



## Replica Weapons: How Many Kids Have to Die?

On October 22, 2013, deputies from the Santa Rosa Sheriff's department challenged an armed man walking in what has been described as a high crime area. The man reportedly turned towards the deputies while raising the barrel of a rifle. One of the deputies fired 8 rounds, striking and killing the man. Unfortunately, the "man" turned out to be a 13 year old boy, and the rifle was a replica AK-47 airsoft gun. Public outcry concerning this event reached a national level with gatherings and protests still occurring today. The shooting was ruled justified on both state and federal levels.

More recently, a Cleveland police officer responded to a 911 call reporting a man pointing a gun at citizens. News reports state an officer shot the man when the two encountered each other. The shooting was reportedly in response to the man reaching toward the gun. The man was later found to be a 12 year old boy and the handgun was a replica BB gun. This case also prompted national attention, and a decision on whether or not to indict the officers involved is pending.

Eleven additional shootings involving children with toy (replica) guns and similar circumstances were easily discovered via internet search. The incidents are unique in each state, but provide a clear overall picture of what has occurred over the years: Two 12 year olds in Arkansas, a 13, 14, 17, and 18 year old in California, a 13 year old in Missouri, a 15 and 16 year old in Florida, a 16 and 17 year old in New York, and a 14 year old in Connecticut. All shot by police while "armed" with toy guns. Clearly this is a national problem and not relegated to the corner of any one state.

### Is this a Law Enforcement Issue?

The determination of when a law enforcement officer decides to save his life or the life of another is specific to that officer's perspective, the contextual framework of the event, and the law of the land. The confluence of these factors does not allow for a layman's snap judgement. I believe two specific facts should deter the intelligent layman from opining these incidents as being a "law enforcement problem." The first is the U.S. Supreme Court case law (Graham) advising the lower courts that an officer's use of force shall not be judged through 20/20 hindsight. The second is the fact that most folks have never stared down the barrel of a firearm under tense and ambiguous circumstances, therefore have no frame of reference to intelligently opine on the subject.

In consideration for the general lack of knowledge most people have on shooting events, a few proven points are provided here. Science has shown us several things about the interaction of police and armed citizens. The most important of which is an understanding that **action beats reaction**. We know that the suspect is ahead of the game if he is allowed to decide when to start the gunfight. We also know that the average rounds per second (4) occur with split times of just .25s. Consider that in .25s, an officer's life could be forfeit. Exactly when is the opportunity to make a deeply informed life or death decision provided?



## Identifying Causal Relationships

While many will or already have arrived at a snap judgement blaming law enforcement, socially we should consider a reasonable alternative, and here's why. Causal relationships do not always circumscribe the effect, but rather trace back linearly through the series of events preceding the final "effect." If traced far enough, an originating causal factor is identified. Intuitively speaking, eliminating the causal factor greatly diminishes the opportunity for a future event. Accepting this concept will provide a causal factor trace that passes well beyond a law enforcement officer facing a replica weapon in the hands of a child.

The causal factor in these events is a social one and this fact is shown through history. We know replica weapons are dangerous and can result in deaths, due to mistaken perception that the weapons are real. We know this from prior events, from media sensationalizing the incidents, from government study, and from statutes created specifically to address replica firearms. Yet, we have still not prevented the incidents from occurring because we haven't dealt appropriately with the real causal factor.

The importance of what we know, and when we knew it, is key in order to point out the ignorance and irresponsibility that allows replica firearms to not only fall into the hands of children, but allows children to run the streets with them in "play." My research on this subject shows the Department of Justice was aware of the already existent problem over 25 years ago. Here is what they knew then:

A 1990 DOJ study reported that between 1985 and 1989, 252 incidents involving replica type guns occurred, in which a law enforcement officer used force; up to and including deadly force. Within the study, data on the minimal markings on replica firearms was presented. The overwhelming determination was that the minimum marking standards in use at that time were not adequate to prevent the weapons from being mistaken for real firearms. One important factor observed was the ease of removing the brightly colored orange safety tips on toy guns, and the similarities between some brightly colored sighting systems (real weapons) and the safety tips. Unfortunately, this particular study didn't address the severity of the problem, and only pointed toward education as a precautionary measure.

