

HELP FIND THE MISSING ACT OR BILLY'S LAW

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

H.R. 3695

JANUARY 21, 2010

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HELP FIND THE MISSING ACT OR BILLY'S LAW

THURSDAY, JANUARY 21, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 11:04 a.m., in room 2141, Rayburn House Office Building, the Honorable Robert C. "Bobby" Scott (Chairman of the Subcommittee) presiding.

Present: Representatives Scott, Conyers, Waters, Wasserman Schultz, Quigley, Gohmert, and Poe.

Staff present: (Majority) Bobby Vassar, Subcommittee Chief Counsel; Liliana Coronado (Fellow) Federal Public Defender Office Detailee; Joe Graupensperger, Counsel; Veronica Eligan, Professional Staff Member; (Minority) Caroline Lynch, Counsel; and Justin Long, Counsel.

Mr. SCOTT. The Subcommittee will now come to order. And I am pleased to welcome you today to the hearing before the Subcommittee on Crime, Terrorism, and Homeland Security about H.R. 3695, the "Help Find the Missing Act," also known as "Billy's Law."

Today we will discuss the problem of missing persons in this country and mechanisms that have been established and which can be strengthened so that not only law enforcement but also private citizens can do more to find those who go missing.

Every year, tens of thousands of Americans go missing and are never found by their loved ones. This is a staggering statistic. But each of these statistics is more than a mere number. They are real people with real problems, and each unsolved missing case is a tragedy.

With us today to tell us about one such case is Janice Smolinski, whose son Billy went missing in 2004 and who has not been found. Her ordeal represents one of the many thousands and gives us an idea of what a family goes through to find a missing loved one.

Fortunately for us, she has used her experience to help others by trying to make available more information about missing persons to both law enforcement and to the families and friends of those who are missing.

It is important that law enforcement have all of the appropriate information about the missing person so they can do their jobs to find them.

It is equally important that families be able to access information about missing persons and unidentified remains of persons so that they can search the information that may help solve their own cases.

The FBI's NCIC has for many years contained databases for missing persons and for identified remains of persons. These databases contain information submitted to—submitted by Federal, State and—and local law enforcement agencies.

The missing persons file is comprised of entries for missing individuals listed various—listing various personal characteristics such as name, gender, race and dental records.

The unidentified persons file mainly consists of descriptive information about deceased and unidentified bodies in various States ranging from the recently deceased to skeletal and partial remains.

For years these databases were crucial to law enforcement efforts to find missing persons and link some missing persons with remains that were initially unidentified. But they were not open to the public's use and assisting private efforts at finding missing persons.

Because of this restriction, the Justice Department National Institute of Justice established similar databases but open to the public in 2007. This new system is called NamUs, N-A-M, capital US, and similarly consists of two databases, one for missing persons and one for unidentified remains.

Information in NamUs is available and searchable online by anyone, most notably the families of missing persons. Under some circumstances, the public may even contribute information to the program to make it even more comprehensive.

Today we will discuss a bill that has been introduced to reinforce these databases, and I look forward to hearing from our two panels of witnesses on how H.R. 3695 will strengthen these databases and encourage submission of more information to them so that even more—so that they may be even more useful to both law enforcement and members of the public.

Today we have two panels of witnesses who will discuss the missing persons. We will hear from legislators and from others involved.

And at this point I will yield to the gentleman from Texas, the Ranking Member of the Subcommittee, Judge Gohmert.

[The bill, H.R. 3695, follows:]

111TH CONGRESS
1ST SESSION

H. R. 3695

To authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System, to facilitate data sharing between such system and the National Crime Information Center database of the Federal Bureau of Investigation, to provide incentive grants to help facilitate reporting to such systems, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2009

Mr. MURPHY of Connecticut (for himself and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System, to facilitate data sharing between such system and the National Crime Information Center database of the Federal Bureau of Investigation, to provide incentive grants to help facilitate reporting to such systems, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Help Find the Missing
5 Act” or “Billy’s Law”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

3 (1) Every year tens of thousands of Americans
4 go missing, never to be seen by their loved ones
5 again.

6 (2) As of 2004, there are an estimated 40,000
7 sets of unidentified remains that are being held by
8 medical examiner or coroner offices or disposed of
9 across the country.

10 (3) According to the National Institute of Jus-
11 tice, only 6,000 of such cases of unidentified re-
12 mains have been entered into the National Crime In-
13 formation Center's Unidentified Person File of the
14 Federal Bureau of Investigation (in this section re-
15 ferred to as "NCIC").

16 (4) As of December 31, 2008, there were
17 102,764 missing persons records active in the NCIC.

18 (5) The estimated numbers of missing persons
19 and unidentified human remains in the United
20 States are not complete because reporting to NCIC
21 by local law enforcement entities, medical examiner
22 offices, and coroner offices of information on missing
23 adults or unidentified decedents is voluntary.

24 (6) The National Child Search Assistance Act
25 of 1990 (42 U.S.C. 5779), as amended by Suzanne's
26 Law (section 204 of the Prosecutorial Remedies and

1 Other Tools to End the Exploitation of Children
2 Today Act of 2003 (PROTECT Act, Public Law
3 108–21)) requires Federal, State, and local law en-
4 forcement agencies to report cases of missing chil-
5 dren and individuals under the age of 21 to the Na-
6 tional Crime Information Center (NCIC) Missing
7 Person File. There is no similar Federal law requir-
8 ing Federal, State, or local law enforcement agencies
9 to report missing adults or unidentified decedents
10 cases.

11 (7) Law enforcement entities, medical exam-
12 iners, and coroners need assistance to acquire the
13 tools to report missing adults and unidentified re-
14 mains and the purpose of this Act is to provide in-
15 centive grants to provide such entities with such as-
16 sistance.

17 (8) According to a Bureau of Justice and Sta-
18 tistics special report on its 2004 Census of Medical
19 Examiner and Coroners' Offices, 80 percent of sur-
20 veyed medical examiners offices and coroners offices
21 reported using the NCIC rarely or never, with in-
22 creased workload and cost of access as obstacles.

23 (9) There are many Federal, State, local, and
24 non-profit databases that can be used to help iden-
25 tify unidentified remains. However, such databases

1 are not connected and most have little or no search
2 capability and are not able to be viewed or searched
3 by the public.

4 (10) The National Missing and Unidentified
5 Persons System (NamUs) was established in July
6 2007 by the Department of Justice under the Presi-
7 dent's DNA Initiative to provide a missing persons/
8 unidentified remains database that the public could
9 access and to which the public could contribute and
10 search. NamUs is currently funded by the National
11 Institute of Justice under the Department of Jus-
12 tice.

13 (11) As of September 2009, 42 States, the Dis-
14 trict of Columbia, and Puerto Rico have medical ex-
15 aminers, coroners, or both entering cases into the
16 NamUs unidentified persons system. Forty-five
17 States have law enforcement officers registered and
18 using the NamUs missing persons system. All 50
19 States have missing persons in the NamUs data-
20 bases.

21 (12) In 2007 a focus group funded by the Na-
22 tional Institute of Justice that consisted of national
23 experts in human identification and technology,
24 medical examiners and coroners, forensic anthropolo-
25 gists, odontologists, DNA scientists, death investiga-

1 tors, and technology experts determined three major
2 areas of needs in the human identification commu-
3 nity (all of which are identified in this Act), includ-
4 ing an accessible unidentified decedent database;
5 best practices guidelines; and technology, training,
6 and research.

7 (13) The January 2007 National Institute of
8 Justice Journal publication, titled “Missing Persons
9 and Unidentified Remains: The Nation’s Silent Mass
10 Disaster”, identified major gaps in the Nation’s
11 missing persons system. Such identified gaps, which
12 this legislation addresses, included the lack of—

13 (A) reporting of missing adults and un-
14 identified remains by local law enforcement and
15 medical examiners and coroners because of in-
16 sufficient time and resources;

17 (B) information sharing among Federal
18 missing persons and unidentified remains data-
19 bases;

20 (C) policies to collect DNA samples from
21 unidentified remains;

22 (D) resources to perform DNA analysis of
23 human remains; and

1 (E) knowledge among law enforcement
2 agencies about State missing persons clearing-
3 houses or the Federal databases.

4 **SEC. 3. AUTHORIZATION OF THE NATIONAL MISSING AND**
5 **UNIDENTIFIED PERSONS SYSTEM.**

6 (a) IN GENERAL.—The Attorney General, through
7 the Director of the National Institute of Justice, is author-
8 ized to maintain public databases, known as the “National
9 Missing and Unidentified Persons System” or “NamUs”,
10 to contain missing persons records and unidentified re-
11 mains cases for purposes of assisting to identify missing
12 people and solve cases of unidentified human remains. All
13 functions, personnel, assets, liabilities, and administrative
14 actions applicable to the National Missing and Unidenti-
15 fied Persons System carried out by the National Institute
16 of Justice on the date before the date of the enactment
17 of this Act shall be transferred to the National Missing
18 and Unidentified Persons System authorized under this
19 section as of the date of the enactment of this Act.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to carry out this section
22 \$2,400,000 for each of the fiscal years 2010 through
23 2015.

1 **SEC. 4. SHARING OF INFORMATION BETWEEN NCIC AND**
2 **NAMUS.**

3 (a) SHARING OF INFORMATION.—Not later than the
4 end of the 30-day period beginning on the date the online
5 data entry format is updated under subsection (c), the At-
6 torney General shall, in accordance with this section, pro-
7 vide for information on missing persons and unidentified
8 human remains contained in the NCIC database (as de-
9 fined in section 8) to be transmitted to, entered in, and
10 otherwise shared with the NamUs databases (as defined
11 in such section) and for such information contained in the
12 NamUs databases to be transmitted to, entered in, and
13 otherwise shared with the NCIC database.

14 (b) RULES ON CONFIDENTIALITY.—

15 (1) IN GENERAL.—Not later than one year
16 after the date of the enactment of this Act, the At-
17 torney General, in consultation with the Director of
18 the Federal Bureau of Investigation (in this Act re-
19 ferred to as the “FBI”), shall promulgate rules pur-
20 suant to notice and comment that specify the infor-
21 mation the Attorney General may provide from the
22 NCIC files to the NamUs databases for purposes of
23 this Act. Such rules shall—

24 (A) provide for the protection of law en-
25 forcement sensitive, confidential, and private in-
26 formation contained in the NCIC files;

1 (B) be promulgated only after the Director
2 approves recommendations by the Advisory Pol-
3 icy Board of the Criminal Justice Information
4 Services Division of the FBI; and

5 (C) not permit the transmission, entry, or
6 sharing of information (or portions of informa-
7 tion) from the NCIC database to the NamUs
8 databases unless the authorized agency, with
9 respect to the information submitted to the
10 NCIC database, submits to the Attorney Gen-
11 eral written authorization to so transmit, enter,
12 or share, respectively, such information (or por-
13 tion of information).

14 (2) SPECIFICS.—In promulgating rules with re-
15 spect to paragraph (1)(C), the Attorney General—

16 (A) shall specify the circumstances in
17 which portions of information may be withheld
18 from transfer, entry, or sharing from the NCIC
19 database to the NamUs databases;

20 (B) shall provide that once the authorized
21 agency described in paragraph (1)(C) provides
22 an authorization under such paragraph with re-
23 spect to information, such authorization shall
24 be deemed to apply to any updates made to

1 such information, unless otherwise specified by
2 the agency; and

3 (C) with respect to information submitted
4 to the NCIC database before the end of the 30-
5 day period specified in subsection (a), may so-
6 licit from appropriate authorized agencies au-
7 thorization described in such paragraph to
8 transmit, enter, or share such information.

