

HOMICIDE VICTIMS' FAMILIES' RIGHTS ACT OF 2021

MARCH 28, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 3359]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3359) to provide for a system for reviewing the case files of cold case murders at the instance of certain persons, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all that follows after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Homicide Victims’ Families’ Rights Act of 2021”.

SEC. 2. CASE FILE REVIEW.

(a) IN GENERAL.—The head of an agency shall review the case file regarding a cold case murder upon written application by one designated person to determine if a full reinvestigation would result in either the identification of probative investigative leads or a likely perpetrator.

(b) REVIEW.—The review under subsection (a) shall include—

(1) an analysis of what investigative steps or follow-up steps may have been missed in the initial investigation;

(2) an assessment of whether witnesses should be interviewed or reinterviewed;

(3) an examination of physical evidence to see if all appropriate forensic testing and analysis was performed in the first instance or if additional testing might produce information relevant to the investigation; and

(4) an update of the case file using the most current investigative standards as of the date of the review to the extent it would help develop probative leads.

(c) CERTIFICATION IN LIEU OF REVIEW.—In any case in which a written application for review has been received under this Act by the agency, review shall be unnecessary where the case does not satisfy the criteria for a cold case murder. In such a case, the head of the agency shall issue a written certification, with a copy provided to the designated person that made the application under subsection (a), stating

that final review is not necessary because all probative investigative leads have been exhausted or that a likely perpetrator will not be identified.

(d) REVIEWER.—A review required under subsection (a) shall not be conducted by a person who previously investigated the murder at issue.

(e) ACKNOWLEDGMENT.—The agency shall provide in writing to the applicant as soon as reasonably possible—

(1) confirmation of the agency's receipt of the application under subsection (a); and

(2) notice of the applicant's rights under this Act.

(f) PROHIBITION ON MULTIPLE CONCURRENT REVIEWS.—Only one case review shall be undertaken at any one time with respect to the same cold case murder victim.

(g) TIME LIMIT.—Not later than 6 months after the receipt of the written application submitted pursuant to subsection (a), the agency shall conclude its case file review and reach a conclusion about whether or not a full reinvestigation under section 4 is warranted.

(h) EXTENSIONS.—

(1) IN GENERAL.—The agency may extend the time limit under subsection (g) once for a period of time not to exceed 6 months if the agency makes a finding that the number of case files to be reviewed make it impracticable to comply with such limit without unreasonably taking resources from other law enforcement activities.

(2) ACTIONS SUBSEQUENT TO WAIVER.—For cases for which the time limit in subsection (g) is extended, the agency shall provide notice and an explanation of its reasoning to one designated person who filed the written application pursuant to this section.

SEC. 3. APPLICATION.

Each agency shall develop a written application to be used for designated persons to request a case file review under section 2.

SEC. 4. FULL REINVESTIGATION.

(a) IN GENERAL.—The agency shall conduct a full reinvestigation of the cold case murder at issue if the review of the case file required by section 2 concludes that a full reinvestigation of such cold case murder would result in probative investigative leads.

(b) REINVESTIGATION.—A full reinvestigation shall include analyzing all evidence regarding the cold case murder at issue for the purpose of developing probative investigative leads or a likely perpetrator.

(c) REVIEWER.—A reinvestigation required under subsection (a) shall not be conducted by a person who previously investigated the murder at issue.

(d) PROHIBITION ON MULTIPLE CONCURRENT REVIEWS.—Only one full reinvestigation shall be undertaken at any one time with respect to the same cold case murder victim.

SEC. 5. CONSULTATION AND UPDATES.

(a) IN GENERAL.—The agency shall consult with the designated person who filed the written application pursuant to section 2 and provide him or her with periodic updates during the case file review and full reinvestigation.

(b) EXPLANATION OF CONCLUSION.—The agency shall meet with the designated person and discuss the evidence to explain to the designated person who filed the written application pursuant to section 2 its decision whether or not to engage in the full reinvestigation provided for under section 4 at the conclusion of the case file review.

SEC. 6. SUBSEQUENT REVIEWS.

(a) CASE FILE REVIEW.—If a review under subsection (a) case file regarding a cold case murder is conducted and a conclusion is reached not to conduct a full reinvestigation, no additional case file review shall be required to be undertaken under this Act with respect to that cold case murder for a period of five years, unless there is newly discovered, materially significant evidence. An agency may continue an investigation absent a designated person's application.

