

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. CON. RES. 274

Reaffirming the continued importance and applicability of the Posse  
Comitatus Act.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2005

Ms. MCKINNEY submitted the following concurrent resolution; which was  
referred to the Committee on the Judiciary

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## CONCURRENT RESOLUTION

Reaffirming the continued importance and applicability of  
the Posse Comitatus Act.

Whereas section 1385 of title 18 (commonly known as the  
“Posse Comitatus Act”) prohibits the use of the Armed  
Forces as a posse comitatus to execute the laws except  
in cases and under circumstances expressly authorized by  
the Constitution or Act of Congress;

Whereas enacted in 1878, the Posse Comitatus Act was ex-  
pressly intended to prevent United States Marshals, on  
their own initiative, from calling on the Army for assist-  
ance in enforcing Federal law;

Whereas the Posse Comitatus Act has served the Nation well  
in limiting the use of the Armed Forces to enforce the  
law;

Whereas nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency; and

Whereas existing laws, including chapter 15 of title 10 (commonly known as the "Insurrection Act"), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order: Now, therefore, be it

1        *Resolved by the House of Representatives (the Senate*  
 2 *concurring)*, That Congress reaffirms the continued im-  
 3 portance of section 1385 of title 18, and it is the sense  
 4 of Congress that nothing in this chapter should be con-  
 5 strued to alter the applicability of such section to any use  
 6 of the Armed Forces as a posse comitatus to execute the  
 7 laws.

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