

117TH CONGRESS
1ST SESSION

H. R. 2998

To require the public disclosure of COINTELPRO records, to establish a COINTELPRO Records Collection, and to establish the COINTELPRO Records Review Board, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2021

Mr. RUSH introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the public disclosure of COINTELPRO records, to establish a COINTELPRO Records Collection, and to establish the COINTELPRO Records Review Board, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “COINTELPRO Full Disclosure Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Public disclosure of COINTELPRO records.
- Sec. 3. COINTELPRO Records Collection at the National Archives.
- Sec. 4. Establishment and powers of the COINTELPRO Records Review Board.
- Sec. 5. COINTELPRO Records Review Board personnel.
- Sec. 6. Review of records by the COINTELPRO Records Review Board.
- Sec. 7. Disclosure of other information and additional study.
- Sec. 8. Rules of construction.
- Sec. 9. Redesignation.
- Sec. 10. References.
- Sec. 11. Funding.
- Sec. 12. Definitions.

1 SEC. 2. PUBLIC DISCLOSURE OF COINTELPRO RECORDS.

2 (a) IN GENERAL.—Except as provided in subsection
 3 (b), not later than 6 months after the date of the enact-
 4 ment of this Act, the head of a Government Office shall
 5 fully disclose to the public each COINTELPRO record in
 6 the possession or control of the Government Office.

7 (b) EXCEPTION.—The requirement under subsection
 8 (a) shall not apply to a COINTELPRO record if the head
 9 of the Government Office determines that the full disclo-
 10 sure of such record, or particular information within such
 11 record, would clearly and demonstrably be expected to
 12 cause harm.

13 (c) PARTIAL DISCLOSURE.—If the head of a Govern-
 14 ment Office determines in accordance with subsection (b)
 15 that the requirements of subsection (a) do not apply with
 16 respect to a COINTELPRO record, the head of the Gov-
 17 ernment Office shall disclose to the public in consultation
 18 with the originating body, and to the extent doing so

1 would not clearly and demonstrably be expected to cause
2 harm—

3 (1) any reasonably segregable particular infor-
4 mation in a COINTELPRO record;

5 (2) a substitute record for that information; or

6 (3) a summary of the COINTELPRO record.

7 (d) REVIEW BY BOARD.—If a Government Office de-
8 termines that the requirements of subsection (a) do not
9 apply with respect to a COINTELPRO record, such
10 record shall be transmitted to the Review Board for review
11 in accordance with section 4(b).

12 (e) FULL DISCLOSURE OF COINTELPRO RECORD
13 REQUIRED.—

14 (1) IN GENERAL.—Notwithstanding section
15 552a of title 5, United States Code, each
16 COINTELPRO record that is not fully disclosed to
17 the public as of the date on which the Review Board
18 terminates under section 4(n) shall be fully disclosed
19 to the public and made available in the Collection
20 not later than 25 years after the date of the enact-
21 ment of this Act unless—

22 (A) the head of the entity of the Federal
23 Government in the possession of control of the
24 record, the head of a Government office, the
25 head of the originating body, or the head of an

1 executive agency recommends in writing the ex-
2 emption of the record or particular information
3 within the record, because the disclosure of
4 which would clearly and demonstrably be ex-
5 pected to—

6 (i) cause identifiable or describable
7 damage to national security, military de-
8 fense, law enforcement, intelligence oper-
9 ations, or the conduct of foreign relations
10 that is of such gravity that further post-
11 poning the disclosure of the record out-
12 weighs the public interest in disclosure; or

13 (ii) reveal information described in
14 paragraphs (1) through (9) of section
15 3.3(b) of Executive Order 13526 (75 Fed.
16 Reg. 707; relating to classified national se-
17 curity information);

18 (B) the written recommendation described
19 in subparagraph (A)—

20 (i) not later than 180 days before the
21 date that is 25 years after the date of the
22 enactment of this Act, is provided to—

23 (I) the Archivist;

24 (II) the President, if the record
25 is in the possession or control of an

1 agency in the executive branch of the
2 Federal Government;

3 (III) the Chief Justice of the Su-
4 preme Court, if the record is in the
5 possession or control of an agency in
6 the judicial branch of the Federal
7 Government;

8 (IV) the Speaker of the House of
9 Representatives, if the record is in the
10 possession or control of an office of
11 the House of Representatives;

12 (V) the President Pro Tempore
13 of the Senate, if the record is in the
14 possession or control of an office of
15 the Senate; and

16 (VI) the Speaker of the House of
17 Representatives and the President Pro
18 Tempore of the Senate, if the record
19 is in the possession or control of an
20 office of the legislative branch of the
21 Federal Government not described
22 under subclauses (IV) and (V); and
23 (ii) includes—

24 (I) a justification of the rec-
25 ommendation to exempt the record, or

1 particular information within the
2 record; and

3 (II) a recommended date on
4 which, or a specified occurrence fol-
5 lowing which, the record, or particular
6 information within the record may be
7 appropriately disclosed to the public
8 under this Act; and

9 (C) the Archivist agrees with the written
10 recommendation described in subparagraph (A).

