

**VIA ELECTRONIC MAIL**

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\*This complaint includes violations of the Rehabilitation Act of 1973. Please submit to the Section 504 division pursuant to 6 C.F.R. § 15.70.\*

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

The Legal Aid Justice Center (“LAJC”), National Immigrant Justice Center (“NIJC”), and National Immigration Project (“NIPNLG”) submit this complaint on behalf of Manuel,<sup>1</sup> whose health and safety is at risk as a result of substandard care and negligence experienced in U.S. Immigration and Customs Enforcement (ICE) detention. This complaint discusses how Manuel has faced misuse of disciplinary segregation, unsanitary living conditions, and been denied nutritional food. Manuel has been in ICE detention since 2021 and is currently detained at the Immigration Centers of America (ICA) Farmville Detention Center (“ICA-Farmville”) in Farmville, Virginia.<sup>2</sup>

This complaint documents violations of: (1) ICE Enforcement and Removal Operations’ Performance-Based National Detention Standards 2011 (“PBNDS 2011”) (Errata 2013)<sup>3</sup>; (2) ICE Policy Memorandum 11065.1, “Review of the Use of Segregation for [Persons in ICE Detention],” (Sep. 4, 2013)<sup>4</sup>; and (3) Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794 and its implementing regulations that are binding on the Department of Homeland Security (“DHS”), found at 6 C.F.R. § 15.30 et seq.

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<sup>1</sup> A pseudonym has been used to protect the complainant from potential retaliation by ICE.

<sup>2</sup> ICA-Farmville is a prison owned and operated by Abyon, LLC.

<sup>3</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> [hereinafter “2011 ICE PBNDS”]. *See also* U.S. Dep’t of Homeland Sec., Immigration & Customs Enf’t, Office of Detention Oversight Special Review, Compliance Inspection 2024-001-257, Immigration Centers of America (Farmville) (Dec. 2023), [Immigration Centers of America \(Farmville\), Farmville, VA, December 19-21, 2023 \(ice.gov\)](https://www.ice.gov/doclib/detention-reform/pdf/segmentation_directive.pdf).

<sup>4</sup> U.S. Dept. of Homeland Sec., U.S. Immigration and Customs Enf’t, 11065.1: Review of the Use of Segregation for [Persons Detained by ICE], (Sept. 4, 2013), [https://www.ice.gov/doclib/detention-reform/pdf/segmentation\\_directive.pdf](https://www.ice.gov/doclib/detention-reform/pdf/segmentation_directive.pdf).

Officials in ICA-Farmville have failed to provide necessary care and reasonable accommodations, and ICE has refused to exercise its discretion to release Manuel to the community, where he would obtain the care and accommodations needed. The complainant has experienced severe harm which merits an urgent investigation into ICE's violations of its own detention standards, in the context of a long history of abuse within the Farmville detention facility.<sup>5</sup> We urge your office to investigate this complaint in the context of the abusive conditions and neglect occurring within Farmville and recommend that ICE release Manuel and others facing persistent substandard conditions in the facility.

## **I. History of Abuse at ICA-Farmville**

The ICA-Farmville facility is illustrative of the inhumanity, impunity, and cover-up of systemic abuses that permeate the U.S. immigration detention system.<sup>6</sup> For over a decade, people detained at the facility have been subject to harsh conditions, including use of force, solitary confinement, retaliation by staff, inadequate medical and mental health care, meager and barely edible food, and limited access to counsel and family members.<sup>7</sup> ICA-Farmville is also known for improper and punitive use of segregation, including for people with mental health issues.<sup>8</sup>

Internal documents released in 2020 revealed several instances of indiscriminate use of pepper spray, persistent use of force by officers, and unjustified use of restraints at ICA-Farmville.<sup>9</sup> This type of treatment has been corroborated by testimonies of several currently and formerly detained people and their families who spoke out against the facility before the Farmville Town Council.<sup>10</sup>

As the result of an internal government review in 2022, senior federal immigration officials recommended that ICA-Farmville and a number of other abusive facilities be closed or scaled down.<sup>11</sup> However, ICE and ICA have continued to lobby for the facility's contract to continue. In September 2023, in response to pressure from ICE and ICA, the Town of Farmville agreed to extend the facility's contract for another six months behind closed doors, without a public

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<sup>5</sup> See Detention Watch Network, *et al.*, "Anthology of Abuse: 13 Years at the Farmville Detention Center" (July 12, 2023), <https://www.detentionwatchnetwork.org/sites/default/files/reports/Farmville-ICA%20Detention%20Center%20-%20Anthology%20of%20Abuse.pdf>.