9 (e) UPDATES.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of the enactment of this Act, the Attorney
12 General shall update the online data entry format
13 for the NCIC database and NamUs databases to
14 provide State criminal justice agencies, offices of
15 medical examiners, and offices of coroners with the
16 option to authorize the submission of new informa-
17 tion and data that is reported to and entered into
18 the NCIC database to simultaneously be submitted
19 to and entered into the NamUs databases.

20 (2) NCIC FORMAT.—

21 (A) IN GENERAL.—In the case of the
22 NCIC database, an update described in para-
23 graph (1) shall include—

24 (i) an update to the NCIC database
25 online data entry format that States use in

1 submitting missing persons and unidenti-
2 fied remains reports, including the addition
3 of a new data field allowing States, on be-
4 half of the authorized agency that origi-
5 nally submitted the data, to select whether
6 or not to have the NCIC report, subject to
7 the rules promulgated under subsection
8 (b), shared with the NamUs databases;
9 and

10 (ii) subject to subparagraph (B), a re-
11 quirement that as a condition of partici-
12 pating in the NCIC database, States must
13 update their missing persons and unidenti-
14 fied remains collection processes from local
15 and tribal law enforcement, medical exam-
16 iners, and coroners to enable the States to
17 acquire information on whether or not the
18 authorized agencies originally submitting
19 data with respect to a missing person or
20 unidentified remains has provided author-
21 ization to share the information with the
22 NamUs databases.

23 (B) EXCEPTION.—Subparagraph (A)(ii)
24 shall not apply with respect to any State that
25 has in effect a State law providing for a meth-

1 odology to authorize the sharing of information
2 between the NCIC database and NamUs data-
3 bases.

4 (d) AMENDMENTS TO THE NATIONAL CHILD SEARCH
5 ASSISTANCE ACT OF 1990 TO REQUIRE REPORTS OF
6 MISSING CHILDREN TO NAMUS.—

7 (1) REPORTING REQUIREMENT.—Section
8 3701(a) of the National Child Search Assistance Act
9 of 1990 (42 U.S.C. 5779) is amended by striking
10 the period and inserting the following: “and, con-
11 sistent with section 4 (including rules promulgated
12 pursuant to section 4(b)) of the Help Find the Miss-
13 ing Act, shall also report such case, either directly
14 or through authorization described in such section to
15 transmit, enter, or share information on such case,
16 to the NamUs databases (as defined in section 8 of
17 such Act).”.

18 (2) STATE REQUIREMENTS.—Section 3701 of
19 the National Child Search Assistance Act of 1990
20 (42 U.S.C. 5780) is amended—

21 (A) in paragraph (2), by striking “or the
22 National Crime Information Center computer
23 database” and inserting “, the National Crime
24 Information Center computer database, or the

1 NamUs databases (as defined in section 8 of
2 the Help Find the Missing Act)”;

3 (B) in paragraph (3), by striking “and the
4 National Crime Information Center computer
5 networks” and inserting “, the National Crime
6 Information Center computer networks, and the
7 NamUs databases (as so defined)”; and

8 (C) in paragraph (4)—

9 (i) in the matter preceding subpara-
10 graph (A), by inserting “or the NamUs
11 databases” after “National Crime Informa-
12 tion Center”; and

13 (ii) in subparagraph (A), by striking
14 “and National Crime Information Center
15 computer networks” and inserting “, Na-
16 tional Crime Information Center computer
17 networks, and the NamUs databases”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply with respect to reports
20 made before, on, or after the date of the enactment
21 of this Act beginning on the last day of the 30-day
22 period described in subsection (a).

23 **SEC. 5. INCENTIVE GRANTS PROGRAM.**

24 (a) ESTABLISHMENT.—Not later than October 1,
25 2010, the Attorney General shall establish a program to

1 provide grants to qualifying law enforcement agencies (as
2 defined in subsection (j)), offices of coroners, offices of
3 medical examiners, and other authorized agencies to facili-
4 tate the process of reporting information regarding miss-
5 ing persons and unidentified remains to the NCIC data-
6 base and NamUs databases for purposes of assisting in
7 locating such missing persons and identifying such re-
8 mains.

9 (b) REQUIREMENTS.—As a condition of a grant
10 under this section, a grant recipient shall, with respect to
11 each case reported to the agency or office of the recipient
12 relating to a missing person described in a category under
13 subsection (c) or relating to unidentified remains—

14 (1) not later than 72 hours after such case is
15 reported to the agency or office and consistent with
16 subsection (e), submit to the NCIC database and
17 NamUs databases—

18 (A) in the case of a missing person de-
19 scribed in a category under subsection (e), at
20 least the minimum information described in
21 subsection (f)(1); and

22 (B) in the case of unidentified remains, at
23 least the minimum information described in
24 subsection (f)(2); and

1 (2) not later than 60 days after the original
2 entry of the report, verify and update any original
3 report entered into the State law enforcement sys-
4 tem, the NCIC database, or NamUs databases after
5 receipt of the grant with any additional information,
6 including, to the greatest extent possible—

7 (A) information on the extent to which
8 DNA samples are available, including the avail-
9 ability of such samples submitted to the Na-
10 tional DNA Index System under subsection
11 (b)(3);

12 (B) fingerprints, medical and dental
13 records, and photographs of any distinguishing
14 characteristics such as scars, marks, tattoos,
15 piercings, and other unique physical character-
16 istics;

17 (C) in the case of unidentified remains,
18 photographs or digital images that may assist
19 in identifying the decedent, including finger-
20 print cards, radiographs, palmprints, and dis-
21 tinctive features of the decedent's personal ef-
22 fects; and

23 (D) any other information determined to
24 be appropriate by the Attorney General; and

1 (3) not later than 60 days after the original
2 entry of the report, to the greatest extent possible,
3 submit to the National DNA Index System of the
4 Federal Bureau of Investigation, established pursu-
5 ant to section 210304 of the Violent Crime Control
6 and Law Enforcement Act of 1994, (either directly
7 or through use of NamUs victims assistance re-
8 sources and DNA collection services) DNA samples
9 and information relating to such case.

10 For purposes of paragraph (2), in the case of information
11 a grant recipient authorizes to be transferred, entered, or
12 shared under section 4 between the NCIC database and
13 NamUs databases, any update to such information shall
14 be simultaneously made with respect to both databases un-
15 less specified otherwise by the recipient.

16 (c) SUBMISSION OF REPORTS.—To satisfy subsection
17 (b)(1), a recipient of a grant under this section shall sub-
18 mit information required under such subsection—

19 (1) separately to the NCIC database and
20 NamUs databases; or

21 (2) in accordance with section 4, simultaneously
22 to the NamUs databases when reporting to the
23 NCIC database or to the NCIC database when re-
24 porting to the NamUs databases.

25 (d) PERMISSIBLE USE OF FUNDS.—

1 (1) IN GENERAL.—The permissible uses of
2 grants awarded under this section include the use of
3 funds—

4 (A) to hire additional personnel, to acquire
5 technology to facilitate timely data entry into
6 the relevant databases;

7 (B) to conduct contracting activities rel-
8 evant to outsourcing the processing of unidenti-
9 fied remains and the reporting of the resulting
10 information to the NCIC database and NamUs
11 databases;

12 (C) to train local law enforcement per-
13 sonnel, medical examiners, and coroners to use
14 the NCIC database and NamUs databases;

15 (D) to assist States' transition into the
16 new system under which information is shared
17 between the NCIC database and NamUs data-
18 bases; and

19 (E) for other purposes consistent with the
20 goals of this section.

21 (2) CLARIFICATION.—In no case may a recipi-
22 ent of a grant under this section use funds to enter
23 or help facilitate the entrance of any false or mis-
24 leading information about missing persons or un-
25 identified remains.

1 (e) CATEGORIES OF MISSING PERSONS.—The cat-
2 egories of missing persons described in this subsection are
3 the following:

4 (1) A missing person age 21 or older who—

5 (A) is senile or has suffering from a prov-
6 en mental or physical disability, as documented
7 by a source deemed credible to an appropriate
8 law enforcement entity; or

9 (B) is missing under circumstances that
10 indicate, as determined by an appropriate law
11 enforcement entity—

12 (i) that the person's physical safety
13 may be endangered; or

14 (ii) that the disappearance may not
15 have been voluntary, such as abduction or
16 kidnapping; or

17 (iii) that the disappearance may have
18 been caused by a natural disaster or catas-
19 trophe (such as an airplane crash or ter-
20 rorist attack).

21 (2) A missing person who does not meet the cri-
22 teria described in paragraph (1) but who meets one
23 of the following criteria:

1 (A) There is a reasonable concern, as de-
2 termined by an appropriate law enforcement en-
3 tity for the safety of the missing person.

4 (B) The person is under age 21 and eman-
5 cipated under the laws of the person's State of
6 residence.

7 (f) MINIMUM INFORMATION REQUIRED.—

8 (1) CONTENT FOR MISSING PERSONS.—The
9 minimum information described in this section, with
10 respect to a missing person, is the following:

11 (A) The name, date of birth, city and
12 State of residence, gender, race, height, weight,
13 eye color, and hair color of the missing person.

14 (B) The date and location of the last
15 known contact with the missing person.

16 (C) The category described in subsection
17 (e) in which the missing person is classified.

18 (2) CONTENT FOR UNIDENTIFIED HUMAN RE-
19 MAINS.—The minimum information described in this
20 section, with respect to unidentified human remains,
21 is the following:

22 (A) The estimated age, gender, race,
23 height, weight, hair color, and eye color.

1 (B) Any distinguishing characteristics such
2 as scars, marks, tattoos, piercings, and other
3 unique physical characteristics.

4 (C) A description of clothing found on the
5 decedent.

6 (D) City and State where the unidentified
7 human remains were found.

8 (E) Information on how to contact the law
9 enforcement agency handling the investigation
10 and the unidentified human remains.

11 (F) Information on the extent to which
12 DNA samples are available, including the avail-
13 ability of such samples submitted to the Na-
14 tional DNA Index System under subsection
15 (b)(3).

16 (g) ADMINISTRATION.—The Attorney General shall
17 prescribe requirements, including with respect to applica-
18 tions, for grants awarded under this section and shall de-
19 termine the amount of each such grant.

20 (h) CONFIDENTIALITY.—As a condition of a grant
21 under this section, the recipient of the grant shall ensure
22 that information reported under the grant meets the re-
23 quirements promulgated by the Attorney General under
24 section 4(b)(1).

1 (i) ANNUAL SUMMARY.—For each of the fiscal years
2 2012 through 2015, the Attorney General shall publish
3 an annual statistical summary of the reports required by
4 subsection (c).

5 (j) QUALIFYING LAW ENFORCEMENT AGENCY DE-
6 FINED.—For purposes of this Act, the term “qualifying
7 law enforcement agency” means a State, local, or tribal
8 law enforcement agency.

9 (k) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to carry out this section
11 \$10,000,000 for each of the fiscal years 2011 through
12 2015.

13 **SEC. 6. REPORT ON BEST PRACTICES.**

14 Not later than 1 year after the date of the enactment
15 of this Act, the Attorney General shall issue a report to
16 offices of medical examiners, offices of coroners, and Fed-
17 eral, State, local, and tribal law enforcement agencies de-
18 scribing the best practices for the collection, reporting,
19 and analysis of data and information on missing persons
20 and unidentified human remains. Such best practices
21 shall—

22 (1) provide an overview of the NCIC database
23 and NamUs databases;

24 (2) describe how local law enforcement agen-
25 cies, offices of medical examiners, and offices of

1 coroners should access and use the NCIC database
2 and NamUs databases;

3 (3) describe the appropriate and inappropriate
4 uses of the NCIC database and NamUs databases;
5 and

6 (4) describe the standards and protocols for the
7 collection, reporting, and analysis of data and infor-
8 mation on missing persons and unidentified human
9 remains.

