

April 28, 2021

Mayor Daniella Levine Cava
Stephen P. Clark Center
111 N.W. 1st Street, 29th Floor
Miami, Florida 33128
mayor@miamidade.gov
Sent via Email

Re: Safe and Fair Treatment for Transgender People in Custody

Dear Mayor Levine Cava:

We, the Transgender Legal Defense and Education Fund, Harvard LGBTQ+ Advocacy Clinic, and Southern Poverty Law Center, write to you today on behalf of our clients Jae Bucci, Gabriela Amaya Cruz, and Christian Pallidine. Our clients are three transgender people who were arrested in connection with Black Lives Matter protests and detained at the Turner Guilford Knight Correctional Center (TGK) in Miami-Dade County in 2020. While there, staff made harmful and inappropriate placement decisions that included placing Ms. Bucci and Mr. Pallidine in solitary confinement because they are transgender; unnecessarily revealed our clients' transgender status to other staff and people in custody; asked them offensive questions and used derogatory and gender-inappropriate language about them; subjected Mr. Pallidine and Ms. Bucci to invasive strip searches for purposes of observing their genitals because of their gender; and forced Ms. Bucci and Ms. Amaya Cruz to leave the facility in men's clothing upon their release.

Given that you are a champion for transgender communities, our clients, like many, have great hope that under your leadership Miami-Dade County will become a safer place for everyone, including transgender people who come into contact with police and corrections. We would welcome the opportunity to speak with you, in addition to others under your leadership, about ways to end unsafe and unfair treatment of transgender people held at TGK and other Miami-Dade County jails, as well as to appropriately resolve our clients' individual claims.

While all three of our clients have been released and the charges against them dropped, they experience ongoing harm from their mistreatment while in TGK. What's more, their experiences point to significant problems in how transgender people are treated while in the custody of Miami-Dade Corrections and Rehabilitation Department (MDCR).

Current MDCR policies for managing transgender people are inconsistent with the law and best practices. And even in those areas where the language of the policies may be adequate, our clients' experiences and our subsequent investigation make clear that MDCR

staff, including supervisory personnel, do not follow the policies and are not held accountable for misconduct. We hope to work with you to bring such problems to an end.

Our Clients and Their Experiences

Christian Pallidine

Christian Pallidine is a college student and transgender man. He attended a Black Lives Matter protest in downtown Miami on May 31, 2020. He attended to oppose police killings of Black people and to show solidarity with the Black Lives Matter movement. Along with numerous other protesters, he was arrested and charged with a curfew violation (the charge was later dropped) and taken to TGK.

The staff at TGK subjected Mr. Pallidine to degrading and outrageous treatment because he is transgender. TGK staff forced him to strip and display his genitals in front of a group of officers—part of a series of invasive, pseudo-medical, sexualized procedures conducted on him for no legitimate purpose. TGK staff also belittled Mr. Pallidine, publicized his transgender status to others, asked gratuitous questions about his anatomy, and called him derogatory names. As a result of the harm at the hands of Miami-Dade Corrections and police, Mr. Pallidine has experienced persistent fear of officers of the law and wrongful arrest and detainment, leading to chronic sleeplessness. He has grown afraid of going outside, which has negatively affected his schooling and work.

On first arriving at TGK after being arrested, Mr. Pallidine was moved through intake in the same way other people were. He had what began as a seemingly routine medical screening. But then he was separated from the other men for a second examination focused solely on his transgender status. This took place in a public area where others could easily see and hear him and the person questioning him. A nurse asked him questions about his mental health and his views about being housed with men. He seemed to believe Mr. Pallidine was a transgender woman. When Mr. Pallidine corrected him, he expressed confusion and fetched a colleague to keep asking him questions.

This second person asked Mr. Pallidine multiple questions about his genitals and plans for future medical care, such as, “Do you want a penis in the future?” When Mr. Pallidine asked why these questions mattered, the questioner did not respond, and instead told him that because of his genitals, he was required to take a pregnancy test. She directed Mr. Pallidine to provide a urine sample in a restroom with a door that has a transparent upper half, allowing everyone else arrested and correctional officers within the room to observe whether a person urinating inside is sitting or standing. The nurse stood in front of the door to receive the urine sample. As the nurse walked away with the sample, a group of officers crowded around the

nurse and asked what was going on; the nurse then told them that Mr. Pallidine was transgender.

After the test, officers instructed Mr. Pallidine to sit alone in front of the restroom, adjacent to general population, where men were seated on one side and women on the other. While Mr. Pallidine was sitting there, officers came up to him and asked him questions about his gender. Several officers stood around him, mocking him loudly. They said things like, “Oh, I knew it there was something up about ‘it.’” One loudly asked Mr. Pallidine if he was a “hermaphrodite.”

