

301

Q

1. TASK NUMBER 970603CWE7033		2. INVESTIGATOR'S ID 9049		EPIDEMIOLOGIC INVESTIGATION REPORT
3. OFFICE CODE 860	4. DATE OF ACCIDENT YR MO DAY 97 05 03	5. DATE INITIATED YR MO DAY 97 06 10		
6. SYNOPSIS OF ACCIDENT OR COMPLAINT On May 3rd, 1997, a four-year-old male child was shot and killed while playing with his siblings at an uncle's trailer home in Edcouch, TX. The weapon was a BB/Pellet air rifle. The victim was attempting to wrestle the gun away from his older brother when it discharged, striking him in the chest. Local authorities have ruled the death accidental. The children had no prior experience with the weapon and were unsupervised at the time of the incident.				
7. LOCATION (Home, School, etc.) HOME, 1		8. CITY Edcouch		9. STATE TX
10A. FIRST PRODUCT BB GUN, 1237		10B. TRADE/BRAND NAME Daisy Power Line		10C. MODEL NUMBER #856
10D. MANUFACTURER NAME AND ADDRESS Daisy Manufacturing Company P.O. Box 220 Rogers, Arkansas 72757				
11A. SECOND PRODUCT N/A		11B. TRADE/BRAND NAME N/A		11C. MODEL NUMBER N/A
11D. MANUFACTURER NAME AND ADDRESS N/A				
12. AGE OF VICTIM 004		13. SEX Male, 1		14. DISPOSITION Fatality, 8
15. INJURY DIAGNOSIS Trauma, 71		16. BODY PART (S) INVOLVED Trunk-upper, 31		17. RESPONDENT Second Hand, 03
18. TYPE OF INVESTIGATION On-site, 01		19. TIME SPENT (OPERATIONAL HOURS) 40		20. ATTACHMENT(S) Multiple, 09
21. CASE SOURCE Newspaper, 05		22. SAMPLE COLLECTION NUMBER N/A		
23. PERMISSION TO DISCLOSE NAMES (NON NEISS CASES ONLY) No permission to disclose				
24. REVIEW DATE 970721		25. REVIEWED BY 8257		26. REGIONAL OFFICE DIRECTOR
27. DISTRIBUTION O: EHDS CC: CCA DSO				

MFR/PRVLR NOTIFIED
 No Comments made
 Comments attached
 Excisions/Revisions
 Firm has not requested further notice

8/10/97

D 1. h...

970603CWE7033

JMBradfield
FOWR-HOU-WTD

PRE-INCIDENT:

This incident took place at a trailer home residence in Edcouch, Texas. It involved the shooting death of a four-year-old male child which occurred on Saturday, May 3rd, 1997 at approximately 19:50 hours. The victim was visiting his uncle's residence with his mother and three brothers. The boy's ages were eight, six, and one-year respectively.

That evening, the victim was playing with his siblings in the small yard area of the trailer home. The uncle and the victim's mother were inside the home attempting to repair a malfunctioning air conditioning unit. At approximately 19:35 hours, the boys asked the uncle if they could borrow a BB gun to shoot cans outside. The uncle agreed and advised the boys to be careful with the weapon.

The weather was clear, just before sunset. None present suffered from any illness or impairments at the time of the incident. The area where the boys were playing was free of obstacles and uneven surfaces. The victim and his brothers had little or no previous experience with the BB gun.

Specific information about the incident was obtained from the Edcouch Police Department, as well as the victim's mother and uncle. Records from Emergency Medical Services, Knapp Medical Center, and Elizondo Embalming Service were obtained via the Edcouch Police Department.

INCIDENT:

While outdoors, the eldest boy had possession of the weapon. He chambered a BB and pumped the rifle once, preparing to fire. At this time, the victim attempted to wrestle the gun away from him by grabbing the barrel. During the struggle, the weapon discharged, striking the victim in the chest.

POST-INCIDENT:

At 19:50 hours, the victim's eight-year-old brother ran into the trailer. The boy was crying and advised the adults that he had accidentally shot the victim with the BB Gun. He stated that the victim was on the ground.

970603 CWF 7033

The mother and uncle quickly located the victim and transported him via automobile to the Emergency Medical Services (EMS) Advanced Cardiac and Trauma (ACT) ambulance center in Edcouch, Texas. They arrived at approximately 19:56 hours. Two Edcouch Police Officers had been dispatched and arrived at the EMS/ACT center as the family was exiting their vehicle. The victim's mother was crying hysterically and handed the victim over to one of the officers.

The officer noticed a small hole in the mid-sternum area of the victim's chest. The victim was gasping for air and losing consciousness. The officer fervently advised the victim to remain conscious as the second officer notified EMS/ACT personnel.

According to EMS/ACT records, the ambulance was travelling to Knapp Medical Center-Weslaco, Texas at 20:03 hours. The victim, at this time, was alert and responsive. The victim was also able to speak during the transit. However, at approximately 20:10 hours, the victim stopped breathing and lost his pulse.

The EMS/ACT crew attempted to resuscitate the victim using an endotracheal tube with gastric placement and a breather bag mask device (BMD). The victim was non-responsive and his pupils were fixed and dilated. The ambulance arrived at Knapp Medical Center at 20:15 hours.

According to Knapp Medical Center Records, attempts were made at the hospital to revive the victim using CPR and drug inducers. The efforts were unsuccessful. The victim was pronounced dead at 20:45 hours.

On May 4th, 1997 at 14:40 hours, an autopsy was performed on the victim at Elizondo Embalming Service, Mission, Texas. The cause of death was determined to be a single gunshot (BB) wound that pierced the heart.

PRODUCT IDENTIFICATION:

The Edcouch Police Department determined the weapon to be a Daisy Brand "Power Line" BB/Pellet gun, Model #856. The gun is considered a "high-velocity" air rifle with power ratings of up to 650 feet per second (FPS). This is a multi-pump pneumatic rifle. It shoots a single .177 caliber BB or pellet, but can hold up to 100 BB's in reserve. For safety purposes, it is fitted with a crossbolt trigger block that does not allow the rifle to discharge when the safety is activated. The stock is made of wood grained, molded plastic and the receiver is of an "engineering resin". The barrel is made of rifled steel and has a maximum shooting distance of 286 yards. The overall length of the rifle is 37.4 inches. It weighs 2.7 pounds without an optional scope. This model was fitted with the optional scope bringing its weight to just over three pounds.

970603 CWE 7033

The rifle is manufactured by Daisy Manufacturing Company of Rogers, Arkansas. It was purchased by the victim's uncle from the K-Mart Supercenter in Weslaco, Texas, on April 26th, 1997. It was purchased new and fully assembled for \$37.87. However, the uncle did state that this rifle was obtained as a result of returning a previously purchased rifle of exactly the same make and model. The gun was returned due to constant jamming, especially when pellets were used. There is no indication that the rifle in question jammed at the time of the incident.

The instructions that accompanied the rifle included warnings that stated in part: 'Warning: Not a toy. Adult supervision required. For use by those sixteen years or older'. The victim and his brothers had no previous experience with the rifle. It had been used sparingly, perhaps once before the incident. The weapon had not been damaged or altered prior to the incident. It was stored under the uncle's living room couch. It was kept loaded, however, without a round in the firing chamber and unpumped ("primed").

At the request of local media outlets, the Edcouch Police Department arranged for the rifle to be "tested". On or about 5/5/97, police officials fired the gun at point-blank range into hard skinned, raw fruit. A cantaloupe, onion, and orange were lined up in a row and shot at. The BB passed through each item consecutively, demonstrating the power of the rifle. The local television station, KRGV, Channel 5, Weslaco, Texas used this information to warn consumers of the possible hazards of this product.

EXHIBITS:

1. Authorization for Release of Name
2. News clip from the Valley Morning Star describing incident
3. Edcouch Police Department Offense/Incident Report - 5/3/97
4. EMS/Advanced Cardiac & Trauma Report
5. Knapp Medical Center Report - 5/3/97
6. Elizondo Embalming Service - Authority For Autopsy - 5/3/97
7. 1993 Daisy Manufacturing Company product catalogue insert showing the Model 856 in question. Note: The Model 7856 "Eagle" was used by the Edcouch Police to test the power of these type of air rifles, as seen in exhibit #9.
8. Photographs #1-#8, particulars surrounding the incident.
9. Videotape from KRGV-TV, Weslaco, Texas. Edcouch Police shown testing similar air rifle's power.

970603 CWF 7033

U.S. CONSUMER PRODUCT SAFETY COMMISSION

1120 LOCKWOOD
P.O. BOX 15729
HOUSTON, TEXAS 77220
(713) 675-4841

AUTHORIZATION FOR RELEASE OF NAME

RE: CPSC

NAME:

THANK YOU FOR ASSISTING US IN COLLECTING INFORMATION ON A POTENTIAL PRODUCT SAFETY PROBLEM. THE CONSUMER PRODUCT SAFETY COMMISSION DEPENDS ON CONCERNED PEOPLE TO SHARE PRODUCT SAFETY INFORMATION WITH US. WE MAINTAIN A RECORD OF THIS INFORMATION, AND USE IT TO ASSIST US IN IDENTIFYING AND RESOLVING PRODUCT SAFETY PROBLEMS.

WE ROUTINELY FORWARD THIS INFORMATION TO MANUFACTURERS AND PRIVATE LABELERS TO INFORM THEM OF THE INVOLVEMENT OF THEIR PRODUCT IN AN ACCIDENT SITUATION. WE ALSO GIVE THE INFORMATION TO OTHERS REQUESTING INFORMATION ABOUT SPECIFIC PRODUCTS. MANUFACTURERS NEED THE INDIVIDUALS NAME SO THAT THEY CAN OBTAIN ADDITIONAL INFORMATION ON THE PRODUCT OR ACCIDENT SITUATION.

WOULD YOU PLEASE INDICATE ON THE BOTTOM OF THIS PAGE WHETHER YOU WILL ALLOW US TO DISCLOSE YOUR NAME. IF YOU REQUEST THAT YOUR NAME REMAIN CONFIDENTIAL, WE WILL OF COURSE, HONOR THAT REQUEST. AFTER YOU HAVE INDICATED YOUR PREFERENCE, PLEASE SIGN YOUR NAME AND DATE THE DOCUMENT ON THE LINES PROVIDED.

YOU ARE HEREBY AUTHORIZED TO DISCLOSE MY NAME AND ADDRESS WITH THE INFORMATION COLLECTED ON THIS CASE.

MY IDENTITY IS TO REMAIN CONFIDENTIAL.

[Redacted Signature]

(SIGNATURE)

7/16/97
(DATE)

James W. Bradfield

JAMES W. BRADFELD, INVESTIGATOR
FOUR-HOU

7/14/97
(DATE)

710603 CWF 10-23
F9767025A
Section 15
32626

9770603 CWF 7033

Family learns a devastating lesson

Elsa child's death raises concerns about BB gun safety

By LAURIE MARTINEZ

EDCOUCH — BB guns aren't supposed to kill.

But they can, and one Elsa family learned that the hard way when their 4-year-old boy was accidentally shot through the ear Saturday while playing with his brothers.

The death of the boy shocked residents in the

Are BB guns safe? Street Talk / A2

twin cities of Edcouch-Elsa and raised questions about whether adults should let children play with BB guns.

"They shouldn't have been playing with it in the first place," Elsa resident [redacted] said.

That's where the parents come in. Parents need to be aware of what their children are doing.

[redacted] was playing with his three brothers when a pump-type BB gun he was struggling to take from one of them fired, Edcouch Police Chief Elby Zavala said. An

Please see 'GUN,' Page A12

PRESS CLIPS

TP Texas Press Service Inc.
 A business affiliate of the Texas Press Assn.
 718 W. 5th St., Austin, TX 78701
 512-477-6755, FAX 512-477-6759
 Harlingen, Valley Morning Star
 Harlingen TX

MAY - 6 1997

970603CWE7033
 F9767035A
 Section 15
 32624

GUN / Safety issues raised

Continued from A1

8-year-old brother had accidentally pulled the trigger, he said.

"The main thing to prevent something like this from happening again is supervision," Zavala said. "They (children) don't know how far a BB can go or that it can hurt someone."

The mother, [redacted] rushed him to Advance Cardiac and Trauma ambulance service in Edcouch. He was then taken by ambulance to Knapp Medical Center in Weslaco, where he was dead on arrival.

[redacted] said the boys were unsupervised when the shooting occurred.

Family members did not want to comment Monday on advice from their attorney, said Arturo Torres, the boy's father.

The accident sparked trepidation about BB guns among some residents of the community.

"I don't know the little boy but I think it's a tragedy," Elsa resident Betty Riley said. "I have always been against BB guns."

Businesses that sell BB guns say they can be used safely by adults.

Hugo Ruiz, a Sporting Goods manager at Broadway Hardware Store in McAllen, said the bottom line is that parents should teach their children not to play with any loaded gun.

His business sells BB and pellet guns, but only to adults.

"I feel sorry for what happened," but parents should take responsibility for the guns, Ruiz said. "They should have taken the gun."

Once an adult has finished shooting a gun, it should be emptied of shells and the gun and ammunition stored in separate

places under lock and key, Ruiz said.

[redacted] parents found out about the shooting when one of the boys [redacted] mother that he was lying on the ground and wasn't moving.

"I'm shocked and I'm sad," said Elsa resident Becky Rodriguez outside the city's bustling post office. "I think weapons are getting out of hand."

The shooting happened at the home of Epimenio Aguirre, Torres' uncle, who gave the boys the BB gun to play with, Zavala said.

"I feel bad for the man (Aguirre) because he feels real bad," Zavala said.

