

**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 JAMES GROSSMAN**

I, James Grossman, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Executive Director of the American Historical Association (“AHA”), a plaintiff in the above-captioned case. I have served in that position since 2010.

2. The AHA is a nonprofit membership organization founded in 1884 and incorporated by Congress in 1889 for the promotion of historical studies. The AHA is a trusted voice that advocates for history education, works to sustain and enhance the professional work of historians, and promotes the critical role of historical thinking in public life. As the largest organization of professional historians in the world, the AHA represents more than 11,500 members and serves historians representing every historical period and geographical area in a

wide variety of professions. The AHA's journal, the *American Historical Review*, is the most widely read and cited professional historical journal in the world.

3. As the AHA's Executive Director, I have knowledge of and am familiar with the work of the AHA's members, as well as their research and academic interests.

4. The AHA's members include historians, researchers, and educators who depend on preservation of and access to federal records in order to present a full and accurate accounting of the past in their teaching, public speaking, exhibitions, publications, and research endeavors. These members routinely rely on permanent federal records stored at National Archives and Records Administration ("NARA") facilities, and have filed thousands of Freedom of Information Act ("FOIA") and mandatory declassification review requests. On behalf of its members, the AHA has long advocated for the preservation, declassification, and public availability of federal records, because of the fundamental importance of these records for their investigation of the country's past. Thus, the AHA and its members have a strong interest in federal agencies' compliance with their recordkeeping obligations under the Federal Records Act. The destruction of federal records relevant to AHA members' work thwarts the AHA's mission and impede its members' informational rights under FOIA.

5. I have reviewed the complaint in this action and understand that it concerns NARA's approval of the records disposition schedule for Detainee Records (Schedule No. DAA-0567-2015-0013) proposed by U.S. Immigration and Customs Enforcement (the "ICE Schedule"). The AHA submitted a public comment urging NARA to deny approval of the ICE Schedule. *See* Administrative Record 186.

6. The AHA is dedicated to sustaining and enhancing the work of all historians, including immigration historians. The AHA recognizes that immigration from across the globe is a defining element of the history of the United States that has been vigorously debated since our nation's founding. The AHA is committed to protecting the ability of its members to document and interpret those debates, as well as the policies and practices that have stimulated such conversation.

7. The AHA's members include numerous historians who focus on U.S. immigration issues in their research, scholarship, and teaching. As part of that work, AHA members routinely rely on U.S. immigration records—including immigration detention records like those listed in the ICE Schedule—as primary source material, and will continue to rely on such records decades into the future. AHA's members gain access to these records by, among other things, visiting NARA facilities where the records are stored permanently and through FOIA requests submitted to relevant agencies. Given the nature of historians' work, AHA members frequently seek these records many decades after their creation—far beyond the temporary retention periods set forth in the ICE Schedule. If the records listed in the ICE Schedule are destroyed, AHA's members will be irreparably harmed because they will be deprived of current and future access to critical records on which they routinely rely for their research, scholarship, and teaching. For example:

- a. AHA member S. Deborah Kang is an Associate Professor of History at California State University San Marcos. She specializes in U.S. immigration law and policy, immigration history, and the U.S.-Mexico border. Professor Kang has relied extensively on INS detention records (the predecessors of the ICE records) as part of her research and educational work, including in her award-winning book *The*

*INS on the Line: Making Immigration Law on the US-Mexico Border, 1917-1945*

(New York: Oxford University Press, 2017). That book relied on INS records documenting the circumstances of detention of Mexican immigrants during the “Bracero Program” and “Operation Wetback,” two of the most important moments in the history of Mexican immigration and immigration law and policy in the United States. Professor Kang gained access to those records by visiting the National Archives facilities in Washington, D.C., College Park, Maryland, Fort Worth, Texas, and San Bruno, California. In keeping with her research interests, I have been informed that Professor Kang intends to seek and use ICE records, including those listed in the ICE Schedule, as part of her future work.

