

SUSPENSION OF POSSE COMITATUS FOR 9/11 ANNIVERSARY?

Remember the OLC memo eviscerating the Fourth Amendment—the one they claimed was only ever hypothetical? Well, Cheney was itching to try it out to arrest the Lackawanna Six.

Top Bush administration officials in 2002 debated testing the Constitution by sending American troops into the suburbs of Buffalo to arrest a group of men suspected of plotting with Al Qaeda, according to former administration officials.

Some of the advisers to President George W. Bush, including Vice President Dick Cheney, argued that a president had the power to use the military on domestic soil to sweep up the terrorism suspects, who came to be known as the Lackawanna Six, and declare them enemy combatants.

Mr. Bush ultimately decided against the proposal to use military force.

[snip]

The Fourth Amendment bans “unreasonable” searches and seizures without probable cause. And the Posse Comitatus Act of 1878 generally prohibits the military from acting in a law enforcement capacity.

In the discussions, Mr. Cheney and others cited an Oct. 23, 2001, memorandum from the Justice Department that, using a broad interpretation of presidential authority, argued that the domestic use of the military against Al Qaeda would be legal because it served a national security, rather than a law enforcement, purpose.

Unless I missed it, NYT didn't tell you **when** Dick Cheney was proposing to suspend posse comitatus. But as it happens, most of the Lackawanna Six got arrested on September 14, 2002.

Which to me is just as interesting as the news that Cheney was pushing to do this: Imagine how well it would work to impose military rule just in time for the first anniversary of 9/11, and just as you're rolling out the case for the Iraq War?

Update: scout prime reminds us that when it came to saving brown people, BushCo hesitated, citing the Constitution.