11 (2) NOTIFICATION.—If the Archivist does not
12 agree with the recommendation described in sub-
13 paragraph (A), the Archivist shall notify the person
14 making the recommendation not later than 90 days
15 before the date that is 25 years after the date of en-
16 actment of this Act.

17 (3) OVERRIDE OF DECISION BY ARCHIVIST.—

18 (A) AUTHORITY TO OVERRIDE DECISION
19 BY ARCHIVIST.—The following individuals may
20 override a decision of the Archivist regarding a
21 written recommendation under paragraph (1):

22 (i) The President, if the record is in
23 the possession or control of an agency in
24 the executive branch of the Federal Gov-
25 ernment.

1 (ii) The Chief Justice of the Supreme
2 Court, if the record is in the possession or
3 control of an agency in the judicial branch
4 of the Federal Government.

5 (iii) The Speaker of the House of
6 Representatives, if the record is in the pos-
7 session or control of an office of the House
8 of Representatives.

9 (iv) The President Pro Tempore of
10 the Senate, if the record is in the posses-
11 sion or control of an office of the Senate.

12 (v) The Speaker of the House of Rep-
13 resentatives and the President Pro Tem-
14 pore of the Senate acting jointly, if the
15 record is in the possession or control of an
16 agency in the legislative branch of the Fed-
17 eral Government.

18 (B) NOTICE.—If an individual overrides a
19 decision described under subparagraph (A), the
20 individual shall notify the person making the
21 recommendation not later than 90 days before
22 the date that is 25 years after the date of en-
23 actment of this Act.

24 (f) NOTICE REGARDING PUBLIC DISCLOSURE.—

1 (1) FINDING.—Congress finds that the public
2 release of case-related documents and information
3 without notice may significantly affect the victims of
4 the events to which the case relates and their next
5 of kin.

6 (2) NOTICE.—Not later than 7 days before a
7 COINTELPRO record is publicly disclosed, the enti-
8 ty of the Federal Government that has possession or
9 control of the COINTELPRO record shall take all
10 reasonable efforts to provide the COINTELPRO
11 record to the victims of the events to which the
12 COINTELPRO record relates, or their next of kin.

13 (g) DEFINITION.—In this section, the term “cause
14 harm” means to—

15 (1) cause identifiable or describable damage to
16 national security, military defense, law enforcement,
17 intelligence operations, or the conduct of foreign re-
18 lations that is of such gravity that it outweighs the
19 public interest in disclosure;

20 (2) reveal information described in paragraphs
21 (1) through (9) of section 3.3(b) of Executive Order
22 13526 (75 Fed. Reg. 707; relating to classified na-
23 tional security information);

1 (3)(A) reveal the name or identity of a living in-
2 dividual who provided confidential information to the
3 United States; and

4 (B) pose a substantial risk of harm to that indi-
5 vidual;

6 (4) constitute an unwarranted invasion of per-
7 sonal privacy;

8 (5)(A) compromise the existence of an under-
9 standing of confidentiality currently requiring pro-
10 tection between a Government agent and a cooper-
11 ating individual or group; and

12 (B) be so harmful that the understanding of
13 confidentiality outweighs the public interest;

14 (6) endanger the life or physical safety of any
15 individual;

16 (7) interfere with ongoing law enforcement pro-
17 ceedings; or

18 (8) reveal information as prohibited by laws and
19 policies protecting criminal records of juveniles.

20 **SEC. 3. COINTELPRO RECORDS COLLECTION AT THE NA-**
21 **TIONAL ARCHIVES.**

22 (a) IN GENERAL.—

23 (1) ESTABLISHMENT OF THE COINTELPRO
24 RECORDS COLLECTION.—Not later than 60 days

1 after the date of the enactment of this Act, the Ar-
2 chivist shall—

3 (A) commence establishing a collection of
4 COINTELPRO records to be known as the
5 “COINTELPRO Records Collection” that en-
6 sures the physical integrity and original prove-
7 nance of all records in the Collection;

8 (B) commence preparing and publishing a
9 subject guidebook and index to the Collection;
10 and

11 (C) establish criteria for Government of-
12 fices to follow when transmitting copies of
13 COINTELPRO records to the Archivist (to in-
14 clude required metadata) under subsection (d).

