



## VIA ELECTRONIC MAIL

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Dear Officer for Civil Rights and Civil Liberties Wadhia and CRCL Compliance Team:

The National Immigration Project of the National Lawyers Guild (NIPNLG), Free Them All VA Coalition, and Detention Watch Network submit this complaint on behalf of four individuals impacted by the use of pepper spray in enclosed units of the Farmville Detention Center in Farmville, Virginia on or around March 29, 2024:

- Abu Bakarr Kabba
- Marlon Ian McDougall
- John Doe<sup>1</sup>
- Vaughn Johnson

In addition to violations of Immigration Customs Enforcement's (ICE) pepper-spray and force standards, this complaint also details detention standard violations, including sanitation and overcrowding, solitary confinement, and religious rights, and COVID-19 mismanagement issues. This complaint is based on the signed declarations of four individuals currently or formerly detained at the Farmville Detention Center,<sup>2</sup> as well as public media coverage of conditions at Farmville. It also details issues that arose or continued after some individuals were transferred from Farmville to the Carolina County Detention Facility, following the March incident.

We urge CRCL to promptly investigate these matters, share any data or records resulting from such an investigation, report its findings by September 30th, and to impose financial penalties against Farmville where appropriate. Finally, given Farmville's long history of civil rights abuses, as well as reoccurring issues evidenced in compliance inspection reports, it is evident that Farmville's culture of abuse and mismanagement is beyond what is reformable. We urge the CRCL to call for the permanent closure of Farmville.

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<sup>1</sup> Name anonymized to protect the Complainant's privacy. His name can be provided to your office upon request.

<sup>2</sup> Declarations can be provided upon request.

## 1. History of Abuse at the Farmville Detention Center

The Farmville Detention Center, operated by private prison contractor Immigration Centers of America (ICA),<sup>3</sup> has a long and well-documented history of abuse and substandard management.

To begin, the Farmville Detention Center is notorious for sanitation and overcrowding issues. The detention capacity of the Farmville Detention Center is 722 people.<sup>4</sup> However, ICA frequently surpasses this limit. In 2019, for example, nearly 800 people were detained at the facility at times.<sup>5</sup> Overcrowding is not accidental; it exists by design. Indeed, even before the facility opened, ICA lobbied to increase the official capacity by an additional 300 beds.<sup>6</sup> In the past, overcrowding has led to serious public health issues. In 2019, for example, Farmville was the site of a severe mumps outbreak.<sup>7</sup> In 2020, yet another public health issue spread like wildfire in Farmville: COVID-19. At one point in 2020, an estimated “90 percent” of individuals detained at Farmville, where people are forced to sleep “mere feet apart,” tested positive for the coronavirus.<sup>8</sup>

Farmville is also notorious for the improper use of pepper spray in enclosed areas. As early as 2015, an ICE Discrepancy Report detailed the use of pepper spray against a person detained in “full restraints and confined to a medical isolation cell.”<sup>9</sup> According to ICE’s report, ICA-Farmville guards pepper sprayed this individual directly on the face and upper torso even though he was “still on his hands and knees in the padded cell.”<sup>10</sup> In 2017, a guard pepper sprayed “a large group” of detained people.<sup>11</sup> Although the officer claimed that he utilized pepper spray against detained individuals who were cursing, yelling, and refusing to return to their bunks, video footage contradicted these claims.<sup>12</sup> In response, ICE imposed a financial penalty on ICA.<sup>13</sup> In 2020, court declarations captured that despite the compounded health challenges entailed by the COVID-19 pandemic, guards used pepper spray against detained individuals on multiple occasions. For example, on June 20, 2020, guards met the protest of detained individuals with pepper spray.<sup>14</sup> Two days later, following renewed protest, guards once again responded with abuse, deploying “noise-distracting round[s]” and pepper spray in a unit containing an estimated 80 people.<sup>15</sup> That same

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<sup>3</sup> Recent reports indicate that an “affiliate” of ICA, Abyon LLC, now operates the detention center. Testimony: Town Of Farmville Should Stop Secret Dealings With Private Prison Company & Cut Ties With ICE, NATIONAL IMMIGRANT JUSTICE CENTER (Feb. 14, 2024) <https://immigrantjustice.org/staff/blog/testimony-town-farmville-should-stop-secret-dealings-private-prison-company-cut-ties-ice>.