[redacted] and his brothers [redacted] Arturo, 6, and the unnamed 8-year-old [redacted] were outside playing with the gun. The 8-year-old boy had the gun and [redacted] to pull it away by grabbing the barrel. It then fired.

Bill Aston, director of Harlingen Emergency Medical Services, said paramedics get called twice a year about children injured by either a BB gun or pellet gun.

The city of Harlingen prohibits

BB guns, firearms, sling shots, bow and arrows and similar weapon toys from being fired inside city limits, Harlingen Police Chief Jim Scheopner said.

Scheopner offered this advice to Valley residents:

Everyone needs to be fully aware that these types of toys can be potentially deadly. They need to be used in accordance to the law.

D. F. F. F. F.

C. C. C. C. C.

970603 CwE 7033

OFFENSE/INCIDENT REPORT

PAGE NO. OF. PAC

NO. 97-0557

CLASSIFICATION HOMICIDE

NO.

DATE OF REPORT

CLASSIFICATION

1 COMPLAINANT OR FIRM AGE RACE SEX 2 PHONE (BUSINESS)

STATE OF TEXAS

3 COMPLAINANT'S ADDRESS 4 CITY 5 PHONE (RESIDENCE)

6 COMPLAINANT'S BUSINESS OR SCHOOL ADDRESS JOB TITLE (GRADE) WILL COMPLAINANT PROSECUTE?

YES NO

7 OFFENSE/INCIDENT (AS REPORTED) 8 LOCATION ADDRESS 9 TYPE PREMISES

HOMICIDE

10 DAY DATE & TIME OF OFFENSE 11 REPORTED BY 12 REPORTED TO 13 HOW REPORTED

5/3/97 7:50 P/M DE HOYOS PERSON

14 BODILY INJURIES YES [X] NO [] VICTIM TAKEN TO 15 TRANSPORTED BY 16 DESC. INJURIES 17 CONDITION

NO [] KNAPP A.C.T. DEAD ON ARRIVAL

18 M/O HOW DONE FORCE USED WITH WHAT TOOL OR WEAPON OTHER ACTS OR TRADEMARKS

19 VEHICLE INVOLVED? OWNER 20 YEAR COLOR MAKE MODEL BODY STYLE LIC. NO. YEAR STATE VIN NO.

NO [] YES []

CODES: S-STOLEN PROPERTY D-DAMAGED PROPERTY L-LOST PROPERTY F-FOUND PROPERTY

Table with 6 columns: CODE, QTY., DESCRIPTION, SERIAL NO., WHERE PURCHASED, VALUE. Includes vertical text 'PROPERTY SECTION' on the left.

22 DISPOSITION OF PROPERTY 23 TOTAL VALUE

24 WITNESSES NAME BEST CONTACT ADDRESS AGE BEST PHONE OTHER PHONE

WITNESSES NAME BEST CONTACT ADDRESS AGE BEST PHONE OTHER PHONE

25 NAME AND ADDRESS OF SUSPECT(S) (AGE, RACE, DESCRIPTION, BE A FIRM TO COMPLAINANT OR WITNESS)

DETAILS NO COVERED ABOVE ON SATURDAY, MAY 3, 1997 AT OR ABOUT 7:50 P/M. I, OFFICER DE HOYOS AND OFFICER GONZALEZ MET WITH COMPLAINANT AT THE A.C.T. HEADQUARTERS IN REGARDS TO AN ACCIDENTAL SHOOTING. REPORT TAKEN.

27 INVESTIGATING OFFICER(S) CARDENAS 28 REPORT MADE BY S. DE HOYOS DATE 5/3/97

29 CASE FILED 30 THIS CASE IS 31 APPROVED BY [Signature] BADGE NO. 307

YES [] NO [] Cleared by arrest [] Unfounded [] Inactive [] Other []

970603 CWF 7033

SUMMARY OF INCIDENT IN DETAIL ON SATURDAY, MAY 3, 1997 AT OR ABOUT 7:52 P/M. I OFFICER DE HOYOS 307 ARRIVED BEHIND A SMALL 4DR OLDSMOBILE BEARING LP'S XCL-57T TX. AT ADVANCED CARDIAC AND TRAUMA "ACT ON 107 AND MONTGOMERY. AS I PROCEEDED TO MAKE CONTACT WITH DRIVER ID AS EP [REDACTED] "RE" OUT OF [REDACTED] TX. HE STATED THAT HIS NEPHEW HAD ACCIDENTALY GOTTEN SHOT WITH A PELLET GUN IN THE CHEST AREA. BACK PAASSENGER EXITED VEHICLE SHE WAS ID AS SW [REDACTED] NOTICED HER CARRYING HER SON [REDACTED] D.O.B.: 10/31/92 4 YRS OLD IN HER ARMS. SHE GAVE HER SON TO ME. [REDACTED] WAS CRYING OUT LOUD AND VERY HYSTERICAL. I, OFFICER DE HOYOS NOTICED IN CHEST AREA A SMALL HOLE, NOTICE [REDACTED] GASPING FOR AIR, TRYING TO FALL ASLEEP. I KEPT ADVISING [REDACTED] NOT TO FALL ASLEEP. AS OFFICER GONZALEZ MADE CONTACT WITH ACT PERSONNEL. THEY OPENED DOORS OF ACT VEHICLE. [REDACTED] WAS PLACED ON STRECHER. AS I INTERVIEWED [REDACTED] I LEARNED THAT VICTIM [REDACTED] HAD GOTTEN SHOT BY HIS OLDER BROTHER [REDACTED] 8 YRS OLD. NO FURTHER ACTION TAKEN.

CHARGES FILED

FINGERPRINTED BY

NOT FINGERPRINTED

SIGNATURE AND DEPT. OF

S. DE HOYOS

[Handwritten Signature]

ID NO.

307

DATE OF REPORT

970603CWE 7033

SUPPLEMENTARY INVESTIGATION REPORT

PAGE NO. _____

NO. 97-0553

Classification _____

NO. _____

Name of Complainant		Address	Phone No.
Offense		Case Assigned To:	

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:

Date _____ 19__

ON SATURDAY, MAY 3, 1997 AT ABOUT 11:58 P/M. LT. CARDENAS AND OFFICER DE HOYOS PROCEEDED OUT TO THE HACIENDA APTS. UPON ARRIVAL AT APT. #21 WE MADE CONTACT WITH PARENTS OF [REDACTED] WE ASKED TO SPEAK TO [REDACTED] HE WAS ASKED HOW MANY TIMES HE HAD PUMPED THE PELLET GUN. HE STATED ONLY ONCE.

27 INVESTIGATING OFFICER(S) _____ 28 REPORT MADE BY S. DE HOYOS DATE 5/3/97

29 CASE FILED Yes No

30 THIS CASE IS Cleared by arrest Unfounded Inactive Other

31 APPROVED BY _____ BADGE # _____

970603cwe 7033

SUPPLEMENTARY INVESTIGATION REPORT

PAGE NO. _____

NO. 97-0553

Classification _____

NO. _____

Name of Complainant _____ Address _____ Phone No. _____

Offense _____ Case Assigned To: _____

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:

Date _____ 19 _____

ON MAY 3, 1997 AT OR ABOUT 7:52 P/M. I, OFFICER MEG [REDACTED] ED BEHIND OFFICER S. DE HOYOS 307 AT ADVANCED CARDIAC TRAUMA, "ACT" ON 107 AND MONTGOMERY. AS I STEPPED OUT OF MY UNIT I SAW MRS. GUERRA CARRYING HER SON [REDACTED] ES IN HER ARMS. SHE THEN GAVE HER SON TO OFFICER DE HOYOS 307. I THEN ADVISED ONE OF THE ACT PERSONNEL TO HELP. HE THEN OPENED THE DOORS OF THE ACT VEHICLE TO PUT THE BOY IN THE STRECHER. OFFICER DE HOYOS WAS GETTING INFORMATION FROM THE MOTHER, WHILE ACT WAS WORKING ON THE BOY. THE MOTHER AT THE TIME WAS HYSTERICAL AND NERVOUS. SHE GAVE OFFICER S. DE HOYOS AS MUCH INFORMATION AS SHE COULD REMEMBER. SHORTLY ACT WAS ON IT'S WAY TO HOSPITAL. OFFICER S. DE HOYOS AND I MEG [REDACTED] RE BACK IN SERVICE. NO FURTHER ACTION TAKEN.

27 INVESTIGATING OFFICER(S) _____ 28 REPORT MADE BY M. GONZALEZ DATE 5/8/97

29 CASE FILED Yes No 30 THIS CASE IS Cleared by arrest Unfounded Inactive Other 31 APPROVED BY _____ BADGE # _____

970603CWE7033

SUPPLEMENTARY INVESTIGATION REPORT

NO. 97-0557

Classification HOMICIDE

NO. _____

Name of Complainant <u>STATE OF TEXAS</u>		Address	Phone No.
Offense <u>CRIMINAL NEGLEGENT HOMICIDE</u>	Case Assigned To:		

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:

Date _____ 19__

MY NAME IS ELOY CARDENAS AND I AM EMPLOYED BY THE CITY OF EDCOUCH, POLICE DEPT. AS A LT./INVESTIGATOR.

ON SATURDAY, MAY 3, 1997 AT ABOUT 9:30 P/M, I WAS NOTIFIED BY OFFICER SERGIO DE HOYOS VIA PAGER THAT I NEEDED TO CALL IN FOR EMERGENCY TRAFFIC. UPON CALLING I LEARNED THAT A 4 YEAR OLD BOY HAD BEEN ACCIDENTALLY SHOT AND KILLED BY A B-B GUN. I ARRIVED AT THE EDCOUCH POLICE DEPT. AT 9:50 P/M AND WAS BRIEFED BY OFFICER SERGIO DE HOYOS ON WHAT HE HAD DONE UP TO THIS POINT AND THAT THE CHILD NOW IDENTIFIED AS [REDACTED] 4 YEARS OLD D.O.B. 10/31/92 AND HIS FAMILY WERE AT THE KNAPP HOSPITAL IN WESLACO, TX. PLEASE REFER TO OFFICER SERGIO DE HOY REPORT AND OFFICER MIGUEL GONZALEZ WHO ASSISTED HIM.

AT THIS TIME I DROVE TO WESALCO KNAPP HOSPITAL AND MADE CONTACT WITH [REDACTED] AT THE EMERGENCY ROOM. [REDACTED] WAS IDENTIFIED AS THE MOTHER OF DECEASED 4 YEAR OLD BOY. THER WERE SOME FEMALES AROUND HER WHO WERE CRYING AND SO WAS [REDACTED] THERE WAS ALSO A MALE WHOM WAS VERBALLY IDENTIFIED AS [REDACTED] YEARS OF AGE D.O.B. 7/12/64 [REDACTED] EDCOUCH TX. [REDACTED] ADVISED THAT SHE WAS OUT OF THE [REDACTED]

[REDACTED] ELSA, TX. SHE STATED THAT SHE ALONG WITH HER 4 SONS, [REDACTED] 8 YEARS OLD, [REDACTED] 6 YEARS, [REDACTED] 4 YEARS AND RENE TORRES 1 YEAR OLD WERE AT 300 BLK. NIXON AT E [REDACTED] VISITING WHEN

[REDACTED] ACCIDENTALLY SHOT HIS 4 YEAR OLD BROTHER [REDACTED] WITH A B B GUN. I ASKED [REDACTED] HIS RELATION TO [REDACTED] AND HER KIDS. HE STATED THAT HE WAS THE CHILDREN'S UNCLE [REDACTED] WENT ON TO SAY THAT ON TODAY'S DATE 5/3/97 AT ABOUT 7:35 P/M, [REDACTED] AND HER 4 SONS WER AT HIS TRAILER HOUSE ON 300 NIXON EDCOUCH, TX. HE ADVISED THAT THE CHILDREN WERE PLAYING OUTSIDE IN THE FRONT YARD AS THEY WERE FIXING THE AIR CONDITIONER INSIDE ACCORDING TO [REDACTED] HE WAS ASKED BY ONE OF THE BOYS IF THEY COULD BORROW HIS