15 (2) CONTENTS OF COLLECTION.—The Collec-
16 tion shall include—

17 (A) a copy of each COINTELPRO record
18 transmitted to the Archivist under subsection
19 (d);

20 (B) any COINTELPRO record fully dis-
21 closed to the public before the date of the en-
22 actment of the Act; and

23 (C) all Review Board records, as required
24 under this Act transmitted under section
25 4(l)(3).

1 (b) DISCLOSURE OF RECORDS.—All COINTELPRO
2 records transmitted to the Archivist—

3 (1) not later than 60 days after the trans-
4 mission of the record to the Archivist, shall be avail-
5 able to the public for inspection and copying at the
6 National Archives; and

7 (2) shall be prioritized for digitization by the
8 National Archives.

9 (c) FEES FOR COPYING.—The Archivist shall—

10 (1) use efficient electronic means when possible;

11 (2) charge fees for copying COINTELPRO
12 records in the Collection; and

13 (3) promulgate regulations in accordance with
14 the standard established under section 552(a)(4) of
15 title 5, United States Code, for establishing proce-
16 dures and guidelines for determining when such fees
17 should be waived.

18 (d) TRANSMISSION TO THE NATIONAL ARCHIVES.—

19 Each Government office shall, in accordance with the cri-
20 teria established by the Archivist under subsection
21 (a)(1)(C) as soon as is reasonably practicable, and in any
22 event not later than 2 years after the date of the enact-
23 ment of this Act, transmit to the Archivist in an electronic
24 and searchable form a copy of each COINTELPRO record
25 that can be partially or fully disclosed to the public in ac-

1 cordance with subsection (b), including any such record
2 that is publicly available on the date of the enactment of
3 this Act.

4 **SEC. 4. ESTABLISHMENT AND POWERS OF THE**
5 **COINTELPRO RECORDS REVIEW BOARD.**

6 (a) ESTABLISHMENT.—There is established, as an
7 independent agency in the executive branch of the Federal
8 Government, a board to be known as the COINTELPRO
9 Records Review Board.

10 (b) DUTIES OF THE REVIEW BOARD.—

11 (1) IN GENERAL.—The Review Board shall—

12 (A) review a determination by a Govern-
13 ment Office to partially disclose a
14 COINTELPRO record in accordance with sec-
15 tion 2(c); and

16 (B) if such record is in the possession or
17 control of an entity in the executive branch of
18 the Government, make a recommendation to the
19 President on whether the record—

20 (i) should have been partially dis-
21 closed in accordance with section 2(c); or

22 (ii) fully disclosed in accordance with
23 section 2(a).

1 (2) DECISIONS.—In carrying out paragraph
2 (1), the Review Board shall consider whether a
3 record constitutes a COINTELPRO record.

4 (c) APPOINTMENT.—

5 (1) IN GENERAL.—The President shall appoint,
6 by and with the advice and consent of the Senate,
7 5 individuals to serve as members of the Review
8 Board.

9 (2) INITIAL APPOINTMENT.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (C), initial appointments to the Review
12 Board shall be made not later than 60 days
13 after the date of the enactment of this Act.

14 (B) RECOMMENDATIONS.—In making ap-
15 pointments to the Review Board, the President
16 may consider any individuals recommended by
17 the American Historical Association, the Orga-
18 nization of American Historians, the Society of
19 American Archivists, and the American Bar As-
20 sociation.

21 (C) EXTENSION.—If an organization de-
22 scribed in subparagraph (B) does not rec-
23 ommend at least 2 nominees meeting the quali-
24 fications stated in paragraph (3) within 60 days
25 after the date of the enactment of this Act, the

1 deadline under subparagraph (A) shall be ex-
2 tended until the earlier of 60 days after the
3 date on which such recommendations are made
4 or 120 days after the date of the enactment of
5 this Act.

6 (D) ADDITIONAL RECOMMENDATIONS.—

7 The President may request that any organiza-
8 tion described in subparagraph (B) submit ad-
9 ditional recommended nominees.