<sup>4</sup> *Farmville ICE-Detention Center-Anthology of Abuse*, DET. WATCH NETWORK (July 20, 2023) <https://www.detentionwatchnetwork.org/sites/default/files/reports/Farmville-ICA%20Detention%20Center%20-%20Anthology%20of%20Abuse.pdf>

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 2

<sup>8</sup> Schwenk, Katya, *The ICE Facility Where Almost Every Detainee Has Coronavirus*, THE AM. PROSPECT (August 12, 2020), <https://prospect.org/justice/farmville-ice-facility-almost-every-detainee-has-coronavirus/>

<sup>9</sup> Jesse Franzblau, *New Documents Illuminate a Dark Pattern of Abuse in ICA-Farmville*, NAT’L IMMIGRANT JUST. CTR., <https://immigrantjustice.org/staff/blog/new-documents-illuminate-dark-pattern-abuse-ica-farmville>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *See id.*

<sup>13</sup> *See id.*

<sup>14</sup> *See id.*

<sup>15</sup> *See id.*

month, according to local media, amidst a COVID-19 outbreak, guards also utilized pepper spray against men too sick or weak to stand for the daily morning count.<sup>16</sup> Detained people report that when pepper spray is utilized in closed, crowded settings, breathing difficulties and burning sensations persist for hours. When implemented within the backdrop of underlying health issues or respiratory threats like COVID-19, the harmful impact is predictably compounded.

In 2022, following an internal governmental review, senior officials deemed the issues at Farmville so pervasive they recommended closure or scale-down.<sup>17</sup> In 2023, this agency also took note of the persistent issues at Farmville, issuing a “retention memo indicating that the CRCL has opened up more than 60 complaints in the last four years related to complaints of abuses pertaining to the intersection of mental health and ICE’s use of segregation.”<sup>18</sup>

## 2. Background

Testimony from four individuals currently or formerly detained at the Farmville Detention Center shed light on facility conditions and the events that unfolded in March 2024. Even before the pepper spray incident in March, detained individuals reported issues that were endemic. First, detained individuals repeatedly reported overcrowding and unsanitary conditions. According to Complainant Vaughn Johnson (“Mr. Johnson”), an individual detained in Dorm 5, there are approximately 102 beds in his dorm. By his estimate, nearly 100 people were being detained there in May. Complainant Marlon McDougall (“Mr. McDougall”), another individual also detained in Dorm 5, described the dorm as “always crowded” with “barely any space between the bunk beds on either side.” Mr. Johnson’s testimony further elaborates that there are only four kitchen tables with 12 seats available to individuals in Dorm 5. Additionally, only three microwaves are available to the detained population in Dorm 5. Per Mr. Johnson, “the area around the microwave is wet and dirty. There is always dust on the microwave.” At the time, he also reported that there were only six toilets and sinks available. Likely due to these limitations, Mr. Johnson witnessed a frequent lack of handwashing.

Second, the housing units at Farmville are also characterized by poor ventilation. Two of the four individuals providing testimony reported their housing units did not contain any windows. Complainant John Doe (“Mr. Doe”) described air flow in his unit as “minimal.” Mr. Johnson reported that because there is no ventilation, “when someone burns toast in [a] microwave, you can smell it for three days in your clothes and sheets.” Despite the compounded dangers of using pepper spray in such tight, poorly ventilated, settings, this is what happened March 29th.

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<sup>16</sup> Jenny Gathright, *More than 70% of People Detained at the Farmville Detention Center are COVID-Positive*, DCIST (July 10, 2020), <https://dcist.com/story/20/07/10/more-than-70-of-people-detained-at-the-farmville-detention-center-are-covid-positive/>

<sup>17</sup> *Beyond Repair: ICE’s Abusive Detention Inspection and Oversight System*, NAT’L IMMIGRANT JUST. CTR., (Nov. 28, 2023), <https://immigrantjustice.org/research-items/policy-brief-beyond-repair-ices-abusive-detention-inspection-and-oversight-system>

<sup>18</sup> U.S. DEP’T OF HOMELAND SEC., RETENTION MEMO: SEGREGATION OF INDIVIDUALS WITH MENTAL HEALTH DISABILITY AND/OR SERIOUS MENTAL ILLNESS, (Sept. 1, 2023) (redacted), [https://www.dhs.gov/sites/default/files/2023-09/23\\_0901\\_crcl\\_retention\\_memo\\_to\\_ice\\_segregation\\_mental\\_health\\_or\\_illness\\_redacted\\_508.pdf](https://www.dhs.gov/sites/default/files/2023-09/23_0901_crcl_retention_memo_to_ice_segregation_mental_health_or_illness_redacted_508.pdf)

