

FISCAL YEAR 2024 ANNUAL REPORT
OF THE
CIVIL RIGHTS COLD CASE RECORDS
REVIEW BOARD



“We have an obligation. We have a mission. We have a mandate. The blood of hundreds of innocent men and women is calling out to us.”

– Rep. John Lewis

DECEMBER 2024

I. OVERVIEW

The Civil Rights Cold Case Records Review Board (“the Board”) was created as part of the Civil Rights Cold Case Records Collection Act of 2018 (“the Cold Case Act”), which was signed into law by President Donald Trump on January 8, 2019. The Board is composed of private citizens, appointed by the President, who are tasked with reviewing and releasing records of civil rights cold cases that occurred between January 1, 1940, and December 31, 1979. The cases involve civil rights violations, including, but not limited to, homicide, kidnapping, and assault. The Cold Case Act restricts disclosing information that could pose a national security risk, invade personal privacy, or interfere with ongoing law enforcement proceedings. One of the purposes of the Cold Case Act is to provide clarity to descendants of victims of racially-motivated crimes and other civil rights violations that occurred long ago. The release of the records also sheds light on a dark chapter in American history.

II. HISTORY

The Civil Rights Cold Case Records Collection Act of 2018 had overwhelming bipartisan support as demonstrated by its passage by unanimous consent in the United States Senate and a 376-6 vote in the United States House of Representatives. President Donald Trump signed the legislation into law on January 8, 2019.

The Cold Case Act set a deadline of 60 days after its enactment for the initial appointment of Board members. However, it was more than two years before individuals were nominated to the Board. President Joe Biden nominated Margaret Burnham, Dr. Clayborne Carson, Gabrielle Dudley, and Hank Klibanoff to the Board on June 11, 2021 and Dr. Brenda Stevenson on October 19, 2021. Dr. Carson withdrew his nomination before the January 13, 2022 confirmation hearing. The United States Senate confirmed the remaining nominees to the Board on February 19, 2022.

On December 5, 2022, with the nominees approved by the Senate but not yet sworn in, President Biden signed into law the Civil Rights Cold Case Investigations Support Act of 2022, which extended until 2027 the time allotted for the Board to conduct its work. (The work of the Board was initially supposed to sunset in 2024.)

On January 22, 2023, the four Board members were sworn in – more than four years after the Cold Case Act became law. That same day, the members met with representatives from the National Archives and Records Administration (NARA), the Federal Bureau of Investigation (FBI), and the Department of Justice (DOJ). In this

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early engagement, the Board was introduced to research at NARA and discussed how to begin the process to access and review relevant records. There were frequent discussions with NARA to ascertain its capacity to produce responsive records per the Board's requests.

In the early months of 2023, Board members met once a week but quickly transitioned to twice weekly to handle the administrative work required to establish a new federal government agency. Members worked closely with the Commissions and Boards Services (CABS) team within the General Services Administration (GSA) to set up the Board's administrative and financial management infrastructure and to recruit qualified staff to support the work of the Board. The challenges the Board experienced in these areas are detailed later in this report.

The Board members also developed criteria for selecting specific incidents for which the agencies will produce records. To begin, the Board members used their extensive knowledge of civil rights cold cases and resources – such as the DOJ's list of cold cases opened under the Emmett Till Unsolved Civil Rights Crime Act, the Civil Rights and Restorative Justice Project's Burnham-Nobles Digital Archive, the Georgia Civil Rights Cold Cases Project, and the Syracuse University College of Law's Cold Case Justice Initiative – to compile a list from which to select specific incidents. Factors that the Board considers include geographic breadth, nature of the incident, the level of interest in an incident among descendants of the victim and the public at large, and the incident's relative notoriety. The Board also issued preliminary review guidelines to NARA, DOJ, and FBI in August 2023 and provided additional guidance in December 2023.

III. RECORDS REVIEW

Prior to hiring staff, the Board sent its first request for records to NARA on April 7, 2023. Subsequent requests followed on August 14, 2023 and February 7, 2024. In making its requests, the Board provided any information it had about the cases to assist the agencies in locating responsive records. The agencies then began the process of searching, digitizing, and conducting an initial review of the records. In total, the Board requested records related to 86 incidents in FY 2023 and 2024.

In November 2023, NARA, DOJ, and the FBI produced and the Board reviewed approximately 10,000 pages related to the Board's initial request. This was the Board's first review of records under the provisions of the Cold Case Act, and occurred before any Board staff were in place. All four members of the Board traveled to NARA's

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facility in College Park, Maryland to meet with representatives from the three agencies. They reviewed the records for which the agencies proposed to postpone public disclosure. The Board and the agencies presented their perspectives on disclosure and their interpretations of the Board's enabling legislation during the November meeting. The records review and extensive discussions with the agencies informed the Board's guidelines for postponement, which built upon the preliminary guidelines drafted by the Board.