10 (3) QUALIFICATIONS.—Individuals nominated
11 to the Review Board shall—

12 (A) not have had any previous involvement
13 with any official investigation or inquiry con-
14 ducted by the Federal Government, or any
15 State or local government, relating to any
16 COINTELPRO;

17 (B) be distinguished individuals of high
18 national professional reputation in their respec-
19 tive fields who are capable of exercising the
20 independent and objective judgment necessary
21 to fulfill their role in ensuring and facilitating
22 the review, transmission to the public, and pub-
23 lic disclosure of files related to COINTELPRO
24 and who possess an appreciation of the value of

1 such material to the public, scholars, and gov-
2 ernment; and

3 (C) include at least 1 professional historian
4 and 1 attorney.

5 (d) SECURITY CLEARANCES.—All Review Board
6 nominees may be processed for the necessary security
7 clearances in an accelerated manner by the appropriate
8 Federal agencies and subject to the standard procedures
9 for granting such clearances.

10 (e) VACANCY.—A vacancy on the Review Board shall
11 be filled in the same manner as the original appointment
12 and within 60 days of the occurrence of the vacancy.

13 (f) CHAIRPERSON.—The members of the Review
14 Board shall elect 1 of the members as chairperson.

15 (g) REMOVAL OF REVIEW BOARD MEMBER.—

16 (1) IN GENERAL.—No member of the Review
17 Board shall be removed from office, other than—

18 (A) by impeachment and conviction; or

19 (B) by the action of the President for inef-
20 ficiency, neglect of duty, malfeasance in office,
21 physical disability, mental incapacity, or any
22 other condition that substantially impairs the
23 performance of the member's duties.

24 (2) REPORT.—

1 (A) IN GENERAL.—If a member of the Re-
2 view Board is removed from office, and that re-
3 moval is by the President, not later than 10
4 days after the removal, the President shall sub-
5 mit to the Committee on Oversight and Reform
6 of the House of Representatives and the Com-
7 mittee on Homeland Security and Govern-
8 mental Affairs of the Senate a report specifying
9 the facts found and the grounds for the re-
10 moval.

11 (B) PUBLICATION.—The President shall
12 publish in the Federal Register a report sub-
13 mitted under subparagraph (A), except that the
14 President may, if necessary to protect the
15 rights of a person named in the report or to
16 prevent undue interference with any pending
17 prosecution, postpone or refrain from pub-
18 lishing any or all of the report until the comple-
19 tion of such pending cases or pursuant to pri-
20 vacy protection requirements in law.

21 (3) JUDICIAL REVIEW.—

22 (A) IN GENERAL.—A member of the Re-
23 view Board removed from office may obtain ju-
24 dicial review of the removal in a civil action

1 commenced in the United States District Court
2 for the District of Columbia.

3 (B) RELIEF.—The member may be rein-
4 stated or granted other appropriate relief by
5 order of the court.

6 (h) COMPENSATION OF MEMBERS.—

7 (1) IN GENERAL.—A member of the Review
8 Board shall be compensated at a rate equal to the
9 daily equivalent of the annual rate of basic pay pre-
10 scribed for level IV of the Executive Schedule under
11 section 5315 of title 5, United States Code, for each
12 day (including travel time) during which the member
13 is engaged in the performance of the duties of the
14 Review Board.

15 (2) TRAVEL EXPENSES.—A member of the Re-
16 view Board shall be allowed reasonable travel ex-
17 penses, including per diem in lieu of subsistence, at
18 rates for employees of agencies under subchapter I
19 of chapter 57 of title 5, United States Code, while
20 away from the member's home or regular place of
21 business in the performance of services for the Re-
22 view Board.

23 (i) POWERS.—

1 (1) IN GENERAL.—The Review Board shall
2 have the authority to act in a manner prescribed
3 under this Act including the authority to—

4 (A) direct a Government office to make
5 available to the Review Board, and if necessary
6 investigate the facts surrounding, additional in-
7 formation, records, or testimony from individ-
8 uals, which the Review Board has reason to be-
9 lieve is required to fulfill its functions and re-
10 sponsibilities under this Act;

11 (B) subpoena private persons to compel
12 the production of documents and other records
13 relevant to its responsibilities under this Act;

14 (C) require any Government office to ac-
15 count in writing for the destruction of any
16 records relating to COINTELPRO;

17 (D) receive information from the public re-
18 garding the identification and public disclosure
19 of COINTELPRO records; and

20 (E) hold hearings and administer oaths.