The officers who had been mocking him for being transgender and describing him in terms that made it clear they did not see him as human then told Mr. Pallidine he needed to display his genitals. They did not even both to ask him what gender officers should search him He was taken to a side room with four female officers. There, they forced him to strip, spread his legs to show his genitals, and then turn around and bend over. Mr. Pallidine felt that the forced exposure of his genitals was a profound violation of his privacy.

Afterward, the officers took Mr. Pallidine to a room with a nurse who said a doctor also needed to conduct a strip search, and ordered him to undress. Mr. Pallidine asked what would happen if he refused, and the nurse told him that was not an option. At this point, Mr. Pallidine asked to speak to a lawyer. The nurse stopped talking to him and walked out of the room. A doctor then spoke to Mr. Pallidine, but did not conduct a strip search.

An officer moved him again back to the central area to sit between the men and the women. This time one other person was in the area, whom he was told was on suicide watch. During this time, another transgender man who had been seated on the women’s side of the central area tried to sit near Mr. Pallidine and talk to him. TKG staff told this other man to return to the women’s side. Mr. Pallidine was then taken to solitary until his release. The curfew violation charge against him was later dropped.

Gabriela Amaya Cruz

Gabriela Amaya Cruz is a barista, artist, and activist. She is also a woman who is transgender, and she has a disability. She joined a Black trans lives matter rally and march on July 19, 2020, because she wanted to honor the lives of Black trans women, including recent murder victims. At least four trans people around the country had been murdered so far during that month alone. Two of these victims were Black transgender women, and one had been participating in a Black Femme March at the time. Earlier that year, at least another twelve Black transgender people had been killed. Two of these killings took place in Florida.

Responding to this urgent issue, Ms. Amaya Cruz, as well as Ms. Bucci (whose claims are detailed below), gathered with others at the Torch of Friendship for a peaceful rally and march,

during which she complied with orders from the police. Nonetheless, she and others were arrested. Ms. Amaya Cruz was charged with obstructing traffic and taken to TGK.

The staff at TGK intentionally humiliated Ms. Amaya Cruz and treated her in an intimidating, frightening, and disrespectful manner because she is transgender. They publicized the fact that she is transgender to everyone within earshot, without regard to her safety. They repeatedly asked her invasive, sexual questions for no legitimate purpose, and referred to her and her anatomy in crude and offensive terms. They insisted on calling her a man and using male pronouns to refer to her. They seized her wig during booking and refused to discharge her until she put on male clothing. They also caused her physical injury due to her disability, ectrodactyly. As a result, Ms. Amaya Cruz has experienced pain, flashbacks, and ongoing fear of police officers.

When Ms. Amaya Cruz arrived at TGK after being arrested, she noticed that the officers seemed unsure of where in the central area to seat her, since her appearance and name are feminine, but her ID lists the wrong gender marker (M) and her deadname (her given, masculine first name). At first, officers correctly seated her among the other women. But when an officer called her up, loudly saying her deadname, some of the officers present in the area began to call her a man and argue she should be placed with men. This very public conversation revealed her to be transgender to everyone nearby, misgendered her, and threatened her with an unsafe placement, frightening Ms. Amaya Cruz badly. An officer also asked her if she was a prostitute. They then moved her to sit among the men.

When Ms. Amaya Cruz was taken for her mugshot, officers pointed to her hair and asked her “Does that come off?” Ms. Amaya Cruz said yes, but pleaded with them to let her keep it on, explaining how important her wig was for her as a transgender person. An officer said, “You can either take it off, or we can take it off for you and throw it in the garbage.” Ms. Amaya Cruz complied and took the wig off, and the officers took her mugshot. They took her wig away.

When it came time for a pat frisk, Ms. Amaya Cruz asked to be searched by a female officer. A male officer told her, “You have a dick, so we are going to treat you like a man in here, and you can’t tell us otherwise.” Devastated and mortified, she insisted on being treated as the woman she is. One of the male officers said, “You are being extremely difficult.” While this was happening, a female officer came by and asked what was going on. A male officer told her, “He’s saying that he’s a woman, but he has a dick.” The female officer offered to pat Ms. Amaya Cruz down and did so. But by that point, this loud discussion had also been overheard by dozens of other people nearby.

An officer gave Ms. Amaya Cruz a form and told her to write a statement about her gender. She did so, explaining that she is a trans woman, should be referred to with she and her

pronouns, placed with women, and treated as a woman. She was held in an area with both men and women, which is where most women seemed to be placed. Nonetheless, of the roughly twenty or twenty-five officers she interacted with that night, *every single one* misgendered her. In fact, even the supervisor who signed off on the very form where she explained how she should be referred to misgendered her on the form itself, describing her as “a transgender male who identify himself as a women [sic].” Officers continued to ask her inappropriate questions throughout the night, including “Did you get the surgery?” and “Are you a sex worker?”