<sup>6</sup> National Immigrant Justice Center, "Beyond Repair: ICE's Abusive Detention Inspection and Oversight System," (Nov. 28, 2023), <https://immigrantjustice.org/research-items/policy-brief-beyond-repair-ices-abusive-detention-inspection-and-oversight-system>.

<sup>7</sup> See Detention Watch Network, *supra* note 5.

<sup>8</sup> See, e.g., Free Them All VA, Juan Carlos's Testimony/El Testimonio de Juan Carlos, (Mar. 25, 2023), <https://medium.com/free-them-all-va/juan-carloss-testimony-el-testimonio-de-juan-carlos-2efd93e5b8f2>.

<sup>9</sup> See La ColectiVA, Detention Watch Network, The Advancement Project, Sanctuary DMV, & the National Immigrant Justice Center, "New Documents Illuminate A Dark Pattern of Abuse In ICA-Farmville," (Aug. 17, 2020), <https://immigrantjustice.org/staff/blog/new-documents-illuminate-dark-pattern-abuse-ica-farmville>.

<sup>10</sup> Detention Watch Network, *supra* note 5.

<sup>11</sup> National Immigrant Justice Center, *supra* note 6 at 4.

meeting or notice.<sup>12</sup> ICE and the company ICA then began urging Prince Edward County officials to enter into the agreement, to replace the Town of Farmville. The Prince Edward County Board of Supervisors conducted a series of closed door sessions to discuss the contract, and Prince Edward County is now part of the IGSA with ICE and ICA's subsidiary company, Abyon, LLC.<sup>13</sup>

In September 2023, CRCL sent a retention memo indicating that 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>14</sup> The memo discusses one complaint received by CRCL in July 2021 on behalf of an individual in ICA-Farmville, whose "mental health issues were not adequately evaluated and considered throughout the disciplinary process for a June 2021 incident resulting in disciplinary segregation."<sup>15</sup> Manuel's case should be considered in this context of persistent abuse and inhumane treatment of individuals in ICA-Farmville facility, particularly those with mental health issues.

## II. Background

Manuel first came to the United States in 2009. He has been detained by ICE since the end of 2021, when he was initially detained at Caroline Detention Facility in Bowling Green, Virginia. He was transferred to Farmville in April 2023, where he remains today. While detained at ICA-Farmville, he had a hearing in immigration court where he was found mentally incompetent by the Immigration Judge.

In August 2023, ICA-Farmville guards sent Manuel to segregation due to a series of baseless accusations that were neither accurate nor properly investigated. Despite the erroneous nature of these allegations, Manuel was put into segregation based on the accusations made against him. While in segregation for two months, Manuel experienced punitive and inhumane conditions, including being denied access to recreational materials such as a television or telephone.

*According to Manuel: The officials here have accused me of things I didn't do. For example, they said I had a sewing needle in my dorm, but that's not true. They said I had a credit card, but that's not true either. They also accused me of resisting arrest, but what*

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<sup>12</sup> Jesse Franzblau, "Farmville, Virginia, Must Stop Negotiating In Secret & Cut Ties With Immigration Detention Center," National Immigrant Justice Center, (Oct. 12, 2023), <https://immigrantjustice.org/staff/blog/farmville-virginia-must-stop-negotiating-secret-cut-ties-immigration-detention-system>.

<sup>13</sup> National Immigration Project, *et al.*, "Legal Groups Call on Prince Edward County to Void New Farmville Detention Center Contracts Due to Violation of Virginia Open Meetings Laws," (Mar. 15, 2024), <https://nipnl.org/news/press-releases/legal-groups-call-prince-edward-county-void-new-farmville-detention-center>.

<sup>14</sup> U.S. Department of Homeland Security, 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).