- b. AHA member Lucy Salyer is Professor of History at the University of New Hampshire. She specializes in the history of immigration and citizenship policies, focusing especially on the Chinese exclusion policy and Asian American citizenship. Professor Salyer has relied extensively on INS records (the predecessors of the ICE records) as part of her research and educational work, including in her award-winning book *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill & London: Univ. of North Carolina Press, 1995). That book relied on INS records documenting the circumstances of the government’s detention of Chinese immigrants in California in the early 20th century, including records concerning complaints outside groups submitted to the government about the poor conditions of immigrant detention, and the government’s investigation of those complaints. Professor Salyer gained

access to those records by visiting NARA's Record Group 85 in Washington, D.C.

- c. AHA member Krystyn R. Moon is Professor of History and Program Director of American Studies at the University of Mary Washington. She specializes in the history of U.S. immigration, ethnicity, and race relations. Professor Moon has worked extensively with the Case Files of Chinese Immigrants from NARA's regional offices and the Correspondence Files of the Immigration and Naturalization Service (INS), 1903-1959 at NARA's Washington, D.C. location (Record Group 85), which are the predecessors of ICE's detention records. In addition to relying on INS records for research purposes, Professor Moon uses the records as valuable teaching aids. For example, she teaches a seminar course entitled American Immigrant Experience, for which last fall she took students to the National Archives in Washington, D.C. so they could work firsthand with the case files of individual immigrants and administrative correspondence found in Record Group 85.
- d. AHA member Brianna Nofil recently graduated with a doctorate in U.S. history from Columbia University. She specializes in the history of immigration, immigration detention, and the criminal justice system. Ms. Nofil has relied on INS detention records (the predecessors of the ICE records) as part of her research work, including in her 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 records obtained through FOIA about detainee uprisings and resistance. In keeping with her research interests, I have been informed that Ms. Nofil intends to seek and use ICE records, including those listed in the ICE Schedule, as part of her future work.

- e. AHA member Jennifer Cullison is a postdoctoral fellow in the Core Humanities program at the University of Nevada, Reno. She specializes in U.S. history and global issues of race, migration and citizenship, with a particular focus on immigration detention. Dr. Cullison has relied extensively on immigration detention records of INS and ICE, including in her dissertation “Spawning a Hydra: The Policy and Practice of Immigrant Caging in Postwar America” (filed Spring 2018). That dissertation explores the growth of immigrant detention writ large in the U.S. since World War II, and includes case studies focused on individual detainee experiences. Dr. Cullison gained access to immigration detention records by, among other things, visiting the NARA facilities in Washington, D.C., and College Park, Maryland, and through FOIA requests. In keeping with her research interests, I have been informed that Dr. Cullison intends to seek and use ICE records, including those listed in the ICE Schedule, as part of her future work.

8. In the AHA's view, the ICE records scheduled for destruction document a pivotal moment in U.S. immigration policy that is of significant public interest, 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. 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. 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, as discussed above, has the been the subject of extensive public criticism and scrutiny with respect to its treatment of immigrant detainees. Because these records will serve as essential evidence needed to piece together the historical record decades into the future, their destruction will inflict irreparable harm to the work of the AHA's members.

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

Executed on July 23, 2020.

A handwritten signature in black ink, appearing to read "James Grossman", written in a cursive style.

---

James Grossman

**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 KRISTIN L. HOGANSON**

I, Kristin L. Hoganson, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the President of the Society for Historians of American Foreign Relations (“SHAFR”), a plaintiff in the above-captioned case. I have served in that position since November 1, 2019.

2. SHAFR is a professional society dedicated to the study of U.S. foreign relations history. On behalf of its nearly 1,000 members, it advances its mission to promote the study, advancement and dissemination of knowledge about U.S. foreign relations history by awarding research grants and prizes, holding conferences, publishing an academic journal, *Diplomatic History*, and furthering archival access to government documents.



3. As SHAFR's President, I have knowledge of and am familiar with the work of SHAFR's members, as well as their research and academic interests.

4. SHAFR's members include historians, researchers, and educators who depend on preservation of and access to federal records in order to present a full and accurate accounting of the past in their teaching, public speaking, exhibitions, publications, and research endeavors. These members routinely rely on permanent federal records stored at National Archives and Records Administration ("NARA") facilities, and have filed thousands of Freedom of Information Act ("FOIA") and mandatory declassification review requests. On behalf of its members, SHAFR has long advocated for the preservation, declassification, and public availability of federal records, because of the fundamental importance of these records for their investigation of the country's past. Thus, SHAFR and its members have a strong interest in federal agencies' compliance with their recordkeeping obligations under the Federal Records Act. The destruction of federal records relevant to SHAFR members' work thwarts SHAFR's mission and impede its members' informational rights under FOIA.