ELOY CARDENAS

REPORT MADE BY ELOY CARDENAS

DATE _____

27 INVESTIGATING OFFICER(S)

28

29 CASE FILED

30 THIS CASE IS

31 APPROVED BY

BADGE #

Yes No Cleared by arrest Unfounded Inactive Other

B-B GUN THAT HE HAD PURCHASED ABOUT 3 WEEKS AGO TO SHOOT AT CANS. [REDACTED] ADVISED HE LEND IT OUT TO THEM AND ADVISED THEM TO BE CAREFUL AND THEN WENT BACK OUTSIDE. ABOUT 15 MINUTES PASSED WHEN [REDACTED] 8 YEARS OLD CAME RUNNING INSIDE THE TRAILER STATING THAT HE HAD ACCIDENTALLY SHOT [REDACTED] ON THE CHEST AND THAT HE WAS ON THE GROUND. BOY [REDACTED] AND [REDACTED] THEN TOOK [REDACTED] TO THE ACT AMBULANCE IN EDCOUCH, TX. AS [REDACTED] WAS GASPING FOR AIR. HE WAS THEN TRANSPORTED TO THE KNAPP HOSPITAL AS HE DIED ON THE WAY THERE. I ASKED [REDACTED] AND [REDACTED] WHERE THE B-B GUN WAS AT AND WHERE [REDACTED] WAS AT. THEY STATED THAT THE GUN WAS AT THE TRAILER HOUSE WHERE THE SHOOTING OCCURED AND THAT [REDACTED] WAS AT A FRIENDS HOUSE. AT 11:05 P/M I MADE CONTACT WITH JP JESUS E. MORALES WHO ORDERED A COMPLETE AUTOPSY TO BE DONE AT ELIZONDO EMBALMING SERVICE THE NEXT DAY. I THEN WENT TO THE AREA WHERE [REDACTED] BODY WAS AT IN THE EMERGENCY ROOM AND TOOK SOME PHOTOGRAPHS OF THE BODY AND WOUND ON THE CHEST. PLEASE REFER TO PHOTOGRAPHS. I THEN MADE CONTACT WITH [REDACTED] AGAIN TO ASK FOR CONSENT TO SPEAK TO [REDACTED] AND OBTAIN HOSPITAL RECORDS. SHE CONSENTED. PLEASE REFER TO HOSPITAL RECORDS FOR INFORMATION AND DOCTOR NOTES. I THEN OBTAINED THE CLOTHING OF THE DECEASED [REDACTED] AS EVIDENCE. PLEASE REFER TO PICTURES AS I LATER PHOTOGRAPHED THE ITEMS, SHORTS UNDERWEAR, SOCKS, TENNIS, NO SHIRT. I THEN LEFT THE HOSPITAL AND AT ABOUT 11:48 P/M, MYSELF AND OFFICER SERGIO DE HOYOS MADE CONTACT WITH [REDACTED] AT HIS TRAILER HOUSE TO TAKE PHOTOGRAPHS THE CRIME SCENE AND RECOVER THE MURDER WEAPON. I RECOVERED A FAIRLY NEW BLACK DAISY POWER LINE B.B. GUN RIFLE PUMP ACTION LEVER WITH A SCOPE (856-177) CAL PELLET). I LATER PHOTOGRAPHED IT AND PLACED IT IN THE EVIDENCE ROOM. OFFICER DE HOYOS AND I THEN DROVE TO [REDACTED] TX. TO MAKE CONTACT WITH [REDACTED] AND HER 8 YEAR OLD SON [REDACTED]. [REDACTED] WAS CRYING WHEN I ASKED HIM TO TELL ME WHAT HAPPENED IN THE PRESENCE OF HIS MOTHER AND WITH HER CONSENT. HE STATED THAT TONIGHT HE ALONG WITH HIS BROTHER'S WERE IN FRONT OF THE YARD AT THEIR UNCLE'S HOME [REDACTED] WHEN HE HAD [REDACTED] B. GUN AND THAT [REDACTED] TRIED TO GET IT FROM HIM AND THAT

HE ACCIDENTALLY FIRED AT [REDACTED] CHEST AND HE FELL. HE THEN TOLD HIS UNCLE WHAT HAPPENED. I ASKED [REDACTED] HOW MANY TIMES HE PUMPED THE LEVER ACTION ON THE RIFLE AND HE STATED ONE TIME AS HE HELD HIS RIGHT INDEX FINGER. OFFICER DE HOYOS AND I THEN LEFT.

ON SUNDAY, MAY 4, 1997 AT ABOUT 2:40 P/M I WAS AT OFFICE OF ELIZONDO EMBALMING SERVICE LOCATED AT 805 MAYBERRY ST. IN MISSION, TX., PHONE #585-2223 FOR THE AUTOPSY ON [REDACTED] 4 YEARS OLD TO DETERMINE THE CAUSE OF DEATH. DURING THE AUTOPSY I TOOK SEVERAL PHOTOGRAPHS SHOWING THE POINT OF ENTRY OF THE B.B. AND THAT IT PIERCED THE HEART. PLEASE REFER TO PICTURES. IT WAS ALSO LEARNED THAT THE SINGLE B.B. GUN SHOT TO THE HEART WAS THE CAUSE OF DEATH OF [REDACTED] PLEASE REFER TO THE AUTOPSY REPORTS AND X-RAYS. I WAS ALSO GIVEN THE B.B PELLETT THAT KILLED [REDACTED] PLEASE REFER TO PHOTOGRAPHS.

ON FRIDAY, MAY 9, 1997 AT 9:00 A/M, I MADE CONTACT WITH SOFIA ARISPE VIA TELEPHONE AT THE HIDALGO COUNTY DISTRICT ATTORNEYS OFFICE. SOFIA ARISPE IS THE ASSISTANT DISTRICT ATTORNEY OF HIDALGO COUNTY. DURING MY INVESTIGATION OF THIS MURDER CASE, IT WAS LEARNED THAT IT WAS AN ACCIDENTAL SHOOTING (MURDER). DUE TO THE CIRCUMSTANCES ON HOW THE 8 YEAR OLD GOT A HOLD OF THE B.B. GUN AND THAT IT WAS A HIGH POWERED RIFLE PUMP ACTION. I WANTED TO CHECK WITH THE DA'S OFFICE. AFTER GOING OVER THE CASE VIA TELEPHONE WITH SOFIA ARISPE, IT WAS DETERMINED THAT THE RIFLE COULD BE QUESTIONABLE IF IT WOULD BE A "FIREARM" FOR THE ONLY CHARGE THAT WOULD BE APPLICABLE ON THE DECEASED'S UNCLE [REDACTED] TO WIT: MAKING A FIREARM ACCESSIBLE TO A CHILD SEE 46.13 OF THE TEXAS PENAL CODE "CLASS A MISDEMEANOR).

THIS CASE RULED AN ACCIDENTAL SHOOTING!

970.603 CwE 7033

TORRES, MIGUEL M 4Y
97123 00097 000-05-5915
RCA P 10/31/92 ER
MD: MARTINEZ, JORGE

EMS - HOSPITAL REPORT

Advanced Cardiac & Trauma
Emergency Medical Services
Rt 1, Box 484-B Weslaco, Tx 78596
TDH PROVIDER # 108048

Incident Location:

City: Edcouch La Villa Weslaco
 Elsa Mercedes Rural
 Hargill Monte Alto Other
 La Blanca Progresso

County: Cameron Hidalgo Willacy

Location Description: residence residential institution
 workplace school
 public bldg recreational
 roadway other
Weld-in station #2

Patient Name: ~~XXXXXXXXXX~~

Age: 4 DOB: 10-31-92 Sex: (M) F

Chief Complaint: Pt. shot with B.B Gun on

Associated Complaints: *CLIST*

ET - Tube 4.0

Injury/Illness Description:

No Med Hx / No H/dietion

Allergies: *NKA*

Private Physician:

TREATMENT

Spine: C-Collar Backboard KED
 Head Immob BB Straps Spider
Splint: R Arm L Arm R Leg L Leg
Bandage: R Arm L Arm R Leg L Leg
 Head Neck Chest Abdomen
 Pelvic Back Other
Oxygen: N/C SFM NRB None *BVM - ET-Tube*
IV: No Attempt Unsuccessful
 Successful # Attempts: []
Solut: LR NS Amt Infused:
Cath: 14 16 18 20 []
Set: Macro Micro

GLASGOW COMA STATUS

Motor Response:
1 None
2 Extends to Pain
3 Flexion to Pain
4 Withdraws from Pain
5 Localizes Pain
6 Obeys Commands

INITIAL PHYSIOLOGICAL STATUS

Respiratory Rate:
4 10-24
3 25-35
2 >35
1 <10
0 Apneic

Eye Opening:

None
2 To Pain
3 To Voice
4 Spontaneous

Respiratory Expansion:

1 Normal
1 Shallow
0 None

Systolic Blood Pressure:

4 >160
4 140-159
4 120-139
4 90-119
3 70-89
2 50-69
1 <50

Verbal Response:

1 None
2 Incomprehensible
3 Inappropriate
4 Confused
5 Oriented
0 Endotracheally Intubated

0 None *unable to obt.*

Glasgow Coma Scale:

5 14-15
4 11-13
3 08-10
2 05-07
1 03-04

Capillary Refill:

2 < 2 seconds
1 > 2 seconds
0 None

Determine IPS Score by totalling the sum of the fields above (0-11): _____

Enter IPS Score (0-11): 1

Enter GCS Score (0-5): 2

Add Scores for Trauma Score: 3

Motor Vehicle Collisions

Vehicle: Automobile Motorcycle
Type of Collision: Head-On Lateral Impact
 Rear-End Rollover
 Auto-Pedestrian Other
Impact Detail: Not Visible Moderate
 Minimal Severe
Location in Vehicle: Passenger Side Right Rear
 Driver Side Ejected
 Left Rear Other
 Unknown Pedestrian
Patient Restrained: Seat Belt Airbag
 Helmet Child Restraint
 No Restraint Unknown
Extrication Required: Yes No
Extrication Time: <10 min > 10 min

Times

Dispatched: 19:56 *WCLCIN*
Enroute: 19:56
On Scene: 19:56
En Route: 20:03

Driver

Samuel Lopez
EMT-P
Attendant
Pias, Irde
EMT-1

Pupils: Reactive Sluggish Unreactive
 Unequal Dilated Constricted

Pulse Rate: _____ Respiratory Rate: _____ Blood Pressure: _____

Pulse Quality: Regular Irregular Full
 Thready Absent Other

Resp: Normal Fast Labor Noisy Absent

Initial EKG: NSR SVT 2 HB IV
 SA PAC 3 HB ASY
 SB AFL VT JR
 ST AFI PVC PMR
 PAT HB VF No EKG

Patient Received By (Signature): *(Signature)*

970603CWE7033

05/03/97 2108

KNAPP MEDICAL CENTER
1401 East 8th Street
Weslaco, TX 78596
(210) 968-8567

CLINIC: ES PAT TYPE: ER FC: P MR#: : 000-05-5915 PAT NO: 97128 00097

PAT NAME: ██████████ SEX: M M/S: S R/O: 4 DT/IN: 05/03/97 2000

P/ADDR: P.O. BOX 1296 B/DATE: 10/31/92 AGE: 4Y P/CLASS: DRP
PAT CSZ: EDCOUCH TX 78538

ADM: MARTINEZ, JORGE

SS NO: PHYSICIANS 3 REF:

PAT PH#: (210)262-3274 ATT: MARTINEZ, JORGE

DIAGNOSIS: CODE BLUE

ACC/TYPE: IN THE HOME PLACE: AT HOME DATE: 05/03/97 2000

P/EMPL:
EMPL/ADDR: EMPL/CSZ:

G/NAME: GUERRA, SYLVA G/SS#: 451-52-3212 G/REL: MOTHER

G/ADD: PO BOX 1296 G/CSZ: EDCOUCH TX 78538

G/OCC: PROVIDER G/EMPL: IPH-HEALTH CARE G/EMPL#:
G/PH#: (210)262-3274

INS CO: POL #: GRP #:
INSURED: INS CO ADDR:
INS CO CSZ:

INS CO: POL #: GRP #:
INSURED: INS CO ADDR:
INS CO CSZ:

INS CO: POL #: GRP #:
INSURED: INS CO ADDR:
INS CO CSZ:

NEXT OF KIN: REYES, MARIA NOK ADDRESS:

CITY: EDCOUCH ST: TX ZIP: 78538 PH: (210)262-1319 REL: GRANDMOTH

ROOM ADMITTED TO: - CLERK: PM

ADVANCE DIRECTIVES: NONE CHURCHES: ROMAN CATH OTHER ROMAN CATHOLIC C

COMMENTS:
NEED TO MAKE ARRANGEMENTS

970603CWF7033

KNAPP MEDICAL CENTER

Responding Physician J. MARTINEZ

Family Physician J. MARTINEZ

Nursing Staff C. COLLINS V. VAZQUEZ M. TORRES J. AGUIAR

R.T. S. Lopez / F. Vega

Other Staff _____

97123 00097 000-05-5915
RCA P 10/31/92 ER
MO: MARTINEZ, JORGE

M 4Y

ARRREST OCCURED: VENTILATION: COMPRESSIONS:
Date: 5/3/19 () Ambu/O₂ () External
Time: PTA Time: PTA Time: PTA

DEFIBRILLATION			CONVERTED		
Time	Joules	By	Yes	No	Rythm

RESUSCITATION STARTED BY: EMS PTA

MEDICATIONS	Dosage	Route	Time	Time	Time	Time	SIGNATURE
epinephrine	1.9mg (1:1000)	IV	2017	2017	2017	2017	<u>[Signature]</u>
lidocaine							
atropine	0.4mg	IV	2017	2017			<u>[Signature]</u>
a. Bicarb.							

Time	Pulse	Resp	B/E
2019	0	0	CNT CPR
2025	0	0	CNT CPR
2020	0	0	ROPEL 09m & 1m
2032	0	0	CNT CPR
2039	0	0	CNT CPR

Time	IV SOLUTION	Added MEDICATION	Dosage	Rate	SIGNATURE

Lab/Radiology Ordered
2019 - Lab drawn
2020 - CXR
2026 - CXR

UBES/LINES	Size	Time	Site	By
V Good LR	18	2019	Q.A.C	(4)
V Good N/S	20	2014	EMANG	(1)
Endotracheal	4.0	2021	na	J. Martinez
Olely	8	2032	na	(4)
IG	12	2026	na	(2)

COMMENTS:
 2019 PT ADMITTED via EMS status 2 CIL/Vent. via tube in place
 CPR/Vent's continued OA - ETUBED down Esophageal intubation
 X DL Monitoring - did - localised on chest x DL Monitoring
 R/L / N/S continued on noted - 2022 Periodic TAs
 X DL Monitoring → 0 Return 2024 Periodic TAs
 X DL Monitoring → 0 Return (Vay) - CDR called @ 204
 PT Expired - PD [Signature]

Resuscitation: _____ Physician signature verifying orders for medications
 Time disc. 1045 Outcome Unsuccessful procedures and treatments _____
 Verbal Order Dr. J. Martinez /Nurse [Signature]
 CABALLERO

PATIENT NAME: Miguel Torres

970603 CUE 7033

TRIAGE DATE 5-3-97	ARRIVAL TIME 2018 AM PM	TRIAGE TIME 2018 AM PM	A.M. P.M.	TRIAGE CODE 1 2 3 4	ARRIVED BY: <input type="checkbox"/> Private Car <input checked="" type="checkbox"/> Ambulance	ROOM 1 2 3 4
PATIENT John Doe	PHYSICIAN			VIA: <input type="checkbox"/> Ambulatory <input checked="" type="checkbox"/> Stretcher <input type="checkbox"/> Wheelchair <input type="checkbox"/> Carried	CARDIAC .. A E TRAUMA ... A E OBS A E	
VITAL SIGNS:	TEMP	PULSE	RESP	B/P	DATE ONSET 5-3-97	ACCIDENT DATE ?
CHIEF COMPLAINT: Unresponsive					AGE 4 yr	WEIGHT

ALLERGIES: ?	DATE LAST TETANUS TOX	PREVIOUS ADMISSION <input type="checkbox"/> Yes <input type="checkbox"/> No			
MEDICINE / STRENGTH	DOSE	TIME LAST DOSE	MEDICINE / STRENGTH	DOSE	TIME LAST DOS
?					