10 **SEC. 7. REPORT TO CONGRESS.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of the enactment of this Act and biennially thereafter,
13 the Attorney General shall submit to the Committee on
14 the Judiciary of the House of Representatives and the
15 Committee on the Judiciary of the Senate a report de-
16 scribing the status of the NCIC database and NamUs
17 databases.

18 (b) CONTENTS.—The report required by subsection
19 (a) shall describe, to the extent available, information
20 on—

21 (1) the process of information sharing between
22 the NCIC database and NamUs databases; and

23 (2) the programs funded by grants awarded
24 under section 5.

1 **SEC. 8. DEFINITIONS.**

2 For the purposes of this Act, the following definitions
3 apply:

4 (a) **AUTHORIZED AGENCY.**—The term “authorized
5 agency” means a government agency with an originating
6 agency identification (ORI) number and that is a criminal
7 justice agency, as defined for purposes of subpart A of
8 part 20 of title 28, Code of Federal Regulations.

9 (b) **NAMUS DATABASES.**—The term “NamUs data-
10 bases” means the National Missing and Unidentified Per-
11 sons System Missing Persons database and National Miss-
12 ing and Unidentified Persons System Unidentified Dece-
13 dents database maintained by the National Institute of
14 Justice of the Department of Justice.

15 (c) **NCIC DATABASE.**—The term “NCIC database”
16 means the National Crime Information Center Missing
17 Person File and National Crime Information Center Un-
18 identified Person File of the National Crime Information
19 Center database of the Federal Bureau of Investigation,
20 established pursuant to section 534 of title 28, United
21 States Code.

22 (d) **STATE.**—The term “State” means any State of
23 the United States, the District of Columbia, the Common-
24 wealth of Puerto Rico, the Virgin Islands, American

25

23

- 1 Samoa, Guam, and the Commonwealth of the Northern
- 2 Mariana Islands.

○

Mr. GOHMERT. Thank you, Chairman.

Reuniting a missing person with their family or identifying the remains of a lost loved one are very important law enforcement priorities.

I look forward to learning more about what can be done to utilize the technology and funds to track missing persons and identify unknown and unidentified remains.

Every year tens of thousands of Americans go missing, never to be seen by their loved ones again. In 2009 there were more than 100,000 missing persons records active in the FBI's National Crime Information Center database.

Simultaneously, medical examiners' and coroners' offices across the country are holding tens of thousands of unidentified remains. Estimates indicate that 40,000 sets of unidentified remains are being held.

But as of January 2009, the FBI's NCIC database contains only 7,000 records of unidentified remains. This means that medical examiners' and coroners' offices are not recording in the NCIC database many of the unidentified remains they hold.

And consequently, it is likely that many missing person cases remain open for failure to connect missing person profiles with unidentified remains being held.

Certainly, this disconnect between missing person cases and unidentified remains should be resolved. Additionally, modern technology and Internet should be utilized in State-Federal efforts to track missing persons and identify previously unidentified remains.

The "Help Find the Missing Act," or "Billy's Law," seeks to address these concerns by increasing funding for a national online repository and reporting system called NamUs, the National Missing and Unidentified Persons System.

The goal is to have coroners, medical examiners, law enforcement agencies and even the public all reporting information and getting information from one centralized Web site, NamUs.

Presently, there are many Federal, State, local and nonprofit databases designed to help, but these databases are not sufficiently accessible, and they do not do a good job of sharing information amongst each other.

There is a great need for coordination among these databases and agencies. For this reason, NamUs was established by the Department of Justice in 2007 pursuant to President Bush's DNA initiative to provide two databases, one for missing persons and one for unidentified remains.

NamUs enables the public to access, search and contribute toward these databases. It also enables medical examiners and coroners to link their information on unidentified remains with Federal and State law enforcement information on missing persons, so long as medical examiners, coroners and law enforcement have enough funding and technology to regularly utilize NamUs and share this information with the FBI's NCIC database.

To encourage medical examiners, coroners and law enforcement agencies to regularly use NamUs, "Billy's Law" provides the attorney generals incentive grant programs for medical examiners and coroners.

Permissible uses of the funds include database training according to best practice, the hiring of additional personnel, purchase of new technology. It authorizes \$2.4 million for each of the fiscal years 2010 through 2014 in order to maintain the NamUs databases and coordinate data-sharing between the NCIC database and NamUs.

I am interested to learn whether the witnesses have suggestions for efficient and effective reforms not proposed in “Billy’s Law.” It does seem clear that we need to improve the reporting, sharing and analyzing of information, but I want to be careful and ensure that funds are used wisely.

Welcome the witnesses here today. Appreciate your being here. Appreciate the testimony. We received written testimony. I am going to have to leave the hearing early, but I have been—I reviewed last night the written testimony, and I am extremely interested as a former district judge, as my friend Congressman Poe, Ted Poe from Texas.

And so we appreciate everybody’s efforts to be here. We know you are not here for the money you get for being a witness, because there is none. You are here because of what is in your heart, and we appreciate that very much.

Thank you, Mr. Chairman.

Mr. SCOTT. Thank you, Mr. Gohmert.

The gentleman from Michigan, the Chairman of the full Committee, Mr. Conyers?

Mr. CONYERS. Thank you, Mr. Chairman.

We welcome Mr. and Mrs. Smolinski here, and we want you to just know how this function goes on in Judiciary Committee. See, this is a special Subcommittee. You have got a veteran trial lawyer as the Chairman, and you have got two judges just in case we lawyers stray off.

And so between Poe and Gohmert, this is the perfect place for this subject matter to come up. And the last thing you ought to know is that procedurally we all describe the bill, explain it, so that there is nothing for the authors to do.

By the time we finish, everybody has heard the bill described repeatedly. And that makes their testimony, hopefully, even briefer than it was going to have been.

So I thank you, Mr. Chairman.

Mr. SCOTT. I thank you, Mr. Chairman. I think it is a nice try, but I am not sure they are going to accommodate us.

Our first panel will consist of two of our colleagues, Congressman Chris Murphy and Congressman Ted Poe, who have introduced H.R. 3695, the bill we are discussing today.

Congressman Murphy represents the 5th District of Connecticut, the home of Billy Smolinski. He is in his second term and is a member of the Energy and Commerce Committee and Oversight and Government Reform Committee.

Congressman Poe represents the 2nd District of Texas. He is in his third term and a distinguished Member of the—of this Subcommittee of the Judiciary Committee as well as serving as a Member of the Foreign Affairs Committee.

We will receive your testimony at this time, beginning with Mr. Murphy.

**TESTIMONY OF THE HONORABLE CHRISTOPHER S. MURPHY,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF
CONNECTICUT**

Mr. MURPHY. Thank you very much, Chairman Scott.

And that was a valiant attempt, Mr. Conyers. I will attempt to keep this as short as possible.

First, I would like to thank the Subcommittee, Ranking Member Gohmert and the full Committee and the leadership of Chairman Conyers for their prompt attention to this matter. I know how seriously you take this, and that is evidenced by the fact that we are here today, not very long after the introduction of this legislation.

The picture I have to paint for you today is admittedly grim. As has been mentioned, every year thousands of Americans go missing, often never to be seen by their loved ones again.

In fact, as we have heard, there are over 100,000 unsolved missing persons cases open at any given time. And there are approximately 4,400 unidentified human remains found on an average year.

Now, those numbers are too high, but just as intolerable are the roadblocks that family members are facing when trying to help law enforcement find a missing love one.

This legislation is named after Billy Smolinski of Waterbury, Connecticut. He went missing on, excuse me, August 24, 2004 at the age of 31. I will let Billy's mother, Jan, share her family's experience with you today.

The Smolinskis' story is tragic, but their family's pursuit of justice and their desire to change the system for the better is nothing less than heroic.

You will hear their story straight from Jan, but I can tell you this. No one should ever have to face the systematic failures, the frustrations and the heartbreak that the Smolinskis and thousands of other families have endured in their search to find their loved ones.

H.R. 3695, which I am proud to introduce with, really, Congress' leading champion on the issue of missing persons, Congressman Ted Poe, tackles three major problems with our Nation's missing persons system.

First, many law enforcement agencies, medical examiners and coroners—they don't have the resources to report missing adults and unidentified remains.

In fact, according to the Bureau of Justice Statistics census that they took of these officials, 80 percent of those surveyed reported rarely or never using the existing unidentified remains database.

Second, there really is no central database to report both missing persons and unidentified remains. Instead, there are a myriad of unconnected Federal, and State, and local and nonprofit databases.

This means that a missing persons report may be entered into one database, while a person's remains may be listed in another, making it almost impossible for family members to try to connect those missing pieces.

Third, many local law enforcement personnel just don't know about these databases or how to best handle these cases when they come in to law enforcement in the first place.

“Billy’s Law” addresses these three problems. First, the legislation provides for the first time statutory authorization for the National Missing and Unidentified Persons System, known, as Mr. Scott said, as NamUs, the Web-based database that was created in July 2007 by the Department of Justice—the only Federal missing persons and unidentified remains database that the public can access and contribute to, and yet it is currently not a congressionally authorized program.

Second, the bill connects this database, the public database, NamUs, with the FBI’s existing database that is accessible just to law enforcement. This will create a more comprehensive database and streamline the reporting processes.

Third, it creates a competitive grants program to incentivize reporting to this new connected database. Funds could be used to develop and implement training on how to best use the databases and respond to these cases.

And finally, the legislation requires the Department of Justice to issue information about the databases and best practices for responding to these cases.

As you will hear from the Smolinskis, part of the problem is that many local law enforcement agencies don’t really know how to best interact with families coming forward with these potential missing persons cases.

“Billy’s Law” is supported by 21 bipartisan co-sponsors and a host of organizations, including the National Center for Missing and Exploited Children, the National Organization of Police Associations and the National Association of Medical Examiners.

Most important, it is supported by countless families throughout the country who have hit brick wall after brick wall in attempting to locate a missing loved one.

I am so grateful to you, Chairman Scott, Chairman Conyers, for your prompt and enthusiastic response to the introduction of this legislation. Its passage will fulfill the wishes of the Smolinskis and thousands of other families who want to make sure that their personal nightmares are never repeated.

I thank you and I look forward to answering any questions that you may have.

[The prepared statement of Mr. Murphy follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER S. MURPHY,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Thank you Chairman Scott and Ranking Member Gohmert, as well as the Members of the Subcommittee, for holding today’s hearing on H.R. 3695, the “Help Find the Missing Act, or Billy’s Law.”

The picture I have to paint for you today is admittedly grim. Every year thousands of Americans go missing, often never to be seen by their loved ones again. In fact, according to the Bureau of Justice Statistics, there are over 100,000 unsolved missing persons cases open at any given time. Approximately 4,400 unidentified human remains are also found in an average year. Those numbers are too high, but just as intolerable are the roadblocks that family members face when trying to help law enforcement find a missing love one.

This legislation is named after Billy Smolinski of Waterbury, Connecticut. He went missing on August 24, 2004 at the age of 31. I will let Billy’s mother, Jan, share her family’s experience with you today. The Smolinskis story is tragic, but this family’s pursuit of justice, and desire to change the system for the better, is nothing less than heroic. You’ll hear their story straight from Jan, but I can tell you this: no one should ever have to face the systematic failures, frustrations, and heartbreak that the Smolinskis have endured in their search to find Billy.

