

AMENDMENT NO. _____ Calendar No. _____

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

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

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:
2

3 **SEC. ____ . LIMITATION ON USE OF FEDERAL LAW ENFORCEMENT OFFICERS FOR CROWD CONTROL.**
4

5 (a) DEFINITIONS.—In this section—

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

8 (A) an employee or officer in a position in
9 the executive, legislative, or judicial branch of

1 the Federal Government who is authorized by
2 law to engage in or supervise a law enforcement
3 function; or

4 (B) an employee or officer of a contractor
5 or subcontractor (at any tier) of an agency in
6 the executive, legislative, or judicial branch of
7 the Federal Government who is authorized by
8 law or under the contract with the agency to
9 engage in or supervise a law enforcement func-
10 tion;

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

15 (3) the term “member of an armed force”
16 means a member of any of the armed forces, as de-
17 fined in section 101(a)(4) of title 10, United States
18 Code, or a member of the National Guard, as de-
19 fined in section 101(3) of title 32, United States
20 Code.

21 (b) REQUIRED IDENTIFICATION.—

22 (1) IN GENERAL.—Each Federal law enforce-
23 ment officer or member of an armed force who is en-
24 gaged in any form of crowd control, riot control, or
25 arrest or detainment of individuals engaged in an

1 act of civil disobedience, demonstration, protest, or
2 riot in the United States shall at all times display
3 identifying information in a clearly visible fashion,
4 which shall include the Federal agency and the last
5 name or unique identifier of the Federal law enforce-
6 ment officer or the armed force, last name or unique
7 identifier, and rank of the member of an armed
8 force, respectively.

9 (2) SPECIFIC PROHIBITIONS.—

10 (A) COVERING OF IDENTIFYING INFORMA-
11 TION.—A Federal law enforcement officer or
12 member of an armed force may not tape over
13 or otherwise obscure or conceal the identifying
14 information required under paragraph (1) while
15 the officer or member is engaged in any form
16 of law enforcement activity described in para-
17 graph (1).

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

25 (c) LIMITATION ON CROWD CONTROL AUTHORITY.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), a Federal law enforcement officer or
3 member of an armed force may only be authorized
4 to perform any form of crowd control, riot control,
5 or arrest or detainment of individuals engaged in an
6 act of civil disobedience, demonstration, protest, or
7 riot on Federal property or in the immediate vicinity
8 thereof, which shall include the sidewalk and the
9 public street immediately adjacent to any Federal
10 building or property.

11 (2) EXCEPTIONS.—

12 (A) STATE AND LOCAL REQUEST FOR AS-
13 SISTANCE.—Paragraph (1) shall not apply to a
14 Federal law enforcement officer or member of
15 an armed force if the Governor of a State and
16 the head of a unit of local government jointly
17 request, in writing, Federal law enforcement
18 support.

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

23 (d) LIMITATION ON ARREST AUTHORITY.—It shall be
24 unlawful for a Federal law enforcement officer or member
25 of an armed force to arrest an individual in the United

1 States if the Federal law enforcement officer or member
2 of an armed force is conducting a law enforcement func-
3 tion in violation of subsection (b) or (c).

4 (e) NOTICE TO THE PUBLIC.—Not later than 24
5 hours after deployment of a Federal law enforcement offi-
6 cer or member of an armed force in response to any crowd
7 control incident, riot, or public disturbance, the Federal
8 agency or armed force responsible for such deployment
9 shall publish prominent public notice on that public facing
10 website of the agency or armed force that includes the fol-
11 lowing information:

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

14 (2) The number of Federal law enforcement of-
15 ficers of the agency or members of the armed force
16 in each city, town, or locality functioning in a law
17 enforcement capacity.

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

20 (4) The location of any civilians being detained
21 by the Federal law enforcement officers or members
22 of the armed force deployed, and under whose cus-
23 tody the civilians are being held.

1 (5) A copy of a written request for assistance
2 described in subsection (c)(2)(A), if such request
3 was made.