(b) FULL REINVESTIGATION.—If a full reinvestigation of a cold case murder is completed and a suspect is not identified at its conclusion, no additional case file review or full reinvestigation shall be undertaken with regard to that cold case murder for a period of five years beginning on the date of the conclusion of the reinvestigation, unless there is newly discovered, materially significant evidence.

SEC. 7. DATA COLLECTION.

(a) IN GENERAL.—Beginning on the date that is three years after the date of enactment of this Act, and annually thereafter, the Director of the National Institute of Justice shall publish statistics on the number of cold case murders.

(b) **MANNER OF PUBLICATION.**—The statistics published pursuant to subsection (a) shall, at a minimum, be disaggregated by the circumstances of the cold case murder, including the classification of the offense, and by agency.

SEC. 8. PROCEDURES TO PROMOTE COMPLIANCE.

(a) **REGULATIONS.**—Not later than one year after the date of enactment of this Act, the head of each agency shall promulgate regulations to enforce the right of a designated person to request a review under this Act and to ensure compliance by the agency with the obligations described in this Act.

(b) **PROCEDURES.**—The regulations promulgated under subsection (a) shall—

(1) designate an administrative authority within the agency to receive and investigate complaints relating to a review initiated under section 2 or a reinvestigation initiated under section 4;

(2) require a course of training for appropriate employees and officers within the agency regarding the procedures, responsibilities, and obligations required under this Act;

(3) contain disciplinary sanctions, which may include suspension or termination from employment, for employees of the agency who are shown to have willfully or wantonly failed to comply with this Act;

(4) provide a procedure for the resolution of complaints filed by the designated person concerning the agency's handling of a cold case murder investigation or the case file evaluation; and

(5) provide that the head of the agency, or the designee thereof, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the head of the agency by a complainant.

SEC. 9. WITHHOLDING INFORMATION.

Nothing in this Act shall require an agency to provide information that would endanger the safety of any person, unreasonably impede an ongoing investigation, violate a court order, or violate legal obligations regarding privacy.

SEC. 10. MULTIPLE AGENCIES.

In the case that more than one agency conducted the initial investigation of a cold case murder, each agency shall coordinate their case file review or full reinvestigation such that there is only one joint case file review or full reinvestigation occurring at a time in compliance with section 2(f) or 4(d), as applicable.

SEC. 11. APPLICABILITY.

This Act applies in the case of any cold case murder occurring on or after January 1, 1970.

SEC. 12. DEFINITIONS.

In this Act:

(1) The term “designated person” means an immediate family member or someone similarly situated, as defined by the Attorney General.

(2) The term “immediate family member” means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or step-child of a murder victim.

(3) The term “victim” means a natural person who died as a result of a cold case murder.

(4) The term “murder” means any criminal offense under section 1111(a) of title 18, United States Code, or any offense the elements of which are substantially identical to such section.

(5) The term “agency” means a Federal law enforcement entity with jurisdiction to engage in the detection, investigation, or prosecution of a cold case murder.

(6) The term “cold case murder” means a murder—

(A) committed more than three years prior to the date of an application by a designated person under section 2(a);

(B) previously investigated by a Federal law enforcement entity;

(C) for which all probative investigative leads have been exhausted; and

(D) for which no likely perpetrator has been identified.

SEC. 13. ANNUAL REPORT.

(a) **IN GENERAL.**—Each agency shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate describing actions taken and results achieved under this Act during the previous year.

(b) **REPORT DESCRIBED.**—The report described in subsection (a) shall include—

(1) the number of written applications filed with the agency pursuant to section 2(a);

- (2) the number of extensions granted, and an explanation of reasons provided under section 2(h);
- (3) the number of full reinvestigations initiated and closed pursuant to section 4; and
- (4) statistics and individualized information on topics that include identified suspects, arrests, charges, and convictions for reviews under section 2 and reinvestigations under section 4.

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Purpose and Summary

H.R. 3359, the “Homicide Victims’ Families’ Rights Act of 2021,” would grant relatives of homicide victims, under federal law, the right to have their loved ones’ case files reviewed by the federal law enforcement agency with jurisdiction over their case, after three years of the case going cold.