H.R. 3695, which I was proud to introduce with a great champion of the issue of missing persons, Congressman Ted Poe, tackles three major problems with our nation's missing persons system.

First, many local law enforcement agencies, medical examiners, and coroners don't have the resources to report missing adults and unidentified remains. In fact, according to a Bureau of Justice Statistics census of medical examiner and coroners' offices, 80 percent of those surveyed reported rarely or never using the FBI's unidentified remains database.

Second, there is no central database to report missing persons or unidentified remains. Instead, there is a myriad of unconnected federal, state, local, and non-profit databases. This means that a missing persons report may be entered into one database, while the person's remains may be listed in another.

Third, many local law enforcement personnel do not know about the federal missing persons databases or how to best handle these cases.

Billy's Law addresses these three problems.

First, the legislation for the first time provides statutory authorization for the National Missing and Unidentified Persons System. Also known as NamUs, the web-based database was created in July 2007 by the Department of Justice. It is the only federal missing persons and unidentified remains database that the public can access and contribute to and yet it is currently not a Congressionally authorized program.

Second, the bill connects NamUs with the FBI's database. This will create a more comprehensive database and streamline the reporting process for law enforcement.

Third, it creates a competitive grants program to incentivize reporting to the connected FBI/ NamUs databases. Funds could be used to develop and implement training on how to use the databases and respond to these cases.

Finally, the legislation requires the Department of Justice to issue information about the databases and best practices for responding to these cases.

Billy's Law is supported by 19 bipartisan cosponsors and a host of organizations including the National Center for Missing and Exploited Children, the National Organization of Police Associations, and the National Association of Medical Examiners. Most important, it is supported by countless families throughout the country who have hit brick wall after brick wall in attempting to locate a missing loved one.

I am so grateful to you, Chairman Scott, for your prompt and enthusiastic response to the introduction of this legislation. Its passage will fulfill the wishes of the Smolinskis' and thousands of other families who want to make sure that their personal nightmares are never repeated.

Thank you and I look forward to answering any questions you may have.

Mr. SCOTT. Thank you.
Judge Poe?

**TESTIMONY OF THE HONORABLE TED POE, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. POE. Thank you, Mr. Chairman, Ranking Member Gohmert, Chairman Conyers. It is my pleasure to testify in support of this common-sense piece of legislation.

First, I want to thank my colleague, Congressman Chris Murphy from Connecticut, for taking up this cause and asking me to work with him, but also would like to thank the Smolinskis for being here and sharing this story and moving forward to this legislation so that it will be presented before Congress.

We should always remember that in the criminal justice system when a victim is—becomes a victim of a crime, the system sometimes continues to victimize the families of that victim. One such way is the fact that many times victims have no idea what has happened—or the victims' families have no idea what has happened to their loved one, and that causes frustration and quite a bit of heartache in just not knowing.

So our system, our justice system, must seek justice not only for defendants of crime but for victims and their families as well to have the scales of justice totally balanced.

This legislation authorizes funding for the National Missing and Unidentified Persons System which will serve as a unique database that can be searched and cross-referenced.

The database was created by the Department of Justice in 2007 and loved ones of the missing can add information to profiles in that database, making those databases stronger. This system will allow Federal, State and local law enforcement officers to more quickly locate information about missing persons and enable them to also solve crimes much faster.

Having served as a chief felony prosecutor in Houston, Texas for 8 years and a felony court judge for 22 years, I know firsthand the toll that violent crime puts on family members and friends. They go through a lot of stress and heartache.

And a person that has lost a loved one to a violent crime is forced to bear a terrible burden. This burden is made worse when the family is not able to determine exactly what has happened to the loved one.

Often, families have to wait for many months or years, or forever, until they can find final disclosure. Brave men and women of our local police forces do everything they can within their power. This legislation, however, will make their ability to work together with the victims' families much easier.

Shortly after I was elected to Congress, I started the Victims' Rights Caucus, and this caucus supports legislation for policies that will help victims of crime in the United States.

This legislation is such a bill, and the members of the Victims' Rights Caucus will support this legislation.

We must remember, however, that violent crime is not the only reason an adult might go missing. A physical or developmental disability such as Alzheimer's disease or dementia may cause an adult to go missing.

Also, after catastrophic disasters in our country many people go missing. Such occurred in Hurricane Rita in my congressional district, where many families were separated, and it took days, weeks and sometimes months to find family members because of the database problem that we currently face.

So today we have a mixture of Federal, State and local and non-profit databases that can be used to help identify remains. However, we must go to each one of these, or a family must go to each one of these, entities to find all of the information.

So it is important that we make it much easier to have one simple database, and this legislation authorizes that one central database in NamUs, and I would like to submit the rest of my statement for the record.

And once again, I want to thank Congressman Chris Murphy from Connecticut and the Smolinskis for pushing this legislation, and the Chairman for bringing such a quick hearing to this Subcommittee.

And I will yield back the remainder of my time. Thank you, Mr. Chairman.

[The prepared statement of Mr. Poe follows:]

PREPARED STATEMENT OF THE HONORABLE TED POE,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

It is my pleasure today to testify in support of a common sense piece of legislation that should have been passed years ago. First, I would like to thank my colleague, Congressman Murphy for taking up this worthy cause, and for asking me to work with him on this legislation. Also, I would like to thank Janice Smolinski for being here and sharing with us the story of her son Billy. As we analyze this piece of legislation, it is imperative for us to remember how important this bill is to people like Janice Smolinski.

H.R. 3695 authorizes funding for the National Missing and Unidentified Persons System which will serve as a unique database that can be searched and cross-referenced. This database was created by the Department of Justice in 2007. Loved ones of the missing can add information to profiles in the database, making them stronger. It is my belief that this new system will allow federal, state, and local law enforcement officers to quickly locate information about missing persons enabling them to solve crimes faster.

Having served as a chief felony prosecutor in Harris County, Texas for 8 years, as well as a felony court judge for over 22 years, I know firsthand the toll that violent crime puts on our communities. The friends and family of the victims go through tremendous stress and heartache. A family that has lost a loved one to violent crime is forced to bear a terrible burden. This burden is made even worse when the family is not able to determine what exactly happened to their loved one. Often, families have to wait for many months, or years, until they can finally find closure. The brave men and women of our local police forces do everything within their power to solve all violent crimes, and their work should be commended. However, crimes cross state lines. A victim may be taken far from home by his or her kidnapers. H.R. 3695 will give our law enforcement officials the tools they need to quickly solve crimes that cross state lines and bring closure to families and swift justice to criminals.

Shortly after I was elected to Congress, I started the Victims' Rights Caucus. This Caucus supports legislation and advocates for policies that will help victims of crime in the United States. H.R. 3695 is such a bill. I am proud to be a part of this bill, and I urge all members of this subcommittee to support it, and I will urge all members of the Victims Rights Caucus to support it as well.

However, we must remember, violent crime is not the only reason an adult might go missing. A physical or developmental disability such as Alzheimer's disease or dementia may cause an adult to go missing. A large scale disaster such as Hurricane Katrina may cause large numbers of adults to be reported missing. Many children and adults in my congressional district were reported missing in the confusion following the evacuation before Hurricane Rita. In situations like these, quick access to national databases is the key to finding these missing persons.

Today, we have a mixture of many federal, state, local, and non-profit databases that can be used to help identify remains. However, these systems are not fully connected to each other. Information that is contained in one database might not be contained in another. Most of these databases do not allow the public to search or add information. We need a unified, national, system that can collect and gather information from multiple sources and allow this information to be easily searched by law enforcement across the country. Social media and sites like Wikipedia have shown us how much information can be shared and compiled in one place, by multiple individuals, if it is managed properly. It is my belief that the NamUS database can be just such a clearinghouse for information about missing adults and children.

H.R. 3695 would authorize \$2.4 million dollars a year for the Attorney General to maintain the National Missing and Unidentified Persons System (NamUS). Additionally, H.R. 3695 would require the Attorney General to share all of the information on missing persons and unidentified human remains that currently is found in NCIC to be shared with the NamUS database. H.R.3695 contains protections to ensure that sensitive information is not shared with NamUS as it will be a public database. Then, from this point forward, we will have one database which is easily searchable by both law enforcement and the public, to serve as a nationwide information clearing house on the missing.

Every year in this country, tens of thousands of Americans go missing. In 2004, there were an estimated 40,000 sets of human remains being held by medical examiners or coroner offices across the country. According to the National Institute of Justice, only 6,000 of such cases have been entered into the National Crime Information Center's Unidentified Person File of the Federal Bureau of Investigation. To address this problem, H.R. 3695 creates incentives for state and local law enforce-

ment officials to report information about the missing to NCIC, NamUS, and the National DNA Index System.

Clearly, a unified, easily accessible, national database is needed to allow information to be more easily shared and help law enforcement find missing adults and children as fast as possible. H.R. 3695 is a common sense piece of legislation that should be supported by the members of this subcommittee.

Mr. SCOTT. Thank you.

Are there questions, Mr. Gohmert?

Ms. Wasserman Schultz, do you have any questions? Thank you.

Thank you very much. We will now have our second panel. Appreciate the testimony from our colleagues.

As our next panel is coming forward, they will be introduced. Our first witness in the second panel will be Janice Smolinski. She lives in Cheshire, Connecticut, in Mr. Murphy's district. She and her husband of 39 years, William Sr., raised two children, Billy and Paula, on a small farm.

On August 24th, 2004 her life changed forever when Billy went missing at the age of 31. In her search for her son, she encountered many problems with the missing persons system, and she has dedicated her life not only to finding her son but also helping others in similar situations.

Our second witness will be Kristina Rose, acting director of the National Institute of Justice. She oversees research, development and evaluation of the Department of Justice. She is also responsible for agency-wide special projects and initiatives that cut across both social and physical sciences.

She was the senior—previously the senior advisor to the director of the NIJ, providing advice and guidance on criminal justice policy and management.

Our final witness will be the FBI deputy assistant director, Stephen Morris. He has been with the FBI for more than 21 years, working in field offices in El Paso, Dayton and Houston. As the chief of programs, support section, he was assigned to the Criminal Justice Information Services Division and managed the FBI's Uniform Crime Reporting and Law Enforcement Online programs.

In 2008 he was appointed deputy assistant director of the Policy Administrative and Liaison Branch.

So we will begin with Ms. Smolinski. Ms. Smolinski, can—is your microphone on? Thank you.

TESTIMONY OF JANICE SMOLINSKI, CHESHIRE, CT

Ms. SMOLINSKI. Thank you for having the courage to tackle the tragic disconnect in our country's effort to find missing Americans. The Help Find the Missing Act has been named "Billy's Law" in honor of our son who went missing 5 years ago.

It is my husband Bill and my greatest effort—hope that the legislation, so well crafted by Representatives Murphy and Poe, will be signed into law in order to help bring answers and peace to the thousands of families wrestling with the horror of having a loved one go missing.

We hope that sharing our family's story can shed light on this national nightmare and illustrate the urgent need to pass "Billy's

Law.” With over 100,000 people missing in this country, our family’s story is not a unique one.

Our son’s name is William Smolinski Jr., and his whole life we called him Billy. He was funny and a bit of a goofball, always trying to surprise us with a joke or a trick.

Billy was a hard worker who drove a tow truck, owned a small house in the south end of Waterbury and loved his 3-year-old German shepherd, Harley.

