

Sen. Warner Supports Domestic Use of Military

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Senator Warner Responds to Concern Over Posse Comitatus Violation by Proposing to Change the Law

A citizen of Virginia named Moya Atkinson wrote to Senator John Warner to express concern over the recent violation of the Posse Comitatus Act created by the assigning of U.S. soldiers to duty within the United States, reported by the [Army Times](#) as intended for “crowd control” among other duties. This, like other changes imposed by [President Bush](#), of course violates the Posse Comitatus Act. It also served to strengthen the threats of martial law that [Congressman Brad Sherman](#) reported the White House making to Congress members in order to win their support for the \$780 billion give-away to Wall Street.

Warner sent back the following note, proposing that, rather than changing the president’s behavior to comply with the law, we should — as with warrantless spying, habeas corpus, etc. — change the law to comply with the president’s behavior:

Thank you for contacting me regarding your opposition to Northern Command dedicating a combat infantry team to work within the United States. I appreciate your thoughtful inquiry on this important matter.

As you may know, the Northern Command has assigned the 1st Brigade Combat Team of the 3rd Infantry to deal with catastrophes in the United States. While the unit would not take over as the lead, the Army reports that this unit would be deployed to help local, state, or federal agencies deal with matters such as chemical, biological, radiological, nuclear, and high-yield explosive (CBRNE) incidents. The unit will be based in Fort Stewart, Georgia, and will focus primarily on logistics and support for local police and rescue personnel.

Looking back, the Hurricane Katrina relief efforts highlighted the important role our military plays during domestic crises. From providing security in destroyed neighborhoods, to treating patients aboard naval vessels, to rebuilding damaged levees and unwatering New Orleans, the military has performed vital work that no other federal or state entity has the capacity to undertake.

Notwithstanding these tremendous achievements, I am deeply concerned that the Department of Defense and the President may not have authority to use active duty personnel in the most effective manner. In our federal system, we normally, and rightly, depend upon state and local authorities to maintain order and protect the public. The National Guard, operating under Title 32 of the U.S. Code, is the primary military organization authorized to employ police powers in times of crisis. However, in a situation of the magnitude of Hurricane Katrina, the level of destruction, coupled with the difficulty in maintaining order, brings into question the prohibition on using federal active duty military personnel, operating under Title 10 of the U.S. Code, to perform law

enforcement duties.

I believe we must review the 1878 Posse Comitatus Act and similar provisions that limit the role of the active duty military to ensure that every available asset is properly employed in any type of future emergency situation. Title 18, Section 1385 of the U.S. Code, commonly referred to as the Posse Comitatus Act, prevents the armed forces from becoming involved in law enforcement activities for which, in most cases, they are not specifically trained or equipped. Posse Comitatus is largely rooted in historical tradition that prohibits military involvement in civilian affairs.

To be clear, I do not believe that U.S. law pertaining to this matter needs to be entirely rewritten. I do, however, think it is necessary that we review the regulations governing use of military personnel in domestic operations in order to better understand how all of our military assets can best assist during emergency situations.

Once again, thank you for contacting me on this issue.

With kind regards, I am

Sincerely,

John Warner
United States Senator

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