



Written by [Thomas R. Eddlem](#) on July 27, 2009

## Bush Considered Violating Posse Comitatus Law

President Bush considered ignoring the long-standing and explicit prohibition against using military forces within U.S. territory, the *New York Times* reported on July 25. The deployment of military forces against U.S. civilians was banned by the Posse Comitatus law, which was enacted shortly after Civil War reconstruction ended. President Bush reportedly considered using military forces to arrest five suspected terrorists near Buffalo, N.Y., in September 2002, despite the law.



The *New York Times* noted that “A decision to dispatch troops into the streets to make arrests has few precedents in American history, as both the Constitution and subsequent laws restrict the military from being used to conduct domestic raids and seize property.”

Though President Bush eventually decided not to use U.S. troops in that case, the U.S. Justice Department had concluded Bush had the power to engage the military on U.S. soil. The Justice Department memorandum, written by “torture lawyer” John Yoo and Robert J. Delahunty, [concluded](#) that despite Posse Comitatus “the president has ample constitutional and statutory authority to deploy the military against international or foreign terrorists operating within the United States.” John Yoo had been the U.S. attorney who authored the “torture memo,” a 2002 Justice Department memorandum that all but defined torture out of legal existence for detainees.

According to the *New York Times*, Vice President Dick Cheney pushed for President Bush to authorize the use of troops in that case, but was overruled by the President.



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