The Cold Case Act establishes a new standard for the review of civil rights cold case records. The statute was born in part out of frustration with the Freedom of Information Act (FOIA). Whereas the FOIA is focused on transparency of government functions, the Cold Case Act is focused on producing all available facts/information about these cases. The Board considered the definition of "public interest" in the Cold Case Act – which reflects the law's essential purpose of maximizing disclosure – and the agencies' concerns about personal privacy as it developed its postponement policy. The Board provided its final guidelines for postponement of personally-identifiable information in January 2024 based on their weighing of these considerations. The Board and its staff entered lengthy dialogue with the DOJ regarding the Department's concerns that the Board's guidance does not adequately protect personal privacy as it is traditionally exempted under the FOIA. The Board and the Department are continuing to engage on this issue, as the Board reviews and makes disclosure determinations on potentially sensitive information on an individual basis, rather than categorical postponement of disclosure of information to maximize the release of information about these cases.

Concurrent with the Board's development of the postponement guidance, the Board staff developed a review and tracking process that would fully document Board members' consideration of proposed postponements and the Board's final determinations. The staff also worked with the Office of the Federal Register to establish itself as a publishing entity to notify the public of its determinations via Federal Register notices.

The Cold Case Act requires that the victim's next of kin be notified at least seven days in advance of the public release of cold case records. Ultimately, after many discussions, the FBI – with assistance from Board staff – agreed to research and identify next of kin. NARA, as the agency technically releasing the records, then uses that information to initiate contact with the next of kin via certified mail in advance of the public release.

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On October 30, 2024, the Board launched its website and also announced the public release of its first case. The Board's website summarizes the case, provides additional context and explanation of the Board's work, and links to the records themselves, which are in NARA's online catalog. The release of two more cases followed two weeks later. On November 18, 2024, NARA launched a portal on its website dedicated to the civil rights cold cases authorized for release by the Board. A portion of the Board's appropriations has been allocated to the development of the NARA portal, which permits users to search within the cold case collection.

The first release of records coincided with a strategic communications plan to inform the public and stakeholders. The release prompted in-depth stories in national and regional media. Outreach efforts also include public appearances by Board members, informational meetings with congressional staff, and in-person meetings with victims' descendants.

As of November 2024, the Board's staff includes Chief of Staff (who started in December 2023), Lead Records Researcher (June 2024), Communications Manager (July 2024), Administrative Officer (August 2024), and a staff of five Records Researchers (October 2024). The research team's work involves triaging the large volume of records to streamline the review process for the Board; researching secondary sources to augment and contextualize the federal records; identifying next of kin; and providing case summaries for the Board's website. The hiring of a staff attorney, expected in FY 2025, will round out the Board's support staff.

With staff and protocols in place, the Board expects the pace of records releases to accelerate considerably over the coming months. The Board has reviewed or is in the process of reviewing 29,000 pages of responsive records produced by the agencies.

IV. ADMINISTRATIVE AND PERFORMANCE CHALLENGES

Hiring professional staff to support the Board's mission was one of the members' top priorities after they were sworn in. The Cold Case Act directs the Board to appoint a Chief of Staff no later than 45 days after its first meeting and authorizes the hiring of additional personnel. Under the provisions of the Cold Case Act, the Board sought human resources support from the GSA. The agency provides human resources and personnel management services to the Board on a reimbursable basis.

The Board created a staffing plan that included a Chief of Staff, a Records Research Team, a Communications Manager, a Staff Attorney, and an Administrative Officer

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and immediately took action to start the hiring process. Unfortunately GSA did not provide timely or accurate information regarding the Board's hiring authority and actions. The Board was not informed about the various mechanisms and authorities that could be used to expedite the onboarding of federal employees.

The challenges the Board encountered with hiring its Chief of Staff illustrate the inconsistent support GSA has provided the Board. The Board prepared a draft of the Chief of Staff position description and submitted it to its GSA human resources point of contact on February 14, 2023, less than a month after Board members had been sworn in and met. However, the job vacancy was not posted until July 27, 2023 – and only after the Board sent a letter of grievance to the Director of the Office of Personnel Management. The Board received the list of qualified applicants on September 6th, 2023. A tentative offer was made to the Board's selected candidate on October 20, 2023 and the Chief of Staff came on board on December 2, 2023. In total, it took more than nine months before a Chief of Staff was in place, in large part because of delays by the GSA's Commissions and Boards Services HR office. As a result of these difficulties, the Board members shouldered much of the administrative work and relied on two detailees to move things forward.

