



# GRAND LODGE FRATERNAL ORDER OF POLICE®

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CHUCK CANTERBURY  
NATIONAL PRESIDENT

JAMES O. PASCO, JR.  
EXECUTIVE DIRECTOR

30 April 2007

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman,

I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our support for S. 513, which would repeal Section 1076 of H.R. 5122, the John Warner National Defense Authorization Act for Fiscal Year 2007 (PL 109-364).

The section, known as the "Insurrection Act Rider," unwisely expands the authority of the President to use the U.S. Armed Forces for domestic law enforcement purposes during emergency situations without consultation and without the consent of a governor or other local law enforcement authorities. This section was adopted without any debate or meaningful input from the State and local law enforcement community.

The Insurrection Act was intended to give the President the power to declare a form of martial law during times of violence, when State and local entities were resisting lawful orders or authority. When the Act is invoked, *posse comitatus* does not apply and the military and State units of the National Guard can carry out law enforcement functions without the consent of a governor or other State or local official. This is a narrow and specific exception to the proud tradition of our nation to prohibit the use of the use of the military to enforce domestic laws. The FOP shares your concerns with the expansion of this Presidential power to include situations far beyond an insurrection such as a natural disaster, epidemic, terrorist attack, or, as the language states "other conditions." Because of these concerns, we support the repeal of Section 1076 as provided for in your bill, S. 513.

The U.S. military is the finest in the world, but it is ill-suited to enforce martial law in local communities here in our own country. For these tasks, our nation's local, State, and Federal law enforcement are second to none, even in crisis situations. Short of an armed and active insurrection, our military personnel should not be used to displace State and local law enforcement.

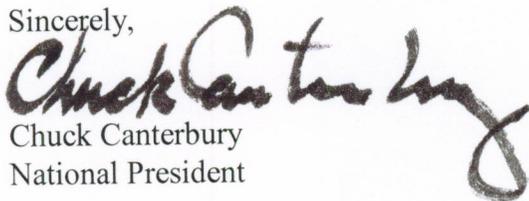
—BUILDING ON A PROUD TRADITION—

Likewise, the National Guard, which is an integral part of many response plans to a host of critical incident scenarios, lacks the necessary training to keep the peace and enforce the laws in our streets and neighborhoods. State and local law enforcement may work very well together with their National Guard counterparts, but if the Guardsmen are Federalized and called into service without the consultation or consent of the governor or the State and local law enforcement authorities on the ground, the confusion which may occur could make a bad situation worse, not better.

Ten times in the last fifty years the Act has been invoked by Presidents and on every occasion in the last forty, it was done with the consent of the governors, who made use of other authorities under Federal law to invite U.S. military forces to assist when they are needed. Without this coordination, the Act becomes a hindrance, not a help, to State and local authorities who are trying to bring a crisis under control by expanding its scope to encompass situations which, for the entire history of the Republic, have fallen to the governor and State and local law enforcement.

On behalf of the more than 325,000 members of the Fraternal Order of Police, I want to thank you for your leadership on this issue. I look forward to working with you and your staff to get the bill passed. If I can be of any further assistance, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

A handwritten signature in black ink that reads "Chuck Canterbury". The signature is written in a cursive, flowing style with a large, prominent loop at the end of the last name.

Chuck Canterbury  
National President