When Ms. Amaya Cruz was fingerprinted, she was also mistreated because of her disability, ectrodactyly. Ms. Amaya Cruz’s fingers do not straighten completely, and, due to a past surgery, one of her hands is particularly sensitive and easily hurt. The officer taking her fingerprints appeared to become frustrated with the limited range of motion of Ms. Amaya Cruz’s fingers. The officer became aggressive, trying to force Ms. Amaya Cruz’s fingers into impossible positions. The experience was painful and draining.

Ms. Amaya Cruz was held for several hours, and when she was about to be released, the female officer who gave Ms. Amaya Cruz her belongings saw her clothes and laughed. This officer asked, “This is what you’re wearing?” and told her that she would be giving her men’s clothes so the officer wouldn’t be “embarrassed” by releasing her in female clothes, “because you’re not a woman.” Ms. Amaya Cruz then put on her own clothes, and she put the shorts and T-shirt on over those. Ms. Amaya Cruz was allowed to wear her wig, but was told she had to have her hair tied back. Ms. Amaya Cruz immediately took off the men’s shorts and T-shirt when she exited TGK and began to cry. The obstructing traffic charge against Ms. Amaya Cruz was later dropped.

Jae Bucci

Ms. Bucci is a transgender woman who works as a teacher and makeup artist. Ms. Bucci attended the Black Trans Lives Matter protest to show solidarity with her Black trans sisters. She was arrested and taken to TGK the same night as Ms. Amaya Cruz. Ms. Bucci was verbally abused, misgendered, and strip searched exclusively because she is of transfeminine experience. She was physically harmed when officers attempted to remove her own hair as well as her piercings, and she was placed into a variety of unsafe and threatening situations. She also was not allowed to retain her undergarments, and was forced to change into men’s clothing upon release. As a result of the political and gendered violence she endured at TGK, she was forced to choose between continuing to exercise the liberties guaranteed to her in the Constitution and her immediate safety. Due to the severe harm she experienced during incarceration, she is now fearful of law enforcement, who took oath to serve and protect her. TGK’s exercise of power has left her suffering from painful flashbacks, suicidal ideation and renewed self-harm.

Officers at TGK began mistreating Ms. Bucci immediately on her arrival at TGK. After her mug shot was taken, a corrections officer took off Ms. Bucci's mask and began looking very closely at her face. The officer asked Ms. Bucci why her voice was so deep. The officer took her to a changing area for women, and asked her to change clothes in private. At that point, Ms. Bucci asked if she could please keep on her panties, since they were special tucking undergarments that she needed as a trans woman. The officer said, "I knew it! I could tell by your voice, that's what I was looking for."

After that, officers told Ms. Bucci that they would redo all of her intake processing so they could list her as male and not as female. She objected, explaining that she is a woman, and that her ID indicates she is female. Nonetheless, the officers changed all their records and paperwork to list her as male, and began consistently misgendering her. They asked her to fill out a statement saying she was a trans woman. She initially refused, but when they threatened to place her with men if she didn't sign the statement, she wrote that she was female and signed a form similar to the one Ms. Amaya Cruz had been given.

Officers then subjected Ms. Bucci to a strip search to see her genitals. Four female staff members forced her to strip completely while they watched. Cisgender protestors who were arrested alongside Ms. Bucci did not get strip searched. This strip search and the reasons for it were documented in contradictory and inaccurate ways. The log TGK officers prepared to record her strip search falsely stated the reason for the strip search was "[intake] F[elony]," even though Ms. Bucci had been arrested for a misdemeanor.¹ In TGK's queue management system, her strip search was not entered in the computer system, but was recorded by hand after the fact. In an incident report signed by several supervisory personnel, including Sgt. Rozier, Officer Brown stated that "Inmate Bucci was strip searched in the presence of Charge Nurse A. Komninakis, identifying the gender." In statements made after the fact, Sgt. Rozier and Officer Brown acknowledged that Ms. Bucci was taken to the men's changing area for her genitals to be viewed because she was transgender but claimed this did not amount to a strip search.

Officers also told Ms. Bucci to take off her hair, even though it was not a wig. When she could not comply, they tried to take her hair off her head, hurting her, before they accepted that she was not wearing a wig. Officers also repeatedly tried to remove Ms. Bucci's piercings, even though she explained that some of them could only be removed by a professional, and one of them should not be removed because of an infection. She asked to have a doctor look at her piercings before the officers continued to try to take them out, but they ignored her and persisted, leading to pain, bleeding, and a worsened infection.

