



**ART comments on the revised, proposed records retention schedule of the Department of Homeland Security, Immigration and Customs Enforcement (ICE), Detainee Records**

August 5, 2019

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The  
**Archivists  
Round Table**  
of Metropolitan  
New York,  
Inc.

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The Archivists Round Table of Metropolitan New York (ART) is submitting comments to the National Archives and Records Administration (NARA) regarding the revised, proposed records retention schedule of the Department of Homeland Security, Immigration and Customs Enforcement (ICE), Detainee Records DAA-0567-2015-0013 that was issued by NARA on June 14, 2019 (1). ART has represented a diverse group of more than 400 archivists, librarians, records managers, and other information and cultural heritage professionals in the New York metropolitan area since its inception in 1979. On October 17, 2017, ART submitted to NARA our response to the original appraisal and proposed ICE records retention schedule that was published in the Federal Register on July 14, 2017. (2)

We are submitting further comments as we are still alarmed by some of the appraisal decisions on the revised, proposed ICE records retention schedule.

**Item 0001 Detainee Sexual Abuse and Assault Files** ART believes these records should be retained permanently. The files comprise a more robust documentation of detainee sexual abuse and assault reports than the data retained in Significant Event Notification System Master File/Data (N1-567-11-4) and the Department of Homeland Security, Annual and Other Reports to Congress, DAA-0563-2013-0005-0001. (1) That only cases deemed “significant” by ICE will be retained in the Significant Event Notification System Master File/Data, and that only “some” sexual abuse and assault incidents and data will be retained in the Department of Homeland Security, Annual and Other Reports to Congress, is troubling as it privileges top-down decisions and summaries of the historical record over more inclusive perspectives of all who are involved in such cases. We also question the temporary retention of these records because the FOIA request process can be confusing, decisions or actions on the part of the federal agency are not always transparent, and access decisions still privilege the agency over the individual. This records series possesses significant administrative, legal and historical value, evidencing the on-the-ground circumstances surrounding sexual assaults of individuals in Federal custody.

**Revised item 0002 Detainee Death Review Files** ART believes these records should be retained permanently. Given NARA’s description of the scope and content of this series, we believe the Enforcement and Removal Operations (ERO) Detainee Death Review Files provide a more robust documentation of detainee deaths than the Office of Professional Responsibility (OPR) Detainee Death Review Files (new Item 0003) or the Detainee Death



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Reports (new Item 0004), and bring together information from disparate sources, creating a more complete picture of the events surrounding the deaths of individuals in Federal custody. Given the significance of the events documented, we believe that the ERO Detainee Death Review Files will be researched by future generations.

Further, although NARA states that “most if not all” (1) of the records accumulated in the ERO Death Review files are already scheduled elsewhere, we believe this fragmentation of documentary evidence will place undue and unnecessary burden on the researcher to find and compile information from various places.

**Original Item 0003 Detainee Telephone Rate Records** Although these records were removed from this schedule, ART urges the reinstatement and longer retention (beyond 6 years) of Detainee Telephone Rate Records in records schedule DAA-0567-2015-0013. Expensive telephone rates hinder correspondence between detainees and their family, friends, and their access to counsel/information. This data should be retained for at least 10 years for evidential and research purposes.

**Revised Item 0007 Detention Reporting Information Line (DRIL) Records** ART believes these records should be retained permanently. Although some of the reporting in the DRIL records may be documented in other places, as a body of records these could be useful for studying detention practices, including the percentage of individuals detained versus monitored, and how such decisions were made. The DRIL records could have a high research value as a complete data set.

**Revised Item 0008 Detainee Segregation Reports** ART believes these records should be retained permanently. They include robust documentation of “reasons for segregation, dates of segregation, whether the individual has an illness or disability, whether the individual is LGBTI, and if there is a related Sexual Abuse and Assault Prevention and Intervention (SAAPI) case” that not only could “support interests of legal rights and accountability” but will be significant for research for future generations. (3)

**Original Item 0010 Daily Detention Log Original Item 0011 Residential Detainee Locator Files** ART believes these records should be reinstated in records schedule DAA-0567-2015-0013. The removal of these items from the schedule fragment the documentary evidence surrounding detainee custody information.



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ART recognizes the important and crucial work NARA performs. Appraisal may well be the most difficult and contentious aspect of records management and archival work. ART urges NARA to review and reconsider its appraisal decisions for the revised, proposed records retention schedule of the Department of Homeland Security, Immigration and Customs Enforcement (ICE), Detainee Records as many of these records are “those that retain their importance for documenting legal status, rights, and obligations of individuals, groups, organizations, and governmental bodies despite the passage of time; those that enable Federal officials to explain past decisions, form future policy, and be accountable for consequences; those that provide the means for evaluating the effects of Federal actions on individuals, communities, and the natural and man-made environment; and those that contribute substantially to knowledge and understanding of the people and communities of our nation.” (4)

Thank you for your consideration.

Sincerely,

Archivists Round Table of Metropolitan New York, Board of Directors

**References**

1. NARA consolidated reply DAA-0567-2015-0013:  
<https://www.regulations.gov/document?D=NARA-19-0007-0002>
2. ART letter from October 17, 2017 regarding proposed ICE records retention schedule:  
[https://www.nycarchivists.org/resources/Documents/Advocacy%20Actions/ICE\\_Letter.pdf](https://www.nycarchivists.org/resources/Documents/Advocacy%20Actions/ICE_Letter.pdf)
3. NARA appraisal memo, revised schedule and supporting materials  
DAA-0567-2015-0013: <https://www.regulations.gov/document?D=NARA-19-0007-0003>
4. NARA appraisal policy:  
<https://www.archives.gov/files/records-mgmt/publications/appraisal-policy.pdf>