In 1990 it was clearly obvious that police might become involved in a use of deadly force against children carrying replica weapons. My personal web search found that at least 13 additional incidents have occurred since 1990, and this is assuredly well below the real numbers. Therefore, a child's death at the hands of law enforcement under these circumstances cannot fall squarely on the shoulders of the patrol officer in the field. Society is aware of the potential for harm here, and the nonsensical opinion that it is a necessity for children to have replica weapons is clearly also dangerous. Replica firearms in the hands of children is a social issue; one that has been too long pushed aside or addressed with governmental "kid gloves." Not another child should be shot and killed due to a replica handgun. Not another law enforcement officer should be forced to react to that perceived threat of life and death, only to find later that it never existed.



## Current Regulations

According to my research, many countries have taken the most stringent approach by forbidding ownership of replica firearms. The United States only requires a 6mm blaze orange tip be affixed to the barrel of a replica airsoft firearm, and purchasers must at least 18 years old to buy one. Let's not forget the same federal government stated 25 years ago that the orange tip was not a sufficient deterrent.

In addition to the orange tip requirement, many states and localities have variations upon laws allowing replica firearms displayed in public. California, in its infinite wisdom, recently decided that it is legal to brandish a replica weapon in public as long as the entire weapon is brightly colored. However, real weapons are being painted with a myriad of bright colors and designs (see pictures). The question to be asked at this point is whether parents of children who have access to replica weapons are aware of the law in their jurisdiction.

Are your replica gun laws sufficient to ensure that not one more child dies because of them? Can parents be properly educated on the dangers of toy weapons enough to ensure strict control of their children's access to replica firearms? If the answers to these social questions are not definitively a "yes," then ask yourself how many more children will die before we neutralize the REAL causal factor?

## Recommendations

No problem should be presented without a solution. The recommendations offered are not the guarantee we might achieve if we simply did not allow replica weapons in any public setting, they certainly may prevent more deaths. During my research I found that I am not alone in my thinking on this subject. An article on the Personal Defense Network addressed many of my concerns and provided potential recommendations, which are provided below. I highly recommend that parents read the PDN article (see references) in full; however, here is a summary of the author's findings:

- Airsoft (any replica gun) should only be used in a private facility and not in public (the street, a yard, or a park).
- Parents need to educate themselves and their children on gun safety.
- Parents need to educate themselves and their children on applicable laws regarding replica firearms.
- Parents should have their child complete a firearms safety course before using replica firearms.
- Parents should teach their children appropriate response to a law enforcement encounter (IE: drop the weapon **immediately**, keep hands visible).

If I had the power of law in my hands, I would ban replica firearms from public areas, and ban them from children's hands without adult supervision. Parents of a child found with a replica firearm would be fined, and if a death resulted, even jailed. Replica firearms would only be used in closed facilities or



private grounds with a required ratio of adult proctors to 'armed' children. I feel relatively certain that if society were to institute these rules, then we would have far fewer children being engaged by law enforcement. – The question is whether we care enough as a society to prevent another child's senseless death.

### **Real Weapons:**



### **Replica Weapons & Comparisons (Real / Replica)**



Toy Guns: Involvement in crime & encounters with police: <http://www.bjs.gov/content/pub/pdf/tg-icep.pdf>

Inside the final minutes before Andy Lopez's toy-gun death.

<http://www.sfgate.com/crime/article/Inside-the-final-minutes-before-Andy-Lopez-s-5607654.php>

Feds won't charge sheriff's deputy in fatal shooting of 13-year old Andy Lopez:

<http://www.nbcbayarea.com/news/local/andy-lopez-santa-rosa-no-federal-charges-fbi-department-of-justice-311487691.html>

Findlaw: <http://injury.findlaw.com/product-liability/airsoft-guns.html>

Kids & Guns: Three Airsoft Mistakes: <http://www.personaldefensenetwork.com/kids-guns-three-airsoft-mistakes/>