Per multiple written testimonies, on or around March 29, a fight broke out near the entrance of Dorm 5 between two individuals. Per Mr. McDougall, an older guard yelled in English at the individuals fighting, demanding they stop. Almost immediately after, the same guard proceeded to pepper spray the two individuals on their necks and back. Written declarations indicate that between half or the entire canister of pepper spray was used. Given the enclosed nature of the units, the spray spread across the unit. At least two individuals suffering from underlying health issues approached the guards, asking to be let out of the contaminated area. According to written declarations, the impact of the pepper spray reached across at least two dorms and lasted for hours.

Whereas detained individuals, including particularly medically vulnerable individuals, were made to endure the pain of the pepper spray and its aftermath, Mr. McDougall recalls that guards who tried to enter Dorm 5 retreated seconds after stepping in and suffering coughing fits.

### **3. Violation of ICE's Standards and Directives**

ICA-Farmville operates under the Performance-Based National Detention Standards (PBNDS) 2011.<sup>19</sup> The written testimony of detained individuals demonstrates the Farmville Detention Center fails to meet even ICE's own minimal detention standards.

#### **a. Violation of Use of Force Policy**

Although ICE's standards permit the use of force, the PBNDS stipulates limits on when and how force can be used. As a rule of thumb, the PBNDS dictates force is "never used as a punishment."<sup>20</sup> Further, staff may use "necessary and reasonable force [only] after all reasonable efforts to otherwise resolve a situation have failed."<sup>21</sup> In other words, force should be a matter of last resort. The PBNDS describes two types of force: immediate and calculated.<sup>22</sup> The former captures situations where a "serious and immediate" threat requires urgent action.<sup>23</sup> Here, officers do not require supervisory approval before taking action.<sup>24</sup> With calculated use of force, however, the threat is not immediate. Thus, staff must take the "time to assess the possibility of resolving the situation without resorting to force."<sup>25</sup> Throughout this continuum, pepper spray is described as an "intermediate force weapon" requiring prior training and certification by those who deploy it.<sup>26</sup>

When staff do use force, the PBNDS limits the amount of force they can use. Specifically, the PBNDS mandates that staff can use "only the degree of force necessary to gain control of detainees" so as to

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<sup>19</sup> U.S. IMMIG. AND CUSTOMS ENF'T, 2011 ICE PERFORMANCE-BASED NATIONAL DETENTION STANDARDS, <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011.pdf>

<sup>20</sup> *Id.* at 210.

<sup>21</sup> *Id.* at 208.

<sup>22</sup> *See id.* at 210.

<sup>23</sup> *Id.* at 215.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 216.

<sup>26</sup> *Id.* at 222, 212.

“restore order, protect safety, and provide security.”<sup>27</sup> Generally speaking, force against someone “offering no resistance” is prohibited.<sup>28</sup>

It’s unclear whether Farmville officials regarded the fight that broke out in March as an incident requiring immediate force or one requiring calculated use of force (and thereby prior approval). Regardless, written testimony of detained individuals indicates multiple violations of ICE’s use of force policy. Although testimony corroborates a fight broke out between two detained individuals, it does not show that any significant effort was made to resolve the situation before subjecting those individuals and the rest of the enclosed housing unit to the harms of pepper spray. Written testimony shows rapid verbal command was given to the two individuals engaged in conflict. However, reportedly the instruction was provided once and in English only, which testimony indicates may not have been the native language of those individuals. Even so, almost immediately after verbal instruction, the responding guard used a significant amount of pepper spray. Per PBNDS guidelines, officers can and should have considered other approaches before deploying pepper spray. In addition to providing additional or repeated warnings in the native language of the detained individuals, staff, for example, could have called the attention of the detained individuals through a whistle, pushed, or physically separated the two individuals without causing further harm.