21 (2) ENFORCEMENT OF SUBPOENAS.—The Re-
22 view Board may bring a civil action in a district
23 court of the United States to enforce a subpoena
24 issued under paragraph (1)(B).

1 (j) WITNESS IMMUNITY.—The Review Board shall be
2 considered to be an agency of the United States for pur-
3 poses of chapter 601 of title 18, United States Code.

4 (k) SUPPORT SERVICES.—The Administrator of Gen-
5 eral Services shall provide administrative services for the
6 Review Board on a reimbursable basis.

7 (l) TERMINATION.—

8 (1) IN GENERAL.—The Review Board shall ter-
9minate not later than 4 years after the date of en-
10actment of this Act, except that the Review Board
11may, by majority vote, extend its term for an addi-
12tional 1-year period if the Review Board determines
13that it has not completed its work within that 4-year
14period.

15 (2) REPORTS.—Before its termination, the Re-
16view Board shall—

17 (A) submit a report to the President and
18the Congress on the activities conducted by the
19Board, including a complete and accurate ac-
20counting of expenditures during its existence;
21and

22 (B) complete all other reporting require-
23ments under this Act.

24 (3) TRANSFER OF RECORDS.—

1 (A) IN GENERAL.—Upon termination, the
2 Review Board shall transfer all records created
3 by or in the possession of the Board to the Ar-
4 chivist for inclusion in the Collection.

5 (B) PRESERVATION OF RECORDS.—The
6 records of the Review Board shall not be de-
7 stroyed, except that the Archivist may destroy
8 routine administrative records covered by a gen-
9 eral records schedule following notification in
10 the Federal Register and after considering com-
11 ments.

12 **SEC. 5. COINTELPRO RECORDS REVIEW BOARD PER-**
13 **SONNEL.**

14 (a) CHIEF OF STAFF.—

15 (1) APPOINTMENT.—Not later than 45 days
16 after the initial meeting of the Review Board, and
17 without regard to political affiliation, the Review
18 Board shall appoint an individual to the position of
19 Chief of Staff of the Review Board.

20 (2) REQUIREMENTS.—The individual appointed
21 as Chief of Staff—

22 (A) shall be a citizen of the United States
23 of integrity and impartiality who is a distin-
24 guished professional; and

1 (B) shall have had no previous involvement
2 with any official investigation or inquiry relat-
3 ing to COINTELPRO.

4 (3) CANDIDATE TO HAVE CLEARANCES.—A
5 candidate for Chief of Staff may be granted the nec-
6 essary security clearances in an accelerated manner
7 subject to the standard procedures for granting such
8 clearances.

9 (4) APPROVAL CONTINGENT ON PRIOR CLEAR-
10 ANCE.—A candidate for Chief of Staff may not be
11 appointed without receiving a security clearance.

12 (5) DUTIES.—The Chief of Staff shall—

13 (A) serve as principal liaison to Govern-
14 ment offices;

15 (B) be responsible for the administration
16 and coordination of the Review Board's review
17 of records;

18 (C) be responsible for the administration
19 of all official activities conducted by the Review
20 Board; and

21 (D) have no authority to decide or deter-
22 mine whether any record shall be disclosed to
23 the public or postponed for disclosure.

24 (6) REMOVAL.—The Chief of Staff shall not be
25 removed except upon a majority vote of the Review

1 Board to remove the Chief of Staff for cause on the
2 grounds of inefficiency, neglect of duty, malfeasance
3 in office, physical disability, mental incapacity, or
4 any other condition that substantially impairs the
5 performance of the responsibilities of the Chief of
6 Staff or the employees of the Review Board.

7 (b) STAFF.—

8 (1) ADDITIONAL PERSONNEL.—The Review
9 Board may appoint additional employees as are nec-
10 essary to enable the Review Board and its Chief of
11 Staff to perform their duties. Any employee ap-
12 pointed under this paragraph shall be in the ex-
13 cepted service (as that term is defined in section
14 2103 of title 5, United States Code).

15 (2) REQUIREMENTS.—An individual appointed
16 as an employee of the Review Board—

17 (A) shall be a private citizen of integrity
18 and impartiality; and

19 (B) shall have had no previous involvement
20 with any official investigation or inquiry relat-
21 ing to COINTELPRO.

22 (3) NOMINATIONS.—Before making an appoint-
23 ment pursuant to paragraph (1), the Review Board
24 shall consider individuals recommended by the
25 American Historical Association, the Organization of

1 American Historians, the Society of American Archi-
2 vists, and the American Bar Association.

3 (4) SECURITY CLEARANCES.—A staff candidate
4 may not be appointed without receiving a security
5 clearance.

