116TH CONGRESS
1ST SESSION

H. R. 4289

To require Federal law enforcement agencies to report on cases of missing or murdered Indians, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 2019

Ms. HAALAND (for herself, Ms. DAVIDS of Kansas, Mr. COLE, Mr. MULLIN, Mr. YOUNG, Mr. O’HALLERAN, Mr. COOK, Mr. GALLEGEO, Mr. NEWHOUSE, Mrs. TORRES of California, and Ms. MOORE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Natural Resources, Energy and Commerce, and Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require Federal law enforcement agencies to report on cases of missing or murdered Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Bridging Agency Data Gaps and Ensuring Safety for Native Communities Act” or the “BADGES for Native Communities Act”.


(b) **Table of Contents.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

**TITLE I—BRIDGING AGENCY DATA GAPS**

Sec. 101. Federal law enforcement database reporting requirements.
Sec. 102. National Missing and Unidentified Persons System Tribal liaison.
Sec. 103. Law enforcement data sharing with Indian tribes.
Sec. 104. Report on Indian country law enforcement personnel resources and need.

**TITLE II—ENSURING SAFETY FOR NATIVE COMMUNITIES**

Sec. 201. Demonstration program on Bureau of Indian Affairs law enforcement employment background checks.
Sec. 202. Missing and murdered response coordination grant program.
Sec. 203. GAO study on Federal law enforcement agency evidence collection, handling, and processing.
Sec. 204. Bureau of Indian Affairs and Tribal law enforcement officer counseling resources interdepartmental coordination.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Director of the Office of Justice Services.

(2) **FEDERAL LAW ENFORCEMENT AGENCY.**—The term “Federal law enforcement agency” means the Bureau of Indian Affairs direct-service police, the Federal Bureau of Investigation, and any other Federal law enforcement agency that—

(A) has jurisdiction over crimes in Indian country; or

(B) investigates missing persons cases of interest to Indian tribes, murder cases of inter-
est to Indian tribes, or unidentified remains
cases of interest to Indian tribes.

(3) INDIAN.—The term “Indian” has the mean-
ing given the term in section 4 of the Indian Self-
Determination and Education Assistance Act (25

(4) INDIAN COUNTRY.—The term “Indian coun-
try” has the meaning given the term in section 1151
of title 18, United States Code.

(5) INDIAN LAND.—The term “Indian land”
has the meaning given the term “Indian lands” in
section 3 of the Native American Business Develop-
ment, Trade Promotion, and Tourism Act of 2000

(6) INDIAN TRIBE.—The term “Indian tribe”
has the meaning given the term in section 4 of the
Indian Self-Determination and Education Assistance

(7) MANSLAUGHTER.—The term “man-
slaughter” has the meaning given the term in sec-
section 1112 of title 18, United States Code.

(8) MISSING.—The term “missing” has the
meaning determined by the applicable Federal law
enforcement agency.
(9) **Missing persons case of interest to Indian tribes.**—The term “missing persons case of interest to Indian tribes” means a case involving—

(A) a missing Indian; or

(B) a missing person whose last known location is believed to be on, in, or near Indian land.

(10) **Murder.**—The term “murder” has the meaning given the term in section 1111 of title 18, United States Code.

(11) **Murder case of interest to Indian tribes.**—The term “murder case of interest to Indian tribes” means a case involving—

(A) a murdered Indian; or

(B) a person murdered on, in, or near Indian land.

(12) **Murdered.**—The term “murdered”, with respect to a person, means the person was the victim of—

(A) murder; or

(B) manslaughter.

(13) **National crime information databases.**—The term “national crime information databases” has the meaning given the term in section 534(f)(3) of title 28, United States Code.
(14) Relevant Tribal Organization.—The term “relevant tribal organization” means, as applicable—

(A) a tribal organization; and

(B) a national or regional organization that—

(i) represents a substantial Indian constituency; and

(ii) has expertise in the fields of—

(I) human trafficking of Indians;

(II) human trafficking on Indian lands;

(III) violence against Indian women and children; or

(IV) Tribal justice systems.

(15) Secretary.—The term “Secretary” means the Secretary of the Interior.

