

# STATE OF NEW YORK

5034

2023-2024 Regular Sessions

## IN SENATE

February 22, 2023

Introduced by Sens. SANDERS, MAY, MYRIE, RIVERA -- 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:

3 ARTICLE 57-C

4 NEW YORK CIVIL RIGHTS

5 COLD CASE RECORDS COLLECTION ACT

6 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;

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

LBD02486-01-3

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

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

7 3. "The archivist" means the state archivist of the New York state  
8 archives.

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

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

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

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

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

25 § 57.61. Civil rights cold case records collection. 1. Establishment.  
26 Not later than ninety days following the effective date of this article,  
27 the archivist shall:

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

32 (b) commence preparing and publishing a subject guidebook and index to  
33 the collection; and

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

36 2. Contents. The collection shall include:

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

38 (i) transmitted to the archivist; or

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

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

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

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

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

48 4. Fees for copying. The archivist shall:

49 (a) use efficient electronic means when possible;

50 (b) charge reasonable fees for copying civil rights cold case records;  
51 and

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

54 5. Security of records. The archivist shall ensure the security of  
55 civil rights cold case records in the collection for which disclosure is  
56 postponed.

1 6. Digitization of records. Each state agency shall make text-searchable  
2 documents available to the review board upon request of such board.  
3 Not later than seven days before a civil rights cold case record is  
4 publicly disclosed, the state agency releasing such civil rights cold  
5 case record shall take all reasonable efforts to provide such civil  
6 rights cold case record to the victims of the events to which such civil  
7 rights cold case record relates, or to their next of kin.

8 7. Additional policies. The archivist, in consultation with the attorney  
9 general, shall develop and implement any policies not enumerated in  
10 this article that he or she shall deem necessary for the implementation  
11 of this article.

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

17 § 57.63. Civil rights cold case records review board; establishment  
18 and powers. 1. Establishment. There is hereby established a board to be  
19 known as the "New York civil rights cold case records review board".

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

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

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

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

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

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

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

49 (e) hold hearings, administer oaths, and subpoena documents and other  
50 records.

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

54 6. Advisory committees. The review board shall create any advisory  
55 committees it deems necessary to fulfill its responsibilities under this  
56 article.

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

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

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

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

14 § 2. This act shall take effect immediately.