



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

### Potential Offense Information:

**Offense:** Harmful Materials

**F.S.S.:** 847.012(5)

**Location of Occurrence:** Flagler County Schools

### Victim Information:

(No victim identified)

### Suspect Information:

(No suspect identified)

### Complainant Information:

**Name:** Jill Rena Woolbright

**Date of Birth:** 11/23/1957

**Race/Sex:** White / Female

**Address:** 1 Angela Drive, Palm Coast, FL 32164

**Phone Number:** 386-503-8515

**Name:** Stephen Weldon Hageman

**Date of Birth:** 4/30/1979

**Race/Sex:** White / Male

**Address:** 98 Secretary Trail, Palm Coast, FL 32164

**Phone Number:** 386-503-8061

**Name:** Patricia Ann Tolson Rummel

**Date of Birth:** 11/11/1959

**Race/Sex:** White / Female

**Address:** 6043 Silverdale Avenue, Spring Hill, FL 34608

**Phone Number:** 813-731-1736

### Law Enforcement Involvement:



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

### Community Policing Division:

Rank	Name	Axon Video yes/no?	Supplement Completed yes/no?
Deputy	Arthur Horler	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Deputy	Jason Patel	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Sergeant	Franklin Gmarra	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

### Patrol Reports

#### Completed by Deputy Horler:

On November 9, 2021 at approximately 1620 hours, I, Deputy Horler, responded to 1 Angela Drive, Palm Coast, Florida in reference to a school complaint.

Upon arrival, I made contact with Flagler County school board member Jill Woolbright. Jill stated that she just recently became aware that a book (All boys aren't blue) is currently in circulation, in the media centers, at four Flagler county schools. Jill further advised the book is a memoir manifesto and is at the following schools, Flagler Palm Coast High (two books), Matanzas High school (1 book), and Buddy Taylor Middle School (1book). Two of the books were currently checked out. Jill proceeded to stated she checked out he book from a public library. Jill did not read the entire book however, she was upset about chapters eleven and twelve. Chapter 11 discusses in detail, and very descriptive, about masturbation and oral sex. Chapter 15 "Losing my virginity twice" is also very descriptive and discusses masturbation, oral sex, and sodomy.

On November 2, 2021 Jill addressed the book with the school superintendent and requested the subject be addressed at a school board workshop meeting. Jill wished to discuss the content of material in the curriculum and policy on banned books. Jill was advised she needed three votes and did receive the three votes. Two other individuals were against. The next day, Jill met with the superintendent during the weekly meeting. Jill had googled the material and presented a video of another parent discussing the book.

Jill states it is a crime to have the book in the media centers and believes there are other books with similar content. Jill believes whoever is responsible for allowing the books into the Flagler County Schools media centers should be held accountable.

Jill advised the reason she contacted the Flagler County Sheriff's Office is because the superintendent has not notified the other school board members. Two of the books have been pulled from the shelves and another unknown person provided Jill one of the books. One book is still currently checked out by another person. Jill was advised by the school board attorney that the other board members would be made aware. As of today's date, Jill advised the other school board members have not been made aware by an email.

Jill gave me the book she had, from Flagler Palm Coast High School, and requested for it to be submitted into evidence. Jill advised that the Buddy Taylor Middle School media specialist is a member of "LIT" and is responsible for obtaining the books into the media center.



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

### Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

Investigation was reordered on Axon and the book (All boys aren't blue) will be submitted into evidence at the Flagler County Sheriff's Office. Jill was provided a voluntary statement form. Jill advised due to the length of the narrative, she would contact the Sheriff's Office when her statement was completed.

No further information at this time.

### Supplemental Report Completed by Deputy Patel

On Sunday, November 14, 2021 at approximately 2020 hours, I Deputy Patel made contact with Steven Hageman, who was positively identified by his Florida driver's license. Steven wished to file a report in reference to case 21-100272. Steven advised he read on FlaglerLive.com, a local news website, that they have purchased 15 copies of All Boys Aren't Blue for free distribution to students. The article then goes on to read state that the books will be "disseminated through Flagler Palm Coast High School student Jack Petocz". The article also claims that additional copies will be made available if necessary. Steven advised he was concerned that the books are being provided directly to a student to give to fellow students. Steven stated he believes the book to be a form of pornography that should not be in the hands of juveniles.

I provided Steven a case card for his records. Screenshots of the article will be uploaded to AEGIS.

