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

IN THE SENATE OF THE UNITED STATES
JUNE 13, 2019

Mr. Udall (for himself, Ms. Cortez Masto, Mr. Tester, Ms. Murkowski, Ms. McSally, and Ms. Smith) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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 interest to Indian tribes, or unidentified remains cases of interest to Indian tribes.
(3) **INDIAN.**—The term “Indian” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(4) **INDIAN COUNTRY.**—The term “Indian country” 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 Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302).

(6) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(7) **MANSLAUGHTER.**—The term “manslaughter” has the meaning given the term in 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 STAKEHOLDER.—The term “relevant Tribal stakeholder” means, as applicable—
(A) an Indian tribe;
(B) a tribal organization; and
(C) a national or regional organization that—

(i) represents a substantial Indian constituency; and

(ii) has expertise in the fields of—

(I) human trafficking;

(II) violence against women and children; or

(III) 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 information, provide for information on missing persons and unidentified remains contained in national crime information databases to be transmitted to, entered in, and otherwise 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 Unidentified Persons System each missing persons case of interest to Indian tribes and each unidentified remains case of interest to Indian tribes reported to or investigated by the Federal law enforcement agency.

(d) COORDINATION WITH NAMUS TRIBAL LIAISON.—The Director and the Director of the Federal Bureau of Investigation shall each appoint a liaison to coordinate with the 1 or more Tribal liaisons appointed under section (4)(a) to ensure that—

(1) 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 1 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 relevant Tribal stakeholders 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 relevant Tribal stakeholders;

(4) providing technical assistance and training to relevant Tribal stakeholders, victim service advo-
(a) BACKGROUND.—

(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 1 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 1 or more Tribal liaisons ap-
pointed 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 subparagraph (A) $3,000,000 for each of fiscal years 2020 through 2024, to remain available until expended.
“(ii) ADDITIONAL FUNDING.—The Attorney General may use to carry out the Tribal Access Program under subparagraph (A) any balances remaining for the account under the heading ‘VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION 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
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 Sec-
retary can verify that those previous inves-
tigations and determinations, as the case
may be, are of a comparable quality and
thoroughness to investigations and deter-
minations carried out by the Bureau of In-
dian Affairs, the Office of Personnel Man-
agement, or another Federal agency.

(iii) ADDITIONAL INVESTIGATION.—If,
as described in clause (i), the Secretary
considers an existing background investiga-
tion, 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 orga-
nization, or the Bureau of Indian Affairs,
the Secretary—

(I) may carry out additional in-
vestigation and examination of the ap-
plicant if the Secretary determines
that such additional information is
needed in order to make an appro-
priate determination as to the char-
acter and trustworthiness of the appli-
cant before final adjudication can be
drafted by the Secretary pursuant to the demonstration program for use in the demonstration program.

In accordance with the National Background Investigations Bureau and other Federal agencies, 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.

(iv) AGREEMENTS.—The Secretary may enter into a Memorandum of Agreement that was not covered by a previous demonstration program for a period of time less than a new background investigation process with the Bureau or other Federal agency as an alternative背景, National Background Investigations Background Investigation process with the background investigation process that was not initiated at the time.
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-
evant 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 sub-
mit to Congress a final report on such demonstra-
tion 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 COORDINA-
TION 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) a relevant Tribal stakeholder;

(B) subject to paragraph (2), a State, in consortium with a relevant Tribal stakeholder;

(C) a consortium of 2 or more relevant Tribal stakeholders; or

(D) subject to paragraph (2), a consortium of 2 or more States and 1 or more relevant Tribal stakeholders.

(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 established under subsection (a).
(c) **Eligible Activities.**—An eligible entity receiving 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 interest 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 investigation of, missing persons cases of interest to Indian tribes and murder cases of interest to Indian tribes; and

(3) to document, develop, and disseminate resources for use by Federal law enforcement agencies and Tribal, State, and local law enforcement agencies for the coordination of the investigation of missing 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 sub-
section (a).

SEC. 204. BUREAU OF INDIAN AFFAIRS AND TRIBAL LAW
ENFORCEMENT OFFICER COUNSELING RE-
SOURCES INTERDEPARTMENTAL COORDINA-
TION.

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 train-
ing materials and resources for establishing and maintain-
ing mental health wellness programs are available to Trib-
al and Bureau of Indian Affairs law enforcement officers
experiencing occupational stress.