Even assuming the fight was regarded as an immediate threat (which CRCL should make an independent judgment on), there is no justification for the impact on people that had nothing to do with the initial conflict. In particular, pepper spray was dangerously and inappropriately deployed against Complainant Abu Bakarr Kabba (“Mr. Kabba”), a medically vulnerable individual, who did not appear to have posed a threat to officers or fellow detained individuals. Mr. Kabba, an individual known to suffer from asthma and anxiety given past experiences of being pepper sprayed, approached a guard to advocate for his mental and physical well-being. Communicating his vulnerabilities, he asked to be placed in a separate space. However, the guard did not give any consideration to his health issues and demanded Mr. Kabba return to his barrack. Mr. Kabba continued to plead with guards until he was pepper sprayed directly in the face. This, in turn, caused him to collapse to the ground. According to his testimony, several guards then descended upon his back, further obstructing his breathing. Mr. Kabba pleaded that he could not breathe and needed his inhaler until guards handcuffed him and removed him from the premises. The guards then proceeded to dump water on his face. Rather than provide relief, given his restrained position, Mr. Kabba reported feeling like he was “drowning.” According to Mr. Kabba, he would remain handcuffed for three hours.

The impact of the decision to deploy pepper spray in an enclosed area impacted more than just the two individuals who were fighting and the Complainant known to suffer from underlying medical issues. According to Mr. Johnson, after the pepper spray was deployed, he “couldn’t breathe or swallow.” Like others around him, his “mouth, eyes, and nose were running water.” The harm was so severe, he reports his throat was “raw” and his eyes itched for days. In his declaration, he states he had to take “two pills twice a day for five days” following the incident. Mr. Doe, in turn, reported smelling “smoke or gas” despite being in an entirely different dorm. Pepper spray was not deployed in that dorm. Instead, what individuals experienced were the aftereffects of a fan blowing particles in their direction. Still, “everyone,

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<sup>27</sup> *Id.* at 208

<sup>28</sup> *Id.* at 213.

including [Mr. Doe], was coughing and sneezing.” Per Mr. Doe, he “had pain in [his] eyes” and could feel “burning in [his] nose and eyes.” According to his testimony, the “symptoms persisted for almost one hour.”

Mr. Johnson recalls guards did not open any doors to allow the spray to ventilate. They also did not take detained people outside while the spray dissipated. The only thing guards did was introduce a fan into the dorm. Yet because there are no windows in Dorm 5 and no doors were opened, Mr. Johnson says the spray residue just “bounced on the wall and came back.” The decision to use pepper spray as well as the lack of an effective ventilation plan after the use raises important decision and training questions. CRCL should investigate how the decision to use pepper spray was made, whether its use was necessary, what, if any, post-pepper spray ventilation plan Farmville deploys, and what the certification status of those individuals who deployed pepper spray is.

### **b. Violation of Medical Care Standards**

Per the PBNDS, prior to the use of pepper spray, “staff shall consult medical staff as practicable...unless escalating tension makes such action unavoidable.”<sup>29</sup> Medical staff, in turn should review the “detainee’s medical files for a decision or condition that an intermediate force weapon could seriously exacerbate, including but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy or congestive heart failure.”<sup>30</sup>

Although the PBNDS exempts medical consultation in “instances where immediate use of force is necessary,” as a general rule staff should not be making force decisions “unilaterally.”<sup>31</sup> Force decisions should be carried in “consult [with] medical staff,” particularly in special circumstances such as instances involving individuals with mental health or physical health issues which could be exacerbated by the use of force.<sup>32</sup>

According to the aforementioned testimony of Mr. Kabba, who is asthmatic, he was pepper sprayed after the two individuals who had engaged in a fight had already been removed from the space. Given the short time in between these pepper spraying incidents, it is doubtful guards followed procedure and consulted with medical staff before spraying Mr. Kabba who communicated he was medically vulnerable. Given that Mr. Kabba was only trying to advocate for guards to leave the dorm door open for proper ventilation and/or to be placed into a different space and given that the fighting individuals had already been removed from the space, the guards’ decision to use pepper spray against him is unlikely to have been “unavoidable” due to “escalating tension.”<sup>33</sup> If anything, as Mr. Kabba put it, rather than facing a threat from detained individuals, it appears the guards “panicked, they escalated, and they made the situation more dangerous for themselves and for [others.]” As with the decision to use pepper spray as a whole in an enclosed area housing individuals with asthma, the CRCL should investigate what, if any, consultation with medical officials and precautions were taken before deploying pepper spray against Mr. Kabba.

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<sup>29</sup> *Id.* at 215.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 213.