PAST MEDICAL HX:

EMERGENCY CARE GIVEN TO PATIENT P.T.A.: Intubated

NURSING ASSESSMENT: 4 yr old male presents & unresponsive s/p BB shot to chest.

TRIAGE SIGNATURE											
NEUROLOGICAL	Y	N	RESPIRATORY	Y	N	INTEGUMENTARY	Y	N	HISTORY	Y	N
PUPILS:			Wheezing			Normal	<u>Tuberc</u>	<input checked="" type="checkbox"/>	Prematurity		
Reactive			Congested			Dry			Seizures		
Nonreactive			Retracting			Scaly			Asthma		
Fixed			Cough			Poor Turgor			Heart Disease		
Dilated			Crackles			Rash			Diabetes		
Constricted			Pain			Sores			Comm. Dis.		
Pupil Size (mm)	<u>5 x</u>		Cyanosis			Ulcerations			Hypertension		
ORIENTED:	Y	N	GASTROINTESTINAL	Y	N	Lacerations	<u>G.I. tract</u>		Falls		
Person			ABDOMEN:			Bruises			Other(s)		
Place			Soft			MUSCULOSKELETAL	Y	N	CARDIOVASCULAR	Y	N
Time			Distended		<input checked="" type="checkbox"/>	Flaccid		<input checked="" type="checkbox"/>	Regular		
ALERT			Tender			Edema			CAPILLARY REFILL:	Y	N
BONDING			Firm			Swelling			Brisk		
LETHARGIC			Pain			Contractures			Prolonged		<input checked="" type="checkbox"/>
IRRITABLE			Vomiting			Weakness			PULSES:		
CONSOLABLE			BOWEL:	Y	N	Paralysis			Weak		
UNRESPONSIVE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Diarrhea			Arching			Full		
GENITOURINARY			Constipation			Rigid			Bounding		
BLADDER:			Pampers			Deformities			Absent		<input checked="" type="checkbox"/>
Dysuria			Last B.M.			PROSTHESES:			IMMUNIZATIONS	N	
Hematuria						Up-to-date			Up-to-date		
Distention						Date last given	<u>4/10/97</u>		Pink		
Last Void									Pallor		
									Jaundice		

PSYCHOSOCIAL DESCRIPTION:

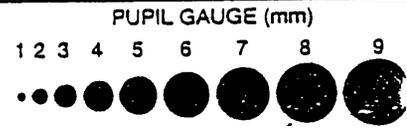
ATTITUDE: Cooperative? Yes No

MOOD: Happy Sad Angry Combative Content

THOUGHT PROCESS: Logical Confused

VARIANCE: _____

PHYSICAL ASSESSMENT DONE BY: [Signature] Time 2020



PATIENT IDENTIFICATION

TORRES, MIGUEL M 4Y
 97123 00097 000-05-5915
 RCA P 10/31/92 ER
 MD: MARTINEZ, JORGE

KNAPP Medical Center
 EMERGENCY SERVICES
 PEDIATRIC ADMISSION

970.603CWE7033

CHIEF COMPLAINT:

4 yr old arrives to

M.D. Time 2100H

HISTORY: ER DOA.

after EMS two children were fighting for the BB gun (tussling at)

BB gun went off striking this 4 yr old in abdomen. child was carried

Other systems reviewed and found to be negative by parents in their arrival to REVIEW OF SYSTEMS: Her Police

CV S. A. M. D. W. T. H. E. M. G. U. child was breathing

RESP had pulse. ENEURO/PSYCH was called to

transport child to hospital. en.

GI 1300 child ~~CHOKED~~ (Sawing PTA

PAST HISTORY to KNAPP) child Hx not obtainable due to ~~knapp~~

(intubated en. route in the esophagus)

FAMILY HISTORY arrived to ER KNAPP pulseless,

SOCIAL HISTORY pupils dilated now reactive to

GENERAL/SKIN light on touch exam. NO cardiac

activity. Breath sounds in supine.

HEENT tube removed. child reintubated

by me in theatre. Film showed a foreign

HEART (R - tube removed. (R) lung expanded

LUNGS Boluses of IV fluids failed to produce

ABDOMEN Detectable cardiac activity or vital signs

RECTAL/PELVIC/GENITALIA epinephrine 1.9 given 9 5 min

+ atropine x 2 0.4 IV failed to produce

BACK/NEURO cardiac activity. child 2045 still

pulseless. P activity 0. (aw eno.

occasional agonal "beat" seen. NO tube + Foley

EXTREMITIES in place. throughout activity waves

came. CPR continue on and on. Percardial

centum done twice NO response. NO pupils

seen either. Lateral film chest is a puzzle

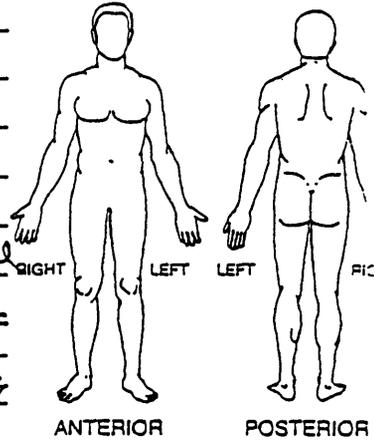
DIFFERENTIAL Dx(s) The BB pellet is visible superficial in the lateral

view. Code stopped 27 1/2 min from its inception.

Family (w/forwards) utter devastation in them.

FINAL DIAGNOSIS Dx(s) DOA. / BB GUNSHOT WOUND TO CHEST

CONDITION ON DISCHARGE DIED.



CBC		UA	
RBC		CC	<input type="checkbox"/> CATH
HGB	11.7	SPEC. GRAV.	
HCT	34.0	pH	
WBC	6.86	PROTEIN	
S. NEUT. %		GLUCOSE / KETONE	
BANDS		WBC	
LYMPHS %	72	RBC	
OTHERS		BACTERIA	
		OTHERS	
		HCG	
SMAC			
GLUC	62		
BUN		CONTROL	PATIENT
Na	148	PT	
K	-	PTT	
Cl		CULTURES	
CO2	17.2		
ENZYMES			
AST		PULSE OXIM	
LDH		ABG	
CPK		pH	6.99
MB		PCO2	40.6
OTHERS		PO2	158
		ACT HCO2	
		O2SAT	97.9

EKG :-

X-RAY

RECORDS REVIEWED
 Yes No

FAMILY PHYSICIAN: TIME NOTIFIED REFERRED MD:

970603 CWF 7033

M 4Y

97123 00097 000-05-5915
RCA P 10/31/92 ER
MO: MARTINEZ, JORGE

CODE:

D - Dietary RT - Resp. Therapy
N - Nursing PT - Physical Ther
DP - Discharge Planning XR - Radiology
L - Laboratory

KNAPP Medical Center

PATIENT PROGRESS NOTES

PAGE ONE

DATE	TIME	CODE	OBSERVATIONS AND COMMENTS
			VIA A.C.T. EMS SERVICE FULL
			ARREST ON 4 Y/O MALE G.S.W. CHEST
			Hx: (PER EMS) WRESTLING & OTHER CHILD
			OVER POSSESSION OF B.B. GUN. WEAPON DISCHARGE
			CHILD THEN "WALKED" (CARRIED) TO EMS
			STATION, TIME ONSET X 10 MIN PTA AT
			STATION, AGAIN PER EMS PERSONEL. HE
			WAS, PER EMS, ON ARRIVAL TO STATION
			AWAKE & ALERT, HE WAS TALKING.
			IN TRANSPORT (ABOUT 5 MIN OUT FROM
			ER) HE BECAME APNEIC & PULSLESS
			EMS INTUBATED & NO IV EST.
			ASSESSMENT & INTERVENTION ON ARRIVAL
			AIRWAY ET TUBE GASTRIC PLACEMENT
			BY AUSCULTATION, DCO PRE OXYGENATED O2
			B.M.D. (BAG MASK DEVICE) & RE INTUBATED
			Lung sounds +.
			BREATHING, BAGGED
			CIRC: IUXIT 18 EST (L) A/C LRT
			1000 CC OPEN RUN
			DEFLECT: NEURO NON RESPONDING & FIXED
			PUPIL @ 9MM
			EXPOSURE: FINGERS SINGLE WOUND TO

970603 CWE 7033

M 47

97129-00097 000-05-5915
RCA P 10/31/92 ER
MD: MARTINEZ, JORGE

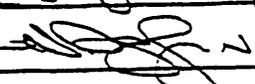
CODE:

D - Dietary RT - Resp. Therapy
N - Nursing PT - Physical Ther
DP - Discharge Planning XR - Radiology
L - Laboratory

 **KNAPP** Medical Center

PATIENT PROGRESS NOTES

Page 2

DATE	TIME	CODE	OBSERVATIONS AND COMMENTS
			THE CHEST R.R. SIZED. NO OTHER
			SEE CODE RECORD FOR FURTHER INFO
			POST CODE _____
			HIND SIDE ROLE OVER FINGERS NO OTHER
			INJURY _____ 
			Judge Morales, ELISA / EDCOUCH PD NOTIFIED
			_____ 
			CONTACT "DELEON" ELISA P.D. CONTACT.
			"DELEON" EDCOUCH WHO WILL CONTACT
			INVESTIGATION CARDS _____ 
5-3-97	2130		Mother @ bedside. Crying. Judge Morales
			speaking family. _____ 
	2155		Judge Morales left ER. Called PD to release
			Father to come see son. _____ 
	2210		Edcouch PD here to determine location of incident
			and is speaking family. _____ 
	2235		Mother signed consent for Med records &
			photograph to Edcouch PD investigator. Judge
			Morales back. Father here & family to view
			body. _____ 

970 603 CUE 7033

When shooters are ready to move up a notch in power and precision, Daisy is there. Our Power Line airguns offer an unmatched selection of models combining the performance, look and feel demanded by experienced shooters.

Model 856

A great introduction to the world of high-velocity airguns, and a choice of ammo as a BB repeater or single shot pellet rifle.

ACTION: Multi-pump pneumatic	SAFETY: Crossbolt trigger block
CALIBER: .177 (4.5 mm) BB or Pellet	BARREL: Rifled steel
SIGHTS: Blade and ramp front, adjustable rear	MUZZLE VELOCITY: Up to 650 fps./BB; 630 fps./pellets
STOCK/FOREARM: Molded woodgrain	MAX. SHOOTING DISTANCE: 286 yds.
RECEIVER: Engineering resin with dovetail mount for scope	OVERALL LENGTH: 37.4 in.
CAPACITY: 100 shot BB/single shot pellet	WEIGHT: 2.7 lbs.

Model 7856 Eagle

The Power Line Eagle has landed. This sleek, black and gold air rifle has the look and feel of a sharp shooter—and Daisy's provided the sharp eye of the 4x15, 808 scope.

ACTION: Multi-pump pneumatic	CAPACITY: 100 shot BB/single shot pellet
CALIBER: .177 (4.5 mm) BB or Pellet	SAFETY: Crossbolt trigger block
SIGHTS: Blade and ramp front, adjustable rear; includes 4x15 808 scope	BARREL: Rifled steel
STOCK/FOREARM: Molded woodgrain positive grip forearm with finger grooves	MUZZLE VELOCITY: Up to 650 fps./BB; 630 fps./pellet
RECEIVER: Engineering resin with dovetail mount for scope	MAX. SHOOTING DISTANCE: 286 yds.
	OVERALL LENGTH: 37.4 in.
	WEIGHT: 2.9 lbs.