(16) Tribal Justice Official.—The term “tribal justice official” has the meaning given the term in section 2 of the Indian Law Enforcement Reform Act (25 U.S.C. 2801).

(17) Tribal Organization.—The term “tribal organization” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).
(18) **Unidentified remains case of interest to Indian tribes.**—The term “unidentified remains case of interest to Indian tribes” means a case involving—

(A) unidentified Indian remains; or

(B) unidentified remains found on, in, or near Indian land.

**TITLE I—BRIDGING AGENCY DATA GAPS**

**SEC. 101. FEDERAL LAW ENFORCEMENT DATABASE REPORTING REQUIREMENTS.**

(a) In General.—Section 151(a) of the Sex Offender Registration and Notification Act (34 U.S.C. 20961(a)) is amended—

(1) in paragraph (1), by striking “and” after the semicolon;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) the National Missing and Unidentified Persons System, to be used by a person accessing the System only within the scope of the work of the person in assisting or supporting law enforcement
efforts to solve missing, unidentified, and unclaimed
person cases across the United States; and”.

(b) Sharing of Information.—Not later than 2
years after the date of enactment of this Act, the Attorney
General shall, in a manner that maintains the integrity
of confidential, private, and law enforcement sensitive in-
formation, provide for information on missing persons and
unidentified remains contained in national crime informa-
tion databases to be transmitted to, entered in, and other-
wise shared with the National Missing and Unidentified
Persons System.

(c) Temporary Reporting Requirements.—Until
such time as the data sharing procedures required under
subsection (b) are in effect, each Federal law enforcement
agency shall enter into the National Missing and Unidenti-
fied Persons System each missing persons case of interest
to Indian tribes and each unidentified remains case of in-
terest to Indian tribes reported to or investigated by the
Federal law enforcement agency.

(d) Coordination with NamUs Tribal Liai-
son.—The Director and the Director of the Federal Bu-
reau of Investigation shall each appoint a liaison to coordi-
nate with the one or more Tribal liaisons appointed under
section (4)(a) to ensure that—
all missing persons cases of interest to Indian tribes and all unidentified remains cases of interest to Indian tribes are fully captured in the National Missing and Unidentified Persons System; and

(2) Indian tribes are aware of, and able to access, information in the National Missing and Unidentified Persons System.

*SEC. 102. NATIONAL MISSING AND UNIDENTIFIED PERSONS SYSTEM TRIBAL LIAISON.*

(a) APPOINTMENT.—The Attorney General, acting through the Director of the National Institute of Justice, shall appoint one or more Tribal liaisons for the National Missing and Unidentified Persons System.

(b) DUTIES.—The duties of a Tribal liaison appointed under subsection (a) shall include—

(1) coordinating the reporting of information relating to missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes;

(2) consulting and coordinating with Indian tribes and relevant tribal organizations to address the reporting, documentation, and tracking of missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes;
(3) developing working relationships, and maintaining communication, with Indian tribes and relevant tribal organizations;

(4) providing technical assistance and training to Indian tribes and relevant tribal organizations, victim service advocates, medical examiners, and tribal justice officials regarding—

(A) the gathering and reporting of information to the National Missing and Unidentified Persons System; and

(B) working with non-Tribal law enforcement agencies to ensure all missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes are reported to the National Missing and Unidentified Persons System;

(5) coordinating with the Office of Tribal Justice and the Office of Justice Services, as necessary; and

(6) conducting other training, information gathering, and outreach activities to improve resolution of missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes.

(c) REPORTING AND TRANSPARENCY.—
(1) **ANNUAL REPORTS TO CONGRESS.**—During the 3-year period beginning on the date of enactment of this Act, the Attorney General, acting through the Director of the National Institute of Justice, shall submit to the Committees on Indian Affairs and the Judiciary of the Senate and the Committees on Natural Resources and the Judiciary of the House of Representatives an annual report—

(A) describing the activities and accomplishments of the one or more Tribal liaisons appointed under subsection (a) during the 1-year period preceding the date of the report; and

(B) summarizing—

(i) the number of missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes listed in the National Missing and Unidentified Persons System;