¹ MDCR Strip Search Authorization Log (July 19, 2020).

After being strip searched, having her hair pulled, and having her piercings pulled out, Ms. Bucci was initially seated with women for a relatively short period. This changed after she tried to place a phone call. When she started to return to where she had been seated, officers stopped her, and a supervisor directed her to sit with men instead. She objected, but the officer said that she was trans and had “a dick,” and because she had not “cut it off,” she was “still a man.”

Ms. Bucci has experienced physical and sexual violence from men in the past, and was afraid of getting attacked if she were placed with men. But when she explained this to the supervisor, he said, “You know you’re not a woman.” When she continued to refuse to be placed with men, he placed her in solitary against her will. She experienced flashbacks and a panic attack during the long hours she was confined there.

Much later, she was taken to the main holding area, where she was held for somewhere around a half hour. She was seated in an adjacent area with neither the women nor the men. When women tried to speak to her, the officers told them not to. But when men tried to speak to her, that was allowed, even though some of them grabbed their crotch and laughed while looking at her. Officers also misgendered her when speaking about her so everyone could hear.

Officers then took her to a solitary cell in the bond area where she was held for significant amount of time until she was taken out to be processed for release. Before she was released, a corrections officer asked if she intended to leave wearing what she was arrested in. The officer told her, “You can’t walk out of here wearing a dress. We have policies. You are a man leaving prisonWe don’t allow cross dressing.” Other officers were watching, and they laughed at her. The officers made her wear men’s shorts and a thin, plain white T-shirt without a bra. They then held her in a holding area with two large men, who noticed her breasts and nipples through the thin T-shirt and speculated about her gender. She was very afraid, but the men did not attempt to touch her. The officers did not give her the pre-release medical screening offered to others. Finally, she was released. The obstructing traffic charge against Ms. Bucci was later dropped.

Moving forward together

The failings detailed above are serious, and they have caused our clients serious harm. Our clients have come forward because they believe that their terrible experiences can serve a larger purpose if we work together to ensure that such things no longer happen to others.

Members of the Miami-Dade transgender community deserve the knowledge that their government respects their humanity and will not violate their rights should they ever go to jail. Officers deserve clear, consistent guidance based on law and best practices, leading to more safety and dignity for everyone who is held or works in MDCR jails. Miami-Dade County surely wishes to ensure that no one experiences sex-based harassment, discrimination based on

disability or transgender status, or sexual violence at the hands of its employees. Our clients need and deserve compensation for their injuries, as well as some assurance that they and other transgender people are not likely to experience similar mistreatment in the future.

Accordingly, we invite the County to enter into a Structured Negotiation agreement with our clients to resolve their claims without the expense, risk, and procedural wrangling of litigation. Structured Negotiation has been used for 20 years to resolve claims without litigation. It was pioneered by Lainey Feingold and Linda Dardarian in the disability access field.² Our organizations have negotiated settlements, including policy improvements, with other counties around the country in similar cases, and our clients are open to this possibility.

Presumably all parties would prefer to avoid litigation, both in this instance and in future instances that will undoubtedly occur unless these problems are addressed. To assist you in quickly understanding the lack of a lawful basis for the treatment our clients experienced, we have enclosed a memorandum detailing the issues with the current policies, along with information about some of the legal claims at issue.

Our ultimate objective would be to reach a resolution that includes a written, enforceable agreement including the following components: policy and procedure updates to address the issues faced by our clients and other transgender community members; meaningful accountability measures for MDCR staff that go well beyond what Internal Affairs currently provides; appropriate discipline for the MDCR staff involved in the inappropriate treatment of our clients; updates to County records concerning our clients and their gender; compensation to our clients as allowed by law; and reasonable attorneys' fees and costs as allowed by law. We have achieved similar results working with officials elsewhere in the country, and are confident we can do the same here.³

If you are willing to work with us in the manner proposed in this letter, we would begin by meeting to discuss next steps, entering into an agreement to negotiate, and then beginning to share information. In particular, we would welcome learning about the County's objectives in setting policy around transgender people in custody as well as what training and accountability measures are already in place.

² Lainey Feingold, *Structured Negotiation: A Winning Alternative to Lawsuits* (2016), <https://iflegal.com/faqs/#Structured-Negotiation-Questions> [<https://perma.cc/WPY5-ENCL>].

³ See e.g., Tim Fitzsimons, *New York County Agrees to 'Landmark' Transgender Jail Reforms*, NBC (Aug. 6, 2020), <https://www.nbcnews.com/feature/nbc-out/new-york-county-agrees-landmark-transgender-jail-reforms-n1236061>.