

*For Immediate Release
Friday, October 26, 2005
Contact: John Judge 202-225-2605*

Congresswoman Cynthia McKinney Calls on Congress to Renew Commitment to Posse Comitatus Act

(Washington, DC) – In the wake of the attacks on September 11, 2001, the Bush administration has made changes in laws and administrative powers that undermine the most basic Constitutional principles and protected rights of citizens in a democracy.

Recently, both President Bush and Senator Mark Warner (VA) have renewed calls to undermine or reverse the Posse Comitatus Act of 1878, which re-established the Constitutional principle and practice of separating military and police functions in a democracy. The experience of the founding fathers with the British model that combined the functions was enough to cause them to set that division sharply in administrative powers and civilian command of the military.

This principle began to be eroded in the period following the end of the Civil War, and the effective occupation of areas of the south by federal troops who were holding military tribunals, carrying out executions of citizens and usurping local police and judicial control. Their excesses came to the attention of the post-war Congress and they passed the Posse Comitatus Act to forbid the military being used to enforce laws.

President Bush has ample authority under provisions of existing laws on disaster response to mobilize and command any and all federal assets, including military forces. State directed National Guard units have always worked in conjunction with federal troops and are authorized under federal and state laws to use force to protect lives, property and public safety during a declared emergency. Police functions have been wisely left to local police and state National Guard forces, except when the situation was so dire they could not function.

In his most recent call to use federal troops in a martial law situation is based on the projected need to quarantine those affected by a virulent and quick-spreading flu or virus, such as the Asian flu, but again state, local and federal health officials already have powers to quarantine areas in such a situation. There is no need to federalize all responses to emergencies, and many reasons not to.

“I am calling on Congress to renew their commitment to the Posse Comitatus Act,” McKinney said, “and to support the principle of separation of military and police functions, and the existing laws regarding federalization of resources during emergencies, as they did in 2003. Bush did not need those authorities to move troops and federal assets into New Orleans and the Gulf States in the wake of Hurricane Katrina, and he does not need them for other public health emergencies. Existing law is sufficient, and the Congress needs to investigate the New Orleans response by FEMA and government troops, as well as examine and reject the Bush administration’s claims that they need more power than the Constitution envisions or allows.”

#####