

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON; AMERICAN
HISTORICAL ASSOCIATION; and
SOCIETY FOR HISTORIANS OF
AMERICAN FOREIGN RELATIONS,

Plaintiffs,

v.

Civil Action No. 20-cv-739-APM

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION; DAVID S.
FERRIERO, in his official capacity as
Archivist of the United States; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; and MATTHEW T.
ALBENCE, in his official
capacity as Acting Director of U.S.
Immigration and Customs Enforcement,

Defendants.

DECLARATION OF KRISTINA SHULL

I, Kristina Shull, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Post-Doctoral Fellow in the Charles Warren Center for Studies in American History at Harvard University, where I teach in the Ethnicity, Migration, and Rights unit. I specialize in race, foreign relations, and immigration enforcement, with a particular focus on immigration detention.
2. I have been a member of the Society for Historians of American Foreign Relations since 2008.
3. I have reviewed the complaint in this action and understand that it concerns the decision by the National Archives and Records Administration (“NARA”) to approve the records

disposition schedule for Detainee Records (Schedule No. DAA-0567-2015-0013) proposed by U.S. Immigration and Customs Enforcement (the “ICE Schedule”).

4. As part of my academic and research work, I have relied extensively on immigration detention records of both ICE and its predecessor agency, the U.S. Immigration and Naturalization Service (“INS”).

5. For example, I rely on INS records documenting the circumstances of U.S. immigration detention in my current book project, *Invisible Bodies: Immigration Crisis and Private Prisons Since the Reagan Era*, which explores the rise of immigration detention and prison privatization in the early 1980s. Those included INS records stored in State Department and Attorney General files at the National Archives and administrative files at presidential libraries. I also relied on officer handbooks and audio recordings stored in the U.S. Citizenship and Immigration Services Library regarding detention policy, facility oversight, security guard conduct and misconduct, and treatment of detainees.

6. In 2003, INS was dissolved and its functions were transferred to ICE. Insofar as the INS records I have relied upon document the circumstances of U.S. immigration detention prior to ICE’s creation, they are the historical predecessors of many of the records slated for destruction under the ICE Schedule.

7. I have also relied extensively on ICE records in my collaborations with the non-profit organization Freedom for Immigrants (formerly called Community Initiatives for Visiting Immigrants in Confinement, or “CIVIC”). For instance, I am the creator of and a frequent contributor to Freedom for Immigrant’s IMM Print blog (www.imm-print.com), a publication of stories from immigration detention that draws heavily from ICE records and data.

8. I have also worked on reports for Freedom for Immigrants that relied on records documenting complaints made through ICE’s Detention Reporting and Information Line (“DRIL Hotline”)—a category of records slated for destruction under the ICE Schedule. Most notably, these included “Widespread Sexual Assault” (www.freedomforimmigrants.org/sexual-assault), which relied on DRIL Hotline records obtained through a Freedom for Information request. I also supported research contributing to the following reports: “Abuse motivated by hate and bias in U.S. immigration detention” (www.freedomforimmigrants.org/report-on-hate) and “Visitation Denials and Restrictions” (www.freedomforimmigrants.org/visitation-denials).

9. I have also relied on INS and ICE records in other publications and in my university teaching. My forthcoming article “Reagan’s Cold War on Immigrants: Resistance and the Rise of a Detention Regime, 1980-1985” in the *Journal of American Ethnic History* relies on the same documents referenced above in paragraph five. In teaching the courses, “History 100W: Race and Mass Incarceration” and “History 100W: Climate Refugees” at the University of California, Irvine, in 2016-17, and “EMR 132: Detention, Deportation, and Resistance” and “EMR 135: Climate Migration: Histories, Borders, and Activism” at Harvard University in 2018-19, I have used and cited ICE detention monitoring reports. I have also developed a publicly-available Immigration Detention Syllabus that includes INS and ICE records (www.freedomforimmigrants.org/immigration-detention-syllabus).

10. I have gained access to INS and ICE records by visiting the NARA collections in Washington, D.C., and College Park, Maryland, and through Freedom of Information Act requests.

11. Given the nature of historians' work, I frequently seek immigration detention records many decades after their creation—far beyond the temporary retention periods set forth in the ICE Schedule. For example, in my current book project described above, I relied on INS records dating back to the early 1980s.

12. In keeping with my research interests, I intend to seek and use ICE records, including those listed in the ICE Schedule, as part of my future work.

13. If the records listed in the ICE Schedule are destroyed, I will be deprived of access to the types of immigration detention records on which I routinely rely for my research and scholarship, and which I intend to seek and use in the future.

14. Destruction of the records covered by the ICE Schedule would be particularly detrimental because they document, in my view, a pivotal moment in U.S. immigration policy, and have research and historical value comparable to other immigration records NARA has appraised as permanent, such as those found in NARA's Record Group 85.

15. Indeed, case-specific records concerning individual immigrants and agency officials, such as the ICE records, provide immigration historians vital proof of the on-the-ground implementation of our nation's immigration policy, which often cannot be discerned from higher-level agency records.

16. The records also hold unique historic value because ICE is a relatively new agency, having been established in 2003. Records from this period will therefore provide critical insight to historians and researchers as to the operations of a newly formed federal agency, which has been the subject of extensive public criticism and scrutiny with respect to its treatment of immigrant detainees.

17. Because the ICE records will serve as essential evidence needed to piece together the historical record decades into the future, their destruction will inflict irreparable harm to immigration historians' work, including my own.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 20, 2020.

A handwritten signature in cursive script, reading "Kristina Shull".

Kristina Shull