Background and Need for the Legislation

I. BACKGROUND

Currently, our nation has over 250,000 unsolved murder cases and that number increases by 6,000 cases each year.¹ Scholars contend that this is a conservative estimate since 48 percent “of death investigation and missing persons cases” are “classified” under “undetermined cause” of death and thus not included in the unsolved murder case data.² An expert on the Cold Case Investigation Working Group assembled by the Office of Justice Programs’ National Institute of Justice states the number of “cold cases” in America “constitute a crisis situation.”³ The number of unsolved homicide cases grew consistently over the last decade throughout the nation. FBI data shows “the percentage of homicides for which someone is charged has steadily declined from over 90 percent in 1965 to under 65 percent in 2018.”⁴ Four in ten murder victim’s families do not receive closure for their loved ones’ cases.⁵ Low clearance rates exacerbate the backlog of unsolved cases. Due to the constant

¹ *The Crisis of Cold Cases*, U.S. Dep’t of Just. (Jan. 9, 2020), <https://www.ojp.gov/files/archives/blogs/2019/crisis-cold-cases>.

² Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

³ *The Crisis of Cold Cases*, U.S. Dep’t of Just. (Jan. 9, 2020), <https://www.ojp.gov/files/archives/blogs/2019/crisis-cold-cases>.

⁴ Rep. Eric Swalwell and Glenn Kirschner, *Some Murder Cases Grow Cold. For Victims’ Families Remains Hot | Opinion*, Newsweek (May 19, 2021), <https://www.newsweek.com/some-murder-cases-grow-cold-victims-families-pain-remains-hot-opinion-1592989>.

⁵ Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

nature of crime, law enforcement focuses on present and future crime instead of investigating older cases.⁶ Even cases that occurred within the last year can fade from the priorities of law enforcement. H.R. 3359 addresses the backlog of cases and will help police raise arrest rates of dangerous criminals.

The backlog and low clearance rate of homicide cases disproportionately affects Black victims. While clearance rates in cases with white, Latino, Asian, and Native American victims increased from 1976 to 2017, the overall clearance rate trends significantly downwards because of the extremely low clearance rates for Black victims.⁷ Victims in cases with low clearance rates are “more likely to live in deep poverty, to be unemployed, to have lower education levels, and to be black.”⁸

In Oakland, California, over the last decade “approximately 76% percent of the city’s victims were black. During that time, Oakland police made arrests in just 40% of murder cases when the victim was black, compared to 80% when the victim was white.”⁹ Other cities with a large Black population had similar statistics. In 2016, the Baltimore Police Department had a rate of “36.7 percent of killings” cleared, which was down from “46.4 percent in 2011.”¹⁰ Likewise in 2017, in Chicago, the city with the most homicides in the U.S., the police solved only one in six murders.¹¹ Impoverished homicide victims and Black victims do not receive the same attention to their cases from police as victims of other socio-economic backgrounds or racial groups.

Because of the current cold case police practices, families often remain uninformed about the current state of the investigation. Research found each homicide victim leaves behind at least four surviving family members.¹² Therefore, unresolved murder cases impact millions of people in the United States. In the case of the murder of Georgia Moses in 1997 in Petaluma, California, the police cannot share any information with her sister Angel Turner because the case, even though it is cold, is “technically still open.”¹³ Unless agency policy specifically prohibits disclosing information on open cases to the families of homicide victims, the decision to divulge new findings in the case is left to the discretion of individual officers. Because departments focus on current crime, they may not reserve the time to “investigate [old] crimes, follow leads and return

⁶James M. Adcock, *Fixing America’s Cold Case Crisis*, The Crime Report (Nov. 28, 2018), <https://thecrimereport.org/2018/11/28/fixing-americas-cold-case-crisis/>.

⁷Rep. Eric Swalwell and Glenn Kirschner, *Some Murder Cases Grow Cold. For Victims’ Families Remains Hot | Opinion*, Newsweek (May 19, 2021), <https://www.newsweek.com/some-murder-cases-grow-cold-victims-families-pain-remains-hot-opinion-1592989>.

⁸Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

⁹*Living with Impunity: Unsolved Murders in Oakland and the Human Rights Impact on Victims’ Family Members*, Berkeley Law, <https://www.law.berkeley.edu/experiential/clinics/international-human-rights-law-clinic/living-with-impunity-unsolved-oakland-murders/>.

¹⁰Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

¹¹*Id.*

¹²*Id.*

¹³Rep. Eric Swalwell and Glenn Kirschner, *Some Murder Cases Grow Cold. For Victims’ Families Remains Hot | Opinion*, Newsweek (May 19, 2021), <https://swalwell.house.gov/media-center/in-the-news/some-murder-cases-grow-cold-victims-families-pain-remains-hot>.

emails and phone calls.”¹⁴ This system of investigating cold cases leaves families to wonder about updates in the case.

