and equipped to "subdue unruly or dangerous individuals" and "help with civil unrest and crowd control." As usual, these directives are vague and could be applied to any number of scenarios. Furthermore, the critical question to be asked in light of such an arrangement is who will decide who is unruly or dangerous? Whoever is appointed the arbiter of such things will of necessity be feared as he will have 20,000 troops on alert and ready to quell these civil disturbances.

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This unconstitutional use of American military forces within the United States is back in the news as reports have recently been released reviewing the progress the team has made in training with other federal, state, and local peace officers and agencies. Constitutionlists will find these maneuvers worrisome as they are gross violations of the black letter and the spirit of the Posse Comitatus Act.

Posse Comitatus (18 USC § 1385) was a law passed in 1878 in response to the abuse of citizens by federal troops occupying the states of the former Confederacy during the period known as Reconstruction. In exchange for their votes in favor of the presidency of Rutherford B. Hayes, Southern Senators received the support of Republican Senators for the Posse Comitatus Act requiring federal troops to withdraw from southern garrisons, thus ending Reconstruction.

President Barack Obama marches on headlong, bent on disregarding this act and the applicable provisions of the Constitution in order to continue training the United States military to participate in purposefully undefined "emergency" situations within the borders of the United States. Recently he and Congress received an analysis of how well this unlawful cooperation between state and national government is progressing. By all accounts, NORTHCOM is withholding some critical information



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regarding the activities of this force. When it does release the required information, it does so slowly and clumsily.

In its defense, NORTHCOM commanders claim that the inconsistencies, mistakes, and delays are due to the difficulty they face in coordinating these exercises with the various states. In typical governmental “give them an inch and they’ll take a mile” fashion, NORTHCOM is complaining that unless they are given greater and tighter control over the state agencies and the armed forces with whom they are tasked with training that they will be unable to guarantee operational success, and it may in fact detrimentally impact the team’s ability to provide the services they have been ordered to provide. Unfortunately, NORTHCOM is training with numerous state and local forces. To date, more than 19 federal agencies and 17 states have participated in one or more of the seven “homeland security” exercises that NORTHCOM has conducted since 2005.

Not surprisingly, the Government Accountability Office (GAO) has examined NORTHCOM’s reports and agrees with the command’s assessment of the provenance of the difficulties they are encountering in the present arrangement, and they have accordingly suggested that states relinquish administration of their forces and agencies and cede management and command to NORTHCOM. There is fear among those zealous of the Constitution’s prohibition of commingling of federal and state forces that Democratic governors and legislators may tamely acquiesce to President Obama’s desires and thereby further debilitate the strength and sanctity of state sovereignty, the foundational principle of federalism, and the Tenth Amendment to the Constitution that protects it.

Reassuringly, there are those raising the warning voice regarding the training and quartering of federal troops on American soil for the purpose of law enforcement and controlling potential civil unrest, especially given the wide berth extant in such vague terms in the legislation that ostensibly restricts the sphere of the army’s power. Some opponents of the Obama administration’s ongoing and little-publicized violation of the Posse Comitatus Act see the entire set up as a behind-the-scenes deal between President Obama and Defense Secretary Robert Gates, who curiously retained his post after his previous employer left office. “While Obama and his team are making it sound as if they will use the military in a non-combative roll, part of the training being conducted is in urban warfare,” warned Mike Baker, a political strategist. He continued, “Obama appears oblivious to Posse Comitatus and to the US Constitution when it comes to using the military against civilians within US Borders.”

Heroically, there are local police officers who feel threatened by being placed on a short leash placed by the President in the hand of the U.S. Army. Former NYPD detective and U.S. Marine intelligence officer, Sid Frances has called upon the state houses and Governors to assert their constitutionally guaranteed sovereignty and outright refuse to place their state forces under the command of federal officers. “I cannot understand why the federal government is so intent on using such military force within our borders. It reminds me of the Branch Dividian massacre in Waco, Texas, when the feds used that deadly physical force based on false information.” Admonitions and fears such as these from legitimate sources with personal experience should be a clarion call to all Americans wary of their constitutional protections from government encroachment and weary of the daily usurpation of power by one presidential administration after another (of both parties, mind you). In this case the conglomeration of power is being reinforced with the magnificent might of the United States Armed Forces.

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