AMENDMENT NO.__________ Calendar No._____

Purpose: To limit the use of Federal law enforcement officers for crowd control.


S. 4049

To authorize appropriations for fiscal year 2021 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on ________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MERKLEY (for himself, Mr. WYDEN, and Mr. MURPHY) to the amendment (No. 2301) proposed by Mr. INHOFE

Viz:

1 At the appropriate place in title X, insert the following:

3 SEC. __. LIMITATION ON USE OF FEDERAL LAW ENFORCEMENT OFFICERS FOR CROWD CONTROL.

4 (a) DEFINITIONS.—In this section—

6 (1) the term “Federal law enforcement officer”

7 means—

(A) an employee or officer in a position in

the executive, legislative, or judicial branch of
the Federal Government who is authorized by law to engage in or supervise a law enforcement function; or

(B) an employee or officer of a contractor or subcontractor (at any tier) of an agency in the executive, legislative, or judicial branch of the Federal Government who is authorized by law or under the contract with the agency to engage in or supervise a law enforcement function;

(2) the term “law enforcement function” means the prevention, detection, or investigation of, or the prosecution or incarceration of any person for, any violation of law; and

(3) the term “member of an armed force” means a member of any of the armed forces, as defined in section 101(a)(4) of title 10, United States Code, or a member of the National Guard, as defined in section 101(3) of title 32, United States Code.

(b) REQUIRED IDENTIFICATION.—

(1) IN GENERAL.—Each Federal law enforcement officer or member of an armed force who is engaged in any form of crowd control, riot control, or arrest or detainment of individuals engaged in an
act of civil disobedience, demonstration, protest, or riot in the United States shall at all times display identifying information in a clearly visible fashion, which shall include the Federal agency and the last name or unique identifier of the Federal law enforce-
ment officer or the armed force, last name or unique identifier, and rank of the member of an armed force, respectively.

(2) SPECIFIC PROHIBITIONS.—

(A) COVERING OF IDENTIFYING INFORMATION.—A Federal law enforcement officer or member of an armed force may not tape over or otherwise obscure or conceal the identifying information required under paragraph (1) while the officer or member is engaged in any form of law enforcement activity described in paragraph (1).

(B) USE OF UNMARKED VEHICLES.—A Federal law enforcement officer or member of an armed force may not use an unmarked vehi-
cle for the apprehension, detention, or arrest of civilians while the officer or member is engaged in any form of law enforcement activity de-
scribed in paragraph (1).

(c) LIMITATION ON CROWD CONTROL AUTHORITY.—
(1) IN GENERAL.—Except as provided in paragraph (2), a Federal law enforcement officer or member of an armed force may only be authorized to perform any form of crowd control, riot control, or arrest or detainment of individuals engaged in an act of civil disobedience, demonstration, protest, or riot on Federal property or in the immediate vicinity thereof, which shall include the sidewalk and the public street immediately adjacent to any Federal building or property.

(2) EXCEPTIONS.—

(A) STATE AND LOCAL REQUEST FOR ASSISTANCE.—Paragraph (1) shall not apply to a Federal law enforcement officer or member of an armed force if the Governor of a State and the head of a unit of local government jointly request, in writing, Federal law enforcement support.

(B) INSURRECTION ACT.—If chapter 13 of title 10, United States Code (commonly known as the “Insurrection Act of 1807”) is invoked, paragraph (1) shall not apply.

(d) LIMITATION ON ARREST AUTHORITY.—It shall be unlawful for a Federal law enforcement officer or member of an armed force to arrest an individual in the United
States if the Federal law enforcement officer or member of an armed force is conducting a law enforcement function in violation of subsection (b) or (c).

(e) NOTICE TO THE PUBLIC.—Not later than 24 hours after deployment of a Federal law enforcement officer or member of an armed force in response to any crowd control incident, riot, or public disturbance, the Federal agency or armed force responsible for such deployment shall publish prominent public notice on that public facing website of the agency or armed force that includes the following information:

(1) The date of deployment of personnel for crowd control purposes.

(2) The number of Federal law enforcement officers of the agency or members of the armed force in each city, town, or locality functioning in a law enforcement capacity.

(3) A description of the specific nature of the mission.

(4) The location of any civilians being detained by the Federal law enforcement officers or members of the armed force deployed, and under whose custody the civilians are being held.
(5) A copy of a written request for assistance described in subsection (e)(2)(A), if such request was made.