

**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 BRIANNA NOFIL

I, Brianna Nofil, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I recently graduated with a doctorate in U.S. history from Columbia University. Starting in August 2020, I will be an Assistant Professor in the Department of History at the College of William & Mary. I specialize in the history of immigration, immigration detention, and the criminal justice system.
2. I have been a member of the American Historical Association (“AHA”) since February 2017.
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, research, and other professional pursuits, I have relied extensively on immigration detention records of the U.S. Immigration and Naturalization Service (“INS”), the predecessor agency of ICE.

5. For example, I used INS records in preparing my dissertation, “Detention Power: Jails, Camps, and the Origins of Immigrant Incarceration.” This work examines the use of carceral sites in the enforcement of immigration law, from borderland jails used to enforce the Chinese Exclusion Act in the 1900s to for-profit jails holding Caribbean migrants in the 1980s and 1990s. It relies extensively on INS records documenting the conditions of U.S. immigration detention, including records documenting cases of sexual and physical abuse of incarcerated migrants in contract detention facilities, and instances of detainee uprisings and resistance.

6. I also relied on INS records in writing a piece for *Time* magazine. See Brianna Nofil, History Family Separation Is Officially Over, but History Suggests the U.S. Won't Find a Good Solution for Migrant Children, *Time*, June 28, 2018, available at <https://time.com/5324942/children-family-separation-immigration-history/>.

7. I have used INS records as part of my course work, including as a teaching assistant for the courses “Immigrant New York” and “Immigrants in American History & Life” at Columbia University. I plan to use INS records for a U.S. Immigration History survey I am teaching at the College of William & Mary in Fall 2020.

8. I have gained access to INS records by visiting NARA’s collections in Washington, D.C., and through Freedom of Information Act requests.

9. In 2003, INS was dissolved and its functions were transferred to ICE. Insofar as the INS records that I regularly utilize 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.

10. 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 dissertation referenced above, I relied on INS records dating back to the early 1900s.

11. 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.

12. 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.

13. 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.

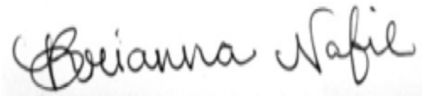
14. Indeed, case-specific records concerning individual immigrants and agency officials, such as the ICE records, provide immigration historians vital proof of the on-the-ground implementation of our nation's immigration policy, which often cannot be discerned from higher-level agency records.

15. 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 the been the subject of extensive public criticism and scrutiny with respect to its treatment of immigrant detainees.

16. 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 10, 2020.

A handwritten signature in cursive script, reading "Brianna Nofil", written in dark ink on a light background.

Brianna Nofil