Everything changed on August 24th, 2004 when Billy vanished at the age of 31. In our search to find our son, we encountered a Pandora’s Box, and when we opened it, we unleashed the nightmare plaguing the world of the missing and the unidentified dead.

Our nightmare began when a neighbor called to say that Billy had left his dog unfed and locked inside his house. Billy’s truck was parked oddly in the driveway, in a spot he had never used before.

We are a very close family and we knew something had happened. We called the police, and they told us to wait 3 days to see if Billy showed up and, if he didn’t, to file a missing persons report.

After waiting the 3 days, we filed the report and expected the police to launch an aggressive investigation. When the police did nothing, we organized our own search with friends and family. We even hired a private investigator.

As the days passed, we knew something terrible had happened to our son. Yet we still couldn’t get the attention of the local police department. They dismissed Billy as a walkaway case.

The police were not only slow to respond but they also didn’t report—properly report the case. It took 4 years for a report to be correctly filed with the National Crime Information Center.

Moreover, not only did they lose seven separate DNA samples, but they also didn’t know about the National DNA Index System. In fact, it wasn’t until the FBI took over the investigation, 2 years after Billy vanished, that the proper reports and DNA samples were collected and filed.

Eventually, we uncovered information that led us to believe Billy had been murdered in Woodbridge and buried in Seymour. The only person who has ever been arrested in this case is me. When we tried to hang missing person flyers on telephone poles in Woodbridge, the police arrested me. The charge was later dropped.

Though much time has passed, we still haven’t been able to find justice for our Billy. We have tried to change the system so no family would have to endure the anguish that we have lived through.

Reform has begun in Waterbury and in many other police departments in Connecticut. With H.R. 3695, we have the opportunity to make changes nationwide.

With the incentive grants program created in the bill, police training can finally catch up to modern technology while emphasizing sensitivity protocols. Police want to have better resources to solve missing persons cases, and “Billy’s Law” will help them with that.

Authorizing NamUs will help empower family members to search for their missing loved ones. As you can tell, looking for your missing loved one becomes a full time job. It consumes you. You have to continually hound the police, knock on doors, make phone calls,

visit the media, make fliers, create Web sites, network, speak up, and check on information entered into databases to make sure it was created correctly.

NamUs makes this process easier as you can both enter information yourself and search the database. Moreover, the connected NCIC-NamUs database that the legislation creates increases the chances of finding answers.

Uncertainty is a cancer that crushes the spirit of loved ones left behind, destroys marriages and tears at the tissue of family bonds. The stress of having a missing loved turns some to substance abuse, creates health problems and drives people into bankruptcy.

Unless there is some form of resolution, the heartache never truly goes away. This legislation is long overdue, and the missing community applauds his efforts.

This act is named after my son, but it is not for him or the Smolinski family. This act is for every American, and it is the ultimate act in homeland security.

Thank you again.

[The prepared statement of Ms. Smolinski follows:]

PREPARED STATEMENT OF JANICE SMOLINSKI

Good morning and thank you Chairman Scott, Ranking Member Gohmert, and Members of the Subcommittee for having the courage to tackle the tragic disconnect in our country's effort to find missing Americans.

The Help Find the Missing Act has been named "Billy's Law" in honor of our son who went missing from Waterbury, Connecticut five years ago. It is my husband Bill and my greatest hope that the legislation, so well crafted by Congressman Murphy and Congressman Poe, will be signed into law in order to help bring answers and peace to the thousands of families wrestling with the horror of having a loved one go missing.

My husband and I are uncomfortable in the spotlight, but we hope that sharing our family's story can shed light on this national nightmare and illustrate the urgent need to pass Billy's Law. With over 100,000 people missing in this country, our family's story is not a unique one.

Our son's name is William Smolinski Jr., and his whole life we called him Billy. He was funny, and a bit of a goof ball, always trying to surprise us with a joke or a trick.

Billy was a hard worker who drove a tow truck, owned a small house in the South End of Waterbury, and loved his three-year-old German Sheppard, Harley.

Everything changed on August 24, 2004 when Billy vanished at the age of 31. In our search to find our son we encountered a Pandora's Box, and when we opened it, we unleashed the nightmare plaguing the world of the missing and the unidentified dead.

Our nightmare began with a phone call. A neighbor called to say that Billy had left his dog unfed and locked inside his house. Billy's truck was parked oddly in the driveway, in a spot he had never used before. We are a very close family and immediately knew something extraordinary had happened. We called the police and they told us to wait three days to see if Billy showed up, and if he didn't, to file a missing persons report.

After waiting the three days, we filed the report, and expected the police to launch an aggressive investigation. When the police did nothing we organized our own search with family and friends. We even hired a private investigator. As the days passed we knew something terrible had happened to our son.

Yet we still couldn't get the attention of the local police department. They dismissed Billy as a voluntary runaway case.

The police were not only slow to respond, but they also didn't properly report the case. It took four years for a report to be correctly filed with the National Crime Information Center (NCIC). Moreover, not only did they lose seven separate DNA samples, but they also didn't know about the National DNA Index System (NDIS). In fact, it wasn't until the FBI took over the investigation—two years after Billy vanished—that the proper reports and DNA samples were collected and filed.

Eventually we uncovered information that led us to believe Billy had been murdered in Woodbridge, Connecticut, and buried in Seymour.

In fact, according to international homicide expert Bill Hagmaier, a great leader in fighting for reform, a majority of the missing aren't just missing, they have been murdered.

However, to this day, the only person who has been arrested in this case is me. When we tried to hang missing person flyers on telephone poles in Woodbridge, the police arrested me. The charge was later dropped.

Though much time has passed, we still haven't been able to find justice for our Billy. We have tried to change the system so no family would have to endure the anguish that we have lived through these past five years. Reform has begun in Waterbury and in many other police departments around Connecticut.

With H.R. 3695, we have the opportunity to make changes nationwide. With the incentive grants program created in the bill, police training can finally catch up to modern science and technology, while emphasizing sensitivity protocols. Police want to have better resources to solve missing persons cases and Billy's Law will help them with that.

Authorizing the Department of Justice's National Missing and Unidentified persons System (NamUs) will help empower family members to search for their missing loved ones. As you can tell, looking for your missing loved one becomes a full time job. It consumes you. You have to continually hound the police, knock on doors, make phone calls, visit the media, make fliers, create websites, network, speak up and check on information entered into databases to make sure it was created correctly. NamUs makes this process easier as you can both enter information yourself and search the database. Moreover, the connected NCIC/NamUs database that the legislation creates increases the chances of finding answers.

Uncertainty is a cancer that crushes the spirit of loved ones left behind, destroys marriages and tears at the tissue of family bonds. The stress of having a missing loved turns some to substance abuse, creates health problems and drives people into bankruptcy. Unless there is some form of resolution, the heartache never truly goes away.

Congressman Murphy's effort gives families like mine hope for a better, more certain tomorrow. This legislation is long overdue, and the missing community applauds his effort. This act is named after my son, but it's not for him, or the Smolinski family.

This act is for every American, and is an ultimate act in Homeland Security.

Thank you again for holding this hearing today. I look forward to answering any questions you may have.

Mr. SCOTT. Thank you. Thank you, Ms. Smolinski, and thank you for dedicating yourself to use your case to help others.

Ms. SMOLINSKI. Thank you.

Mr. SCOTT. Ms. Rose?

TESTIMONY OF KRISTINA ROSE, ACTING DIRECTOR, NATIONAL INSTITUTE OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Ms. ROSE. Mr. Chairman, Ranking Member Gohmert and Members of the Subcommittee, I am pleased to have this opportunity to discuss the Department of Justice's Missing and Unidentified Persons System, otherwise known as NamUs, and to affirm our strong support for H.R. 3695, or "Billy's Law."

We commend Congressman Murphy and Congressman Poe for sponsoring "Billy's Law," and thank the Subcommittee for their interest in NamUs.

I am especially grateful to Janice Smolinski for her courageous efforts to raise an awareness of the need to report and share information about missing persons.

My name is Kristina Rose, and I am the acting director of the National Institute of Justice. I am proud to be here with Stephen Morris. He and his colleagues at the FBI have been valuable part-

ners in supporting State and local efforts to find and share information about missing and unidentified persons.

We established NamUs to respond to an overwhelming need for a central reporting system for unidentified human remains.

Our Bureau of Justice Statistics reported that, as of 2004, more than half of the Nation's medical examiners' offices had no policy for retaining records, such as x-rays, DNA or fingerprints, on unidentified human remains. In addition, it is estimated that on any given day there are 100,000 active missing persons cases.

NamUs is the first national system for solving missing persons cases and unidentified dead that was developed by and for those who use it—by law enforcement, medical examiners, coroners and the public.

The creation of NamUs has provided unparalleled opportunities for true partnerships among these groups, especially with the families of the missing and unidentified dead.

NamUs engages the public to work alongside State and local agencies to help resolve cases, increase public safety and provide resolution for families and for loved ones.

NamUs also serves as a central online repository for other missing persons' Web sites, for State clearinghouses, for contact information, legislation and other resources from around the country.

So now, instead of having to search newspapers or call morgues around the country to find information about unidentified persons, families and loved ones can turn to NamUs.

NamUs was implemented in three stages. In June of 2007, we launched the first database, for unidentified dead. And then in January of 2009, we completed the second phase, for a database on missing persons' information. In July of last year, the third phase of NamUs became active, and that was the cross matching.

The system now automatically searches for similarities between the unidentified dead cases and the missing person cases every time a new case is published to the system or when a new case is opened. The system alerts NamUs case managers when potential matches are found so that they can follow up.

And in just a short period of time, NamUs has become an extremely valuable tool. All 50 States have missing person case reports in NamUs. Law enforcement officers in 50 States are registered, and medical examiners in 48 States, Puerto Rico and the District of Columbia are also using the system.

And NamUs has already made a difference in people's lives. Last year, NamUs was used to identify the remains of a man recently found dead as those of a boy that was reported missing in Virginia in 1995.

Another example is a man who disappeared in Connecticut last April. His aunt entered information about him in NamUs, and the following month a body was found. And using the information entered by the aunt, the body was identified as that man who disappeared in April.

And while the information uncovered by NamUs unfortunately confirms deaths, it brings much needed resolution to families and friends.

Now, while we are very, very proud of what NamUs has accomplished so far, we are also striving every day to make it better. And that is why we enthusiastically support “Billy’s Law.”

This legislation would specifically authorize NamUs as well as lead to substantial improvements in how information is shared between NamUs and the NCIC.

We are also hopeful that the bill will provide a strong incentive, through the proposed grant program, for States to provide critical information to NCIC and NamUs shortly after a case is reported.

Please be assured that the department will continue to expand and improve its efforts to help law enforcement, medical examiners, coroners and the public find missing persons and identify human remains.

We look forward to working with the Subcommittee on “Billy’s Law.” And this concludes my statement, Mr. Chairman. Thank you for the opportunity to testify today, and I am happy to answer any questions that you have.

[The prepared statement of Ms. Rose follows:]

PREPARED STATEMENT OF KRISTINA ROSE

Department of Justice



STATEMENT OF

KRISTINA ROSE
ACTING DIRECTOR
NATIONAL INSTITUTE OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

BEFORE THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON

H.R. 3695, THE "HELP FIND THE MISSING ACT" OR "BILLY'S LAW"

PRESENTED

JANUARY 21, 2010

**STATEMENT OF KRISTINA ROSE
ACTING DIRECTOR
NATIONAL INSTITUTE OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
U.S. DEPARTMENT OF JUSTICE**
**Before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security
On H.R. 3695, the "Help Find the Missing Act" or "Billy's Law"
January 21, 2010**

Mr. Chairman, Ranking Member Gohmert and Members of the Subcommittee: I am pleased to have the opportunity to discuss the Department of Justice's National Missing and Unidentified Persons System (NamUs) and to affirm our support of H.R. 3695, the "Help Find the Missing Act" or "Billy's Law." We commend Congressmen Murphy and Poe for sponsoring "Billy's Law" and thank the Subcommittee for their interest in NamUs and this legislation. I am especially grateful to Janice Smolinski for her efforts to raise awareness of the need to report and share information about missing adults.