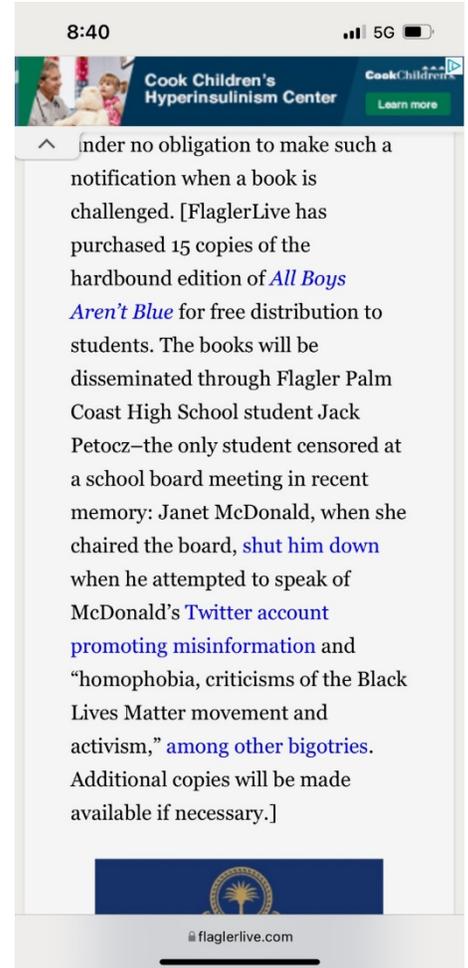
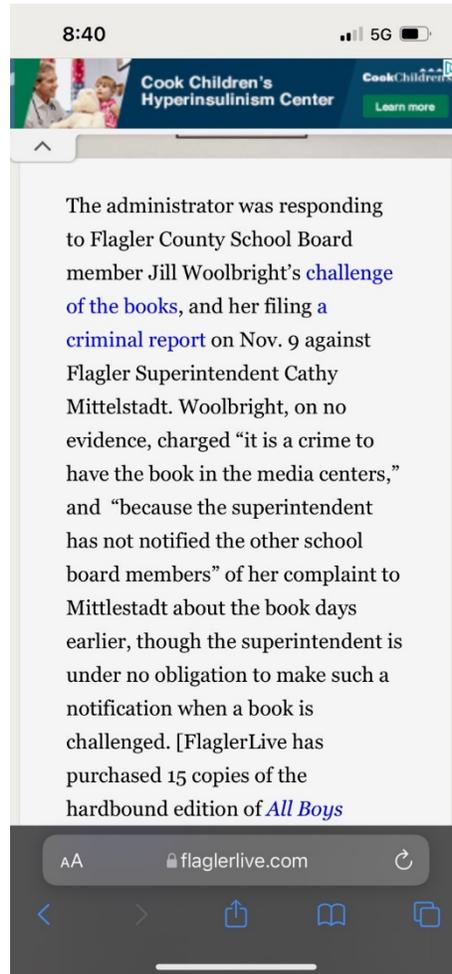
Axon available.

**(The following screenshots were uploaded to AEGIS Lermis by Deputy Patel)**



**FLAGLER COUNTY SHERIFF'S OFFICE**  
 Investigative Report  
 Case#: 2021-100272

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**



**Supplemental Report Completed by Sergeant Gamarra**

On November 14, 2021, at approximately 1335 hours, Sergeant Franklin Gamarra of the Flagler County Sheriff's Office (FCSO) Community Policing Division (CPD) received a call for service in reference to postings made on social media in reference to a complaint made by a Flagler County School Board Member and the controversy surrounding a book named "All Boys Are Not Blue" which was found in a public school library. Details are as follows:  
 On the above date and time, Sergeant Gamarra yielded a telephone call from Patricia Tolson-Rummel, an investigative journalist for the Epoch Times (who writes under the name Patricia Tolson, and will be referred to as Tolson for the remainder of this report). Tolson has been following a social media thread on Twitter, an on-line social media platform, involving Jill Rena Woolbright's complaint about a book entitled "All Boys Aren't Blue" written by Gregory M. Johnson,



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

### Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

which was located within the library of one of the local public schools. Tolsen stated that she is currently writing a story on the incident, which was originally documented under Flagler County Case Number 2021-00100272. During the course of her coverage, Tolson observed messages and post from people that made her concerned for the safety of Woolbright, and the citizens of Flagler County. Tolsen explained that on Tuesday, November 16, 2021, at 1700 hours, there will be a Flagler County School Board meeting at the Government Services Building located at 1769 E. Moody Boulevard, Bunnell. Tolsen further stated that there would be rallies and demonstrations against the school board, where people plan on handing out obscene books to people attending the meeting. Tolsen sent screenshots of the messages to Sergeant Gamarra via email.