<sup>15</sup> *Id.*

*happened was that I did not want to go with the guards into another room where other detainees could beat me—I had had problems with some of them who were gang members before and I didn't want to go with the guards into that room. So the guards accused me of resisting arrest. When the officials accuse you of something in Farmville, they write down charges against you. And then they can send you to what they call segregation as punishment. I was sent to segregation, which is a form of solitary confinement, in August and had to stay there for about two months as punishment. There's no TV, no one to speak to, and nothing to do in detention. I felt alone, desperate, that I was falsely accused. I tried to pass the time and I could go out for an hour a day, but I was too afraid, because I was scared of some of the other people in detention.*

Even after Manuel was released from disciplinary segregation, he was still kept isolated from others, placed in another form of segregation on a psychologist's orders in October 2023, allegedly due to his mental health. Every two weeks the psychologist met with Manuel to assess his condition and determine whether he is suicidal, even though Manuel continues to assert he has not been, and is not currently, suicidal.

### **III. Violations of ICE Standards and Directives**

ICA-Farmville operates under the Performance-Based National Detention Standards (PBNDS) 2011 (2013 Errata). Manuel's treatment illustrates ICE's failure to ensure that these minimal standards are being followed in the ICA-Farmville detention facility.

Manuel has been held in civil detention, which is not punitive in nature, yet ICE regularly places individuals into segregation as a form of punishment, a practice that is contrary to ICE's own standards.<sup>16</sup> According to the 2011 ICE PBNDS, persons in ICE custody “shall be placed in disciplinary segregation only after a finding by a disciplinary hearing panel that the [individual] is guilty of a prohibited act or rule violation classified at a ‘greatest,’ ‘high’ or ‘high-moderate’ level[.]”<sup>17</sup> Disciplinary segregation shall only be ordered only after a hearing in which the person has been found to have committed a prohibited act, and only when “alternative dispositions may inadequately regulate the [detained person's] behavior.”<sup>18</sup> Absent “extraordinary circumstances,” a detained individual “shall remain in disciplinary segregation for no more than 30 days per violation[.]”<sup>19</sup>

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<sup>16</sup> See, e.g., *Bell v. Wolfish*, 441 U.S. 520, 538 (1979) (providing a framework for determining whether confinement constitutes punishment by first inquiring whether the intent to punish exists and if not, whether there was a reasonable government purpose for the restraint as well as if it was excessive).

<sup>17</sup> 2011 ICE PBNDS at 179.

<sup>18</sup> *Id.* at 185.

<sup>19</sup> *Id.* at 179, 185. Appendix 3.1.A lists the different offense categories. *Id.* at 234–40.

Individuals detained by ICE who have “serious mental illness may not be automatically placed in [a special management unit (“SMU”)] on the basis of such mental illness” and “[e]very effort shall be made to place [detained persons] with serious mental illness in a setting in or outside of the facility in which appropriate treatment can be provided, rather than an SMU, if separation from the general population is necessary.”<sup>20</sup>

The ICE Directive on the Use of Segregation also says that “[p]lacement in segregation should occur only when necessary and in compliance with applicable detention standards.”<sup>21</sup> The directive generally requires that ICE “shall take additional steps to ensure appropriate review and oversight of decisions to retain [persons in detention] in segregated housing for over 14 days[.]”<sup>22</sup>

Manuel’s treatment at Farmville points to violations of the 2011 ICE PBNDS and the ICE Directive on the Use of Segregation. He was placed in disciplinary segregation as a form of punishment, without any disciplinary hearing panel to investigate the baseless accusations made against Manuel. There was no finding that he was guilty of violating rules severe enough to warrant disciplinary segregation after the mandated hearing, and no opportunity to contest the accusations levied against him. In addition to the ways in which ICA-Farmville officials improperly initiated Manuel’s placement into segregation in a punitive manner, he was also improperly kept in punitive solitary confinement for two months, in violation of ICE’s own standards that only allow for a person to remain in segregation beyond 30 days when there are “extraordinary circumstances” present.

Manuel has been exposed to other substandard conditions while detained at Farmville, particularly related to contaminated food and inadequate nutrition. Proper nutrition includes adequate sources of fresh fruits and vegetables. But Manuel reports that he has gone more than a month without fresh fruit, with apples “sometimes” provided to the detained individuals. Juice and apple sauce are occasionally provided, but neither take the place of the nutritional value of fresh fruit. He has also received raw chicken several times, with no ability to further cook it himself to avoid getting sick from eating uncooked meat. Other food is dangerous, as well: he often receives spoiled milk and moldy cheese. He has occasionally ingested the spoiled milk, and has had to see the doctor afterwards as a result.

The only way for Manuel to supplement the inedible food and inadequate nutrition is by buying snacks using a commissary account. Since August 2023, however, he has not been able to buy additional food. He does not have family or friends outside of detention who have the means to

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<sup>20</sup> *Id.* at 189.

