

STATE OF NEW YORK

7797

IN SENATE

February 21, 2020

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT to amend the arts and cultural affairs law, in relation to enacting the New York civil rights cold case records collection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The arts and cultural affairs law is amended by adding a
2 new article 57-C to read as follows:

ARTICLE 57-C

NEW YORK CIVIL RIGHTS

COLD CASE RECORDS COLLECTION ACT

Section 57.60. Definitions.

7 57.61. Civil rights cold case records collection.

8 57.62. Grounds for postponement of public disclosure.

9 57.63. Civil rights cold case records review board; establish-
10 ment and powers.

11 § 57.60. Definitions. For the purposes of this article, the following
12 terms shall have the following meanings: 1. "Civil rights cold case"
13 means any unsolved case occurring within a jurisdiction in New York
14 state arising out of events which occurred during the period beginning
15 on January first, nineteen hundred forty and ending on December thirty-
16 first, nineteen hundred seventy-nine, and involving:

17 (a) conspiracy against rights under 18 USC § 241;

18 (b) deprivation of rights under color of law under 18 USC § 242;

19 (c) federally protected activities under 18 USC § 245;

20 (d) peonage and involuntary servitude under 18 USC § 1581 and 18 USC §
21 1584; or

22 (e) the Fair Housing Act under 42 U.S.C. 3631.

23 2. "Civil rights cold case record" means a New York state record that:

24 (a) is related to a civil rights cold case;

25 (b) was created or made available for use by, obtained by, or other-
26 wise came into the possession of the New York state archives or any
27 state agency; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (c) any New York state local government, or component thereof, that
2 provided support or assistance or performed work in connection with a
3 federal inquiry into a civil rights cold case.

4 3. "The archivist" means the state archivist of the New York state
5 archives.

6 4. "The collection" means the civil rights cold case records
7 collection established under section 57.61 of this article.

8 5. "Official investigation" means the review of a civil rights cold
9 case conducted by any entity of the federal government, a New York state
10 agency, or any local government in New York state.

11 6. "Public interest" means the compelling interest in the prompt
12 public disclosure of civil rights cold case records for historical and
13 governmental purposes and for the purpose of fully informing the people
14 of New York.

15 7. "Review board" means the civil rights cold case records review
16 board established under section 57.63 of this article.

17 8. "State agency" means any state board, body, bureau, commission,
18 council, department, executive agency, public authority, public corpo-
19 ration, division, office, or other governmental entity performing a
20 governmental or proprietary function for the state, but shall not
21 include the state legislature.

22 § 57.61. Civil rights cold case records collection. 1. Establishment.
23 Not later than ninety days following the effective date of this article,
24 the archivist shall:

25 (a) commence establishing a collection of civil rights cold case
26 records to be known as the "New York state civil rights cold case
27 records collection" that shall ensure the physical integrity and
28 original provenance of all records in such collection;

29 (b) commence preparing and publishing a subject guidebook and index to
30 the collection; and

31 (c) establish criteria for state agencies to follow when transmitting
32 copies of civil rights cold case records to the archivist.

33 2. Contents. The collection shall include:

34 (a) a copy of each civil rights cold case record:

35 (i) transmitted to the archivist; or

36 (ii) that has been disclosed to the public in an unredacted form
37 before the effective date of this article; and

38 (b) all review board records, as required under this article.

39 3. Disclosure of records. All civil rights cold case records transmit-
40 ted to the archivist for disclosure to the public shall be:

41 (a) available to the public for inspection and copying at the New York
42 state archives not later than sixty days after the transmission of the
43 record to the archivist; and

44 (b) prioritized for digitization by the New York state archives.

45 4. Fees for copying. The archivist shall:

46 (a) use efficient electronic means when possible;

47 (b) charge reasonable fees for copying civil rights cold case records;
48 and

49 (c) grant waivers of such fees when the archivist shall deem appropri-
50 ate.

51 5. Security of records. The archivist shall ensure the security of
52 civil rights cold case records in the collection for which disclosure is
53 postponed.

54 6. Digitization of records. Each state agency shall make text-searcha-
55 ble documents available to the review board upon request of such board.
56 Not later than seven days before a civil rights cold case record is

1 publicly disclosed, the state agency releasing such civil rights cold
2 case record shall take all reasonable efforts to provide such civil
3 rights cold case record to the victims of the events to which such civil
4 rights cold case record relates, or to their next of kin.

5 7. Additional policies. The archivist, in consultation with the attor-
6 ney general, shall develop and implement any policies not enumerated in
7 this article that he or she shall deem necessary for the implementation
8 of this article.

9 § 57.62. Grounds for postponement of public disclosure. Disclosure of
10 civil rights cold case records or particular information within a civil
11 rights cold case record to the public may be postponed subject to policy
12 developed by the state attorney general, in consultation with the archi-
13 vist, to promote justice and to protect innocent parties.

14 § 57.63. Civil rights cold case records review board; establishment
15 and powers. 1. Establishment. There is hereby established a board to be
16 known as the "New York civil rights cold case records review board".

17 2. Appointment. The commission shall consist of thirteen members, to
18 be appointed as follows: (a) seven members to be appointed by the gover-
19 nor, one of whom the governor shall appoint as the chair; (b) two
20 members shall be appointed by the temporary president of the senate; (c)
21 one member shall be appointed by the senate minority leader; (d) two
22 members shall be appointed by the speaker of the assembly; and (e) one
23 member shall be appointed by the assembly minority leader.

24 3. Compensation. The members of the commission shall receive no
25 compensation for their services, but shall be allowed their actual and
26 necessary expenses incurred in the performance of their duties under
27 this article. The commission may employ and at pleasure remove such
28 personnel as it may deem necessary for the performance of its functions
29 and fix their compensation within the amounts made available by appro-
30 riation therefor.

31 4. Powers. The review board shall have the power and authority to act
32 in any manner prescribed under this article including, but not limited
33 to, the power and authority to:

34 (a) obtain access to civil rights cold case records that have been
35 identified and organized by a state agency;

36 (b) direct a state agency to make available to the review board, and
37 if necessary to investigate the facts surrounding, additional informa-
38 tion, records, or testimony from individuals, that the review board
39 deems necessary to fulfill its functions and responsibilities under this
40 article;

41 (c) subpoena private persons to compel the production of documents or
42 other records necessary for the fulfillment of its responsibilities
43 under this article;

44 (d) receive information from the public regarding the identification
45 and public disclosure of civil rights cold case records; and

46 (e) hold hearings, administer oaths, and subpoena documents and other
47 records.

48 5. Enforcement of subpoenas. Any subpoena issued under this section
49 shall be enforced by any appropriate court acting pursuant to a lawful
50 request of the review board.

51 6. Advisory committees. The review board shall create any advisory
52 committees it deems necessary to fulfill its responsibilities under this
53 article.

54 7. Termination. (a) The review board shall terminate not later than
55 four years after the date of the appointment of its members.

1 (b) Before its termination, the review board shall submit reports to
2 the governor, the temporary president of the senate, and the speaker of
3 the assembly, including a complete and accurate accounting of expendi-
4 tures made during its existence, and shall complete all other reporting
5 requirements under this article.

6 (c) Upon termination, the review board shall transfer all of its
7 records to the archivist for inclusion in the collection.

8 (d) The records of the review board shall not be destroyed, except
9 that the archivist may destroy routine administrative records covered by
10 a general records schedule following notification in the state register
11 and after considering comments.

12 § 2. This act shall take effect immediately.