Sergeant Gamarra reviewed the screenshots, and gave the following summary of their content:

- The first screenshot shows a Twitter message where Johnson stated that a woman in Florida had filed a criminal complaint about his book, and a response from Twitter handle @pilotviruet who stated that his affiliates would be happy to send copies of the book to any school in Florida.

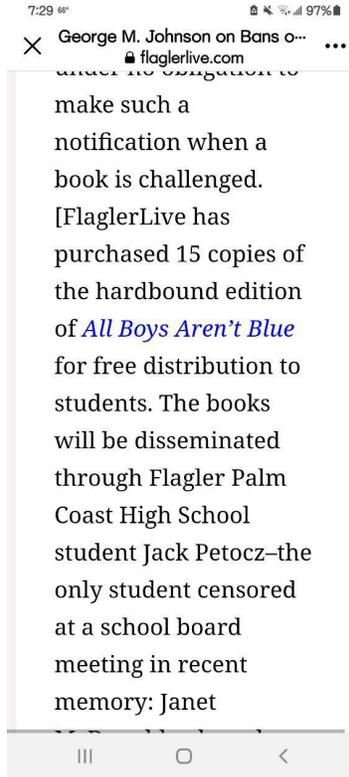


- The second screenshot appears to be a message from Flaglerlive (a local on-line newspaper) indicating that the business has purchased fifteen (15) hardbound editions of the book for distribution to students via Jack Petocz (who, according to post, has been censored by the school board on previous occasion).

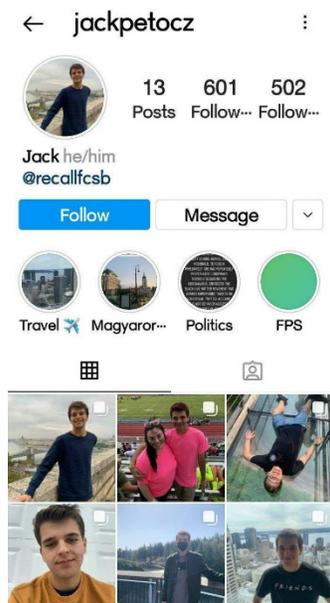


**FLAGLER COUNTY SHERIFF'S OFFICE**  
Investigative Report  
Case#: 2021-100272

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**



- The third screenshot is of Petocz's Instagram page and handle.





## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**

- The fourth screenshot is a response to Petocz's message which states the following: "Organizing a student-led protest, be there! Accepting donations of books from anyone able to distribute". The response indicates that they have multiple books to distribute, namely "The Hate You Give" "All Boys Aren't Blue" "Speak" "Stamped: Racism, Antiracism and You".



- The fifth screenshot is the announcement of the rally/demonstration planned to take place at the next school board meeting (November 16, 2021 at 1700 hours).



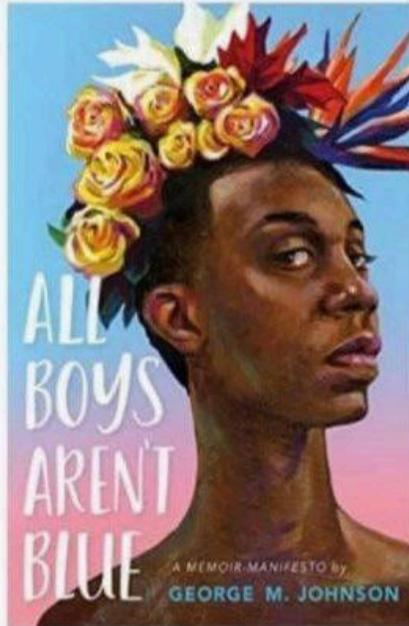
## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

### RALLY AGAINST CENSORSHIP



#### WHEN AND WHERE?

5 PM TUESDAY, NOVEMBER 16TH

WE WILL BE MEETING OUTSIDE THE GOVERNMENT SERVICES BUILDING IN BUNNELL.