<sup>21</sup> U.S. Dept. of Homeland Sec., U.S. Immigration and Customs Enforcement, 11065.1: Review of the Use of Segregation for [Persons Detained by ICE], (Sept. 4, 2013), [https://www.ice.gov/doclib/detention-reform/pdf/segregation\\_directive.pdf](https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf).

<sup>22</sup> *Id.*

add money into his commissary account. He previously worked in the kitchen at Farmville in order to earn money, but when he was placed in segregation in August 2023 he lost the ability to work. Even once he was released from segregation and placed in protective solitary, he was unable to return to work as punishment for the unsubstantiated crimes charged against him.

The 2011 ICE PBNDS mandates that detained individuals must be given “nutritionally balanced diets,” and that they must be “protected from injury and illness by adequate food service training[.]”<sup>23</sup> Officials in ICA-Farmville have failed to meet the mandatory ICE standards by providing inadequate nutrition as well as spoiled food that has landed Manuel in the doctor’s office.

#### **IV. Violations of Section 504 of the Rehabilitation Act**

ICE is obligated to ensure persons with disabilities are afforded appropriate care and accommodations under Section 504 of the Rehabilitation Act.<sup>24</sup> However, officials responsible for the ICA-Farmville facility have failed to adhere to these obligations.

Section 504 prohibits discrimination on the basis of disability in programs, services, or activities conducted by federal agencies, including DHS. Under Section 504, “[n]o qualified individual with a disability in the United States, shall, by reason of [their] disability, be excluded from the participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Department.”<sup>25</sup> Section 504 forbids not only facial discrimination against individuals with disabilities, but also requires that executive agencies and departments, such as DHS, alter policies and practices to prevent discrimination on the basis of disability. Covered entities have an affirmative obligation under Section 504 to ensure that their benefits, programs, and services are accessible to persons with disabilities.<sup>26</sup> Reasonable accommodations necessary to prevent disability discrimination are required unless modifications would create a “fundamental alteration” of the relevant program, service, activity, or would

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<sup>23</sup> 2011 ICE PBNDS at 241.

<sup>24</sup> Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 *et seq.*; 6 C.F.R. § 15.30(b)(1)(i).

<sup>25</sup> 29 U.S.C. § 794(a); 6 C.F.R. § 15.30(a).

<sup>26</sup> U.S. Dep’t of Homeland Sec., Office for Civil Rights & Civil Liberties, Component SelfEvaluation and Planning Reference Guide 17–18 (Jun. 6, 2016), <https://www.dhs.gov/sites/default/files/publications/disability-guide-component-self-evaluation.pdf>; *see also* *Vinson v. Thomas*, 288 F.3d 1145, 1154 (9th Cir. 2002) (holding that once a government agency is alerted to the need for a reasonable accommodation, there is “a mandatory obligation to engage in an informal process ‘to clarify what the individual needs and identify the appropriate accommodation.’”) (quoting *Barnett v. U.S. Air, Inc.*, 228 F.3d 1105, 1112 (9th Cir. 2000)); *Pierce v. DC*, 128 F. Supp. 3d 250, 272 (D.D.C. 2015) (holding that “prison officials have an affirmative duty to assess the potential accommodation needs of inmates with known disabilities...and to provide the accommodations that are necessary...without regard to whether or not the disabled individual has made a specific request for accommodation[.]”).

impose an undue hardship.<sup>27</sup> ICE adopted binding regulations to ensure that Section 504 is implemented within the agency.<sup>28</sup>

Section 504 defines disability as an “impairment that substantially limits one or more of the major life activities.”<sup>29</sup> This definition includes chronic illness, as well as physical, intellectual, developmental, psychiatric, visual, and auditory disabilities.<sup>30</sup> Evidence of a medical diagnosis is not required and proof from an individual’s personal experience demonstrating that the impairment is substantial is sufficient to qualify for Section 504 protections.<sup>31</sup> Once an entity is on notice of a person’s disability, it must affirmatively engage in an inquiry as to whether a reasonable accommodation is required to ensure the individual has equal access as persons without a disability to agency programs, services, and activities.<sup>32</sup> Failure to do so amounts to disability discrimination.<sup>33</sup>

In the context of immigration detention, there are multiple mechanisms through which ICE may receive notice when people it detains exhibit, complain of, or are diagnosed with disabilities. As a custodian, ICE is responsible for providing medical care to the people it detains<sup>34</sup> and has broad access to medical records that indicate whether patients have a diagnosis or exhibit symptoms that implicates Section 504.<sup>35</sup>

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<sup>27</sup> 28 C.F.R. § 35.150(a)(3).