Model 880

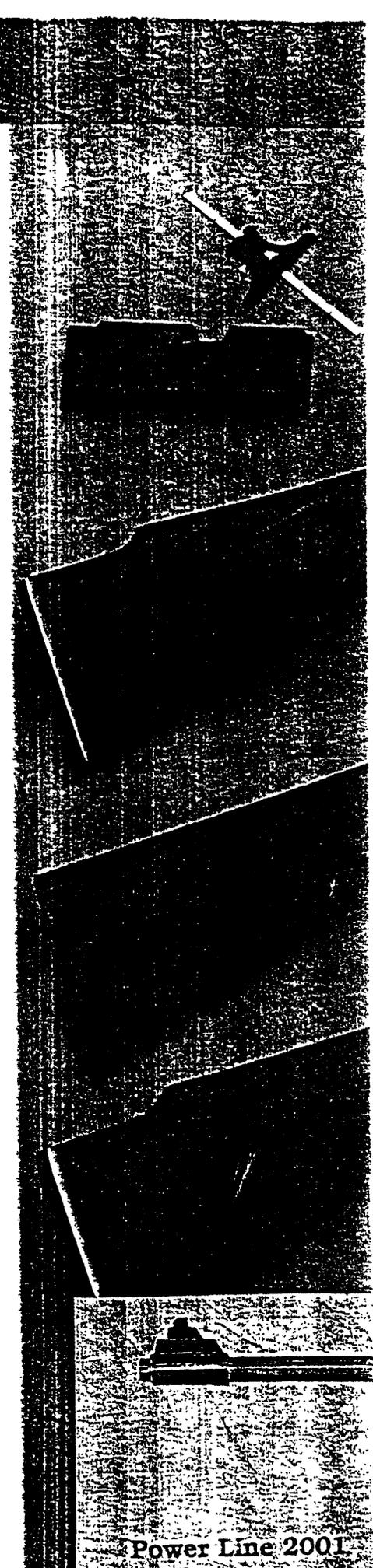
Daisy's best selling multi-pump pneumatic. Performance and reliability get high marks in this model for shooters age 16 or older.

ACTION: Multi-pump pneumatic	dovetail scope mount
CALIBER: .177 (4.5 mm) BB or Pellet	CAPACITY: 100 shot BB/single shot pellet
SIGHTS: Hooded blade and ramp front, adjustable open rear	SAFETY: Crossbolt trigger block
GRIP: Checkered beavertailed forearm with accent diamond insert	BARREL: Rifled steel
STOCK/FOREARM: Monte Carlo-styled molded woodgrain	MUZZLE VELOCITY: Up to 685 fps./BB; 665 fps./pellet
RECEIVER: Engineering resin.	MAX. SHOOTING DISTANCE: 291 yds.
	OVERALL LENGTH: 37.6 in.
	WEIGHT: 3.7 lbs.

Model 2001 NEW FOR 94

Daisy's new 35-shot CO₂ pellet repeater will change the way you think of airguns. The patented helical clip magazine is 21st century repeater technology in the 1990's. (Available Mid-Year)

ACTION: Bolt Action CO ₂ Repeater	MAGAZINE: 35-shot helical clip
CALIBER: .177 Pellet	SAFETY: Manual crossbolt trigger block
SIGHTS: Blade and ramp front, fully adjustable open rear	BARREL: Rifled steel
GRIP: Checkered stock & forearm	MUZZLE VELOCITY: up to 625 fps.
STOCK/FOREARM: Monte Carlo styled molded woodgrain	MAX. SHOOTING DISTANCE: 279 yds.
	OVERALL LENGTH: 37.4 in.
	WEIGHT: 3.1 lbs.



Power Line 856

Power Line 7856 Eagle

Power Line 880

Ammo and accessories shown on pages 24-27

For Ages 16 and Over

970603CWE 7033

970603 CWE 7033

DALLAS SATELLITE OFFICE
PHOTO SHEET

PICTURE NO. 1

DESCRIPTION: Scene of the accident (daytime, far)



970603CWE 7033

DALLAS SATELLITE OFFICE
PHOTO SHEET

PICTURE NO. 2

DESCRIPTION: Scene of the accident (daytime, close)

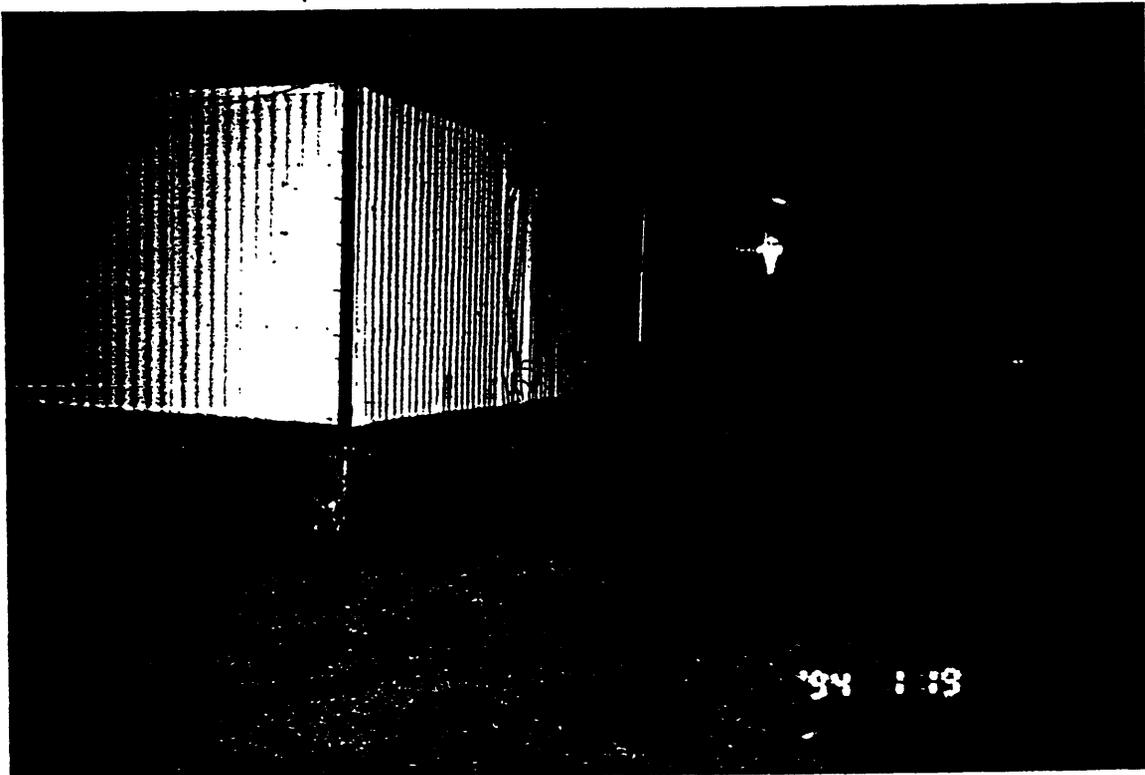


DALLAS SATELLITE OFFICE
PHOTO SHEET

970603 CwE 7033

PICTURE NO. 3

DESCRIPTION: Scene of the accident (night, angle view)

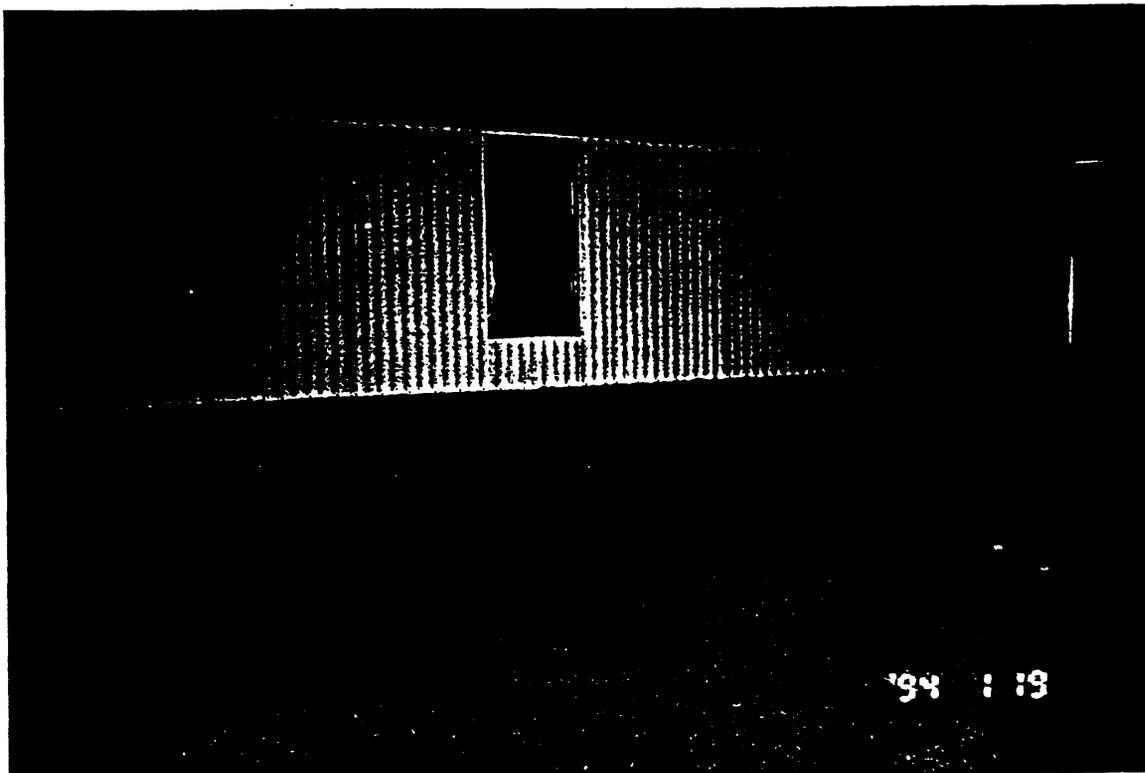


DALLAS SATELLITE OFFICE
PHOTO SHEET

970603 LWE 7033

PICTURE NO. 4

DESCRIPTION: Scene of the accident (night, front view)



DALLAS SATELLITE OFFICE
PHOTO SHEET

970603CWE 7033

PICTURE NO. 5

DESCRIPTION: Victim, wound in the upper middle chest.

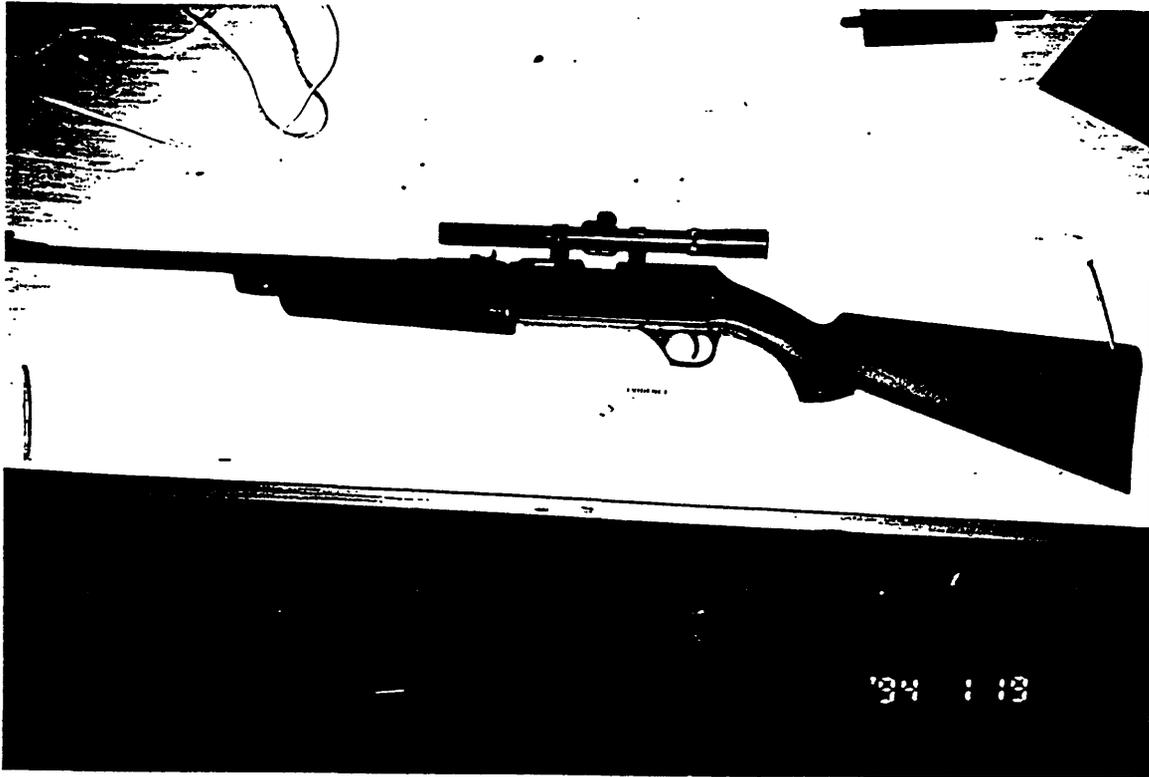


970603 CWF 7033

DALLAS SATELLITE OFFICE
PHOTO SHEET

PICTURE NO. 6

DESCRIPTION: Actual air rifle in question



970603 CWF7033

DALLAS SATELLITE OFFICE
PHOTO SHEET

PICTURE NO. 8

DESCRIPTION: Short pants the victim was wearing at the time of
the accident showing blood stain.



970603 CWE 7033

DALLAS SATELLITE OFFICE
PHOTO SHEET

PICTURE NO. 7

DESCRIPTION: Clothing the victim was wearing at the time of the
accident.



LOCKER GREENBERG & BRAININ, P.C.
ATTORNEYS AT LAW

AARON LOCKER
THEODORE M. GREENBERG
FREDERICK B. LOCKER
JEFFREY M. LOCKER
CAROLYN Z. SLOVIS

DAVID N. BRAININ
OF COUNSEL

420 FIFTH AVENUE, NEW YORK, N.Y. 10018
(212) 391-5200
TELECOPIER (212) 391-2035

Copy: 9/24
C. Davis
Locker

September 23, 1997

Ms. Ann Montalbano
Director, National Injury Information Clearinghouse
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

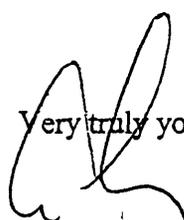
Re: **Daisy Manufacturing Co.**
97 0603 CWE 7033 1237

Dear Ms. Montalbano:

We represent Daisy Manufacturing Company. Your letter of September 9, 1997, with reference to the above matter has been referred to us for attention and reply.