The mission of the Office of Justice Programs (OJP) is to increase public safety and improve the fair administration of justice across America through innovative leadership and programs. Part of this mission is to provide assistance to law enforcement and criminal justice agencies to help tackle difficult and challenging cases.

I am proud to be here today with Stephen L. Morris. He, along with his colleagues at the FBI's Criminal Justice Information Services (CJIS), have been valuable partners in supporting state and local efforts to find missing and unidentified persons.

The Department of Justice established NamUs to respond to an overwhelming need for a central reporting system for unidentified human remains cases. OJP's Bureau of Justice Statistics reported that, as of 2004, more than half (51 percent) of the nation's medical examiners' offices had no policy for retaining records—such as x-rays, DNA, or fingerprints—on unidentified human decedents. In addition, it is estimated that, nationwide, there are an estimated 100,000 active missing persons cases on any given day.

In 2005, the Attorney General charged the Department of Justice with developing a response to this national problem. In the spring of 2005, NIJ assembled federal, state, and local law enforcement officials, medical examiners and coroners, forensic scientists, key policymakers, victim advocates and victims' families for a national strategy meeting in Philadelphia, called the "Identifying the Missing Summit."

Out of this and other meetings came the strategy to develop NamUs, the first national system for both missing persons and the unidentified dead developed for and by those that will use it: the public, law enforcement, medical examiners and coroners. It is a free web-based tool created to assist in the solving of missing and unidentified decedent cases in the United States. The system's development and its ongoing use have provided unparalleled opportunities for true partnership between law enforcement, medical examiners, coroners, and members of the public – especially the families of the missing and unidentified dead. It engages the public to work alongside state and local agencies to help resolve cases, increase public safety, and provide closure and resolution for the families of the missing. NamUs also serves as a central, online national repository for other missing persons' websites, state clearinghouses, contact information, legislation and other resources from around the country.

Now instead of having to search newspapers or call morgues across the country to find information about unidentified persons, families and loved ones can search the NamUs databases online. They can be part of the process.

NamUs is administered by NIJ through cooperative agreements with the National Forensic Science Technology Center (NFSTC), a 501(c)(3) based out of Largo, Florida and the National Center for Forensic Science (NCFS) within the University of Florida. NamUs System development has been guided by state, local, federal and non-profit practitioners and community members.

NamUs was implemented in three stages. In June 2007, we launched the first NamUs database, for unidentified decedents. The database is designed to assist in the identification of deceased persons whose names and identities have not yet been established. The system is searchable by anyone, but information can only be entered by the medical examiner/coroner communities.

In January 2009, we started the second phase of NamUs, a database for missing persons' information. This can include physical attribute information like hair color and eye color, as well as more specific information like circumstances of the disappearance, car make and/or model, dental records, descriptions of scars/marks/tattoos and even whether DNA testing has been performed. It is searchable and accessible by everyone – the general public, the law enforcement community, and the missing persons' clearinghouse coordinators across the nation. Anyone can access the NamUs system to search or track cases, print missing persons posters, find resources, and even map out travel routes in an effort to locate a missing person.

In July 2009, the third phase of the NamUs System, cross-matching, became active. The system now automatically searches for similarities between the unidentified decedent cases and the missing persons cases every time a new case is published to the system or whenever a case is opened. It alerts NamUs case managers when potential matches are found so they can follow-up.

In just a short period of time, NamUs has become a valuable tool for law enforcement and medical examiners. All 50 states have missing person case reports in the NamUs system. Law enforcement officers in 50 states are registered and using NamUs, while medical examiners in 48 states, D.C., and Puerto Rico are using the system.

In May 2009, NamUs was honored by the International Association of Chiefs of Police (IACP) with an Excellence in Technology Award, which recognizes law enforcement agencies' superior achievement and innovation in the field of communication and information technology. In July 2009, the NamUs video won an Apex Award (sponsored by the editors of *Writing That Works*, a newsletter for communicators who write, edit, and manage business publications) in the category of "Special Purpose Electronic & Video Publications."

Much more important than any award, however, is the difference NamUs has made in people's lives. In 2009, NamUs was used to identify the remains of a man recently found dead as those of a boy reported missing in Virginia in 1995. Also in 2009, a citizen reviewing NamUs noticed similar information in the missing persons report and in the unidentified decedent data sets of the system of a recently found body. He contacted the authorities and the man was identified as an alleged victim of homicide.

Another example is a man who disappeared in Connecticut in April 2009. His aunt entered information about him in NamUs. The following month a body was found, and using the information entered by the aunt, the body was identified as the man who disappeared in April. While the information

uncovered by NamUs unfortunately confirmed deaths, it provided much needed resolution to the victims' families and friends.

While we are very proud of what NamUs has accomplished, we are also constantly striving to make it better. That is why we enthusiastically support "Billy's Law." This legislation would specifically authorize NamUs. It would also encourage and facilitate the sharing of information from disparate systems critical to the resolution of missing persons and unidentified decedent cases. In addition, the bill would lead to substantial improvements in how information is shared between NamUs and the National Crime Information Center's (NCIC) Missing Person File and Unidentified Decedent File, which is administered by CJIS.

"Billy's Law" would authorize grants for personnel, technology, and training to help states submit data to NCIC and NamUs. We are hopeful that, should this program receive appropriations, it would provide a strong incentive for states to provide critical information to NCIC and NamUs shortly after a case is reported.

We do have a couple of suggestions concerning how this bill could be strengthened, which are outlined in the Department's views letter on H.R. 3695.

Please be assured that the Department will continue to expand and improve its efforts to help law enforcement, medical professionals, and the general public find missing persons and identify unidentified human remains. This has always been a critical part of OJP's mission, and it will remain so. We look forward to working with the Subcommittee on "Billy's Law."

This concludes my statement, Mr. Chairman. Thank you for the opportunity to testify today. I welcome the opportunity to answer any questions you or Members of the Subcommittee may have.

Mr. SCOTT. Thank you.
I would like to recognize the fact that Ms. Waters had come in,
and Mr. Quigley has joined us.
Mr. Morris?

TESTIMONY OF STEPHEN L. MORRIS, DEPUTY ASSISTANT DIRECTOR, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC

Mr. MORRIS. Good morning, Mr. Chairman.

Good morning, Mr. Chairman—Ranking Member Gohmert, I see, has left briefly—and distinguished Members of the Subcommittee. My name is Stephen L. Morris, and I am a deputy assistant director at the FBI's Criminal Justice Information Services Division, otherwise known as CJIS, located in Clarksburg, West Virginia.

It is my pleasure to join my colleague, Kristina Rose, from the National Institute of Justice, and especially Bill and Janice Smolinski, in thanking you for this opportunity to appear before the Subcommittee to discuss the "Help Find the Missing Act," or "Billy's Law."

It is indeed my honor to provide testimony today regarding the FBI's National Crime Information Center and its relationship to the Department of Justice's National Missing and Unidentified Persons System, or NamUs.

Both of these systems play a vital role in locating and identifying missing and unidentified persons. As you know, the National Crime Information Center, commonly known as NCIC, has a computerized database of criminal justice information available to virtually every law enforcement agency nationwide, 24 hours a day, 365 days a year.

Established in 1967 primarily to assist law enforcement in apprehending fugitives and locating stolen property, the NCIC's role has clearly expanded over the last 42 years.

Currently, the NCIC database consists of 19 files, comprised of seven property files and 12 person files. All these files contain more than 10 million records.

Of the 12 person files within the NCIC, there are two that are impacted by "Billy's Law"—one, the missing person file, and two, the unidentified person file.

The missing person file, which was created in 1975, contains approximately 98,000 records, and the unidentified person file, which was established in 1983, contains approximately 7,000 records.

Since its inception, NCIC, like all other CJIS information-sharing programs, has operated under a shared management concept known as the CJIS Advisory Policy Board, or APB, as we refer to it.

This board represents the interests of more than 17,000 local, State, Federal and tribal law enforcement agencies accessing CJIS systems throughout the United States. Through various Subcommittees, working groups and a voting board, the CJIS APB enables CJIS systems users to make recommendations to the FBI director regarding policy and operational enhancements to those CJIS systems.

Essentially, the CJIS division serves as a custodian of NCIC records and is a steward of NCIC information for more than 100,000 law enforcement and other authorized users of the NCIC. Currently the NCIC averages more than 7 million transactions per day.

Needless to say, the FBI and the CJIS APB recognize the significant role the NCIC has played in the location and identification of missing persons. According to one benefit survey conducted by the CJIS Division, an estimated 50,000 missing persons were located as a direct result of information obtained through the NCIC in a single year.

Throughout its collaborative effort with the APB, the CJIS Division years ago developed a cross-matching capability that automatically compares records within the NCIC missing person, unidentified person and wanted person file any time a record within these files is entered or modified by an agency.

The comparison is performed on a daily basis and generates a list of potential candidates which is then provided to the agency entering or modifying a record and to the agency who may own a record in the NCIC.

For example, in 2007 a California police department entered a missing person record into NCIC and received an automatic response from the NCIC identifying several candidates from the unidentified deceased records.

No identification was made from those candidates. However, approximately 30 days later the police department updated their original record with some dental information. That information generated additional candidates and ultimately resulted in the positive identification of a missing person.

In 2008, based upon unidentified person information entered by a police department in Georgia, the NCIC generated an automatic response to the Georgia police department and a police department in Tennessee identifying a possible match.

As a result of that notification, the Georgia and Tennessee agencies positively identified the person as a missing person from the State of Tennessee dating back more than 10 years.

Despite these successes, the FBI and the CJIS APB remain steadfastly committed to further enhancing and leveraging the NCIC to locate and identify missing persons.

We understand the interest among the Federal Government, law enforcement and the medical examiner and coroner communities to further leverage the NCIC by sharing missing and unidentified person information in a Web-based environment.

However, we are also mindful of the rights to privacy and civil liberties which we must preserve as we explore the possibility of sharing law enforcement sensitive information in a publicly accessible environment.

It is this very tenet that underscores the significant role the CJIS APB plays in coordinating this national effort. In fact, in 2007, the FBI began participating in several NamUs working groups and advisory committees.

And throughout the CJIS APB—or through the CJIS APB we started working with the National Institute of Justice in developing an interim process for sharing NCIC data with NamUs.

Although this effort has resulted in several States directly providing data extracts from the NCIC to the NamUs, the FBI and the National Institute of Justice recognize the deficiencies and ineffectiveness of this process. We are committed to exploring a more reliable and efficient long-term solution.

In closing, I would like to thank you, Mr. Chairman and Members of the Subcommittee, for providing the FBI an opportunity to contribute to this worthwhile endeavor.

The FBI looks forward to working with the Members of this Subcommittee, the National Institute of Justice, and our local, State, Federal and tribal law enforcement partners in furthering the development and operation of NamUs.

I look forward to your questions and comments. Thank you.