1769 EAST MOODY BLVD. BLDG #2, BUNNELL, FL

#### WHAT SHOULD I BRING?

- WATER
- SIGNS CALLING FOR ACTION
- Masks RECOMMENDED
- A COPY OF ALL BOYS AREN'T BLUE
- PREPARED PUBLIC COMMENT
- FRIENDS

STOP JILL WOOLBRIGHT'  
ON ALL BOYS AREN'T  
BLUE!

LET YOUR OPINION BE HEARD, STOP  
THE SCHOOL BOARD FROM REMOVING  
THE NOVEL ALL BOYS AREN'T BLUE!

- CONGREGATION OF STUDENTS AND COMMUNITY MEMBERS RALLYING OUTSIDE TO PROTEST THE PREJUDICED PROPOSAL TO REMOVE THE BOOK.
- LIVE READING OF ALL BOYS AREN'T BLUE. INDIVIDUALS ATTENDING ARE ENCOURAGED TO PURCHASE A COPY, OR CONTACT @RECALLFCSB TO RECEIVE ONE.
- SPEECHES FROM CONCERNED STUDENTS PRIOR TO THE MEETING.
- ALL ARE ENCOURAGED TO DEVELOP A PUBLIC COMMENT AND VOICE THEIR CONCERNS FOR THE CENSORSHIP OF QUEER MATERIAL.
- OPPORTUNITY TO MAKE CHANGE WITHIN OUR COMMUNITY, DO NOT STAY SILENT!

#### TO LEARN MORE:

GO TO @RECALLFCSB  
ON INSTAGRAM OR  
CONTACT THEM VIA  
DIRECT MESSAGE.



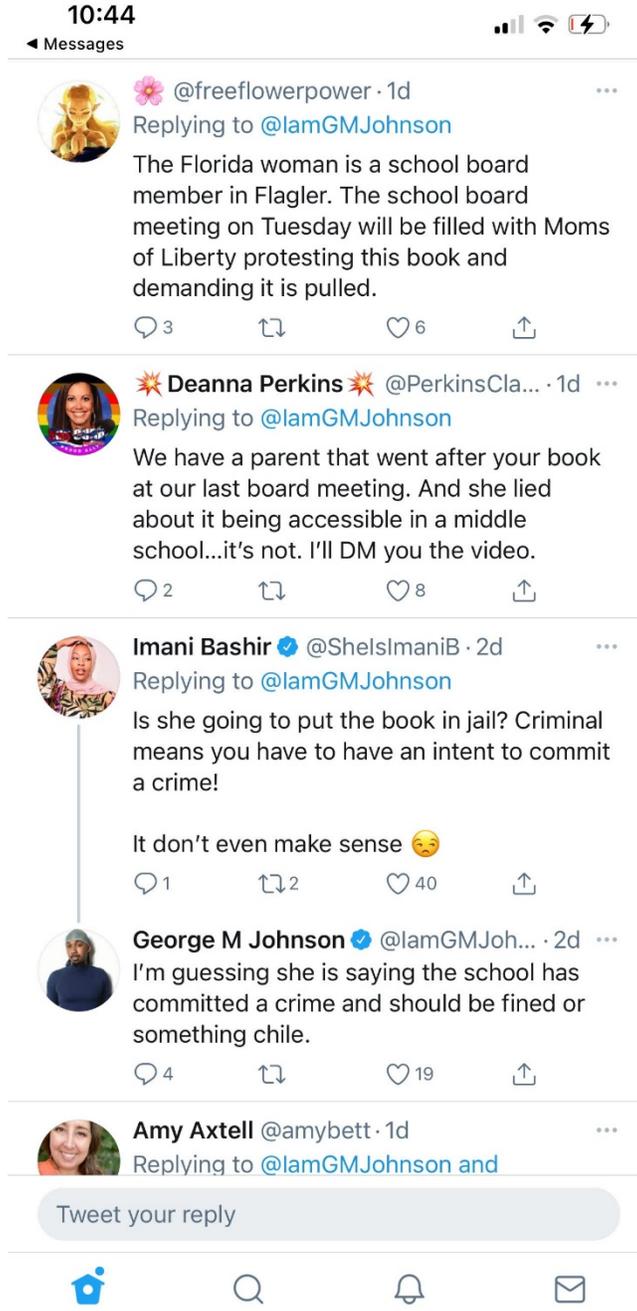
# FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

- The sixth screenshot indicates that there will be numerous "moms of liberty" present at the school protesting the book "All Boys Aren't Blue" and demanding that it is pulled.





## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

- The seventh screenshot featured a post by @KAraujoNWT stating that she will publically “clown” Woolbright to which Johnson responded “Finish Her”.

10:44  
Messages

**Keka Araujo** @KAraujoNWT · 1d  
Replying to @lamGMJohnson  
I can cover this if you like.. I WILL PUBLICLY CLOWN HER. I am absolutely BIASED.  
4 61

**George M Johnson** @lamGMJoh... · 1d  
Finish her!  
2 30

**Black Butterfly | Moderna Mami #...** · 1d  
Replying to @lamGMJohnson  
We've got you George! This will not stand. DM me the list of VA libraries so I can get on it. I've got all the time in the world since I left my job as an educator.  
3 38

**Thomas Edge** @tjedge20 · 1d  
Replying to @lamGMJohnson  
This is a book I wish I had as a teenager, but was so thrilled to read as an adult. Are there any funds taking donations to buy copies for schools, libraries, etc? Or any schools/ libraries that have asked for copies? I would love to support them.  
1 4 15

**Karen Eggleston** @karen\_eggleston · 2d  
Replying to @lamGMJohnson  
I hope nobody's told her about all the porn and misinformation that kids can access on the internet!

Tweet your reply

Home Search Notifications Mail



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

### Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

- The last screenshot is a message between Johnson and a male named Marcus Walker. Walker appears to have asked Johnson where the incident with the book being banned took place. Johnson replied "Flagler county love". Walker responded "Oh, cause I'll run up".







## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

### Lead Detective Agustin Rodriguez's Investigative Summary:

On November 10<sup>th</sup>, 2021, I, Detective Corporal Agustin Rodriguez was briefed on this case by Chief Kim Burroughs.

Based on the nature of the investigation, I decided to assign the case to myself to provide for a thorough investigation.

I began by reviewing Florida State Statute 847.012(5) (See below):

#### **847.012 Harmful materials; sale or distribution to minors or using minors in production prohibited; penalty.—**

- (1) As used in this section, "knowingly" means having the general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
  - (a) The character and content of any material described in this section which is reasonably susceptible of examination by the defendant; and
  - (b) The age of the minor.
- (2) A person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent may not be raised as a defense in a prosecution for a violation of this section.
- (3) A person may not knowingly sell, rent, or loan for monetary consideration to a minor:
  - (a) Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
  - (b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording that contains any matter defined in s. [847.001](#), explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors.
- (4) A person may not knowingly use a minor in the production of any material described in subsection (3), regardless of whether the material is intended for distribution to minors or is actually distributed to minors.
- (5) An adult may not knowingly distribute to a minor on school property, or post on school property, any material described in subsection (3). As used in this subsection, the term "school property" means the grounds or facility of any kindergarten, elementary school, middle school, junior high school, or secondary school, whether public or nonpublic. This subsection does not apply to the distribution or posting of school-approved instructional materials that by design serve as a major tool for assisting in the instruction of a subject or course by school officers, instructional personnel, administrative personnel, school volunteers, educational support employees, or managers as those terms are defined in s. [1012.01](#).
- (6) Any person violating any provision of this section commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

As written above, for this offense to be applicable, subsection (5) requires the specific material in question to meet the requirements described in subsection (3). Subsection (3) described matter defined in s. 847.001. Below are the applicable definitions found in s. 847.001 (Definitions not applying to this specific investigation were removed from the below text, but are available in Florida State Statutes):



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**

**847.001 Definitions.**—As used in this chapter, the term:

(1) "Adult" means a person 18 years of age or older.

(3) "Child pornography" means any image depicting a minor engaged in sexual conduct.

(5) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(6) "Harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

(a) Predominantly appeals to a prurient, shameful, or morbid interest;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."

(8) "Minor" means any person under the age of 18 years.

(9) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(10) "Obscene" means the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

A mother's breastfeeding of her baby is not under any circumstance "obscene."

(11) "Person" includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(16) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(17) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(18) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(19) "Simulated" means the explicit depiction of conduct described in subsection (16) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

### Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

(20) "Specific sexual activities" includes the following sexual activities and the exhibition of the following anatomical areas:

- (a) Human genitals in the state of sexual stimulation or arousal.
- (b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.
- (c) The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.
- (d) Less than completely and opaquely covered:
  1. Human genitals or the pubic region.
  2. Buttocks.
  3. Female breasts below the top of the areola.
  4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

As defined above in subsection (6), for material to be considered Harmful to Minors the following requirements must be met:

- (a) Predominantly appeals to a prurient, shameful, or morbid interest;
- (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

Based on the definition provided in subsection (6)c above, I began researching the book "All Boys Aren't Blue" to determine if the work, as a whole, contained literary, artistic, political, or scientific value for minors.