We have examined the Epidemiologic Investigation Report contained in your letter. The report makes it quite clear that the gun was discharged accidentally after a four-year old grasped the gun and attempted to wrestle it away from his older brother. In our opinion, the product does not contain a defect which could create a substantial product hazard nor does it create an unreasonable risk of serious injury or death.

If you have any further questions, please feel free to communicate with me.


Very truly yours,
Aaron Locker

AL:dd

photos

13 AUG 1996

1. CASE NO. 960712CAA5330		2. INVESTIGATOR'S ID [9][0][0][3]		3. OFFICE CODE [8][3][0]		EPIDEMIOLOGIC INVESTIGATION REPORT	
4. DATE OF INCIDENT ^{TR} MO DAY [9][6][0][6][1][5]		5. DATE INVESTIGATION YR MO DAY INITIATED [9][6][0][7][1][7]					
6. SYNOPSIS OF INCIDENT OR COMPLAINT: On 6/15/96 at approximately 3:00PM a 11 year old boy accidentally shot himself in the eye with a BB gun. The boy was attempting to cock the lever action of the BB gun when it fired without the trigger being pulled and while the safety was on. The boy was temporarily blinded and his iris was torn; his vision has since returned, but he will have some permanent sight loss.							
7. LOCATION (Home, school, etc.) home [1][0]			8. CITY Madison			9. STATE WI	
10A. FIRST PRODUCT BB gun [1][2][3][7]			11A. TRADE/BRAND NAME, MODEL NUMBER, MANUFACTURER & ADDRESS Daisy brand model #1938B "Red Ryder" spring powered lever action BB gun; manufactured by the Daisy Manufacturing Company, Rogers, AR.				
10B. SECOND PRODUCT N/A [0][0][0][0]			11B. TRADE/BRAND NAME, MODEL NUMBER, MANUFACTURER & ADDRESS N/A				
12. AGE OF VICTIM [0][1][1]		13. SEX (USE NUMERICAL CODE) MALE - 1 FEMALE - 2 [1] UNKNOWN - 3		14. DISPOSITION treated at hospital E.R. and released [2]		15. INJURY DIAGNOSIS torn iris in eye [5][9]	
16. BODY PART eye [7][7]		17. RESPONDENT(S) (Mother, Friend) victim's father, attorney [1]		18. TYPE INVESTIGATION ON SITE - 1 TELEPHONE - 2 [1] OTHER - 3		19. TIME SPENT Tr:3.0 [0][6].[0]	
20. ATTACHMENTS multiple [9]		21. CASE SOURCE [1][1]		22. REVIEWED BY [8][1][3][0]		YR MO DAY [9][6][0][8][0][7]	
23. PERMISSION TO DISCLOSE NAMES (NON-NEISS CASES ONLY) CPSC MAY DISCLOSE MY NAME [X] CPSC MAY NOT DISCLOSE MY NAME []							
24. NARRATIVE (See Instructions on Page 2) See attached narrative.				25. REGIONAL OFFICE DIRECTOR REVIEW DATE			

MFR/PRVLBR NOTIFIED 7/20/98
 No Comments made
 Comments attached ✓
 Excisions/Revisions
 Firm has not requested further notice

(USE ADDITIONAL SHEETS IF NECESSARY)

960712CAA53301SUMMARY:

On 6/15/96 at approximately 3:00PM a 11 year old boy accidentally shot himself in the eye with a BB gun. The boy was attempting to cock the lever action of the BB gun when it fired without the trigger being pulled and while the safety was on. The boy was temporarily blinded and his iris was torn; his vision has since returned, but he will have some permanent sight loss.

PRE-INCIDENT:

On 7/07/95 the father of the 11 year old victim purchased a new Daisy brand model #1938B "Red Ryder" spring powered BB gun from the Shopko Department Store located on Southtown Road in Monona, WI. It has a black metal receiver, a brown plastic stock, and a lever action cocking mechanism. The gun is manufactured by the Daisy Manufacturing Company, P.O. Box 220, Rogers, AR. 72756. The gun retailed for \$32.95.

Upon bringing the gun home the father read the instruction manual provided with the gun, and then instructed his son on it's safe operation. These instructions included warnings to only shoot at targets in the backyard, don't shoot towards the house, don't shoot animals, and not to point the gun at anyone. The father provided these same cautions to his son on several occasions, including the day of the accident. The boy is slight with limited upper body strength, and he had some difficulty cocking the lever action rifle. He frequently would place the butt of the stock on the ground, holding the barrel up and away from his face; he would hold the barrel area with his left hand, and would pull upwards on the cocking lever to cock the weapon. He would not place his hands or fingers in the area of the trigger when pumping the gun in this manner, and would have the push button safety in the on or "safe" position.

The 11 year old boy used the gun at least 2-3 times monthly during the good weather months (not including approximately Nov-Mar) from the time he first received the gun from his father in July 1995 and June 1996. His father felt the boy practiced good safety procedures when using the gun, and no incidents occurred.

INCIDENT:

On 6/15/96 at approximately 3:00PM the 11 year old boy was in his backyard using the BB gun to shoot at paper targets. His father was also in the yard and was watching him.

At one point the boy apparently tired, and had difficulty cocking the lever action of the BB gun that allows it to again be ready to fire a single shot. The boy is described as "slight" in stature with limited upper body strength. As he would get tired

he would sometimes place the butt of the gun on the ground with the barrel pointing up in the air and then pull up on the cocking lever with his fingers. As he was doing this on this date his fingers slipped or he otherwise lost his grip on the cocking lever. Though the safety was in the on or "safe" position while the gun was being cocked and the boy did not pull the trigger, the gun fired, firing a BB into the boy's eye.

POST-INCIDENT:

The boy's father immediately transported the victim to Merriter Hospital, 202 S. Park St., Madison, WI. 53715, ph. #608-267-6030 for treatment. The boy was temporarily blinded and his iris was torn; his vision has since returned, but he will have some permanent sight loss. He receives follow-up treatment from a specialist, Dr. Joseph Weinstein, Physician's Plus, 7102 Mineral Point Rd., Madison, WI., ph. #608-833-1577. The medical records have been requested, and will be submitted as an addendum to this report when they are received.

This CPSC investigator examined the BB gun during the on-site investigation conducted on 7/22/96. The gun appeared to be in good condition, and showed evidence of being recently oiled. An emblem appears to be missing from the right side of the stock. The gun had not malfunctioned previous to this incident, and the gun had not been serviced or previously disassembled.

The 11 year old victim is currently away at summer camp and will not be back in the area for several weeks. His father had witnessed the accident, and he agreed to duplicate the position his son was in when the gun misfired. Please refer to these reenactment photos attached as Exhibit "A."

Specifically, the boy was in a position kneeling on the ground on one knee. The butt of the stock of the gun was on the ground, with the barrel pointing up in the air. The boy's left hand was grasping the plastic barrel hand grip, and he was lifting the cocking lever with the fingers of his right hand. As he was pulling up on the cocking lever his fingers slipped or he otherwise lost his grip on the cocking lever. The safety was in the on or "safe" position while the gun was being cocked, and the boy never pulled the trigger or place his hands anywhere near the area of the trigger guard portion of the receiver. When his hand slipped off the cocking lever the boy may have inadvertently pulled the barrel of the gun towards his face. The gun fired, firing a BB into his eye.

A quantity of the BB shot recommended for this gun was purchased by this Investigator, and the gun personally tested on 7/23/96. It was determined that if the gun is held in a position similar to that described by the victim's father, it will fire with the

safety on and without pulling the trigger. This occurs if the user brings the cocking lever to a point just short of the fully cocked position, and then releases it; the internal spring will quickly return the cocking lever to the closed position, and as this occurs the gun will fire a BB.

In examining the gun, this Investigator noted that the misfiring can be easily duplicated again and again. If the tester watches the single BB being fed into the firing position through the viewing port located on the top of the barrel near the hand hold as the gun is being cocked, and then stops lifting the cocking lever immediately at the point where the BB is fed in to the firing mechanism (just short of the point where the cocking lever is fully opened and clicks into the fully open position) the gun will then fire if the cocking lever is let go. This will happen with the safety in the on or off position, with the gun barrel in any orientation, and without pulling the trigger.

The gun was collected as Sample #96-830-3409 and sent directly to J. DeMarco, CCA via RPS on 7/24/96.

PRODUCT IDENTIFICATION:

BB gun: New Daisy brand model #1938B "Red Ryder" spring powered BB gun, purchased from the Shopko Department Store located on Southtown Road in Monona, WI. The gun is manufactured by the Daisy Manufacturing Company, P.O. Box 220, Rogers, AR. 72756. The gun retailed for \$32.95. The original box the gun was sold in contains a manufacture date code of 2/92.

APPLICABLE STANDARDS:

This product would be subject to the Consumer Product Safety Act.

ATTACHMENTS:

- Exhibit "A" - Photographs of the BB gun, packaging, and an reenactment of the position the victim was in when the gun misfired.
- Exhibit "B" - Sample Collection Receipt issued on 7/22/96.
- Exhibit "C" - Sample Collection report #96-830-3409.
- Exhibit "D" - "Authorization for release of name" form signed by the victim's father on 7/22/96.

Exhibit "E" - "Authorization for Medical records Release"
form signed by the victim's father on 7/22/96.

Exhibit "F" - Original investigation request.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

1. AREA (State) ID# 960712 CAA 5330

W376 W378 W379 W380
W381 W382 W383 W384

002

2. NAME OF INDIVIDUAL MARK MCFARLANE 3. TITLE OF INDIVIDUAL SELF 4. DATE 7/22/96

5. FIRM NAME SELF 6. SAMPLE NUMBER 96-830-3409

7. NUMBER AND STREET 4463 BEACE ST. 8. CITY AND STATE (Include Zip Code) MADISON, WI 53711

9. SAMPLES COLLECTED (Describe fully. List lot, serial, model numbers and other positive identification)

The following samples were collected by the Consumer Product Safety Commission pursuant to Section 27(f) of the Consumer Product Safety Act (15 U.S.C. 2076(f) and/or Section 11(b) of the Federal Hazardous Substances Act (15 U.S.C. 1270(b) and/or Sections 5(c) and (d) of the Flammable Fabrics Act (15 U.S.C. 1194(c) and (d) and/or Section 704(e) of the Federal Food Drug and Cosmetic Act (21 U.S.C. 374(c)). Authority for sample collections made in connection with the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), and receipt for said samples is hereby acknowledged. Sections cited are quoted on the reverse side of this form.

1 - USED DAISY B.B GUN, MODEL # 1435 B

BORROWED SAMPLE -
Return to complainant
ABOVE when non-destructive
testing is completed.

10. SAMPLES		11. SAMPLES WERE	12. COLLECTOR
a. AMOUNT RECEIVED FOR SAMPLE		<input type="checkbox"/> PURCHASED	a. NAME (Print or type) DENNIS R BEASLUS
b. SIGNATURE (Person from whom sample received)		<input checked="" type="checkbox"/> BORROWED (To be returned)	b. SIGNATURE

Section 27(f) of the Consumer Product Safety Act (15 U.S.C. 2076(f) is quoted below:

(f) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

Section 11(b) of the Federal Hazardous Substances Act (15 U.S.C. 1270(b)) is quoted below:

(b) For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such hazardous substances in interstate commerce; (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and (3) to obtain samples of such materials or packages thereof, or of such labeling. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

NOTE: The term "Secretary" in the Federal Hazardous Substances Act section should be substituted by the term "Consumer Product Safety Commission".

Sections 5(c) and (d) of the Flammable Fabrics Act (15 U.S.C. 1194(c) and (d)) is quoted below:

(c) The Commission is authorized and directed to prescribe such rules and regulations, including provisions for maintenance of records relating to fabrics, related materials, and products, as may be necessary and proper for administration and enforcement of this Act. The violation of such rules and regulations shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice, in commerce, under the Federal Trade Commission Act.

(d) The Commission is authorized to-

(1) cause inspections, analyses, tests, and examinations to be made of any product, fabric or related material which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State or territory or with the District of Columbia or the Commonwealth of Puerto Rico; or with any department, agency, or political subdivision thereof; or with any person.

Section 704(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(c)), [(Authority for Sample Collections made in connection with the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.)) is quoted below:

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

NOTE: The term "Commission" meaning the "Federal Trade Commission" in the Flammable Fabrics Act section should be substituted by the term "Consumer Product Safety Commission".

960712CAA5330

PRODUCT IDENTIFICATION

imprinted in the stock. Further information on top portion of barrel states "BB Cal [45mm] steel air gun shot." Also has useage directions on barrel. Pat. #3,888,229; Lot #92093279.

FIELD SUMMARY

for non-destructive testing only! Must be returned within 30 days.

METHOD OF COLLECTION

later shipment to the Sample Custodian on 7/24/96. Sample was labeled as ID'd in #21, and shipped in container sealed as ID'd in #22.

REMARKS

preliminary findings. Attached: SCR, copy of orig. assignment request.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

AUTHORIZATION FOR RELEASE OF NAME

Thank you for assisting us in collecting information on a potential product safety problem. The Consumer Product Safety Commission depends on concerned people to share product safety information with us. We maintain a record of this information, and use it to assist us in identifying and resolving product safety problems.

We routinely forward this information to manufacturers and private labelers to inform them of the involvement of their product in an accident situation. We also give the information to others requesting information about specific products. Manufacturers need the individual's name so that they can obtain additional information on the product or accident situation.