The Board has also encountered difficulties in contracting for key services, such as website development, because GSA did not provide the full lifecycle of acquisitions services to the independent commissions and boards it supports until recently. The Board communicated its frustrations with GSA's Office of Executive Secretariat and Presidential and Congressional Agency Liaison Services. The director of the office has been working with the Chief of Staff to address these issues and there has been a marked improvement in GSA's responsiveness in FY 2024. GSA connected the Board with Technology Transformation Services and the Government Publishing Office Creative Services to assist with the building of the Board's website and branding.

Beyond the challenges of standing up a new government agency, the Board had to push for access to records and to navigate different interpretations of its enabling legislation by other government agencies. The establishment of protocols to access sensitive cold case records via secure online platforms proved to be time-consuming. It took several months for the Board to meet the agencies' IT and information security requirements. Additionally, the Board and the Department of Justice had conflicting interpretations of the Cold Case Act's provisions regarding access to federal grand jury material. The DOJ's interpretation was that the Board needed to petition the Attorney General for access to grand jury materials, while the Board asserted that section 5(i)(1)(A) of the Cold Case Act unequivocally confers upon the Board authority to access all civil rights cold case records, inclusive of grand jury information. After

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months of discussions, the Board was notified in September 2024 that the DOJ's Office of Legal Counsel had agreed that the Board and its staff are authorized to have access to the federal grand jury information so that it can petition the Attorney General if it wishes some or all of that information to be unsealed.

The Board's review and release of records is dependent on the pace at which the agencies identify and provide access to responsive records. This process involves searching multiple databases and finding aids, digitizing the records located, and conducting an initial line-by-line review of the records.

The Board acknowledges that given the parameters of the Act and its limited tenure, the Civil Rights Cold Case Records Collection will not be a comprehensive collection of all surviving records created in association with a civil rights cold case. The Review Board is committed to providing a representative foundation for greater public awareness and further research and investigation. Still, given the protracted process involved in standing up the Board and building out the infrastructure and establishing records protocols, it is unlikely the Board can achieve its goal of providing even a representative foundation of the breadth of civil rights cold cases by the Board's current sunset date of January 2027 – a mere two years away.

Moreover, the Board has not postponed the disclosure of any information in the records it has authorized for release so far. As more records are reviewed, and as the responsive agencies propose postponements to release, the Board has had and anticipates more robust discussions, both internally and with the agencies, about what records to postpone (in whole or in part) and what records to release.

V. RECOMMENDATIONS

Given the unanticipated series of delays surrounding the appointment of the Board members, the hiring of the Board's support staff, and the multi-agency protocol concerning records access and review, the Board recommends an extension of at least four years beyond its current tenure, which is currently mandated to sunset in January 2027. Such an extension will give the Board and relevant agencies time to identify, review, and release records that will provide a representative foundation of the breadth of civil rights cold cases. If the Board's tenure is extended, additional appropriations will be necessary to fund the Board's operation and further accelerate the review and release of records.

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VI. FINANCIAL STATEMENT

Congress approved a one-time \$8 million appropriation for the Board in FY 2023. These funds were initially held in NARA’s Treasury account until the Board established its account and procured financial management services from GSA. NARA transferred \$2 million to the Board in FY 2023 and \$5.4 million in FY 2024. NARA retained the remaining \$600,000 of the appropriation for the development of the Civil Rights Cold Case Records Portal, construction and equipment costs for space used by its project team assigned to the cold case initiative, and support services NARA provided to the Board during its establishment.

**Civil Rights Cold Case Records Review Board
STATEMENTS OF CHANGES IN NET POSITION
For The Fiscal Years Ended September 30, 2024 and
2023 (in dollars)**

	FY 2024 Consolidated Total
Unexpended Appropriations:	
Beginning Balance	\$ 1,770,859.49
Appropriations transferred-in/out (+/-)	5,400,000.00
Appropriations used	(981,056.98)
Net Total of Unexpended Appropriations	4,418,943.02
Net Cost of Operations	1,034,513.94
Total Unexpended Appropriations	\$ 6,189,802.51
Unexpended Appropriations:	
Beginning Balance	\$
Appropriations transferred-in/out (+/-)	2,000,000.00
Appropriations used	(229,140.51)
Net Change in Unexpended Appropriations	(229,140.51)
Total Unexpended Appropriations	\$ 1,770,859.49