



## Bloomberg's Cops Illegally Cuffing Kids Under 16?

**New report shows New York police arresting schoolchildren for non-crimes**

By Nat Hentoff  
October 29, 2008

On October 7, Jaritza Geigel, A 17-year-old senior at the Bushwick School for Social Justice in Brooklyn, told a Daily News reporter about the hassles she and other students experienced from Ray Kelly's School Safety Agents in her school: "Students shouldn't go to school and feel like criminals. We go to school to get an education."

Previous columns here have reported on the education in fear that many of this city's public-school students are getting because of the bullying disrespect for constitutional rights from Commissioner Kelly's 5,000 SSAs (who have the power to arrest) and at least 200 uniformed officers in the schools. In deference to Bloomberg's control of the school system—the ultimate standard, he repeatedly declares, by which his mayoralty is to be judged—Schools Chancellor Joel Klein remains silently complicit. But now, as Bloomberg regally moves to disregard two citizens' plebiscites on term limits so that he can continue his regime, there are new disclosures of more outrageous police actions in the schools.

On October 7, NYCLU Legal Director Arthur Eisenberg and ACLU Staff Attorney Catherine Kim wrote to Police Commissioner Kelly about "the unlawful practice of arresting schoolchildren *younger than 16* in the New York public schools for *non-criminal violations*. Such arrests—which involve taking children out of schools in handcuffs and transporting them to the police precinct for booking are in violation of the Family Court Act and case law from the New York State Court of Appeals."

Section 305.2 of the Family Court Act states that a police officer can—without a judicial warrant—take a child younger than 16 into custody *only* in cases where a person can be arrested "for a *crime* under Article 140 of the Criminal Procedure Law." Confirming this provision, last year the Court of Appeals specified that "the warrantless arrest of a juvenile"—as is often happening in our public schools—"is authorized only in cases where an adult could be arrested for a crime" (Victor M., 9 N.Y. 3d 84, 87). Mr. Mayor, your highness, *that* is the standard.

So, what is a crime under New York Penal Law? Felonies, of course, and misdemeanors, but not violations such as loitering and trespassing.

What follows are from the very records of the New York Police Department obtained by the NYCLU and the ACLU from a Freedom of Information Law request filed in October 2007. The request was for the numbers and types of arrests of children younger than 16 on

public-school grounds. (The NYCLU and ACLU had been receiving reports that kids under 16 were being busted for behavior below a misdemeanor.)

We now know, the NYCLU and the ACLU report, that "approximately 300 children younger than 16 were arrested by NYPD personnel for committing non-criminal violations in school or in school grounds"—for example, in one case, an 11-year-old was arrested at school and taken to the precinct with a trespassing violation, which is not a crime under this state's penal law. Most of these arrests take place in front of other students and teachers, as these kids begin what used to be called in tabloid journalism their "perp walk"—like they were members of the mob.

As NYCLU Executive Director Donna Lieberman says of forcibly taking the manacled children from the school, these unlawful arrests—which have not been criticized by Bloomberg or Joel Klein or even Al Sharpton—"stigmatize and humiliate them." ACLU attorney Kim adds: "New York law rests upon the sound public policy that children who commit relatively minor infractions should still be treated as children—not criminals. Children need guidance and support—not a trip to the police precinct."

I believe I know Joel Klein well enough from our conversations and his avowed dedication to treating students as *individuals* to say that I am at a total loss in understanding why he doesn't assert his educational and moral responsibility to deal with these illegal arrests. Right now, before the City Council, there is a Student Safety Act that would finally hold Ray Kelly's NYPD and his School Safety officers accountable to the Council for their acts of lawlessness in the schools. Twenty-five of the City Council's 51 members are co-sponsors, but there cannot be a vote until a hearing is held.

What is Speaker Christine Quinn waiting for? Is she afraid that a hearing and a quite possible majority vote would so antagonize the hallowed Education Mayor—despite her ultra-loyal support for his third term—that her reciprocal chance to succeed him would be jeopardized?

A School Safety Coalition supporting this law, which would return the school system to civilian control, includes the Children's Defense Fund–New York; NAACP–Legal Defense and Education Fund; New York Lawyers for the Public Interest; the Correctional Association of New York; the Association of Legal Aid Attorneys; and others. If this coalition makes enough noise in newspaper, radio, and television ads—as well as with another rally in front of City Hall—state legislators considering whether to continue exclusive mayoral control of the schools may also start looking into other systemic defects in Bloomberg's suzerainty. And Bloomberg's golden national and international renown could become justly tarnished.

And why, except for the NAACP–Legal Defense Fund, are city and national civil rights leaders silent? As with the stop-and-frisks actions by police, these school arrests are disproportionately of black and Hispanic students. *This is New York City?*

What does Police Commissioner Kelly, also enjoying a golden reputation, have to say? In the *Daily News* on October 9, his spokesman, Deputy Commissioner Paul Brown—who is

clearly qualified to teach a course in Orwellian doublespeak for White House press secretaries—declared that although students can't be criminally prosecuted for such violations, the NYPD, not being "powerless" to deal with such behavior, has "an obligation under the law to maintain order, preserve the peace, and protect everyone in the school environment from the consequences of these unlawful behaviors."

Huh? These manacled kids were not violating the state penal law, but there surely is unlawful behavior somewhere in these arrests. Fill in the blank.

If these flagrantly illegal arrests of students under 16 for non-criminal behavior in our public schools continue, the NYCLU assures me that there will be a lawsuit.

Among those in the dock, even if he secures a life term as mayor, will be Michael Bloomberg and his police commissioner. I'd love to see them do the "perp walk."