<sup>32</sup> *Id.* at 214-216.

<sup>33</sup> *Id.* at 215.

Finally, additional investigation into Farmville’s overall medical response after deploying pepper spray is needed. When force is used, including through the use of pepper spray, this triggers a series of medical responsibilities and considerations; the PBNDS requires that individuals “subjected to the use of force...be seen by medical staff as soon as possible.”<sup>34</sup> When force leads to harm or even a “claim of injury,” staff requires that a medical evaluation “be obtained and appropriate care provided.”<sup>35</sup> Although the testimony of medically vulnerable individuals supports that they received medical attention, the harmful impact of pepper spray gas appears to have spread over two dorms. It is unclear from available testimony whether or not Farmville staff provided wraparound medical consultation and support to all individuals impacted in Dorms 4 and 5. Instead, testimony appears to indicate that detained individuals were forced to withstand the lingering effects of the pepper spray. According to Mr. Johnson, for individuals in Dorm 5 it was two or three hours before the spray dissipated from their dorm. According to Mr. Kabba in Dorm 4, in their case it was an hour.

### **c. Violation of Solitary Confinement Standards**

The PBNDS also provides instructions regarding when and for how long detained people can be placed in disciplinary segregation. Specifically, it states that a “detainee shall be placed in disciplinary segregation only after a finding by a disciplinary hearing panel that the detainee is guilty of a prohibited act or rule violation classified at a ‘greatest,’ ‘high,’ or ‘high-moderate’ level.”<sup>36</sup> High-level violations can carry up to a 30-day punishment in disciplinary segregation.<sup>37</sup>

Following the pepper spray incident on or around March 29th, at least one individual, Mr. McDougall, was placed in solitary confinement. Mr. McDougall believes he was sentenced to 30 days in solitary confinement because “he did not go back to [his] bunk bed during the fight” which guards contended “interfered with security and blocked the door to the dorm.” Given his 30-day sentence, presumably, Mr. McDougall was found guilty of having committed a “high” offense category. However, no consideration appears to have been given to the fact that Mr. McDougall did not intend to disobey commands. According to written testimony, Mr. McDougall did not return to the barracks because he was physically unable to. In addition to suffering from osteoarthritis which restricts him to a wheelchair, he also suffers from asthma. His breathing issues were further exacerbated by the deployment of pepper spray. As a result of these factors, he passed out, involuntarily blocking the dorm door with his unconscious body. Even so, in addition to disciplinary segregation, Mr. McDougall has had restricted or no access to personal phone calls, library access, and commissary. Rather than punishing an intentional disruption, it appears Farmville staff punished and continues to punish Mr. McDougall for having underlying health issues aggravated by their guards’ actions.

Further, although the PBNDS provides that detained individuals can appeal disciplinary decisions through a formal grievance system and provides periodic windows for staff review of the decision to place

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<sup>34</sup> *Id.* at 210.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 179.

<sup>37</sup> *See id.* at 185.

someone in disciplinary segregation, these processes may not have been followed with Mr. McDougall.<sup>38</sup> According to his testimony, he “could not appeal [Farmville’s] decision because [he] was transferred from Farmville to Caroline County Detention Facility.”

Since his transfer, Mr. McDougall also reports experiencing meal issues. The PBNDS states that “all detainees shall be provided nutritionally balanced diets.”<sup>39</sup> Additionally, it requires that detained people with “certain conditions-chronic or temporary; medical, dental, and/or psychological-shall be prescribed special diets as appropriate.”<sup>40</sup> Even so, at the time of his testimony, Mr. McDougall reports not receiving adequate food since his transfer to Caroline. Mr. McDougall is allergic to soy and must follow a special diet. Although he has “raise[d] it every time [he] is given food,” he alleges Caroline staff continuously and consistently fails to respect his dietary restriction. As a result, he has to “pick around the food to avoid food that has soy or has been cooked in or with soy products.”