5. I have reviewed the complaint in this action and understand that it concerns NARA's approval of the records disposition schedule for Detainee Records proposed by U.S. Immigration and Customs Enforcement, Schedule No. DAA-0567-2015-0013 (the "ICE Schedule").

6. As noted, SHAFR is dedicated to the study of the history of U.S. foreign relations. SHAFR construes the concept of foreign relations history broadly to encompass topics such as immigration policy, the treatment of migrants, and cross-border mobility.

7. SHAFR's members include numerous historians who focus on U.S. immigration issues in their research, scholarship, and teaching. As part of that work, SHAFR's members routinely rely on U.S. immigration records—including detention records like those listed in the ICE Schedule—as primary source material, and will continue to rely on such records decades into the future. SHAFR's members gain access to these records by, among other things, visiting NARA facilities where the records are stored permanently and through FOIA requests submitted to relevant agencies. Given the nature of historians' work, SHAFR's members frequently seek these records many decades after their creation—far beyond the temporary retention periods set forth in the ICE Schedule. If the records listed in the ICE Schedule are destroyed, SHAFR's members will be irreparably harmed because they will be deprived of current and future access to critical records on which they routinely rely in their research, scholarship, and teaching. For example:

- a. SHAFR member Lucy Salyer is Professor of History at the University of New Hampshire. She specializes in the history of immigration and citizenship policies, focusing especially on the Chinese exclusion policy and Asian American citizenship. Professor Salyer has relied extensively on INS records (the predecessors of the ICE records) as part of her research and educational work, including in her award-winning book *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill & London: Univ. of North Carolina Press, 1995). That book relied on INS records documenting the circumstances of the government's detention of Chinese immigrants in California in the early 20th century, including records concerning complaints outside groups

submitted to the government about the poor conditions of immigrant detention, and the government's investigation of those complaints. Professor Salyer gained access to those records by visiting NARA's Record Group 85 in Washington, D.C.

- b. SHAFR member Jennifer Cullison is a postdoctoral fellow in the Core Humanities program at the University of Nevada, Reno. She specializes in U.S. history and global issues of race, migration and citizenship, with a particular focus on immigration detention. Dr. Cullison has relied extensively on immigration detention records of INS and ICE, including in her dissertation "Spawning a Hydra: The Policy and Practice of Immigrant Caging in Postwar America" (filed Spring 2018). That dissertation explores the growth of immigrant detention writ large in the U.S. since World War II, and includes case studies focused on individual detainee experiences. Dr. Cullison gained access to immigration detention records by, among other things, visiting the NARA facilities in Washington, D.C., and College Park, Maryland, and through FOIA requests. In keeping with her research interests, I have been informed that Dr. Cullison intends to seek and use ICE records, including those listed in the ICE Schedule, as part of her future work.
- c. SHAFR member Kristina Shull is a postdoctoral fellow in Global American Studies at Harvard University where she teaches in the Ethnicity, Migration, and Rights unit. She specializes in race, foreign relations, and immigration enforcement, with a particular focus on immigration detention. Dr. Shull has

relied extensively on immigration detention records of INS and ICE, including in her 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. Dr. Shull has also relied extensively on ICE records in her collaborations with the non-profit organization Freedom for Immigrants. For example, Dr Shull is the creator of and a frequent contributor to Freedom for Immigrant's IMM Print blog ([imm-print.com](http://imm-print.com)), a publication of stories from immigration detention that draws heavily from ICE records and data. Dr. Shull has also worked on reports for Freedom for Immigrants that relied on ICE's detention monitoring reports, which are slated for destruction under the ICE Schedule. In keeping with her research interests, I have been informed that Dr. Shull intends to seek and use ICE records, including those listed in the ICE Schedule, as part of her future work.