6 (c) COMPENSATION.—The Review Board shall fix the
7 compensation of the Chief of Staff and other employees
8 in accordance with title 5, United States Code, except that
9 the rate of pay for the Chief of Staff and other employees
10 may not exceed the rate payable for level V of the Execu-
11 tive Schedule under section 5316 of that title.

12 (d) ADVISORY COMMITTEES.—The Review Board
13 may create advisory committees to assist in fulfilling the
14 responsibilities of the Review Board under this Act.

15 **SEC. 6. REVIEW OF RECORDS BY THE COINTELPRO**
16 **RECORDS REVIEW BOARD.**

17 (a) CUSTODY OF RECORDS REVIEWED BY THE RE-
18 VIEW BOARD.—Pending a determination by the Review
19 Board with respect to a record transmitted to the Board
20 for review under this section, a Government office shall
21 retain custody of a COINTELPRO record for purposes
22 of preservation, security, and efficiency, unless—

23 (1) the Review Board requires the physical
24 transfer of records for reasons of conducting an
25 independent and impartial review; or

1 (2) such transfer is necessary for an adminis-
2 trative hearing or other official Review Board func-
3 tion.

4 (b) RECOMMENDATION OF THE REVIEW BOARD.—

5 (1) IN GENERAL.—In reviewing a record in ac-
6 cordance with section 4(b), the Review Board shall
7 direct that copies of all COINTELPRO records be
8 transmitted to the Archivist and fully disclosed to
9 the public in the Collection in the absence of clear
10 and convincing evidence that—

11 (A) a record is not a COINTELPRO
12 record; or

13 (B) a record or particular information
14 within a COINTELPRO record does not cause
15 harm, as such term is defined in section 2.

16 (2) POSTPONEMENT.—In determining whether
17 a COINTELPRO record should be fully disclosed to
18 the public under section 2(a), the Review Board
19 shall work to—

20 (A) provide for the disclosure of segregable
21 parts, substitutes, or summaries of such a
22 record; and

23 (B) determine, in consultation with the
24 Government office in the possession or control
25 of the record, and consistent with the standards

1 for disclosure under this Act, which of the fol-
2 lowing alternative forms of disclosure shall be
3 made by the Government office:

4 (i) Any reasonably segregable par-
5 ticular information in a COINTELPRO
6 record.

7 (ii) A substitute record for that infor-
8 mation which is postponed.

9 (3) REPORT.—With respect to a
10 COINTELPRO record, or particular information
11 within a record, for which only substitutions or sum-
12 maries have been disclosed to the public, the Review
13 Board shall transmit to the Archivist a report con-
14 taining—

15 (A) a description of actions by the Review
16 Board, the originating body, the President, or
17 any Government office (including a justification
18 of any such action to postpone disclosure of any
19 record or part of any record) and of any official
20 proceedings conducted by the Review Board
21 with regard to specific COINTELPRO records;
22 and

23 (B) a statement, based on a review of the
24 proceedings and in conformity with the deci-
25 sions reflected therein, designating a rec-

1 ommended specified time at which or a specified
2 occurrence following which the material may be
3 appropriately disclosed to the public under this
4 Act.

5 (4) NOTICE.—Not later than 14 days after the
6 Review Board makes a determination whether a
7 COINTELPRO record should be fully disclosed, the
8 Review Board shall—

9 (A) notify the head of the Government of-
10 fice in the possession or control of the record of
11 the determination; and

12 (B) publish a copy of the determination in
13 the Federal Register.

14 (c) NOTICE TO THE PUBLIC.—On each day that is
15 on or after the date that is 60 days after the Review Board
16 first approves the postponement of disclosure of a
17 COINTELPRO record, the Review Board shall publish on
18 a publicly available website a notice that summarizes the
19 recommendation including a description of the subject, the
20 originating body, length or other physical description, and
21 each justification relied on for the recommendation.

22 (d) REPORTS BY THE REVIEW BOARD.—

23 (1) IN GENERAL.—The Review Board shall sub-
24 mit a report its activities to the Speaker of the
25 House of Representatives, the Minority Leader of

1 the House of Representatives, the Committee on
2 Oversight and Reform of the House of Representa-
3 tives, the Majority Leader of the Senate, the Minor-
4 ity Leader of the Senate, the Committee on Home-
5 land Security and Governmental Affairs of the Sen-
6 ate, the President, the Archivist, and the head of
7 any Government office whose records have been the
8 subject of Review Board activity.