I then searched Amazon.com for information about the book. I discovered that the book was listed as the #1 Best Seller in the section "Teen & Young Adult LGBTQ+ Issues".

At the time of this report, the book received 1,544 ratings on Amazon.com with 81% of those ratings as 5 stars, 12% as 4 stars, 4% as 3 stars, 1% as 2 stars and 3% as 1 star.

The description of the book's content is as follows:

"In a series of personal essays, prominent journalist and LGBTQIA+ activist George M. Johnson explores his childhood, adolescence, and college years in New Jersey and Virginia. From the memories of getting his teeth kicked out by bullies at age five, to flea marketing with his loving grandmother, to his first sexual relationships, this young-adult memoir weaves together the trials and triumphs faced by Black queer boys.

Both a primer for teens eager to be allies as well as a reassuring testimony for young queer men of color, *All Boys Aren't Blue* covers topics such as gender identity, toxic masculinity, brotherhood, family, structural marginalization, consent, and Black joy. Johnson's emotionally frank style of writing will appeal directly to young adults."



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**

Amazon.com also lists the below information to describe the book's content:

Print length	Language	Publisher	Publication date	Grade level	Reading age
					
320 pages	English	Farrar, Straus and Giroux (BYR)	April 28, 2020	10 - 12	14 - 18 years

Based on the totality of the circumstances, I then consulted with the Flagler County Sheriff's Office's General Counsel John Lemaster.

Mr. Lemaster advised that he was reviewing the nature of the complaint and would provide me with a legal recommendation as to whether or not the allegations herein met the burden of probable cause.

On November 17<sup>th</sup>, 2021, Mr. Lemaster provided me with the below Legal Memorandum:



**FLAGLER COUNTY SHERIFF'S OFFICE**  
Investigative Report  
Case#: 2021-100272

---

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit



**Rick Staly, Sheriff**  
**FLAGLER COUNTY SHERIFF'S OFFICE**

*"An honor to serve, a duty to protect."*

---

**LEGAL MEMORANDUM**

DATE: November 16, 2021  
TO: Corporal Detective Agustin Rodriguez  
FROM: John T. LeMaster  
General Counsel   
RE: Complainant #2021-00100272; information related to School Library Materials

---

**ATTORNEY WORK PRODUCT**

**THIS DOCUMENT CONSTITUTES A RECORD PREPARED BY, OR AT THE EXPRESS DIRECTION OF, AN AGENCY'S ATTORNEY WHICH REFLECT A MENTAL IMPRESSION, CONCLUSION, LITIGATION STRATEGY, OR LEGAL THEORY OF THE ATTORNEY OR AGENCY, AND WHICH WERE PREPARED EXCLUSIVELY FOR CIVIL OR CRIMINAL LITIGATION OR FOR ADVERSARIAL ADMINISTRATIVE PROCEEDINGS, OR IN ANTICIPATION OF IMMINENT CIVIL OR CRIMINAL LITIGATION OR IMMINENT ADVERSARIAL ADMINISTRATIVE PROCEEDINGS ARE EXEMPT FROM DISCLOSURE UNTIL THE CONCLUSION OF THE LITIGATION OR ADVERSARIAL ADMINISTRATIVE PROCEEDINGS.**

Pursuant to our conversation I have reviewed the record and provide the following analysis for your consideration. Below is my synopsis of the facts as I understand them and upon which my legal advice is based. If there are any additions or corrections to the facts as I have identified them please let me know and I will consider the new information and provide you updated advice.

**I. Factual Background**

On November 9, 2021, Jill Woodbright, a Flagler County School Board ('Board') member filed a criminal complaint with this Office. In the complainant she alleges a book entitled "All boys aren't blue" was in circulation within the Flagler County School library system. She further alleged it was a crime to have the book in the media centers and believed there are other books in the media centers with similar content. She does not identify a specific subject for the investigation, nor does she provide a statutory basis for a criminal violation. She provided an additional Voluntary Witness Statement wherein she furthers her allegations and details out specific passages which she finds offensive. In her statement she details out specific interactions with the Superintendent and Board Attorney. Finally, she identified corrective action being taken by the Board to remove the items from circulation and determine if the material is appropriate for students.