8. In SHAFR's view, the ICE records scheduled for destruction document a pivotal moment in U.S. immigration policy that is of significant public interest, 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. 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. 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, as discussed above, has the been the subject of extensive public criticism and scrutiny with respect to its treatment of immigrant detainees. Because these records will serve as essential evidence needed to piece together the historical record decades into the future, their destruction will inflict irreparable harm to the work of the SHAFR's members.

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

Executed on July 12, 2020.

A handwritten signature in black ink, reading "Kristin Hoganson". The signature is written in a cursive, flowing style.

---

Kristin L. Hoganson

**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.

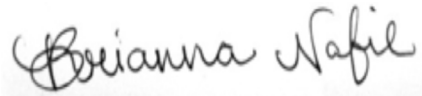


15. The records also hold unique historic value because ICE is a relatively new agency, having been established in 2003. Records from this period will therefore provide critical insight to historians and researchers as to the operations of a newly formed federal agency, which has the been the subject 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

**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](http://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](http://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](http://www.freedomforimmigrants.org/report-on-hate)) and “Visitation Denials and Restrictions” ([www.freedomforimmigrants.org/visitation-denials](http://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](http://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

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

CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON; AMERICAN  
HISTORICAL ASSOCIATION; 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; MATTHEW T.  
ALBENCE, in his official  
capacity as Acting Director of U.S.  
Immigration and Customs Enforcement,

Defendants.

**DECLARATION OF ADAM J. RAPPAPORT**

I, Adam J. Rappaport, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Chief Counsel and Assistant Director at Citizens for Responsibility and Ethics in Washington (“CREW”), a plaintiff in the above-captioned case. I have served in that position since 2016.

2. CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions.

3. In my position at CREW, I help to oversee and am familiar with CREW's litigation and Freedom of Information Act ("FOIA") efforts.

4. To further its mission of promoting government transparency and accountability, CREW frequently files FOIA requests with the Department of Homeland Security ("DHS"), U.S. Immigration and Customs Enforcement ("ICE"), and other agencies; disseminates the documents it receives through FOIA requests on its website, [www.citizensforethics.org](http://www.citizensforethics.org), and social media; and uses the documents as the basis for reports, complaints, litigation, blog posts, and other publications widely disseminated to the public. Given its status as a frequent FOIA requester, CREW has a strong operational interest in agencies' compliance with their recordkeeping obligations under the Federal Records Act. The destruction of federal records relevant to CREW's work thwarts its mission and impedes its informational rights under FOIA.

5. I understand that this lawsuit concerns the decision of the National Archives and Records Administration to approve the records disposition schedule for Detainee Records proposed by U.S. Immigration and Customs Enforcement, Schedule No. DAA-0567-2015-0013 (the "ICE Schedule"). Because the records covered by the ICE Schedule are the types of records CREW has requested from ICE through FOIA in the past and intends to request in the future, destruction of those records will directly impede CREW's interests.

6. Specifically, CREW currently has several FOIA requests pending with ICE, including the following:

- a. A February 25, 2020 request for "all Detention Service Monitor ('DSM') reports" from January 1, 2017 to the present including "any evaluations, observations, or discussion of ICE facilities' compliance with ICE detention standards or DHS [OIG] . . . recommendations." **Exhibit 1.** I understand that



the requested DSM reports are among the records slated for destruction under the ICE Schedule.

- b. A September 11, 2019 request for various categories of communications between ICE and private prison contractors that detain immigrants in ICE custody. **Exhibit 2.**
- c. A June 26, 2018 request for communications between ICE and private prison operators regarding the “the Trump Administration’s zero tolerance and family separation policies and its expansion of immigration detention.”

**Exhibit 3.**

7. CREW intends to continue submitting FOIA requests to ICE for similar records, including records documenting the circumstances of immigrant detention like those slated for destruction under the ICE Schedule.

8. If ICE destroys records pursuant to the ICE Schedule, CREW’s current and future FOIA requests will yield fewer or no records, inflicting irreparable harm to CREW’s interests.

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

Executed on July 21, 2020.