Research reveals surviving members experienced victimization for a second time as “law enforcement and other agencies treated them with indifference—and even hostility.”¹⁵ A University of California, Berkeley, School of Law report found this experience to be worse for Black families. These families face “lackluster police responsiveness and often disrespectful and discriminatory treatment” and “checkered availability of crime-victim services.”¹⁶ Additionally, strain between the police and a victim’s family intensifies the longer the case goes unsolved, and the family loses trust in the criminal justice system. In federal cases, H.R. 3359 provides families with the right to receive updates on their loved one’s homicide case. This aligns with the Office of Justice Programs’ “National Best Practice Guides for Implementing and Sustaining a Cold Case Investigative Unit” report that specified agencies must develop “a detailed plan for communication with victims and victims’ families in the cold case unit protocols” and “employ a victim-centered approach in the daily operations of cold case investigations.”¹⁷

To find a new lead “sometimes it takes another, fresh set of eyes to discover a fact that was overlooked, or perhaps, a new test can be run that was not available when the homicide was first investigated.”¹⁸ The first detectives may have overlooked or not connected pieces of evidence that other detectives may identify. The phenomenon of “online sleuthing,” where civilians comb through the internet looking for leads, true crime podcasts and television shows, and non-law enforcement personnel finding new evidence in homicide cases serve as examples where a fresh perspective can help break a case open.¹⁹ The “passage of time can result in important reasons to interview witnesses or investigate a case entirely.”²⁰ Because advances in science progress rapidly, new technology could have been discovered and implemented in the time since detectives last revisited the case. The Office of Justice Programs reports “advancements in DNA technology are breathing new life into old, cold, or unsolved criminal cases.”²¹ Investigators in California used new DNA technology to apprehend the Golden State Killer, a case that had remained cold for decades.

¹⁴ Rep. Eric Swalwell and Glenn Kirschner, *Some Murder Cases Grow Cold. For Victims’ Families Remains Hot | Opinion*, Newsweek (May 19, 2021), <https://www.newsweek.com/some-murder-cases-grow-cold-victims-families-pain-remains-hot-opinion-1592989>.

¹⁵ *Living with Impunity: Unsolved Murders in Oakland and the Human Rights Impact on Victims’ Family Members*, Berkeley Law, <https://www.law.berkeley.edu/experiential/clinics/international-human-rights-law-clinic/living-with-impunity-unsolved-oakland-murders/>.

¹⁶ *Id.*

¹⁷ *National Best Practices for Implementing and Sustaining a Cold Case Investigation Unit*, U.S. Dep’t of Just., <https://www.ojp.gov/pdffiles1/nij/252016.pdf>.

¹⁸ Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

¹⁹ Janaki Jitchotvisut, *8 times crimes were solved by the internet*, Insider (May 11, 2018), <https://www.insider.com/crimes-solved-by-people-online-2018-5>.

²⁰ Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

²¹ *Using DNA to Solve Cold Cases*, U.S. Dep’t of Just. (July 2002), <https://www.ojp.gov/pdffiles1/nij/194197.pdf>.

II. NEED FOR LEGISLATION

Low clearance rates and unsolved murders mean perpetrators remain free and are not held legally accountable for their crimes, leaving communities less safe. The director of the National Network for Safe Communities at John Jay College of Criminal Justice, David Kennedy, stated low clearance rates causes “people to take things into their own hands, which leads to high levels of violence and low clearance rates. It is a spiral of decline.”²² Vigilante justice is common after an unsolved murder, compounding the number of unsolved cases and violence. Likewise, research demonstrates that a violent offender will likely repeat their crime.²³ If law enforcement does not apprehend perpetrators, they are likely to victimize other people and further harm the community. Solving cold cases prevents further violence.

Low clearance rates help create a cyclical pattern of more unsolved crimes. Kennedy highlighted “low clearance rates mean people have low confidence in the police, which leads to reluctance to cooperate, which leads to low clearance rates.”²⁴ The public’s faith in “the criminal justice system, and in law enforcement in particular, hinges on the public’s perception that laws will be enforced.”²⁵

Unsolved crimes financially burden police departments. Increased caseloads drain department resources because officers must allocate their attention between several cases instead of intensely focusing on one. As these cases remain open, the department funnels resources towards solving them. Thus, a higher number of cases correlates to more money spent solving them. In unsolved cases, police departments hemorrhage money without a tangible result.