9 (2) DEADLINES.—Not later than 1 year after
10 the date of the enactment of this Act, and every year
11 thereafter until the termination of the Review
12 Board, the Review Board shall issue a report under
13 paragraph (1).

14 (3) CONTENTS.—Each report under paragraph
15 (1) shall include the following information:

16 (A) A financial report of the expenses for
17 all official activities and requirements of the
18 Review Board and its employees.

19 (B) The progress made on review and,
20 transmission to the Archivist, and public disclo-
21 sure of COINTELPRO records.

22 (C) The estimated time and volume of
23 COINTELPRO records involved in the comple-
24 tion of the Review Board's duties under this
25 Act.

1 (D) Any special problems, including re-
2 quests and the level of cooperation of Govern-
3 ment offices, with regard to the ability of the
4 Review Board to meet the requirements of this
5 Act.

6 (E) A record of review activities, including
7 a record of recommendations that a record not
8 be fully disclosed by the Review Board or other
9 related actions authorized by this Act, and a
10 record of the volume of records reviewed and
11 recommended to not be fully disclosed.

12 (F) Recommendations and requests to
13 Congress for additional authorizations or appro-
14 priations.

15 (G) An appendix containing copies of re-
16 ports of postponed records to the Archivist re-
17 quired under subsection (c)(3) made since the
18 date of the preceding report submitted under
19 this subsection.

20 (4) NOTICE OF TERMINATION.—Not later than
21 90 days before terminating, the Review Board shall
22 provide written notice to the President and the Con-
23 gress of its intention to terminate its operations at
24 a specified date and the date on which the Board in-
25 tends to terminate.

1 **SEC. 7. DISCLOSURE OF OTHER INFORMATION AND ADDI-**
2 **TIONAL STUDY.**

3 (a) MATERIALS UNDER THE SEAL OF THE COURT.—

4 (1) IN GENERAL.—The Review Board may re-
5 quest the Attorney General to petition any court in
6 the United States to release any information rel-
7 evant to COINTELPRO that is held under seal of
8 court.

9 (2) GRAND JURY MATERIALS.—

10 (A) IN GENERAL.—The Review Board may
11 request the Attorney General to petition any
12 court in the United States to release any infor-
13 mation relevant to COINTELPRO that is held
14 under the injunction of secrecy of a grand jury.

15 (B) PARTICULARIZED NEED.—A request
16 for disclosure of COINTELPRO records under
17 this Act shall be deemed to constitute a show-
18 ing of particularized need pursuant to rule 6 of
19 the Federal Rules of Criminal Procedure.

20 (3) DEADLINE.—

21 (A) IN GENERAL.—The Attorney General
22 shall respond to any request that is subject to
23 this subsection within 45 days.

24 (B) NONDISCLOSURE OF GRAND JURY IN-
25 FORMATION.—If the Attorney General deter-
26 mines that information relevant to a

1 COINTELPRO that is held under the seal of a
2 grand jury should not be made public, the At-
3 torney General shall set forth in the response to
4 the request the reasons for the determination.

5 (b) COOPERATION WITH AGENCIES.—It is the sense
6 of Congress that—

7 (1) the Attorney General should assist the Re-
8 view Board in good faith to unseal any records that
9 the Review Board determines to be relevant and held
10 under the seal by a court or under the injunction of
11 secrecy of a grand jury; and

12 (2) all Government offices should cooperate in
13 full with the Review Board to seek the disclosure of
14 all information relevant to COINTELPRO con-
15 sistent with the public interest.

16 **SEC. 8. RULES OF CONSTRUCTION.**

17 (a) PRECEDENCE OVER OTHER LAW.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 when this Act requires transmission of a record to
20 the Archivist or public disclosure, it shall take prece-
21 dence over any other law (except section 6103 of the
22 Internal Revenue Code of 1986 (26 U.S.C. 6103)),
23 judicial decisions construing such law, or common
24 law doctrine that would otherwise prohibit such
25 transmission or disclosure with the exception of

1 deeds governing access to or transfer or release of
2 gifts and donations of records to the United States
3 Government.

4 (2) PERSONNEL AND MEDICAL FILES.—This
5 Act shall not require the public disclosure of per-
6 sonnel and medical files and similar files the dislo-
7 sure of which would constitute a clearly unwarranted
8 invasion of personal privacy.

