

# 'Zero tolerance' criminalizing kids

- [NAT HENTOFF](#) azdailysun.com | Posted: Thursday, February 17, 2011 5:02 am |
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In 1994, Congress passed the Gun-Free Schools Act, mandating a one-year expulsion for any student bringing a firearm to school. Since then, many school districts around the nation have instituted rigid "zero tolerance" policies, providing inflexible one-size-fits-all punishments for widely diverse "offenses" even beyond the scope of the Gun-Free Schools Act

In a recent case, at Spotsylvania High School in Virginia, 14-year-old Andrew Mikel, an honor student, active in the ROTC as well as in his church, has been expelled for the rest of the school year for violent criminal conduct and possession of a weapon.

Following the lead of the school officials, the Spotsylvania County School Board referred the ninth-grader to local law enforcement, resulting in his now being involved in juvenile criminal proceedings for assault.

Already, one result of Andrew's introduction to the criminal law system is that, having hoped to attend the U.S. Naval Academy (his father is a former Navy Seabee and Marine officer), Andrew -- so far -- can no longer qualify as an applicant.

Coming to his defense is the nation's most ceaseless, across-the-board civil libertarian, John Whitehead, president of the Rutherford Institute in Charlottesville, Va. At no charge, a Rutherford attorney has brought Andrew's case to the Spotsylvania Country District Court. I will report the results when issued.

And what was Andrew Mikel's alleged, heinous crime?

On Dec. 10, in the school hallway during lunch period, kidding around, he was using the body of a pen to blow "spit wads" at some of his fellow students. I remember kids doing that when I attended a Boston public school.

Finding his son being charged with violent criminal conduct, Andrew Mikel Sr., the boy's father, said: "I fought for my country and the rights of people here, and my family sacrificed right along with me. The actions of the school system completely are inconsistent with what I fought for. To come home after fighting for so long and seeing my own child being abused, I'm outraged." (Rutherford.org, Jan. 31).

I have a bulging file of "zero tolerance" punishments from sea to shining sea that have derailed the education, and lives, of students. One of those that stand out is the case of 6-year-old Zachary Christie in the Christina School District of Newark, Del. Gosh, this is what this kid did, as reported on the front page of the Oct. 12, 2009, New York Times.

He took "a camping utensil that can serve as a knife, fork and spoon to school. He was so excited about recently joining the Cub Scouts that he wanted to use it at lunch."

Having violated the school's zero-tolerance code on weapons, the child faced 40 days in the district's reform school. That sure would teach him a lesson, but about what?

This was a boy, said his mother, Debby Christie, "who wears a suit and tie some days to school because he takes school so seriously." Starting a protest website, Zachary's mother proclaimed reasonably: "He is not some sort of threat to his classmates."

Her outrage was contagious, and further protests caused the school board to hastily revise its zero-tolerance code of conduct to give the child somewhat of a reprieve. He only had to serve a suspension of three to five days.

But when zero-tolerance punishments have landed hard on other youngsters nationwide, protests -- and often there have been none -- were ineffective. Whitehead's long list of these traumatic teaching moments include "a high school sophomore who was suspended for violating the school's no-cell-phone policy after he took a call from his father, a master sergeant in the U.S. army who was serving in Iraq at the time. And in Houston, an eighth-grader was suspended for wearing rosary beads to school in memory of her grandmother."

Dig this: This bastion of learning had a specific zero-tolerance edict against a rosary, "which the school insists can be interpreted as a sign of gang involvement."

That must be some gang!

Ignorant of the Constitution to begin with, school officials also did not realize that this student was not in any way representing an attempt by the state of Texas to proselytize the other students. This eighth-grader was exercising her individual right to free expression of religion.

These cases are included in John Whitehead's Feb. 7 column (Rutherford.org): "Zero tolerance policies: Are the schools becoming police states?"

Well, the schools are certainly not teaching the Constitution. Tea partiers, many of whom carry the Constitution in their pockets, have a rising influence among certain Republican members of Congress -- and there are now tea partiers actually in Congress. Surely they should begin to persuade members of both parties to scrap the Gun-Free Schools Act and create new legislation narrowly focused on actual guns and violence in schools. This can bring back the Constitution back to our school kids.

And wouldn't you think that the president of this great republic, who lectured on constitutional law at the University of Chicago years ago, would have something to say about the baleful effect of zero tolerance on so many of this burgeoning generations of Americans?

Man up, Obama!

*Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights. He is a member of the Reporters Committee for Freedom of the Press, and the Cato Institute, where he is a senior fellow.*