[The prepared statement of Mr. Morris follows:]

PREPARED STATEMENT OF STEPHEN L. MORRIS



Department of Justice

STATEMENT OF

STEPHEN L. MORRIS
DEPUTY ASSISTANT DIRECTOR
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON

H.R. 3695, THE "HELP FIND THE MISSING ACT" OR "BILLY'S LAW"

PRESENTED

JANUARY 21, 2010

STATEMENT OF STEPHEN L. MORRIS
DEPUTY ASSISTANT DIRECTOR
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
Before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security
On H.R. 3695, the "Help Find the Missing Act" or "Billy's Law"
January 21, 2010

Good morning Chairman Scott, Ranking Member Gohmert, and Members of the Subcommittee. I want to thank you for the opportunity to appear before you today and provide testimony about the National Crime Information Center as it relates to H.R. 3695, the "Help Find the Missing Act," also known as "Billy's Law." I am please to join my colleague, Kristina Rose, Acting Director of the National Institute of Justice, with whom the Federal Bureau of Investigation (FBI) enjoys a strong working relationship.

The National Crime Information Center, more commonly known as NCIC, is a computerized database of documented criminal justice information available to virtually every law enforcement agency nationwide, 24 hours a day, 365 days a year. NCIC became operational January 27, 1967, with the goal of assisting law enforcement in apprehending fugitives and locating stolen property. This goal has been expanded over the last forty-three years to include locating missing persons and further protecting law enforcement personnel and the public. NCIC has operated under a shared management concept, known as the CJIS Advisory Policy Board, between the FBI and federal, state, local, and tribal criminal justice users since its inception. The CJIS Advisory Policy Board enables NCIC users to make recommendations to the FBI Director for policy and operational enhancements to the system.

The FBI provides a host-computer and telecommunication lines to a single point of contact in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and Canada, as well as federal criminal justice agencies. Those jurisdictions, in turn, operate their own computer systems, providing NCIC access to virtually all local criminal justice agencies and authorized noncriminal justice agencies in the United States. Through this cooperative network, more than 100,000 law enforcement and other authorized users have on-line access to more than 10 million records and generate over 7 million transactions per day. The entry, modification, and removal of records is the responsibility of the agency that entered the record. The CJIS Division serves as the custodian of NCIC records.

The NCIC database currently consists of nineteen files. There are seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are twelve persons files containing the supervised release, convicted sexual offender registry, foreign fugitive, immigration violator, missing person, protection order, unidentified person, U.S. Secret Service protective, gang, known or appropriately suspected terrorist, wanted person, and identity theft files. There are two NCIC files impacted by Billy's Law--(1) the Missing Person file, and (2) the Unidentified Person file. The Missing Person file, created in 1975, contains 98,000 records. The Unidentified Person file was established in 1983 and contains approximately 7,000 records.

Records may be entered into the Missing Person file for individuals meeting any of the following criteria:

1. **Disability:** a person of any age who is missing and under proven physical/mental disability or is senile, thereby subjecting himself/herself or others to personal and immediate danger.

2. **Endangered:** a person of any age who is missing under circumstances indicating that his/her physical safety may be in danger.
3. **Involuntary:** a person of any age who is missing under circumstances indicating that the disappearance may not have been voluntary, i.e., abduction or kidnaping.
4. **Juvenile:** a person under the age of 21 who is missing and not declared emancipated as defined by the laws of his/her state of residence and does not meet any of the entry criteria set forth in 1, 2, 3, or 5.
5. **Catastrophe victim:** a person of any age who is missing after a catastrophe.
6. **Other:** a person not meeting the criteria for entry in any other category who is (1) age 21 and older for whom there is a reasonable concern for his/her safety, or (2) a person who is under age 21 and declared emancipated by the laws of his/her state of residence.

A record for a missing person who is over age 21 may be entered into the Missing Person file provided the entering agency has signed documentation in its possession supporting the stated conditions under which the person is declared missing. This documentation will aid in the protection of the individual's right to privacy. When documentation from a parent, legal guardian, next of kin, physician, or other authoritative source, including friend or neighbor in unusual circumstances, is not reasonably attainable, a signed report by the investigating officer will suffice.

The Unidentified Person file assists law enforcement and forensic professionals in identifying unidentified persons and body parts. There are three different categories for entering records into the unidentified person file:

1. **Unidentified deceased persons,** including victims of catastrophe.
2. **Unidentified living persons** who are unaware of their identities, such as amnesia victims, small children, persons with Alzheimer's disease, etc.
3. **Body parts.** Cases have arisen in which a body has been dismembered and disposed of in different geographic locations. Entry of these records may provide investigative links between agencies that have recovered body parts.

The types of data included in an unidentified person file record include blood type, estimated year of birth, approximate height and weight, jewelry, medical conditions, and dental characteristics.

NCIC performs a daily cross-match of information contained within these two files. The NCIC cross-match is an automatic comparison of records in the NCIC Missing, Unidentified, and Wanted Person files based on personal descriptors and dental characteristics. This comparison is performed daily on records entered or modified the previous day and generates a list of potential matching candidates for the owner of both the entering/modifying and candidate records.

In 2007, the CJIS Division was directed, through the CJIS Advisory Policy Board, to work with the National Institute of Justice to explore the possibility of creating a national unidentified person website and to match NCIC data against records contained within the national missing and unidentified persons system or NamUs for the purpose of identifying the unknown dead. CJIS and the Advisory Policy Board understand the interest among the federal government, law enforcement, and medical examiner and coroner communities to share missing and unidentified person information in a web-based environment. CJIS also recognizes the issues and challenges confronted by medical examiners and coroners relative to NCIC terminal access. Likewise, CJIS acknowledges the need for a capability to allow some level of access to missing and unidentified person information for the general public. CJIS is sensitive to the delicate nature of some of the data, particularly images of body parts and morgue photographs, and encourages close monitoring to ensure inappropriate pictures are not shared with the public. The FBI's CJIS Division has supported information sharing with NamUs by sending

representatives to various NamUs working groups and advisory committees since early 2007. The FBI will continue to support this initiative until real-time information sharing between NamUS and the NCIC systems can be developed.

CJIS recognizes the need for real-time access to updated NCIC records. Currently, many NCIC record owners provide extracts of their NCIC Missing and Unidentified Person file records to NamUs. The information in NCIC, however, is updated continuously. During an average month, there are over 150,000 additions, modifications, and removals to the Missing and Unidentified Person file records. Extracts, therefore, are not conducive to providing a timely and accurate representation of records contained in NCIC. In a dynamic system such as NCIC, information obtained via an extract becomes obsolete instantly.

NCIC is an effective tool in the effort to locate missing persons. NCIC processes an average of over 7 million transactions per day. According to the most recent benefits survey, the use of NCIC during the survey year resulted in the location of an estimated 50,000 missing persons.

In closing, I would like to thank you for allowing me the opportunity to explain the use of NCIC for the location of missing persons and identification of the unknown dead. The FBI looks forward to working with members of this subcommittee, the NIJ, and our state and local law enforcement partners, to facilitate information sharing and solve missing and unidentified persons cases.

Mr. SCOTT. Thank you very much.

We would like to thank all of our witnesses for their testimony. I just have a couple of questions.

Mr. Morris, you kind of alluded to this. Does the bill appropriately limit the kind of information that can be put in to make

sure that confidential law enforcement or private information is not accessible?

Mr. MORRIS. I think the legislation addresses the discretion that law enforcement agencies have in what data should be entered into the system.

I think it sufficiently addresses and acknowledges that there are some privacy concerns there by allowing the agencies to basically determine what information it wants to share. I think that is the beauty of our advisory policy board process.

Through that forum, we were able to—that board is made up of approximately 32 officials, representatives throughout the country that represent the multiple jurisdictions that have law enforcement data in NCIC.

And as we raise issues to them, much like what we are talking about today, we are able to present those issues and concerns to the board and, for lack of a better word, vet that information out through the—through the law enforcement community and get their input back, and hopefully develop a standard, universal—I guess universal standards that we—that allow them to abide by their local laws but also meeting the objectives of what we are trying to do here in sharing the information in a national system.

Mr. SCOTT. Within the system, is there an appropriate protocol for preserving DNA evidence? If you have unidentified remains, how do you—is there a protocol for preserving the DNA evidence?

Mr. MORRIS. I don't believe that we have specifically discussed DNA to the level we have the other information. Our laboratory division is—actually manages the FBI's CODIS and—national CODIS system, the national DNA system. We work and collaborate, obviously, with our laboratory division in leveraging the CODIS system with our IAFIS system and the different biometric systems we have.

That clearly is something that we will be working with our laboratory division on to see what we will be able to do. Again, the CODIS system and the national DNA system is governed and managed by a different set of standards that our laboratory is actually the owner of, so I think—

Mr. SCOTT. Well, if you have an unidentified remains, what happens? Can you get DNA evidence into the system?

Mr. MORRIS. Into the CODIS system, sir?

Mr. SCOTT. Well, into the missing persons system so if you have a missing person or unidentified remains, they could be identified, could they not, by DNA?

Mr. MORRIS. Right. The NCIC system currently today does not house DNA information.

Mr. SCOTT. Is that anticipated, Ms. Rose, in this legislation?

Ms. ROSE. Actually, the way that it works now is that if—we offer free DNA analysis services to persons who enter information about the missing person or to the medical examiners and coroners who enter information on unidentified remains.

That DNA is uploaded into CODIS, into the missing persons part of CODIS, and then there is an indication in the NamUs system as to whether DNA is available. So it is separate from the NamUs system, but the indicators are in the system as to whether DNA is available.

Mr. SCOTT. And if someone is missing, could you put in DNA from relatives if you don't have the—

Ms. ROSE. Yes, you can.

Mr. SCOTT.—DNA from the person, so that you could calculate a hit?

Ms. ROSE. Absolutely. That is a very important part of this, that reference samples be taken from family members if they don't have a DNA sample from the missing person. Yes.

Mr. SCOTT. And there is obviously a backlog of information to be input. Is there a provision to input all of the backlogged information?

Ms. ROSE. Well, I think that the grant program that is outlined in the legislation will go a long way toward doing that. One of the issues that law enforcement and medical examiner communities face right now are a lack of resources or capacity to be able to enter that information into the system.

Providing grant funds to help them do that will exponentially help provide that information to the NamUs system and help solve additional cases.

Mr. SCOTT. Is there a mechanism to download or make available photographs or other tangible information into the system?

Ms. ROSE. Yes, sir, there is. You are able to do that through NamUs. You can generate missing persons posters. There are photographs—where they are available, you can put in multiple photographs if you would like.

Mr. SCOTT. Is there anything we haven't done in the bill that needs to be done?

Ms. ROSE. Actually, I commend the work that has been done by Congressman Poe and Congressman Murphy on this bill.

We are very supportive and very excited about authorizing NamUs, providing funds to help populate the NamUs system, and especially working with our colleagues at the FBI to be able to share more information between NCIC and NamUs to make it a better system.

Mr. SCOTT. Ms. Smolinski, we are well on our way to helping solve the problem for others.

Ms. SMOLINSKI. Thank you.

Mr. SCOTT. So I think the questions and responses we have had have been very encouraging. Thank you.

Ms. SMOLINSKI. Thank you.

Mr. SCOTT. Judge Poe?

Mr. POE. Once again, I want to thank you, all three of you, for being here, and my friend Mr. Murphy for sponsoring this legislation.

It seems to me over my 30 years in the justice system that the number one concern that victims and victims' family have is information. They want to know what is taking place, even sometimes more importantly than what happens to the offender.

They want to know about the case, the information. And we are an information society now. We have the best geeks in the world right here in the United States.

And I appreciate the fact, Ms. Smolinski, that you and your family have persevered, getting arrested—that is awful. And you did,

like the old saying, call your Congressman, and he responded. He has moved this legislation.

