



Written by [Gary Benoit](#) on October 12, 2008

## U.S. Army Brigade On Call for Domestic Emergencies

Beginning the first of October for 12 months, the 1st Brigade Combat Team (BCT) will be under the day-to-day control of U.S. Army North, the Army service component of Northern Command. According to the [Army Times](#), "Helping 'people at home' may become a permanent part of the active Army." Although units were called up during Hurricane Katrina, this will be the first time an active-duty army unit will serve full-time in the United States.



Based out of Fort Stewart, Georgia, the brigade is training for a variety of Homeland Security tasks. "They may be called upon to help with civil unrest and crowd control or to deal with potentially horrific scenarios such as massive poisoning and chaos in response to a chemical, biological, radiological, nuclear or high-yield explosive, or CBRNE," states the *Army Times*. The John W. Warner Defense Authorization Act of 2006 has been interpreted to establish this full-time active-duty unit. The act allowed the president to use the military in major public emergencies.

The Defense Authorization Act contravened the Posse Comitatus Act, Title 18 of the U.S. Code (USC), Section 1385, which prohibits the "willful" use of any part of the Army or Air Force as "a posse comitatus or otherwise to execute the laws" except "in cases and under circumstances expressly authorized by the Constitution or Act of Congress." The intent of the Posse Comitatus Act was to prevent the use of the military to enforce police-state powers.

One of the few legislators to complain about the act at the time of its passage was Senator Patrick J. Leahy (D-Vt.), who warned that the measure virtually invites the White House to declare federal martial law. It "subverts solid, longstanding posse comitatus statutes that limit the military's involvement in law enforcement, thereby making it easier for the President to declare martial law," he said in remarks appearing in the *Congressional Record* on September 29, 2006.

On December 1 of that year, Jeff Stein, *Congressional Quarterly* national security editor, [described the potential abuses](#) of the Defense Authorization Act, which made the permanent posting of active-duty soldiers possible. The act "has a provocative provision called 'Use of the Armed Forces in Major Public Emergencies,'" which "seems to be about giving the federal government a far stronger hand in coordinating responses to [Hurricane] Katrina-like disasters," wrote Stein. "But on closer inspection, its language also alters the two-centuries-old Insurrection Act, which Congress passed in 1807 to limit the



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president's power to deploy troops within the United States ... 'to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy.'" "But the amended law takes the cuffs off" and "critics say it's a formula for executive branch mischief," Stein wrote, as "the new language adds 'natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident' to the list of conditions permitting the President to take over local authority - particularly 'if domestic violence has occurred to such an extent that the constituted authorities of the State or possession are incapable of maintaining public order.'"

A standing army contravenes the original meaning of the Second Amendment, which instead guaranteed "a well regulated Militia" which it deemed is "necessary to the security of a free State." During the floor debate over the Second Amendment, Rep. Elbridge Gerry of Massachusetts, a signer of the Declaration of Independence, and later vice president of the United States from 1813-1814, spoke out: "What, Sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty.... Whenever Governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins."

The John W. Warner Defense Authorization Act of 2006, named for the longtime chairman of the House Armed Services Committee, was signed by President Bush on October 17, 2006. The part undermining the Posse Comitatus Act was subsequently repealed in the Defense Authorization Act for Fiscal Year 2008, but President Bush attached a signing statement to the latter act saying that he did not feel bound by the change. "Provisions of the Act ... purport to impose requirements that could inhibit the President's ability to carry out his constitutional obligations to take care that the laws be faithfully executed, to protect national security, to supervise the executive branch, and to execute his authority as Commander in Chief. The executive branch shall construe such provisions in a manner consistent with the constitutional authority of the President," he said in his January 28, 2008 signing statement.

— *Photo: United States Army Central*



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