---

*Proudly Serving the Community for 100 Years – Centennial Anniversary 1917 - 2017*



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

### II. Legal Analysis

A review of Florida statutes provides s.847.012, *Harmful materials; sale or distribution to minors or using minors in production prohibited; penalty*, as an appropriate mechanism to investigate this matter. Specifically, the statute provides:

(5) An adult may not knowingly distribute to a minor on school property, or post on school property, any material described in subsection (3).<sup>1</sup> As used in this subsection, the term "school property" means the grounds or facility of any kindergarten, elementary school, middle school, junior high school, or secondary school, whether public or nonpublic. This subsection does not apply to the distribution or posting of school-approved instructional materials that by design serve as a major tool for assisting in the instruction of a subject or course by school officers, instructional personnel, administrative personnel, school volunteers, educational support employees, or managers as those terms are defined in s.1012.01.

Further, s.847.001, *Definitions*, defines material harmful to minors as:

(6) "Harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

- (a) Predominantly appeals to a prurient, shameful, or morbid interest;
- (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."

The Board is vested with the constitutional duty and responsibility to select and provide adequate instructional materials for all students. *See* s.1006.28. They are specifically responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s.1006.283, or otherwise purchased or made available. *See* s.1006.28 (2)(a)(1). Further, Board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific instructional material, which clearly describes a process to handle all objections and provides for resolution. *See* s.1006.28 (2)(a)(2). The process must provide the parent or resident the opportunity to proffer evidence to the district school board the material is inappropriate. *Id.* Finally, as part of the process the Board after convening a hearing the Board's decision on whether material is appropriate is final and not subject to further petition or review. *See* s.1006.28 (3). To this end the Board developed several internal policies which are available on their web site. Specific to this matter is their policy at 409, 410, 411, and 414.

---

<sup>1</sup> Section (3)(b) provides: (b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording that contains any matter defined in s. 847.001, explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors.



## FLAGLER COUNTY SHERIFF'S OFFICE

### Investigative Report

Case#: 2021-100272

---

#### Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

While I provide the Board's polices for informational purposes it is not my intent to provide an in depth analysis of their policy or implementation. Further, it is not my intention to correct or suggest changes to their policy, this analysis is best left to the Board and its Legal Counsel. I am reviewing the identified sections to determine their impact on the alleged criminal conduct.

The Board's policy at 410 provides the following guidance as it reflects instructional material:<sup>2</sup>

- I. The following standards will be used to determine the propriety of instructional materials for selection:
  - A. The age of the children who normally could be expected to have access to the material,
  - B. The educational purpose to be served by the material, with priority being given to the selection of materials that encompass state and District performance standards,
  - C. The consideration of the racial, ethnic, socioeconomic, and cultural diversity of the District,
  - D. The degree to which the material would be supplemented and explained as part of normal classroom instruction.

Consideration should be given to recommendations made by District committees who have reviewed the available materials in a subject area. No books or other material containing hardcore pornography or other prohibited material by Florida Statute shall be used.

The Board's policy at 411 provides the following guidance as it reflects selections for Media Center Materials:

- I. Objectives of Selection for Media Center Materials - The primary objective of the school's educational media center is to implement, enrich, and support the educational program of the school. The center shall provide a wide range of educational media materials on all levels of difficulty, with diversity of appeal, and the representation of different points of view. The School Board asserts that the responsibility of the media center is to provide:
  - A. Materials that will enrich and support the curriculum, taking into consideration the varied interest, abilities, and maturity levels of the students served.
  - B. Materials that will stimulate growth in factual knowledge, literary appreciation, aesthetic values, and ethical standards.
  - C. A background of information enabling students to make intelligent judgments in their daily life.
  - D. Materials representative of the many religious, ethnic, and cultural groups and their contributions to the American heritage.
  - E. A comprehensive collection appropriate for the maturity levels of the students served by the media center which places principle above personal opinion and reason above prejudice in the selection of materials of the highest quality.

---

<sup>2</sup> The Board blends and/or uses the terms instructional material, library and media center throughout its policy. For the purposes of this analysis I will treat all materials considered as instructional material; therefore, the policies are read together.