H.R. 3359 would grant relatives of homicide victims, under federal law, the right to have their loved ones’ case files reviewed by the federal law enforcement agency with jurisdiction over their case, after three years of the federal case going cold. The bill guarantees that federal law enforcement agents who have not investigated the case review the file. Moreover, the three-year time frame from when the case file originally opened allows more time for more witnesses to come forward and the benefits of scientific discoveries to help solve the case. This legislation also pushes for more equitable case clearance rates by ensuring law enforcement agencies examine and allot resources to each case to find new probative leads. H.R. 3359 ensures federal law enforcement remains responsive and accountable to victims and their family while empowering the families of homicide victims. Families, like the families of the four teenage girls brutally murdered in an Austin, Texas yogurt shop 30 years ago, wait in anguish wondering what hap-

²² Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

²³ *The Crisis of Cold Cases*, U.S. Dep’t of Just. (Jan. 9, 2020), <https://www.ojp.gov/files/archives/blogs/2019/crisis-cold-cases>.

²⁴ Francesca Mirabile, *When Police Fail to Solve Homicides, Families Carry the Weight*, The Trace (June 26, 2017), <https://www.thetrace.org/2017/06/police-fail-solve-homicides-families-carry-weight/>.

²⁵ *National Best Practices for Implementing and Sustaining a Cold Case Investigation Unit*, U.S. Dep’t of Just., <https://www.ojp.gov/pdffiles1/nij/252016.pdf>.

pened to their loved one.²⁶ H.R. 3359 also provides families with a more victim-centered law enforcement response. The bill would require federal law enforcement to inform family members and similarly situated people of their rights and to update them on any new findings uncovered by the review. Families will be provided with a platform to know what is happening with the case, without jeopardizing the case. Finally, H.R. 3359 gives families of victims a sense of hope that the police will continue investigating their loved ones' cases and will help bring closure to families. It is a practical solution that will result in increased murder charges and closure for homicide victims' families.

Hearings

The Committee did not hold any hearings related to H.R. 3359.

Committee Consideration

On December 8, 2021, the Committee met in open session and ordered the bill, H.R. 3359 favorably reported with an amendment in the nature of a substitute by a voice vote, a quorum being present.

Committee Votes

No roll call votes occurred during the Committee's consideration of H.R. 3359.

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of House rule X, are incorporated in the descriptive portions of this report.

Committee Estimate of Budgetary Effects

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

New Budget Authority and Congressional Budget Office Cost Estimate

Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause (3)(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this bill.

²⁶ Cierra Bailey, *Swalwell's newest bills address pandemic response, homicide victims' families*, Pleasanton Weekly (Jul. 25, 2021), <https://www.pleasantonweekly.com/news/2021/07/25/swalwells-newest-bills-address-pandemic-response-homicide-victims-families>.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 3359 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 3359 would improve the clearance rates and reduce the backlog of federal homicide cases and ensure federal law enforcement remains responsive and accountable to homicide victims and their families.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 3359 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of House rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short Title. Section 1 sets forth the short title of the bill as the “Homicide Victims’ Families’ Rights Act of 2021.”

Sec. 2. Case File Review. Section 2 would set forth the criteria for case file review of cold case murders by federal law enforcement agencies that conducted initial investigations of the cases. An applicable agency, upon receiving a completed written application by one designated person, must determine if a full reinvestigation would result in probative investigation leads or a likely perpetrator. The person(s) reviewing the case must not have previously investigated the murder. The review shall include (1) an analysis of what investigative steps or follow-up steps may have been missed in the initial investigation; (2) an assessment of whether witnesses should be interviewed or reinterviewed; (3) an examination of physical evidence to see if all appropriate forensic testing and analysis was performed in the first instance or if additional testing might yield information relevant to the investigation; and (4) an update of the case file using the most current investigative standards at the time of the case review to the extent it would help probative leads.

Review is unnecessary where a case does not meet the criteria for a cold case murder. An agency may issue a certification stating that review is unnecessary because all probative investigative leads have not been exhausted or a likely perpetrator has not been identified.

An agency must confirm in writing receipt of the request and within six months of receiving the application, complete review of the case and determine whether a full reinvestigation is warranted. An agency may extend their investigation past the six-month limit if the agency makes a finding that the number of case files to be reviewed make it unfeasible to comply with the six-month limit without unreasonably taking resources from other law enforcement activities. Extensions may not exceed six months and the agency

must notify one designated person, who filed the application, of an extension and provide an explanation of its reasoning. Only one review of the same cold case may occur at a time.