(ii) the percentage of missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes closed during the 1-year period preceding the date of the report; and

(iii) the reasons for those closures.
(2) Public transparency.—Annually, the Attorney General, acting through the Director of the National Institute of Justice, shall publish on a website publicly accessible information—

(A) describing the activities and accomplishments of the one or more Tribal liaisons appointed under subsection (a) during the 1-year period preceding the date of the publication; and

(B) summarizing—

(i) the number of missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes listed in the National Missing and Unidentified Persons System;

(ii) the percentage of missing persons cases of interest to Indian tribes and unidentified remains cases of interest to Indian tribes closed during the 1-year period preceding the date of the report; and

(iii) the reasons for those closures.

SEC. 103. LAW ENFORCEMENT DATA SHARING WITH INDIAN TRIBES.

(a) Access to National Crime Information Databases by Tribes.—Section 233(b) of the Tribal
Law and Order Act of 2010 (34 U.S.C. 41107) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Attorney General shall ensure that—

“(A) tribal law enforcement officials that meet applicable Federal or State requirements shall be permitted access to national crime information databases;

“(B) technical assistance and training is provided to Bureau of Indian Affairs and tribal law enforcement agencies to gain access to, and the ability to use and input information into, the National Crime Information Center and other national crime information databases pursuant to section 534 of title 28, United States Code; and

“(C) the Federal Bureau of Investigation coordinates with the Office of Justice Services to ensure tribal law enforcement agencies are assigned appropriate credentials or ORI numbers for uniform crime reporting purposes.”; and
(2) in paragraph (3), by striking “with criminal jurisdiction over Indian country”.

(b) ACQUISITION, PRESERVATION, AND EXCHANGE OF IDENTIFICATION RECORDS AND INFORMATION.—Section 534(d) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking “The Attorney General” and inserting the following:

“(1) IN GENERAL.—The Attorney General”;

and

(3) by adding at the end the following:

“(2) TRIBAL ACCESS PROGRAM.—

“(A) IN GENERAL.—The Attorney General shall establish a program, to be known as the ‘Tribal Access Program’, to enhance the ability of tribal governments to access and enter information into Federal criminal information databases under this section.

“(B) AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—There is authorized to be appropriated to carry out the
Tribal Access Program under subpara-
graph (A) $3,000,000 for each of fiscal
years 2020 through 2024, to remain avail-
able until expended.

“(ii) ADDITIONAL FUNDING.—The At-
torney General may use to carry out the
Tribal Access Program under subpara-
graph (A) any balances remaining for the
account under the heading ‘VIOLENCE
AGAINST WOMEN PREVENTION AND PROS-
ECUTION PROGRAMS’ under the heading
‘STATE AND LOCAL LAW ENFORCEMENT
ACTIVITIES OFFICE ON VIOLENCE
AGAINST WOMEN’ of the Department of
Justice from appropriations for full fiscal
years prior to the date of enactment of the
Bridging Agency Data Gaps and Ensuring
Safety for Native Communities Act.

“(3) INFORMATION SHARING.—To the extent
otherwise permitted by law, any report issued as a
result of the analysis of information entered into
Federal criminal information databases or obtained
from Federal criminal databases, including for the
purpose of conducting background checks, shall be
shared with each Indian tribe of jurisdiction.”.
SEC. 104. REPORT ON INDIAN COUNTRY LAW ENFORCEMENT PERSONNEL RESOURCES AND NEED.

(a) Definition of DOJ Law Enforcement Agency.—In this section, the term “DOJ law enforcement agency” means each of—

(1) the Federal Bureau of Investigation;

(2) the Drug Enforcement Administration;

(3) the United States Marshals Service;

(4) the Bureau of Alcohol, Tobacco, Firearms and Explosives; and

(5) the Offices of the United States Attorneys.

(b) Report.—Each fiscal year, the Attorney General shall submit to the appropriate committees of Congress a report describing for that fiscal year—

(1) the number of full-time employees of each DOJ law enforcement agency that are assigned to work on criminal investigations and prosecutions in Indian country;

(2) an estimate of the average caseload of—

(A) the full-time employees described in paragraph (1); compared to

(B) the other full-time employees at the respective DOJ law enforcement agency that are assigned to work on criminal investigations and prosecutions; and
(3) an explanation for any differences in the average caseloads identified under subparagraphs (A) and (B) of paragraph (2).