The Committee is moving the legislation, with thanks to Chairman Scott. So the system is working to that extent. I think it is a piece of—this is a very good piece of legislation.

I have a question for you. Myself and Mr. Murphy both are concerned about—you said that you had other such families that you have met and networked with. Describe the relationship with those families in a similar situation, your relationship with those people.

Ms. SMOLINSKI. I am on the phone with families, three, four different families a day. This goes back to—when Billy first went missing, I met my first mother whose son went missing.

I think it was the networking, reaching out on the telephone, and learning the process, because when my son went missing, I didn't know that there was a disconnect between medical examiners and law enforcement.

I called our medical examiner to see if he knew if a John Doe—if a John Doe came in, it may be my son, and if I knew—if he knew that he was missing, and he said no. So I had to fax him, reaching out through the Internet, and getting my own Web site, and—with Facebook and MySpace and all the other different sites, and telephone calls.

I met families, had very similar situations, but yet they couldn't reach out. They were devastated. And sometimes we have to go out and fight for them.

I have the Quilt of Hope in front of me right now, and these are some of the families that I am working with. And each square was dedicated to them, and they were able to make the square the way they wanted to.

I think that having the faces out there helps with the families to give them psychological encouragement, and they need hope. And with NamUs, that is tremendous hope for them, even with the psychological—they will be able to work with NamUs and be able to watch their case. And if there is something on there, they could correct it right away.

I know with one family recently I have been working with, they thought the DNA was in the system, and we checked on it and the DNA was not in the system. So we need some kind of centralized—you know, so the families will be able to breathe a little bit and have some rest. This could happen to anyone.

You know, if it happened to my 31-year-old son who weighs 200 pounds, six feet tall—and he was the one that we always thought he could defend himself. And in this case, he didn't, so—thank you.

Mr. POE. Thanks.

Just a couple more questions, Ms. Rose and Mr. Morris. There is a difference, I think, in our system between information about offenders, defendants, potential offenders and all of their privacy issues, and victims of crime who disappear. I see a difference in how we should treat both of those.

Do you agree with that or disagree with that philosophy? In other words, we should have that information about people who go missing much more readily available to the community than, maybe, these other issues about offenders and all of that stuff. We just have a few—a minute left, so, Ms. Rose and Mr. Morris?

Ms. ROSE. Well, I think that you make an interesting point, and I think the beauty of NamUs here is that we have been able to provide information that has not been available typically to the general public.

We all know that nobody is going to fight as hard or stay up as late into the night looking for missing persons as the families are. So being able to make NamUs available to the public and provide that unique heart of this database has really been the beauty of the system.

And I think what makes it different, what makes it successful—and it has enabled us to get the buy-in not only from the law enforcement community, because they have benefitted very much from the involvement of the public—many of our success cases are because families, advocates, private citizens have stayed up late into the night searching NamUs and have discovered similarities between missing and unidentified dead.

So I would say that being able to provide that information where we never have been able to do that before has been a huge benefit for this country.

Mr. POE. All right.

Thank you, Mr. Chairman.

Mr. SCOTT. Thank you.

Mr. Quigley?

Mr. QUIGLEY. Mr. Chairman, my questions were asked and answered, but I, too, want to thank Mr. Murphy and Mr. Poe for their efforts here, and the panel, and everyone in this room for their efforts in this extraordinary legislation. Thank you so much.

Mr. SCOTT. Thank you.

I would like to thank all of the witnesses for their testimony today. Members may have additional written questions which we will forward to you and ask to be—that you would answer them promptly so that the answers can be made part of the record.

We received a letter from the Department of Justice about H.R. 3695 and I, without objection, will place that in the record.

The record will remain open for 1 week for the submission of additional material.

And again, Ms. Smolinski, we would like to thank you particularly for your testimony. This bill would not have taken place without your advocacy. Thank you very much.

And without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:55 a.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE MAXINE WATERS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA, AND MEMBER, SUBCOMMITTEE ON
CRIME, TERRORISM, AND HOMELAND SECURITY

Opening Statement

Of the

Honorable Maxine Waters, D-35th CA

Judiciary Subcommittee on Crime, Terrorism, and Homeland Security

Hearing on

“H.R. 3695, the Help Find the Missing Act”

January 21, 2010

2141 Rayburn Building

11:00 a.m.

Thank you, Mr. Chairman for organizing this hearing to discuss H.R. 3695, the “Help Find the Missing Act,” and how we can strengthen and expand private citizens’ access to the Department of Justice’s databases on missing persons and unidentified remains. I also want to thank our panel of witnesses for their participation in today’s hearing and commend my colleague Rep. Christopher Murphy for his work on this very important issue that has impacted many Americans across the country.

I know that many of us have constituents who have missing loved ones, and we are fully aware of the despair and hopelessness many experience in their efforts to find relatives who have disappeared. Unfortunately, current procedures and policies seem to frequently fail the families of missing individuals. This is especially true for missing persons who are neither children nor senior citizens because there are special

practices established for those groups. The number of missing adults in America who are never found is staggering. Unfortunately, all too often ill-informed local law enforcement authorities fail to give families access to helpful databases.

Last September, a young woman from my district named Mitrice Richardson went missing under questionable circumstances. While I won't elaborate now on the specifics of the case, I believe the local authorities could have done more, earlier in the process, to assist Mitrice's family. Nonetheless, since her disappearance, Mitrice's family has courageously mounted a formidable public campaign to find her. While some would simply be unable to gather the strength to endure the daily prospect of not knowing if they will see their loved one again, Mitrice's family has mobilized the community both to find her and to hold local officials accountable for some of the missteps they took early in the investigation. Only after months of television appearances, mass mailings, and petitions organized by Mitrice Richardson's family and friends did the Los Angeles Police Department begin to devote the necessary resources to find her. Our constituents believe local law enforcement should have the necessary training and resources to investigate and find their missing relatives. Sadly, not every family or friend of missing adults will have the time, energy, and resources to devote towards their own private search and investigation. Regardless, we cannot expect family members to act alone in such cases. It is the responsibility of law enforcement to inform relatives of all available databases and information at their disposal so that the family may feel more involved in the search for their missing loved one.

Each year, tens of thousands of Americans are reported missing and are never found. Although no accurate estimates exist of the number of missing adults, the Federal Bureau of Investigation (FBI) reported that as of January 1, 2008, over 50,000 missing adult cases were pending in the National Crime Information Center (NCIC). In addition to the NCIC, in 2007, the Justice Department established the “NamUs” database, an online repository for information about missing persons. While NCIC access is limited to law enforcement officials, the public can access the “NamUs” database and submit information regarding a missing person. However, law enforcement officials are not legally required to submit information on missing adults to either database.

If enacted, H.R. 3695 would establish a grant program to provide incentives for law enforcement agencies, coroners, and medical examiners to enter information about missing persons and unidentified remains into the NCIS and NamUs databases. The bill further provides for increased coordination among the databases by directing the Justice Department to transmit information about missing persons and unidentified person from the NCIC database to the NamUS database.

The families of missing Americans endure great hardship and emotional pain, and we must ensure that our local authorities are adequately trained and employ all available resources and tools in order to assist families of missing persons. This is critically important, especially in cases involving missing adults, where effective coordination and information-sharing systems among authorities is frequently lacking.

Therefore, Mr. Chairman, I look forward to hearing testimony from our witnesses so that we can begin to address some of the failures related to local law enforcement handling of cases involving missing adults. I believe that H.R. 3695 would help improve investigations. I am especially pleased that the legislation would require the Department of Justice to issue a report to law enforcement agencies, coroners, and medical examiners concerning best practices for collecting reporting information about missing and unidentified persons. While the FBI does not typically investigate all cases involving missing adults, it can certainly do more to provide our local and state authorities with vital tools and information so that they can be more helpful and effective in their investigations of missing adults.

LETTER TO THE HONORABLE BOBBY SCOTT, CHAIRMAN, SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY, FROM RONALD WEICH, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 19, 2010

The Honorable Bobby Scott
Chairman
Subcommittee on Crime, Terrorism,
and Homeland Security
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter presents the views of the Department of Justice (the Department or DOJ) on H.R. 3695, the "Help Find the Missing Act" or "Billy's Law." The Department strongly supports this legislation. The bill will help the Department build on its work in establishing the National Missing and Unidentified Persons System (NamUs).

NamUs, administered by DOJ's National Institute of Justice (NIJ), is the first national system for both missing persons and the unidentified dead. It is a free web-based tool that the public, law enforcement, medical examiners and coroners can access and use to assist in the solving of missing persons and unidentified decedent cases in the United States. NamUs also serves as a central, online national repository for other missing persons' websites, state clearinghouses, contact information, legislation and other resources from around the country. H.R. 3695 would specifically authorize NamUs which would be an important step forward in growing and sustaining these critical activities. Additionally, the Department strongly supports the bill's provisions which specifically encourage and facilitate the sharing of information from disparate systems relevant to the resolution of missing persons and unidentified decedent cases.

Great strides have been made in establishing NamUs, but much work remains to be done. For example, the sharing of information between the Federal Bureau of Investigation's (FBI) National Crime Information Center's (NCIC) Missing and Unidentified Person Files, and NamUs is currently difficult, time consuming, and expensive. Section 4 of H.R. 3695, in particular, would lead to substantial improvements in how information is shared between NCIC and NamUs.

The Honorable Bobby Scott
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However, the Department does have some concerns with this section. Specifically, Section 4(b)(1)(C), which requires each law enforcement agency to “[submit] to the Attorney General written authorization” to permit the sharing of its NCIC data with NamUs may be unduly burdensome to administer as currently proposed and may be perceived as burdensome to state and local agencies in such a way that it discourages their participation.

NamUs currently performs the function of obtaining the necessary permissions from the “owner” law enforcement agency because NCIC does not own the data it holds. Section 4(b)(1)(C) does not improve the burdensome and laborious nature of this process, but rather, shifts the burden of obtaining those permissions to NCIC. Additionally, the Section defines the manner in which the necessary permissions must be obtained (in writing) and communicated in a way that may limit the Department’s ability to develop policies that facilitate the permission process in a less burdensome and less costly manner. Therefore, the Department recommends that the Section 4(b)(1)(C) requirement that written permission be provided to the Attorney General be removed. The removal of these sections would allow the FBI/CJIS Policy Board, along with its community of stakeholders, to determine what permissions must be obtained prior to the uploading of state and local data to NCIC and NamUs. By working within this existing policy making structure, the Department will be able to better facilitate data sharing in the least costly, most expeditious, and least burdensome manner.

Currently states are not required to submit missing adults’ cases or unidentified remains cases into NCIC or NamUs. States are only required to submit information on missing children to NCIC. H.R. 3695 will extend the mandatory reporting requirement, as a condition of receiving grants under section 5 of the bill, to missing adults’ cases and unidentified remains cases, as well as allow for the sharing of more information relevant to missing and unidentified decedent adults between NCIC and NamUs. The Department welcomes these important reforms.

Section 5 of the bill would authorize grants for personnel, technology, and training to help states submit data to NCIC and NamUs. The Department believes such grants would provide a strong incentive for states to provide critical information to NCIC and NamUs shortly after a case is reported.

Thank you for your commitment to helping law enforcement agencies solve missing and unidentified persons cases. Please do not hesitate to contact this office if we may be of additional assistance. The Office of Management and Budget has advised

The Honorable Bobby Scott
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us that from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,



Ronald Weich
Assistant Attorney General

cc: The Honorable Louie Gohmert
Ranking Member