Sec. 3. Application. Section 3 would mandate that each agency develop a written application to be used by designated persons to request a case file review.

Sec. 4. Full Reinvestigation. Section 4 would set forth the requirements for a full reinvestigation. The applicable agency shall conduct a full reinvestigation of the cold case murder at issue if review of the case file concludes that a full reinvestigation would result in probative investigation leads. A full investigation of the cold case murder must include analysis of all evidence for the purpose of developing probative investigative leads or a likely perpetrator. The person(s) conducting the full reinvestigation must not have previously investigated the cold case murder at issue, except for the case file review described in section 2. Only one full reinvestigation may occur at a time with respect to the same cold case murder victim.

Sec. 5. Consultation and Updates. Section 5 would set forth that the applicable agency must consult with the designated person who filed the written application and provide that person with periodic updates during the case file review and full reinvestigation. At the conclusion of the case file review, the applicable agency must meet with the designated person and discuss the evidence to explain its decision whether to conduct a full reinvestigation under section 5.

Sec. 6. Subsequent Reviews. Section 6 would establish that if a case file review is done and a conclusion is reached not to conduct a full reinvestigation, no additional case file review is required for five years, unless there is newly discovered, materially significant new evidence. An agency may continue an investigation without an immediate family member's application.

If a full investigation is completed and a suspect is not identified, no additional case file review or full reinvestigation shall be undertaken for five years, unless there is newly discovered, materially significant new evidence.

Sec. 7. Data Collection. Section 7 would require the National Institute of Justice to publish statistics annually on the number of cold cases beginning three years after the enactment of this Act. The published statistics must at minimum categorize the circumstances of the cold case, including the classification of the offense, and agency.

Sec. 8. Procedures to Promote Compliance. Section 8 would require the head of each Federal agency to enact regulations to enforce the rights of designated persons to request a case file review under section 2 and to ensure compliance by the agency with the obligations described in this Act. The regulations enacted must (1) designate an administrative authority within the agency to receive and investigate complaints relating to the provision or violation of the rights of designated persons; (2) require a training course for employees and officers within the agency regarding the procedures, responsibilities, and obligations under this Act; (3) contain disciplinary sanctions, including suspension or termination of employment, for employees who willfully or wantonly fail to comply with this Act; (4) establish a procedure for resolving complaints filed by a designated person concerning the agency's handling of a cold case

murder investigation or case file evaluation; and (5) provide that the head of the agency, or designee, is the final arbiter of complaints, and that there will be no judicial review of the head of the agency's final decision by a complainant.

Sec. 9. Withholding Information. Section 9 would provide that nothing in this Act will require an agency to provide information that would endanger the safety of any person, unreasonably impede an ongoing investigation, violate a court order, or violate legal obligations regarding privacy.

Sec. 10. Multiple Agencies. Section 10 would set forth the expectation of agency coordination and ensure agencies remain compliant with the Act. If more than one agency conducted the initial investigation of a cold case, each agency must coordinate their case file review or full reinvestigation such that there is only one joint case file review or full reinvestigation occurring at a time in compliance with the requirements that limit case reviews and full investigations to only one at a time per cold case murder victim.

Sec. 11. Applicability. Section 11 specifies that the Act applies in the case of any murder occurring on or after January 1, 1970.

Sec. 12. Definitions. Section 12 sets forth several definitions applicable to the Act. A "designated person" is an immediate family member, or someone similarly situated as defined by DOJ. An "immediate family member" is a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a murder victim. A "victim" is a natural person who died because of a cold case murder. A "murder" is any criminal offense under 18 U.S.C. Section 1111(a), or any offense of which the elements are substantially identical. "Agency" means a Federal law enforcement entity with jurisdiction to engage in the detection, investigation, or prosecution of a cold case murder. A "cold case" is a murder committed more than three years prior to the date of the application for case review, previously investigated by a Federal law enforcement entity, for which all probative investigative leads have been exhausted, and for which no likely perpetrator has been identified.

Sec. 13. Annual Report. Section 13 requires each agency to submit an annual report to the Senate and House Committees on the Judiciary describing actions taken and results achieved under this Act during the previous year. The report must include the number of written applications filed, the number of extensions granted and an explanation of the reasons why case files reviews were extended past six months, the number of full reinvestigations initiated and closed, and statistics and individualized information, including identified suspects, arrests, charges, and convictions in cold case murder investigations under the Act.