TITLE II—ENSURING SAFETY FOR NATIVE COMMUNITIES

SEC. 201. DEMONSTRATION PROGRAM ON BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT EMPLOYMENT BACKGROUND CHECKS.

(a) Establishment of Program.—

(1) In general.—The Secretary shall establish a demonstration program for the purpose of conducting or adjudicating, in coordination with the Director of the Bureau of Indian Affairs, personnel background investigations for applicants for law enforcement positions in the Bureau of Indian Affairs.

(2) Background investigations and security clearance determinations.—

(A) BIA investigations.—As part of the demonstration program established under paragraph (1), the Secretary may carry out a background investigation, security clearance determination, or both a background investigation and a security clearance determination for an applicant for a law enforcement position in the Bureau of Indian Affairs.
(B) USE OF PREVIOUS INVESTIGATIONS AND DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), as part of the demonstration program established under paragraph (1), the Secretary, in adjudicating background investigations for applicants for law enforcement positions in the Bureau of Indian Affairs, shall consider previous background investigations for an applicant, security clearance determinations for an applicant, or both background investigations and security clearance determinations for an applicant, as the case may be, that have been conducted by a State or local government, Indian tribe, tribal organization, or the Bureau of Indian Affairs, within the 5-year period preceding the application for employment with the Bureau of Indian Affairs.

(ii) QUALITY.—The Secretary shall only consider previous background investigations and security clearance determinations for an applicant that have been conducted by a State or local government, In-
dian tribe, or tribal organization if the Secretary can verify that those previous investigations and determinations, as the case may be, are of a comparable quality and thoroughness to investigations and determinations carried out by the Bureau of Indian Affairs, the Office of Personnel Management, or another Federal agency.

(iii) ADDITIONAL INVESTIGATION.—If, as described in clause (i), the Secretary considers an existing background investigation, security clearance determination, or both, as the case may be, for an applicant that has been carried out by a State or local government, Indian tribe, tribal organization, or the Bureau of Indian Affairs, the Secretary—

(I) may carry out additional investigation and examination of the applicant if the Secretary determines that such additional information is needed in order to make an appropriate determination as to the character and trustworthiness of the applicant before final adjudication can be
made and a security clearance can be issued; and

(II) shall not initiate a new background investigation process with the National Background Investigations Bureau or other Federal agency unless that new background investigation process covers a period of time that was not covered by a previous background investigation process.

(iv) AGREEMENTS.—The Secretary may enter into a Memorandum of Agreement with a State or local government, Indian tribe, or tribal organization to develop steps to expedite the process of receiving and obtaining access to background investigation and security clearance determinations for use in the demonstration program.

(3) SUNSET.—The demonstration program established under this section shall terminate 5 years after the date of the commencement of the program.

(b) SUFFICIENCY.—Notwithstanding any other provision of law, a background investigation conducted or adjudicated by the Secretary pursuant to the demonstration
program authorized in subsection (a) that results in the
granting of a security clearance to an applicant for a law
enforcement position in the Bureau of Indian Affairs shall
be sufficient to meet the applicable requirements of the
Office of Personnel Management or other Federal agency
for such investigations.

(c) Annual Report.—The Secretary shall submit
an annual report to the Committee on Indian Affairs of
the Senate and the Committee on Natural Resources of
the House of Representatives on the demonstration pro-
gram established under subsection (a), which shall include
a description of—

(1) the demonstration program and any rel-

vant annual changes or updates to the program;

(2) the number of background investigations
carried out under the program;

(3) the costs, including any cost savings, associ-
ated with the investigation and adjudication process
under the program;

(4) the processing times for the investigation
and adjudication processes under the program;

(5) any Memoranda of Agreement entered into
with State or local government, Indian tribe, or trib-
al organization; and
(6) any other information that the Secretary
determines to be relevant.

(d) GAO Study and Report.—

(1) Initial Report.—Not later than 18
months after the date on which the demonstration
program commences under this section, the Comptroller
General of the United States shall prepare
and submit to Congress an initial report on such
demonstration program.

