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## *Posse Comitatus Act Limits Armed Services at Home*

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The Posse Comitatus Act makes it a crime to use the Army or Air Force as a domestic police force in most circumstances.

The law, which was enacted in 1878, was intended to end the use of federal troops to supervise elections in the former Confederate states. More generally, though, it reflected an uneasiness with a military role in domestic law enforcement, and a philosophical commitment to subordinating military power to civilian authority.

"Posse comitatus," literally "the force of the county," means a body of citizens called together to suppress riots, pursue felons or otherwise help enforce the laws. The American frontier term "posse" is a shortened form of the phrase. In early American history and in the Old West, sheriffs and other law enforcement officers would often round up able-bodied men -- civilians and military personnel -- to capture criminals and otherwise enforce the law.

After the Civil War, Congress expanded the role of the military in the former Confederacy. Between 1866 and 1877, federal troops in the South not only guarded polling places but also arrested members of the Ku Klux Klan, disrupted illegal whiskey production and put down labor unrest.

As Reconstruction ended, Congress enacted the law in reaction to excesses by these troops and the belief among some Democrats that the 1876 presidential election, which eventually put a Republican, Rutherford B. Hayes, in office, was "stolen" from Samuel J. Tilden.

The law has not been significantly amended since.

But Congress is free to enact exceptions, and it has allowed the military a role in putting down insurrections, in assisting the Secret Service with its protective duties and in providing limited help in drug interdiction.

The courts, too, have recognized exceptions to the law's seemingly categorical command. Most significantly, judges have drawn distinctions between direct and active participation in traditional civilian law enforcement, like making arrests or conducting searches, and more passive assistance, like providing equipment, training and advice. Only the former is forbidden.

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