Would you please indicate on the bottom of this page whether you will allow us to disclose your name. If you request that your name remain confidential, we will of course, honor that request. After you have indicated your preference, please sign your name and date the document on the lines provided.

You are hereby authorized to disclose my name and address with the information collected on this case.

My identity is to remain confidential.

V. P. Maxvins
(Signature)

7/22/96
(Date)



AUTHORIZATION FOR MEDICAL RECORDS DISCLOSURE

TO WHOM IT MAY CONCERN:

You are hereby authorized to furnish the United States Consumer Product Safety Commission

all information and copies of any and all records you may have pertaining to (my case)

(the case of GREGORY J. MESSINA 6/21/84 DOE
Name

SON
Relationship to you)

including, but not limited to, medical history, physical reports, laboratory reports and pathological slides, and X-ray reports and films.

7/22/76
(Date)

[Signature]
(Signature)

[Signature]
(Witness)



*****FOR OFFICIAL USE ONLY! DO NOT RELEASE!*****

ACCIDENT INVESTIGATION REQUEST FORM

Document Number: C9665023 *A*

Date of Incident: 5/96

Category I.D.: *SECT JD 1996*

Follow-up Requested:

Section 13

Type Follow-up Requested: On-site - if necessary, but ascertain majority of information from telephone contacts.

Headquarters Contact: Jay DeMarco, CO, CCA, HQ 301-504-0608 x 1353

Assignment Message: Do Full & Complete IDI and get photos OR SAMPLE if possible. Get better scenario and witnesses and also medical records. Was this a serious injury? Also, see if victim or parents will let us use their names and be recontacted by our OIPA office. Call with questions. This is part of a Commission industry wide investigation and project. Who bought gun and what age and where was it kept or stored. Was the child supervised??

Person(s) to contact: SEE ATTACHED DOCUMENT!!!

Guideline: 9010.40, Chapter 10 Enforcement Policy and Procedures

Requested by: Jay DeMarco, CO, CCA (301)504-0608 x 1353

Task Number: *960712* CAA *5330*

Assigned to: *MHO* Date: *7/12/96*

CPSC 324E (Jrf 10-12-95)[AB INTEREST]

960712 CAA5330

**K
&L**

ATTORNEYS AT LAW

CYSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION ACT

1976 JUN 17 P 3 11

~~XXXXXXXXXX~~

AT5

LEE R. ATTERBURY
MICHAEL RILEY
MICHAEL J. LUEBKE

OF COUNSEL
E.M. SWINGEN

700 Regent Street,
Suite 201
Madison, WI 53713
(608) 257-4715
(800) 817-3729
(608) 257-1727 Fax

Mailing address:
P.O. Box 2839
Madison, Wisconsin
53701-2839

e-mail - att@k&l.com
<http://www.k&l.com/~att/>

138112

AJA

JUL 9 1996

15
Jag

June 14, 1996

Consumer Product Safety Commission
Office of the Secretary
Washington, D.C. 20207

RE: Daisy Air Rifle

To Whom it May Concern:

123

We are looking for any information that pertains to problems with Daisy air rifles discharging without the trigger being pulled. Our client's Daisy air rifle discharged when the lever slipped after the gun was cocked; the safety was on at the time.

Any information regarding this product and this or similar problems would be helpful.

Thank You,

Becky Orvick

Becky Orvick

940712CAA5330

[Handwritten signature]

~~5-6060102~~
606105

JUL 17 1996

CONSUMER PRODUCT INCIDENT REPORT

1. NAME OF RESPONDENT <i>Mike Riley</i> <i>Atterburn Riley + Luebke SC</i>		2. TELEPHONE NO. (Home) (Work) <i>(608) 257-4715</i>	
3. STREET ADDRESS <i>700 Regent St. Ste 201</i>		4. CITY STATE ZIP CODE <i>Madison WI 53715</i>	
5. DESCRIBE ACCIDENT SITUATION OR HAZARD, INCLUDING DATA ON INJURIES. (Use second page if necessary.) <i>11 year old boy was cocking the BB gun. It slipped and discharged. He did not touch the trigger. The safety was on. The boy's father was supervising at the time, + saw the accident.</i>			
6. DATE OF INCIDENT(S) <i>5/96</i>	7. IF INJURY OR NEAR MISS, OBTAIN AGE <i>11</i> SEX <i>M</i> AND DESCRIBE INJURY <i>tear to the eye</i>	8. IF VICTIM DIFFERENT FROM RESPONDENT, PROVIDE NAME _____ RELATIONSHIP <i>client</i>	
9. DESCRIPTION OF PRODUCT <i>BB gun Daisy Air Rifle -- Red Ryder</i>		10. BRAND NAME <i>Daisy</i>	
11. MANUFACTURER/DISTRIBUTOR NAME, ADDRESS & PHONE <i>Daisy Manufacturing (address + phone currently unknown)</i>		12. MODEL, SERIAL NO.'S <i>Red Ryder</i>	
		13. DEALER'S NAME, ADDRESS & PHONE <i>Shopko 2101 W. Broadway Monona, WI 53713 (608) 222-6010</i>	
14. WAS THE PRODUCT DAMAGED, REPAIRED OR MODIFIED? YES _____ NO <input checked="" type="checkbox"/> IF YES, BEFORE OR AFTER THE INCIDENT? Describe _____		15. PRODUCT PURCHASED NEW <input checked="" type="checkbox"/> USED _____ DATE PURCHASED <i>7/9/95</i> AGE _____	
		16. DOES PRODUCT HAVE WARNING LABELS? IF SO, NOTE: <i>Not addressing this situation</i>	
17. HAVE YOU CONTACTED THE MANUFACTURER? YES _____ NO <input checked="" type="checkbox"/> IF NOT, DO YOU PLAN TO CONTACT THEM? YES <input checked="" type="checkbox"/> NO _____ OTHER _____		18. IS THE PRODUCT STILL AVAILABLE? YES <input checked="" type="checkbox"/> NO _____ IF NOT, ITS DISPOSITION _____	
19. MAY WE USE YOUR NAME WITH THIS REPORT? YES <input checked="" type="checkbox"/> NO _____			
FOR ADMINISTRATION USE			
20. DATE RECEIVED		21. RECEIVED BY (Name & Office)	
23. FOLLOW-UP ACTION		22. DOCUMENT NO.	
		24. PRODUCT CODE(S) <i>1237</i>	
25. DISTRIBUTION		26. ENDORSER'S NAME & TITLE	

*IVY
Catalo 8023*

CALLS TO LAWYERS

960712CAA5336

IDENTIFICATION C9665023

CITY/STATE MADISON, WI

DATE OF INCIDENT 5/96

TYPE OF INJURY TEAR TO THE EYE

AGE/SEX 11 / MALE

SCENARIO (1 sentence) Victim air rifle discharged when the lever slipped after the gun was cocked, the safety latch was on at the time.

(NO ADDITIONAL INFO)

17 SEP 1996

**U.S. GOVERNMENT
MEMORANDUM**

**U.S. CONSUMER PRODUCT
SAFETY COMMISSION**

WASHINGTON D.C. 20207

DATE: September 3, 1996

TO: John Vece, Supervisory Investigator, FOCR

FROM: Dennis R. Blasius, Investigator, MKE-RP

SUBJECT: Addendum to IDI #960712CAA5330 (Daisy BB gun accident)

On 8/29/96 I received medical reports concerning the injuries sustained by the victim in this incident. Please note that rather than the 6/15/96 incident date originally provided by the complainant, the injuries actually were treated on 5/12/96.

This information should be attached to the original report.

U.S. Consumer Product Safety Commission

W276 N878 Woodridge Lane • Waukesha, WI 53188 • (414) 650-1216 • (414) 650-1217 fax

August 19, 1996

Physicians Plus Pediatrics
20 S. Park Street
Madison, WI 53715

Re: Request for Medical Records

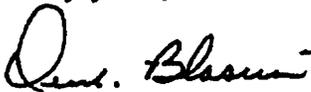
Dear Sir/Ma'am:

The U.S. Consumer Product Safety Commission is the federal government agency tasked with investigating potentially defective products. I am currently investigating an incident that occurred on approximately 6/15/96 (parents are not sure of exact date) in which an 11 year old boy, Gregory J. Messina, DOB 6/21/84, 4463 Beale Street, Madison, WI, ph. #608-222-5066 received an eye injury while using a BB gun. He was reportedly treated at your office by Dr. Gordon Tuffli.

Attached is an authorization for medical records disclosure form signed by the child's father. Please send a copy (need not be certified) of any relevant medical records to me at the address listed above, along with an invoice for any related costs.

If you have any questions, please telephone me immediately at ph. #414-650-1216. Thank you very much for your cooperation!

Sincerely yours,



Dennis R. Blasius
Federal Investigator

*note Gregory Messina saw Dr Joel Weinstein, Ophthalmology
Physicians Plus West Town
7102 Normal Point Road on 5/13/96, 5/14/96, 5/15/96
Madison, WI 53717 5/17/96, 5/30/96 5/28/96
6/12/96, 9/24/96.*

*He saw Dr Gary Stecker, Pt Middleton,
2630 Anheuser Rd on 5/16/96
111111111111 53562*

25913

Physician Plus
 Pediatrics-Adolescent Medicine
 20 South Park Street
 Madison, WI 53715

C.R. Weatherhogg, M.D., F.A.A.P.
 G.A. Tull, M.D., F.A.A.P.
 T.D. Meler, M.D., F.A.A.P.
 J.S. Sleeth, M.D., F.A.A.P.

Date	Vital Signs	Lab.	
Complaint	Phy. Findings	Diagnosis	Treatment
			Return

PHYSICIANS PLUS MEDICAL GROUP

DATE	TIME	FROM	PATIENT CONTACT RECORD	
2 / 21 / 96	2:45 ^{PM}			
PATIENT NAME	D.O.B.	LOC.	MRN	
Messina, Greg	6-21-84		25913	
CALLERS NAME	TEL# (H) ()	UNTIL		
Pam	(W) () 282-5066	UNTIL		
PHYSICIAN'S NAME:	PHARMACY			
RECEPT:	MEDICAL:			
Called mom to report NL CXL, TC neg so far left msg re.				
<input type="checkbox"/> CHART ORDERED	<input type="checkbox"/> OV REQUESTED:	CHART TO:	SIG./TITLE	
			NM / RN	

PHYSICIANS PLUS MEDICAL GROUP

DATE	TIME	FROM	PATIENT CONTACT RECORD	
5 / 13 / 96	8:30			
PATIENT NAME	D.O.B.	LOC.	MRN	
Messina, Greg	6-21-84		25913	
CALLERS NAME	TEL# (H) ()	UNTIL		
Pam	(W) () 282-5066	UNTIL		
PHYSICIAN'S NAME:	PHARMACY			
RECEPT:	MEDICAL:			
Shot in eye - OB gun on Sunday; saw Dr Weinstein (on call) - no penetration, but saw iris; red w/ x 1 week bc in red, 90° x 1 week	Q re follow-up - on Weinstein doc. F/U & treatment at ophthalmology			
<input type="checkbox"/> CHART ORDERED	<input type="checkbox"/> OV REQUESTED:	CHART TO:	SIG./TITLE	
			NM/DAK	

name *Messina* chart 2/25/96

PATIENT NAME: LAST: MESSINA, GREGORY J FIRST: GREGORY M.I.: FIRST: GREGORY
 13 94 47 7 CH#: 39
 4463 BEALE ST
 MADISON, WI 53711
 H: 608-222-5066 W:
 BD: 06/21/84 SB:
 EYE INJURY DOI

ACCIDENT: YES DATE: 5/12/96 WORK RELATED CONDITION: YES NO
 EMPLOYER:
 PERSONAL PHYSICIAN / REFERRING PHYSICIAN:
 TREATING PHYSICIAN: Suppli 76
 Spore 75
 SUBSCRIBER NO.: POLICY HOLDER / RESPONSIBLE PARTY:

CHIEF COMPLAINT: Eye
 VITAL SIGNS: TIME: 3:40 BP: P: R: T:
 PRESENT MEDICATIONS: Ritalin, Codominil

NURSING ASSESSMENT: Injured @ eye - p cocking B-B gun, gun dropped out of hands & hit backwards into eye. eye was closed. episode occurred @ 3

HISTORY AND PHYSICAL EXAMINATION: Sclera red. @ bleeding noted. Phalloph
 Snellen (R) unable to see AGE: 11 1/2
 (L) 70 WT: 70#
 nearsighted - does not have glasses (per pt)
 Cocking B-B gun in lever action. Gun flew out and
 in back to went off, at close he was hit in (R)
 eye (eye closed) @ 15-20 in. gun
 pain in eye.
 As to back injury
 (R) eye - hurt
 (L) eye - hurt
 both @ back eye. P. Plan
 Dark clump in area above



ALLERGIES: NKDA
 PREGNANT/NURSING: YES NO
 PRIMARY TETANUS SERIES: YES NO
 LAST TETANUS BOOSTER: YEAR

DIAGNOSTIC IMPRESSION: 1. Mild Trauma @ corner
 2. No Hypertension / Retinal detachment

TREATMENT: Referred to Dr. Joel Weinstein @ 5:00 PM
 for X-ray to Eye @ immediately

DIAGNOSTIC TESTS: EOM OK.
 nod hypertension of lat @ Sclera.
 no strabismic hypertonia
 Ant corner sclera clouded