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit

- II. Criteria for Selection of Media Center Materials –
  - A. The standards to determine the propriety of the educational materials shall be pursuant to Florida Statutes.
  - B. First consideration shall be given to the needs of the individual school based on knowledge of the curriculum, of the existing collection, and of the needs of children and youth. Requests from users of the collection (i.e., administrators, faculty, parents, and students) shall be given high priority.
  - C. Materials shall be considered on the basis of accuracy of content, overall purpose, timeliness, importance of the subject matter, quality of the writing/production, readability and popular appeal, authoritativeness, comprehensiveness of material, reputation of the publisher/producer, reputation and significance of the author/artist/composer/producer, etc.; and, format and price.
  - D. Gifts of media materials or money shall be accepted with the understanding that their use or disposition shall be determined by those persons having the responsibility for acquisitions, according to the same selection criteria and procedures as purchased materials.
  
- III. Procedures for Selection of Media Center Materials-
  - A. In selecting materials for purchase, the school media specialist shall evaluate the existing collection and shall consult with:
    - 1.Reputable, unbiased, professionally prepared selection aids such as those published by companies generally accepted by the educational media profession.
    - 2.Media staff, curriculum consultants, faculty, students, and community representative.
    - 3.Media committee appointed by the principal to serve in an advisory capacity in the selection of materials.
  - B. In specific areas, the media specialist shall follow these procedures:
    - 1.Purchase materials which are outstanding and frequently used;
    - 2.Replace periodically worn or missing basic items;
    - 3.Withdraw out-of-date or unnecessary items from the collection; and,
    - 4.Examine sets of materials and materials acquired by subscription and purchase only material to fill a definite need.
  
- IV. Objectives for Selection of Other Instructional Materials - The Superintendent shall develop, submit for School Board approval, and implement guidelines for the selection and presentation of other instructional materials needed to enhance the School District's educational curriculum. Those guidelines shall be designed to support the use of materials including audiovisual and theatrical materials as a supplement to instructional materials and the classroom curriculum (see the "Legal and Appropriate Use of Materials by Educators; Policy and Procedures", current edition).

During the fact finding there was no evidence which would suggest the book was purchased outside of the normal procedures or procurement processes established by the Board. As such the material purchased by School Board employees was completed at the direction and under the governance of the Board and its policies.

---

*Proudly Serving the Community for 100 Years – Centennial Anniversary 1917 - 2017*



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**

While informative the Board's policies are unhelpful in determining whether criminal conduct occurred in this matter. The Board fails to define what it considers "hardcore pornography" which it restricts at 410. Further, the Board's policy constitutes administrative guidance and cannot be used to interpret the criminal statute or the legal definition of what constitutes harmful to minors defined at s.847.001(6). With its existing processes one cannot identify, nor determine with any certainty whether an individual who purchased and/or circulated the material was in fact aware of the materials contents. As such one cannot meet the first prong of s.847.012 in which an adult "knowingly" provided harmful materials to a minor.

Further, to be considered harmful to minors the material in question must meet each of the three prongs defined in s.847.001(6). While a portion of the book may be sexual in nature and offensive to some within the community it fails the third prong of the test. Specifically, the third prong requires when taken as a whole, it be without serious literary, artistic, political, or scientific value for minors. This book is a widely recognized award winning piece of nonfiction which deals with difficult subjects of both social and political issues impacting this age group. The book is readily available online and in public libraries. This book does not meet the legal definition of harmful to minors.

### **V. Conclusion and Recommendations**

The Sheriff's Office is charged with protecting the constitution and enforcing criminal statute in protecting the citizens of Flagler County. In my opinion the matter as presented is not a violation of s.847.012 and does not warrant further investigation. Whether or not this material is appropriate for students of Flagler County is an internal matter for the Board and is best addressed through their processes.

cc: Chief Mark Strobridge



## FLAGLER COUNTY SHERIFF'S OFFICE

Investigative Report

Case#: 2021-100272

---

**Detective Corporal Agustin Rodriguez - Investigative Services Division, Major Case Unit**

Based on the results of my investigation, along with the opinion provided by General Counsel John Lemaster, it was concluded that the allegations described above did not meet the elements of a crime as defined in FSS. 847.012, or any other criminal statute. Therefore, the case requires no further investigation and is closed due to the lack of criminal activity. As indicated in General Counsel Lemaster's opinion, this matter falls under the constitutional authority of the Flagler County School District and is not a criminal matter.

There is nothing further to report.

### **Case Status and Disposition:**

**Status: Closed**

**Disposition: Non-Criminal**