---

Adam J. Rappaport

# **Exhibit 1**

February 25, 2020

**By Email: ICE-FOIA@dhs.gov**

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests all Detention Service Monitor (“DSM”) reports from January 1, 2017 to the date this request is processed that include any evaluations, observations, or discussion of ICE facilities’ compliance with ICE detention standards or DHS Office of Inspector General (“OIG”) recommendations.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, ICE should institute an agency-wide preservation hold on documents potentially responsive to this request.

**Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

Multiple DHS OIG reports have found that ICE has failed to comply with detention standards<sup>1</sup> and raised concerns about ICE detainee treatment and care.<sup>2</sup> The DHS OIG has also found that inspections and monitoring of detention facilities do not lead to improvements.<sup>3</sup> Reporting from outside sources has also shown that the conditions within ICE facilities are dangerous<sup>4</sup> and sometimes deadly.<sup>5</sup> DSMs support oversight of ICE's largest facilities, providing "a needed service for ICE ERO Custody Management by assessment with standards nearly daily or weekly."<sup>6</sup> The requested records would contribute to the public's understanding of how ICE implements feedback from DSMs and whether the agency complies with detention standards.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to

---

<sup>1</sup> DHS Office of Inspector General, *Concerns about ICE Detainee Treatment and Care at Detention Facilities*, December 11, 2017, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>

<sup>2</sup> DHS Office of Inspector General, *Concerns about ICE Detainee Treatment and Care at Four Detention Facilities*, June 3, 2019, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>

<sup>3</sup> DHS Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, June 26, 2018, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>

<sup>4</sup> Andrew Gumbel, 'They were laughing at us': immigrants tell of cruelty, illness and filth in US detention. *The Guardian*, September 12, 2018, available at: <https://www.theguardian.com/us-news/2018/sep/12/us-immigration-detention-facilities>

<sup>5</sup> Hannah Rappleye and Lisa Riordan Seville, 24 immigrants have died in ICE custody during the Trump administration. *NBC News*, June 9, 2019, available at: <https://www.nbcnews.com/politics/immigration/24-immigrants-have-died-ice-custody-during-trump-administration-n1015291>

<sup>6</sup> DHS Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements*, June 26, 2018, available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>

include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or [lwhite@citizensforethics.org](mailto:lwhite@citizensforethics.org). Also, if CREW’s request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to either the email listed above or Lauren White, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201 Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

Lauren White  
Press Associate

# **Exhibit 2**

September 11, 2019

**By Email: ICE-FOIA@dhs.gov**

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests the following:

1. Any contracts from September 1, 2018 to the present between ICE Office of Acquisition Management (OAQ) and LaSalle Corrections, including those pertaining to: (a) Catahoula Correctional Center; (b) River Correctional Center; (c) Richwood Correctional Center; (d) LaSalle Correctional Center; (e) Jackson Parish Correctional Center; or (f) Winn Correctional Center.
2. Any contracts or requisition requests from September 1, 2018 to the present between ICE Enforcement and Removal Operations (ERO) and LaSalle Corrections, including those pertaining to: (a) Catahoula Correctional Center; (b) River Correctional Center; (c) Richwood Correctional Center; (d) LaSalle Correctional Center; (e) Jackson Parish Correctional Center; or (f) Winn Correctional Center. Please include in your search any records regarding the contract requirements.
3. Any contracts from September 1, 2018 to the present between the ICE ERO New Orleans Field Office and LaSalle Corrections, including those pertaining to: (a) Catahoula Correctional Center; (b) River Correctional Center; (c) Richwood Correctional Center; (d) LaSalle Correctional Center; (e) Jackson Parish Correctional Center; or (f) Winn Correctional Center.
4. All communications from September 1, 2018 to the present pertaining to contracts for detention between ICE (OAQ), ICE (ERO) or ICE ERO New Orleans Field Office and LaSalle Corrections.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages,