9 (b) FREEDOM OF INFORMATION ACT.—Nothing in
10 this Act shall be construed to eliminate or limit any right
11 to file any requests with any executive agency or seek judi-
12 cial review of a decision under section 552 of title 5,
13 United States Code.

14 (c) JUDICIAL REVIEW.—Nothing in this Act shall be
15 construed to preclude judicial review, under chapter 7 of
16 title 5, United States Code, of final actions taken or re-
17 quired to be taken under this Act.

18 (d) EXISTING AUTHORITY.—Nothing in this Act re-
19 vokes or limits the existing authority of the President, any
20 executive agency, the Senate, the House of Representa-
21 tives, or any other entity of the Government to publicly
22 disclose records in its possession.

23 **SEC. 9. REDESIGNATION.**

24 The Federal building located at 935 Pennsylvania
25 Avenue Northwest in Washington, DC, commonly known

1 as the J. Edgar Hoover Federal Building, shall be known
2 and designated as the “Federal Bureau of Investigation
3 Federal Building”.

4 **SEC. 10. REFERENCES.**

5 Any reference in a law, map, regulation, document,
6 paper, or other record of the United States to the Federal
7 building referred to in section 3 shall be deemed to be
8 a reference to the “Federal Bureau of Investigation Fed-
9 eral Building”.

10 **SEC. 11. FUNDING.**

11 Until such time as funds are appropriated to carry
12 out this Act, the President shall use such sums as are
13 available for discretionary use to carry out this Act.

14 **SEC. 12. DEFINITIONS.**

15 In this Act:

16 (1) ARCHIVIST.—The term “Archivist” means
17 the Archivist of the United States.

18 (2) COINTELPRO.—The term
19 “COINTELPRO” means the covert and illegal
20 counter intelligence program conducted by the Fed-
21 eral Bureau of Investigation in 1956 that involved
22 surveilling, infiltrating, discrediting, and disrupting
23 domestic organizations involved in the political proc-
24 ess, including political parties, non-governmental or-

ganizations, advocacy groups, and special interest groups.

(3) COINTELPRO RECORD.—The term “COINTELPRO record” means a record that—

(A) is related to COINTELPRO; and

(B) was created or made available for use by, obtained by, or otherwise came into the possession of—

(i) an entity of the Federal Government, including—

(I) the Library of Congress;

(II) any executive agency, including the National Archives; and

(III) any independent agency; or

(ii) any State or local government, or component thereof, that provided support or assistance or performed work in connection with a Federal inquiry into surveillance, infiltration, discrediting, or disruption undertaken as a part of COINTELPRO.

(4) COLLECTION.—The term “Collection” means the COINTELPRO Records Collection established under section 3.

1 (5) EXECUTIVE AGENCY.—The term “executive
2 agency” means an agency, as defined in section
3 552(f) of title 5, United States Code.

4 (6) GOVERNMENT OFFICE.—The term “Govern-
5 ment office” means any entity of the Federal Gov-
6 ernment that has possession or control of 1 or more
7 COINTELPRO record.

8 (7) GOVERNMENT OFFICIAL.—The term “Gov-
9 ernment official” means any officer or employee of
10 the United States, including any elected or ap-
11 pointed official.

12 (8) NATIONAL ARCHIVES.—The term “National
13 Archives” means the National Archives and Records
14 Administration and all components thereof, includ-
15 ing Presidential archival depositories established
16 under section 2112 of title 44, United States Code.

17 (9) OFFICIAL INVESTIGATION.—The term “offi-
18 cial investigation” means the review of a
19 COINTELPRO case conducted by any entity of the
20 Federal Government either independently, at the re-
21 quest of any Presidential commission or congres-
22 sional committee, or at the request of any Govern-
23 ment official.

24 (10) ORIGINATING BODY.—The term “origi-
25 nating body” means the entity of the Federal Gov-

1 ernment, or the entity of a State or local govern-
2 ment, as the case may be, that created a record or
3 particular information within a record.

4 (11) PUBLIC INTEREST.—The term “public in-
5 terest” means the compelling interest in the prompt
6 public disclosure of civil rights cold case records for
7 historical and Governmental purposes and for the
8 purpose of fully informing the people of the United
9 States about the history surrounding all civil rights
10 cold cases in the United States.

11 (12) RECORD.—The term “record” has the
12 meaning given the term in section 3301 of title 44,
13 United States Code.

14 (13) REVIEW BOARD.—The term “Review
15 Board” means the COINTELPRO Records Review
16 Board established under section 4.

○