#### **d. Violation of Detention Conditions Standards**

The PBNDS also details the conditions in which people in ICE custody can be detained. In addition to generally requiring that people be detained in “clean” conditions, the PBNDS also contains particular specifications regarding the ratio of detained individuals to essential use items such as showers, toilets, and sinks.<sup>41</sup> The PBNDS, for example, requires that “detainees...have access to operable toilets and hand-washing facilities 24 hours per day and shall be permitted to use toilet facilities without staff assistance.”<sup>42</sup> The required ratio for both toilets and washrooms are 1 to 12 detained males.<sup>43</sup>

Testimony from detained individuals make it clear that space is crowded at the Farmville housing units. In addition to being forced to sleep practically shoulder to shoulder, written testimony indicates that retrofitting of the units falls deplorably short of the minimum standards set by the PBNDS. Indeed, the written testimony of detained individuals directly contradicts PBNDS instruction. Instead of 1 toilet per 12 males, for example, individuals detained in Dorm 5 are reportedly sharing 6 toilets among 80 to 100 people. These same 80 to 100 individuals are forced to share six sinks for everything from washing their hands to washing their clothes. Compliance inspections by the Office of Detention Oversight in 2022 and 2023, indicate that this is a persistent issue that Farmville has refused to address without consequences.<sup>44</sup>

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<sup>38</sup> *See id.* at 226, 186.

<sup>39</sup> *Id.* at 241.

<sup>40</sup> *Id.* at 257.

<sup>41</sup> *See id.* at 260, 287.

<sup>42</sup> *Id.* at 287.

<sup>43</sup> *Id.*

<sup>44</sup> U.S. DEP’T OF HOMELAND SEC., IMMIGR. & CUSTOMS ENF’T, OFFICE OF DETENTION OVERSIGHT, COMPLIANCE INSPECTION, (March 2022), [https://www.ice.gov/doclib/foia/odo-compliance-inspections/farmvilleICA\\_FarmvilleVA\\_2022.pdf](https://www.ice.gov/doclib/foia/odo-compliance-inspections/farmvilleICA_FarmvilleVA_2022.pdf); U.S. DEP’T OF HOMELAND SEC., IMMIGR. & CUSTOMS ENF’T, OFFICE OF DETENTION OVERSIGHT, UNANNOUNCED COMPLIANCE INSPECTION, (September 2022), <https://www.ice.gov/doclib/foia/odo-compliance-inspections/2022-ICA-FarmvilleVA-Sep.pdf>.



Further, although the PBNDS states detained individuals “shall be provided with a reasonably private environment” written testimony consistently indicates privacy issues.<sup>45</sup> Notably, Mr. McDougall signals “there is no privacy in the bathroom area. There is a camera facing the toilet.”

#### **e. Violation of Religious Observation Standards**

Written testimony also points to violation of the PBNDS’s guidelines around the approach detention staff should follow with religious items. Among other things, the PBNDS makes it clear that “each facility shall develop procedures to allow detainees to retain religious items within their possession.”<sup>46</sup> For the purposes of the PBNDS, this includes “religious wearing apparel, religious headwear.”<sup>47</sup> Turbans are explicitly listed as among the “generally acceptable religious headwear.”<sup>48</sup> Only a “documented threat” to the safety or security of the facility or its “orderly operation” should interfere with the use of approved religious headwear.<sup>49</sup> Further, where an issue or threat with a religious item, the PBNDS stipulates “facility administrator[s] shall ordinarily consult a religious authority before confiscating a religious item that is deemed ‘soft’ contraband.”<sup>50</sup>

Despite all this, for almost an entire week, Mr. McDougall, who was transferred into the Caroline Detention Center following the March incident, was reportedly denied his turban.

#### **f. Violation of Disease Prevention and Control Policies**

Finally, the testimony of detained individuals also raises questions and concerns about Farmville’s infectious disease prevention and management policies, particularly as relates to COVID-19.

Regarding contagion prevention, the PBNDS states that the “each facility shall have written plans that address the management of infectious and communicable disease, including screening, prevention, education, identification, monitoring and surveillance, immunization (when applicable), treatment, follow-up, isolation (when indicated) and reporting to local, state and federal agencies.”<sup>51</sup> Additionally, ICE’s COVID-19 Pandemic Response Requirements (PRR) mandates that “all facilities housing ICE detainees are required to have a COVID-19 mitigation plan.”<sup>52</sup> The PRR provides different policies and requirements on the basis of a two-tier system: “green” and “red” facilities.<sup>53</sup> Green facilities are facilities that have less than one COVID-19 death or hospitalization within a week, a medical isolation rate of less than 2%, and are generally regarded as having low risk status.<sup>54</sup>

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<sup>45</sup> U.S. IMMIG. AND CUSTOMS ENF’T, 2011 ICE PERFORMANCE-BASED NATIONAL DETENTION STANDARDS, <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011.pdf>

<sup>46</sup> *Id.* at 191.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 357.