ICE FOIA Officer  
 Immigration and Customs Enforcement  
 Page 2

voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

In its bipartisan deal to reopen the government in February 2019, Congress instructed Immigrations and Customs Enforcement (ICE) to reduce its detention population.<sup>1</sup> However, since that month, ICE has been rapidly expanding its southern detention network by opening eight detention centers in Louisiana and Mississippi, all of which are run by private prison companies.<sup>2</sup> Six of those new facilities are run by LaSalle Corrections,<sup>3</sup> a Louisiana-based company.<sup>4</sup> After news broke regarding the first LaSalle-run prison opening without congressional approval, Senator Elizabeth Warren sent a letter to Acting Director Mark Morgan asking for the terms and conditions of the contracts with the facility. Senator Warren reportedly has yet to receive a response.<sup>5</sup> Unlike other private prison companies whose long-standing

---

<sup>1</sup> Noah Lanard, *ICE Just Quietly Opened Three New Detention Centers, Flouting Congress' Limit.*, Mother Jones, July 9, 2019, available at <https://www.motherjones.com/politics/2019/07/ice-just-quietly-opened-three-new-detention-centers-flouting-congress-limits/>.

<sup>2</sup> Noah Lanard, *Congress Told ICE to Detain Fewer People. Instead it Keeps Adding Private Prisons.*, Mother Jones, August 22, 2019, available at <https://www.motherjones.com/politics/2019/08/congress-ice-louisiana-mississippi-private-prisons/>.

<sup>3</sup> *Id.*

<sup>4</sup> LaSalle Corrections, *Locations*, available at <http://www.lasallecorrections.com/our-locations/>.

<sup>5</sup> Noah Lanard, *Congress Told ICE to Detain Fewer People. Instead it Keeps Adding Private Prisons.*, Mother Jones, August 22, 2019, available at <https://www.motherjones.com/politics/2019/08/congress-ice-louisiana-mississippi-private-prisons/>.



ICE FOIA Officer  
Immigration and Customs Enforcement  
Page 3

contracting relationship with ICE is well known,<sup>6</sup> LaSalle Corrections' connection to the agency seems to be new and little information about the relationship is publicly available.

The requested records are likely to contribute to public understanding of the details of the contracts, including the cost of operating these prisons and the points of contact between ICE and LaSalle corrections. The public has a great interest in ensuring that ICE abides by Congress' instructions and carries out contacts with the private sector responsibly.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or [lwhite@citizensforethics.org](mailto:lwhite@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

---

<sup>6</sup> Rachel Layne, [Private prisons were supposed to thrive under Trump — then came a backlash.](https://www.cbsnews.com/news/private-prison-companies-were-supposed-to-thrive-under-trump-instead-theyre-under-fire/), CBS News, July 29, 2019, available at <https://www.cbsnews.com/news/private-prison-companies-were-supposed-to-thrive-under-trump-instead-theyre-under-fire/>.

ICE FOIA Officer  
Immigration and Customs Enforcement  
Page 4

Where possible, please produce records in electronic format. Please send the requested records to either the email listed above or Lauren White, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201 Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

Lauren White  
Press Associate

# **Exhibit 3**

**CREW**

**citizens for responsibility  
and ethics in washington**

June 26, 2018

BY EMAIL: [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)

Catrina Pavlik-Keenan  
FOIA Officer  
U.S. Department of Homeland Security  
Freedom of Information Act Office  
500 12th Street, SW, Stop 5009  
Washington, D.C. 20536-5009

Re: Expedited Freedom of Information Act Request

Dear Ms. Pavlik-Keenan:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this expedited request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Department of Homeland Security ("DHS") regulations.

Specifically, CREW requests copies of all communications from April 1, 2018 to the present sent to or from anyone acting on behalf of (1) the Geo Group; (2) CoreCivic, Inc.; (3) Brian Ballard; and/or (4) Ballard Partners to or from anyone on the staff of the U.S. Immigrations and Customs Enforcement ("ICE") concerning or referencing in any way the Trump Administration's zero tolerance and family separation border policies and its expansion of immigration detention.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as emails to which the subjects of this request were cc'ed or bcc'ed.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).



### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

As has been widely reported, President Donald Trump is pursuing a “zero-tolerance” policy at the border, which exposes anyone crossing the border without authorization to detention and criminal prosecution, and a family separation policy. Although Attorney General Jeff Sessions announced the Trump administration’s policy to separate children from their parents as an immigration deterrent in early May, nearly 2,000 children were separated from their parents at the border from April 29 to May 31, 2018,<sup>1</sup> and administration officials stated that between May 5 and June 9, a total of 2,342 children had been separated from parents at the border pursuant to the Trump administration’s zero tolerance policy.<sup>2</sup>

To house those detained under this policy, ICE relies exclusively on out-sourced beds provided in large part by private prisons like the Geo Group and CoreCivic, Inc.<sup>3</sup> Last year the Geo Group was awarded a \$110 million federal contract to build a new detention center for detainees, and just last Friday, DHS and ICE issued a “request for information” on 15,000 beds for detainees.<sup>4</sup> But President Trump’s ill-considered policy has left government officials scrambling for additional facilities to house detainees, relying on tents on military bases as interim solutions.<sup>5</sup> Private prisons like Geo Group and CoreCivic, Inc. are expected to profit hugely from this crisis.<sup>6</sup>

The requested records would shed light on the extent to which ICE and DHS have properly prepared for this crisis and the roles private prisons and those who lobby on their

---

<sup>1</sup> Maya Rhodan, *Here Are the Facts About President Trump’s Family Separation Policy*, *Time*, June 20, 2018, available at <http://time.com/5314769/family-separation-policy-donald-trump/>.

<sup>2</sup> Dara Lind, *New Statistics: the Government Is Separating 65 Children a Day From Parents at the Border*, *Vox*, June 19, 2018, available at <https://www.vox.com/2018/6/19/17479138/how-many-families-separated-border-immigration>.

<sup>3</sup> *See, e.g.,* Sarah Toy, *These Companies Are Expected to Profit From Trump’s Continued ‘Zero-Tolerance’ Policy at the Border*, *MarketWatch*, June 25, 2018, available at <https://www.marketwatch.com/story/these-companies-are-expected-to-profit-from-trumps-continued-zero-tolerance-policy-at-the-border-2018-06-22>.

<sup>4</sup> Marcia Heroux Pounds, *Boca-Based Geo Group Poised to Profit From Trump Order for Illegal Immigrant Beds*, *Sun Sentinel*, June 25, 2018, available at <http://www.sun-sentinel.com/business/fl-bz-geo-immigrant-detention-20180622-story.html>.

<sup>5</sup> Lind, *Vox*, June 19, 2018.

<sup>6</sup> Toy, *MarketWatch*, June 25, 2018.

behalf, such as Brian Ballard and his firm Ballard Partners,<sup>7</sup> have played in that preparation, especially given the huge profits they likely will earn from imprisoning people at the border.<sup>8</sup>

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public"). The records could help alleviate widespread concerns that President Trump's family separation and zero tolerance policies were hastily drafted without sufficient consideration of their practical ramifications.

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts all documents it receives under the FOIA its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Request for Expedition**

CREW also requests expedition of this request pursuant to 6 C.F.R. §§ 5.5(e)(ii) and (iv). Pursuant to DHS regulations, CREW has submitted its request for expedition to the DHS Senior Director of FOIA Operations because the subject of this request concerns a matter of widespread and exceptional media interest that raises questions affecting the public's confidence. A copy of that request is enclosed.

CREW also is entitled to expedition because of the urgency to inform the public about an actual or alleged federal government activity. As demonstrated above, CREW is engaged primarily in disseminating information. As also discussed above, the requested records seek to

<sup>7</sup> Theodoric Meyer, *The Most Powerful Lobbyist in Trump's Washington*, *Politico*, Apr. 2, 2018, available at <https://www.politico.com/magazine/story/2018/0402most-powerful-lobbyist-in-trump-washington-217759>.

<sup>8</sup> See Jerry Iannelli, *Five Reasons South Florida's Pro-Trump Private-Prison Company Is Evil*, *Miami New Times*, Jan. 7, 2018, available at <http://www.misminewtimes.com/content/printView/9967258>.



inform the public about the extent to which ICE has consulted private prisons about the family separation and zero tolerance policies, matters of grave concern given the serious questions raised about their legality, effectiveness, and the extent to which they clash with our country's basic democratic principles.

Based on the foregoing, CREW satisfies the requirements for expedited processing of this request.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records on an expedited basis, please contact me at (202) 408-5565 or [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org) or at Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann  
Chief FOIA Counsel

Encl.