(2) Final Report.—Not later than 18 months
after the date on which the demonstration program
terminates under subsection (a)(3), the Comptroller
General of the United States shall prepare and submit to Congress a final report on such demonstration program.

(3) Tribal Input.—In preparing the reports
under this subsection, the Comptroller General of the United States shall obtain input from Indian tribes regarding the demonstration program under this section.

SEC. 202. MISSING AND MURDERED RESPONSE COORDINATION GRANT PROGRAM.

(a) Establishment of Program.—The Attorney
General shall establish within the Office of Justice Pro-
grams a grant program under which the Attorney General
shall make grants to eligible entities described in subsection (b) to carry out eligible activities described in subsection (c).

(b) Eligible Entities.—

(1) In general.—To be eligible to receive a grant under the grant program established under subsection (a) an entity shall be—

(A) an Indian tribe;

(B) a relevant tribal organization;

(C) subject to paragraph (2), a State, in consortium with one or more Indian tribes or relevant tribal organizations;

(D) a consortium of two or more Indian tribes or relevant tribal organizations; or

(E) subject to paragraph (2), a consortium of two or more States and one or more Indian tribes or relevant tribal organizations.

(2) State eligibility.—To be eligible under subparagraph (B) or (D) of paragraph (1), a State shall demonstrate to the satisfaction of the Attorney General that the State—

(A) reports missing persons cases in the State to the national crime information databases; or
(B) if not, has a plan to do so using a
grant received under the grant program estab-
lished under subsection (a).

(c) ELIGIBLE ACTIVITIES.—An eligible entity receiv-
ing a grant under the grant program established under
subsection (a) may use the grant—

(1) to establish a statewide or regional center to
document and track missing persons cases of inter-
est to Indian tribes and murder cases of interest to
Indian tribes;

(2) to establish a State or regional commission
to respond to, and to improve coordination between
Federal law enforcement agencies, and Tribal, State,
and local law enforcement agencies of the investiga-
tion of, missing persons cases of interest to Indian
tribes and murder cases of interest to Indian tribes;
and

(3) to document, develop, and disseminate re-
sources for use by Federal law enforcement agencies
and Tribal, State, and local law enforcement agen-
cies for the coordination of the investigation of miss-
ing persons cases of interest to Indian tribes and
murder cases of interest to Indian tribes.
(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out the program $1,000,000 for each of fiscal years 2020 through 2024.

SEC. 203. GAO STUDY ON FEDERAL LAW ENFORCEMENT AGENCY EVIDENCE COLLECTION, HANDLING, AND PROCESSING.

(a) In General.—The Comptroller General of the United States shall conduct a study—

(1) on the evidence collection, handling, and processing procedures and practices of the Office of Justice Services and the Federal Bureau of Investigation in exercising jurisdiction over crimes involving Indians or committed in Indian country;

(2) on any barriers to evidence collection, handling, and processing by the agencies referred to in paragraph (1);

(3) on the views of law enforcement officials at the agencies referred to in paragraph (1) and their counterparts within the Offices of the United States Attorneys concerning any relationship between—

(A) the barriers identified under paragraph (2); and

(B) United States Attorneys declination rates due to insufficient evidence; and
(4) that includes a survey of barriers to evidence collection, handling, and processing faced by State and local law enforcement agencies that exercise jurisdiction over Indian country under the Act of August 15, 1953 (67 Stat. 588, chapter 505), and the amendments made by that Act.

(b) Report.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the results of the study conducted under subsection (a).

SEC. 204. BUREAU OF INDIAN AFFAIRS AND TRIBAL LAW ENFORCEMENT OFFICER COUNSELING RESOURCES INTERDEPARTMENTAL COORDINATION.

The Secretary of Health and Human Services, acting through the Director of the Indian Health Service and the Administrator of the Substance Abuse and Mental Health Services Administration, and the Attorney General shall coordinate with the Director to ensure that Federal training materials and resources for establishing and maintaining mental health wellness programs are available to Tribal and Bureau of Indian Affairs law enforcement officers experiencing occupational stress.