<sup>49</sup> *See id.* at 348.

<sup>50</sup> *Id.* at 92.

<sup>51</sup> *Id.* at 282.

<sup>52</sup> U.S. IMMIG. AND CUSTOMS ENF’T, ERO POST PANDEMIC EMERGENCY COVID-19 GUIDELINES AND PROTOCOLS, (2023),

[https://www.ice.gov/doclib/coronavirus/eroCOVID19PostPandemicEmergencyGuidelinesProtocol\\_07132023.pdf](https://www.ice.gov/doclib/coronavirus/eroCOVID19PostPandemicEmergencyGuidelinesProtocol_07132023.pdf).

<sup>53</sup> *Id.* at 4.

<sup>54</sup> *See id.* at 9.

Although green facilities do not require routine intake testing, they still have important requirements. For example, green facilities must still “maintain optimized ventilation, handwashing, and cleaning and disinfection for standard prevention of infectious diseases.”<sup>55</sup> Green facilities are also required to screen for COVID-19 symptoms.<sup>56</sup> Where screening raises questions or concerns, testing may follow.<sup>57</sup> Positive COVID-19 tests, in turn, should trigger isolation protocols.<sup>58</sup> Green facilities must also ensure that “recommended personal protective equipment (PPE) is available for staff and detainees.”<sup>59</sup>

The testimony of detained individuals has already established overcrowding and poor ventilation concerns. Beyond this, it is unclear if and how Farmville is adhering to screening procedures laid out in the PBNDS and PRR. Mr. Johnson, who reports having gotten COVID-19 twice while in detention, believes “new people come with covid.” Although Farmville could implement key prevention strategies by simply screening and testing incoming individuals, according to Mr. Johnson “they don’t even check them and we all get sick.” In his testimony, Mr. Johnson also shared that “there’s a large trash can where, when everyone got a cold, they spit in there.” As previously noted, he also raised a lack of handwashing arising out of limited sinks. Put together, these details paint a concerning picture of disarray and unpreparedness at Farmville.

Response and control practices are equally concerning. Indeed, Mr. Johnson’s testimony also indicates medical responsiveness issues. Per Mr. Johnson, it “takes two or three days” for officials to respond to a sick call. This is unacceptable, particularly at Farmville which only four years ago experienced a massive COVID-19 outbreak which resulted in “more than 300 [detained individuals] infected by the coronavirus in 2020, one of whom died.”<sup>60</sup> While ICE’s prevention policies have changed since, it is crucial to note that many of the conditions which gave rise to the COVID-19 outbreak in 2020 and the mumps outbreak in 2019 have not.

#### 4. Recommendations

For all of these reasons, we urge the CRCL to promptly open an investigation into the matters raised by this complaint and report its findings by September 30th. Relatedly, we ask the CRCL share any data or records resulting from such an investigation. Further, we ask that CRCL recommend financial penalties against ICA where wrongdoing or mismanagement is found.

Finally, given Farmville’s long history of civil rights abuses and the hundreds of complaints this office has captured against Farmville, we urge this office to formally recommend the permanent closure of this facility. The decades of reports of neglect, violence, and retaliation against immigrants detained at Farmville indicate that the violations raised in this complaint are part of a systemic pattern of abuse that cannot be corrected by the responsible parties. These long-standing issues at Farmville can only be

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<sup>55</sup> *Id.* at 10.

<sup>56</sup> *Id.*

<sup>57</sup> *See id.*

<sup>58</sup> *See id.*

<sup>59</sup> *Id.*

<sup>60</sup> Olivo, Antonio, *Lawsuit Over Covid Outbreak at Farmville Immigrant Detention Center Settled*, WASH. POST (2022), <https://www.washingtonpost.com/dc-md-va/2022/07/11/covid-outbreak-farmville-lawsuit-settlement/>

remedied by the facility's closure and demands to hold those in authority accountable. We raise serious concerns about the continued operation of Farmville and request an immediate investigation into the March 2024 incident and the abuses described herein by CRCL.

If you have any questions or need further information, please reach out to Amber Qureshi at [amber@nipnlg.org](mailto:amber@nipnlg.org).

Sincerely,  
National Immigration Project of the National Lawyers Guild  
Free Them All VA Coalition  
Detention Watch Network