<sup>28</sup> The Secretary of Homeland Security, through DHS Delegation Number 19003, delegated responsibility for coordinating the enforcement of the Department’s regulations issued pursuant to the requirements of Section 504 to the Officer for Civil Rights and Civil Liberties. 6 C.F.R. Part 15, et seq. For each complaint, the regulations require the Department to issue findings of fact, conclusions of law, a description of a remedy for each violation found, and a notice of the right to appeal to the Officer for Civil Rights and Civil Liberties. See 6 C.F.R. § 15.70(g)(1)(i)–(iii); see also U.S. Department of Homeland Security (DHS) Directive 065-01: Nondiscrimination for Individuals with Disabilities in DHS Conducted Programs and Activities (Non-Employment) (September 25, 2013) (establishing policy and implementation mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs and activities under Section 504).

<sup>29</sup> 29 U.S.C. § 705(20)(B); 42 U.S.C. §§ 12102(1)–(2).

<sup>30</sup> Margo Schlanger, Elizabeth Jordan, Roxana Moussavian, *Ending the Discriminatory Pretrial Incarceration of People with Disabilities: Liability Under the Americans with Disabilities Act and the Rehabilitation Act*, 17 Harv. Law & Pol. Rev. 1, 237–48 (2022).

<sup>31</sup> *Robertson v. Las Animas County Sheriff’s Dept.*, 500 F.3d 1185, 1194 (10th Cir. 2007) (applying an analogous analysis for how to determine whether an individual has a qualifying disability protected by the American with Disabilities Act).

<sup>32</sup> *Id.*

<sup>33</sup> See Schlanger, et al., *supra* note 30 at 257 (explaining that under Section 504, “liability attaches for disability discrimination based not on discriminatory intent but on failure, intentional or not, to provide individuals with disabilities an opportunity equal to that afforded nondisabled people to participate in or benefit from government programs, where—as the next section explains, equality could be accomplished by a reasonable modification to the rules or practices governing the service, program, or activity.”).

<sup>34</sup> 2011 ICE PBNDS at 278 (requiring that each person processed into the facility “receive a comprehensive medical, dental and mental health intake screening within 12 hours upon arrival at each detention facility.”).

<sup>35</sup> See, e.g., *Matter of M-A-M-*, 25 I&N Dec. 474, 480 (BIA 2011) (recognizing DHS is often “in possession of relevant evidence” that implicates indicia of incompetence, including medical records it may access as the individual’s custodian).

According to these binding laws and regulations, the ICA-Farmville facility should be investigated for violations of its Section 504 obligations. ICE was aware of Manuel's disability, as an immigration judge had found him mentally incompetent, and ICE still placed Manuel in segregation despite awareness of this disability, and perhaps because of it, thereby discriminating against Manuel on the basis of his disability. This occurred within a context where "incarcerated people with mental illness are disproportionately assigned to extended solitary confinement, which is widely documented to cause physical and mental decompensation, and even lead to suicide."<sup>36</sup>

## **V. Conclusion**

The undersigned organizations request that CRCL consider this complaint in the context of violations of ICE's detention standards, guidance, and Section 504 obligations. ICE has failed to meet its own minimum standards of care for people held in the ICA-Farmville detention facility. ICE is not ensuring the safe treatment of people in the detention center, especially for individuals with mental health issues, such as Manuel. CRCL should consider the allegations of abuse described by Manuel in the broader context of abusive and inhumane ICE detention conditions in ICA-Farmville and other detention centers. The decades of reports of neglect, abuse, and violations against immigrants detained at Farmville indicate that the violations raised in this complaint are part of a systemic pattern of abuse which can only be remedied by the facility's closure and demands to hold those in authority accountable.

We request that CRCL, pursuant to its authority to immediately investigate this complaint and take prompt action to ensure accountability for these violations, recommend that ICE release Manuel so he does not face further abuse.

Respectfully Submitted,

Legal Aid Justice Center  
National Immigrant Justice Center  
National Immigration Project (NIPNLG)

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<sup>36</sup> Schlanger, et al., *supra* note 30 at 245.