

U.S. Elementary School Shows “Zero Tolerance” for Public Accountability. 10 Year Old Suspended

Bureaucrats saw threat from 5th grader miming imaginary weapon

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Remember that flurry of news reports in December 2013 about a middle school with a [zero tolerance](#) weapons policy suspending two fifth grade boys, one for pretending to use a book as a “gun” and the other for responding with a wholly imaginary bow and arrow? [It really happened](#). And now the school district has acted to remedy a mistake that it has not admitted, and for which none of the school authorities apparently face any accountability.

The initial incident lasted a few seconds in mid-October, in the [South Eastern School District](#) of York, Pennsylvania, where the schools’ motto is “Providing Progressive Education to Strengthen the Global Community.” The two boys’ by-play created no “disruption” that the teacher noticed, but when a girl in the class told the teacher what the boys had done, the teacher decided to take action. She took both boys into the hall to lecture them about the disruption that she hadn’t witnessed. Had the incident ended there, it would have amounted to little more than the sort of trivial classroom injustice most students experience or witness, and there would have been no news coverage.

But the teacher carried on. She reported the boys to the principal and she emailed their parents. In her email to Beverly Jones, the mother of the child who used an imaginary bow and arrow, the teacher said she was alerting her to the seriousness of the violation because the children were using “firearms” in their horseplay. Beverly Jones was not amused. She knew her son Johnny to be a good student with no behavior problems.

When Principal Jon Horton called her to say he was suspending the boys for a day, but was doing them a favor by making it an in-school suspension in his office, Beverly Jones took issue with the school’s response. She wanted to know how her son could violate a weapons policy when he had no weapon, and when no one had even accused him of having a weapon.

When the Principal Horton and District Superintendent Rona Kaufmann effectively stonewalled Beverly Jones, she went for legal help to the [Rutherford Institute](#) in Charlottesville, Virginia, which bills itself as “dedicated to the defense of civil liberties and human rights” and provides pro bono legal services to people like the Joneses. Founding attorney John Whitehead acted on the Jones’s behalf on December 4, [writing a letter](#) to school authorities and issuing a [press release](#) about the case with the letter attached.

Nothing like a lawyer to get bureaucrats’ attention

With the story of a ten year old punished for an imaginary weapon getting local news coverage and play on the Internet – almost all of it making the school look ridiculous – school attorneys were soon in touch with Whitehead looking for a settlement.

On January 16, the Rutherford Institute issued another press release with the headline: "VICTORY: School Officials to Lift Suspension from 10-Year-Old Who Shot Imaginary Arrow at Pennsylvania Elementary School" over a story that reported in part:

"School officials at South Eastern School District agreed to remove the suspension of Johnny Jones, a fifth grader at South Eastern Middle School, after a face-to-face meeting with his mother arranged by attorneys on both sides. In coming to Jones' defense, Rutherford Institute attorneys asked that the District immediately rescind the suspension from Jones' permanent school record, asserting that the disciplinary action was unsupported by district policy and was a wholly unreasonable and disproportionate response to the action of the child."

As victories go, it was pretty limited, with no payment to the wronged child, no admission of fault by the school, in fact with no written agreement whatsoever between the parties. In response to an inquiry, the Institute explained briefly:

"Nothing in writing, but they have assured Beverly Jones that the record is clean and she is satisfied."

Superintendent Kauffmann did not respond to inquiries.

It remains unclear what this means for the other boy, since his parents never registered an objection to the school's draconian decision-making process, which lacked anything like reasonable due process of justice.

There is no indication that the school has any plans to make any amends to the two boys who served wrongful suspensions.

Nor is there any indication that the school will be taking any steps to change either its no tolerance policy on weapons or its irrational application of that policy in practice. According to [one report](#), "the district says it has no zero-tolerance policies." While [the policy itself](#) does not use the phrase "zero tolerance," and while it is not a model of clarity, it says nothing to lead the reader to believe that the policy promotes any tolerance.

Victory? The school has no reason not to behave mindlessly again

"The Rutherford Institute has been called on to intervene in hundreds of cases like this involving young people who were suspended, expelled, and even arrested for conduct, no matter how minor or non-threatening the so-called infraction may have been. We are gratified that the District recognized that allowing the suspension to remain on this student's record was a senseless targeting of imaginary horseplay," the press release quoted Whitehead as saying.

As president of The Rutherford Institute, Whitehead said the organization handles "anything dealing with freedom issues," such as free speech, illegal police searches, or protestor cases, among others. In 2013, Whitehead published his book, "A Government of Wolves: The

Emerging American Police State” in which he argues that “we in the emerging American [police state](#) find ourselves reliving the same set of circumstances over and over again—egregious surveillance, strip searches, police shootings of unarmed citizens, government spying, the criminalization of lawful activities, warmongering, etc.” against which he calls for a second American revolution.

And yet Whitehead in the Johnny Jones case hasn’t required the authorities to put anything in writing, or even to admit fault. Instead he has settled for the mother’s acceptance of the school’s oral reassurance that Johnny Jones’s suspension record has been expunged and will remain expunged, even though [Whitehead himself](#) has doubts that any digital expungement can be made without leaving a trace.

This is a strange ending to a case about which Whitehead wrote in December that:

“the zero tolerance/censorship regime which dominates American public education can easily translate into a disaster for civil society at large in the coming years. We’ve chosen to terminate natural childhood development in favor of strict adherence to authority and muting unique, interesting, and valid viewpoints in favor of maintaining the status quo. Worse than this, however, is the fact that we’re setting ourselves up for the complete destruction of our democratic society and our democratic institutions in favor of an authoritarian bureaucratic apparatus.... What it will eventually amount to is the termination of freedom in the United States.”

Johnny Jones was the victim of an authoritarian bureaucratic apparatus and it’s anyone’s guess what he’s learned from experience. But it could be that even outspoken critics have a hard time holding anyone in that bureaucratic apparatus personally accountable for anything. No self-respecting police state would tolerate that.

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