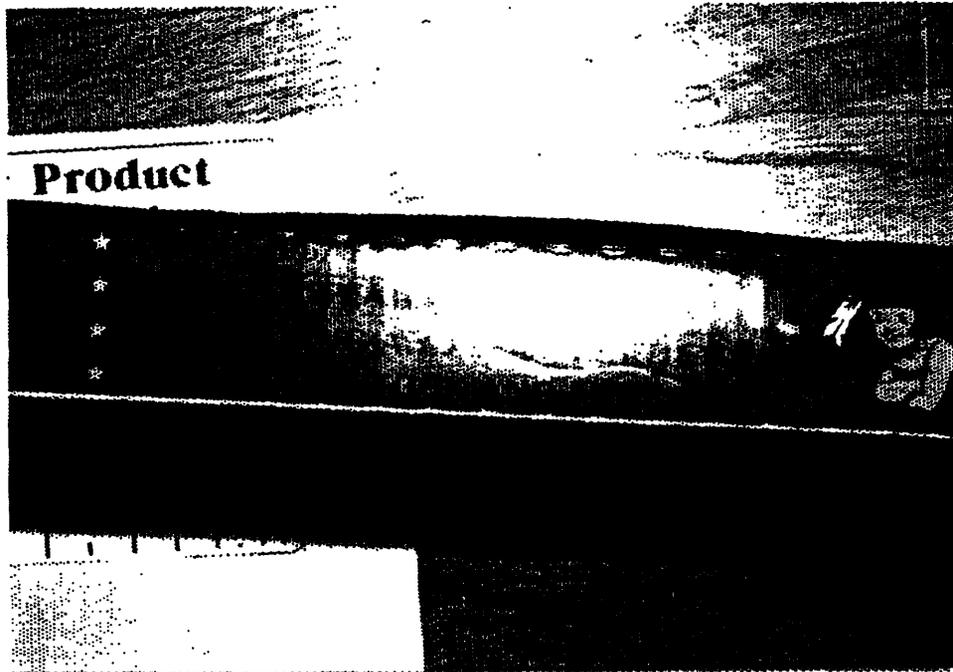
DISCHARGE: TIME
 TRANSFER
 DOCTOR NOTIFIED/CONSULTED

FOLLOW INSTRUCTIONS REGARDING-
 Abrasions Corneal Abrasion
 Sut Lacerations Head Injury
 Steri Strip Lac Colds Sore Throat Flu
 Tetanus Immun Vomiting & Diarrhea
 Contusions Child With Fever
 Sprains Urinary Tract Infection
 Antibiotics/Side Effects

CALL/RE-EXAM DOCTOR IN _____ DAYS ONLY IF SYMPTOMS ARE NOT IMPROVED AFTER _____ DAYS
 EXCUSED ABSENCE WORK _____ DAYS _____ UNTIL RECHECK
 GYM SCHOOL RESTRICTIONS: YES NO

ADDITIONAL INSTRUCTIONS:
 PHYSICIAN SIGNATURE: [Signature]
 I UNDERSTAND INSTRUCTIONS AS GIVEN
 Patient Resp. Party: [Signature] DATE: 5/12/96

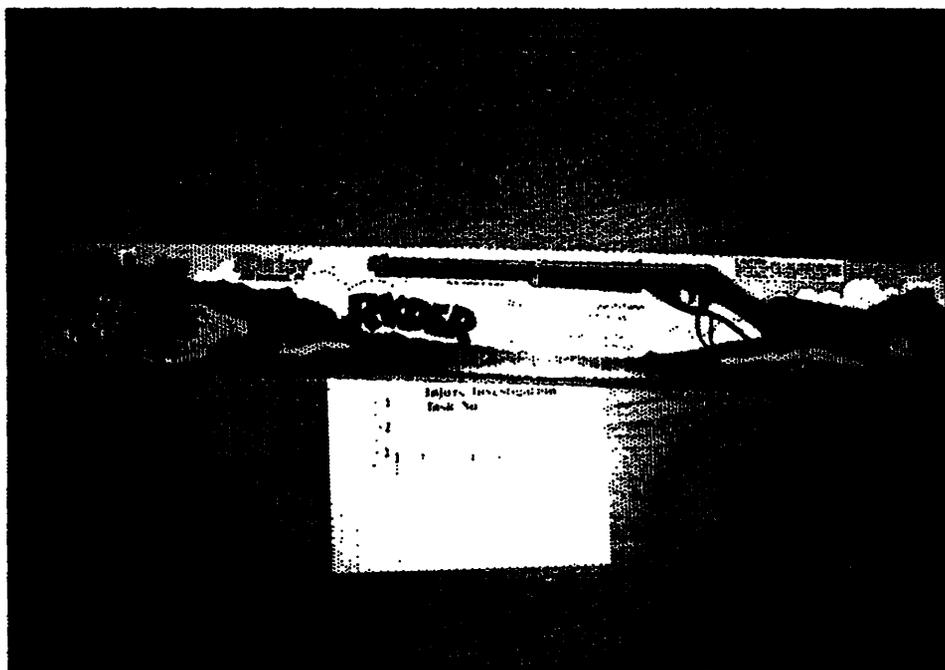
Exhibit "A"
IDI #960712CAA5330



Photos of the packaging the gun was sold in.

NEGATIVES

Exhibit "A"
IDI #960712CAA5330



Photos of the packaging the gun was sold in.



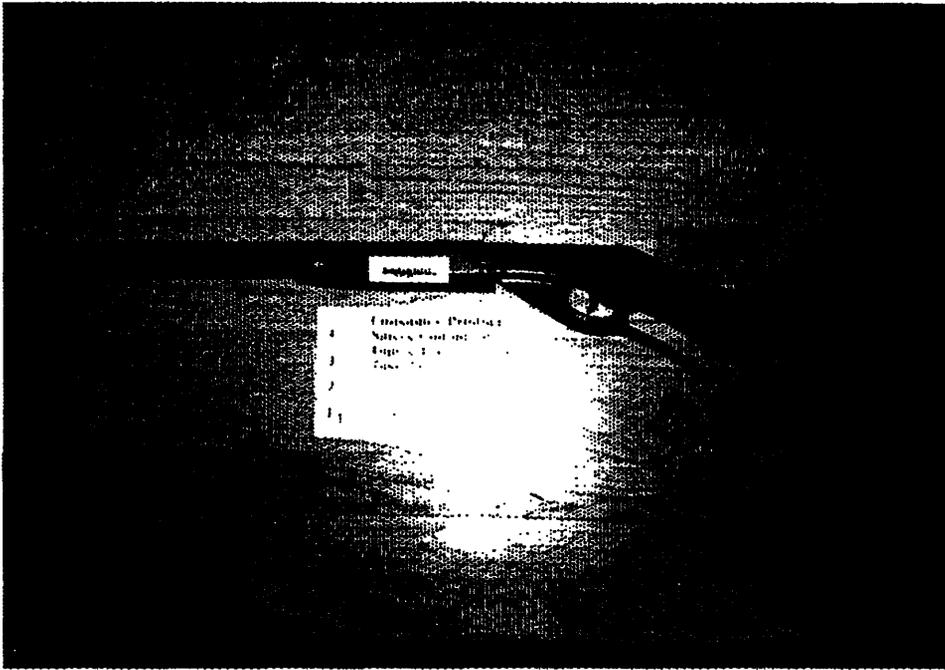


Photos of the packaging the gun was sold in.

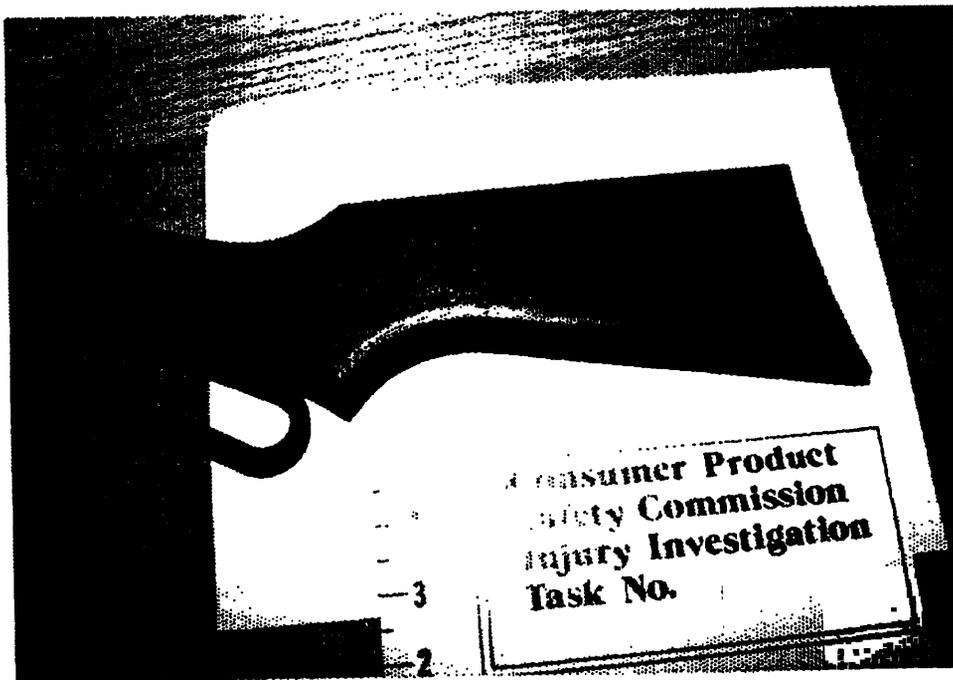
Now you can have the gun that won
the hearts of thousands of boys.
A RED RYDER™
just like the one your Dad had!
Ask him about his Daisy B-B Gun

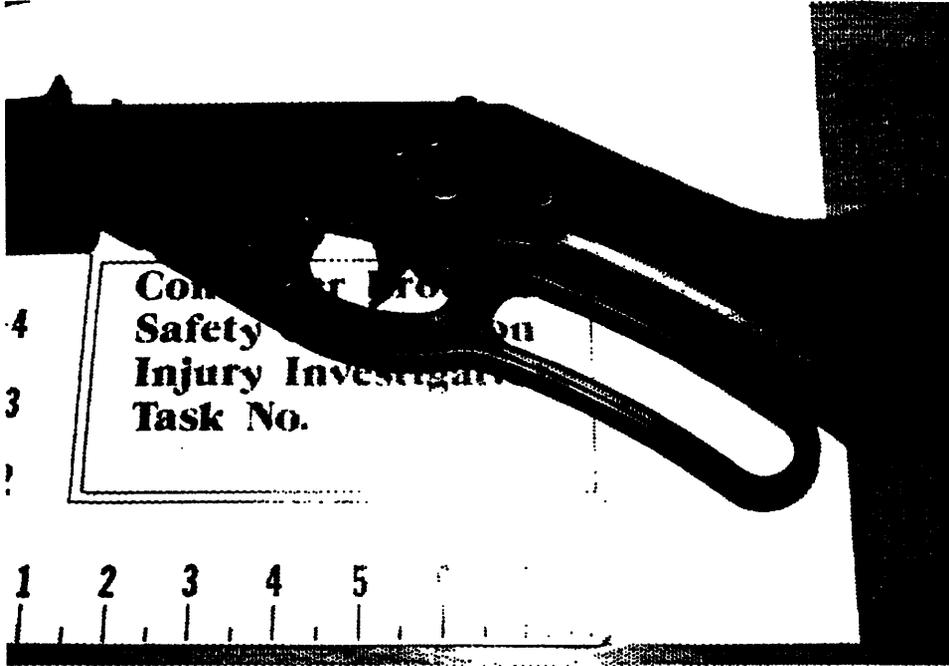
Injury Investigation
Case No.

Exhibit "A"
IDI #960712CAA5330



Photos of the BB gun involved in this incident.





Above: the lever action; below: the port where loose BB's are put into the gun.

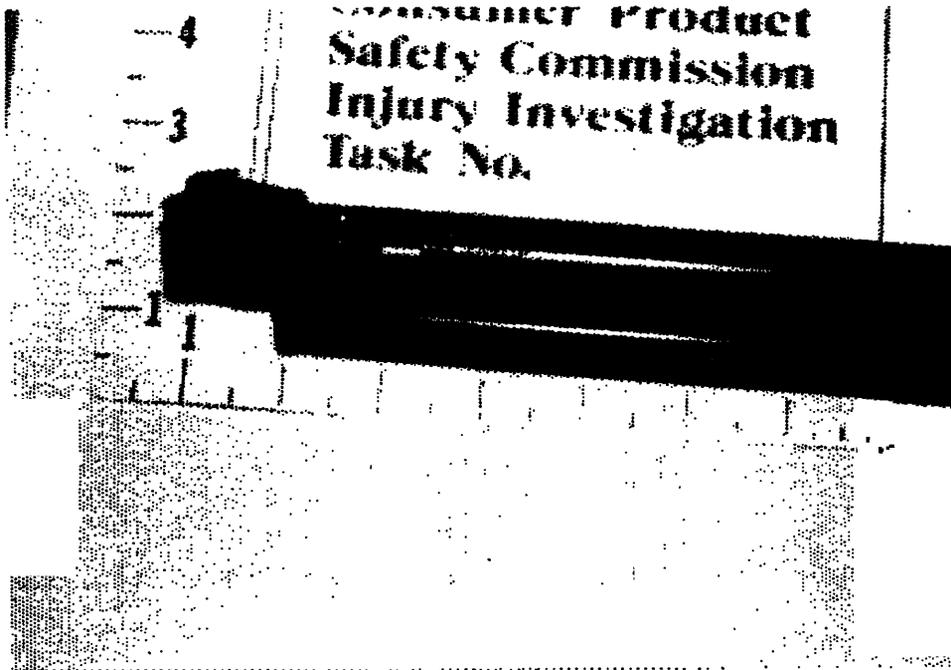


Exhibit "A"
LBI #9607120AA5330



Photos of the victim's father reenacting the position his son was in when the gun discharged.

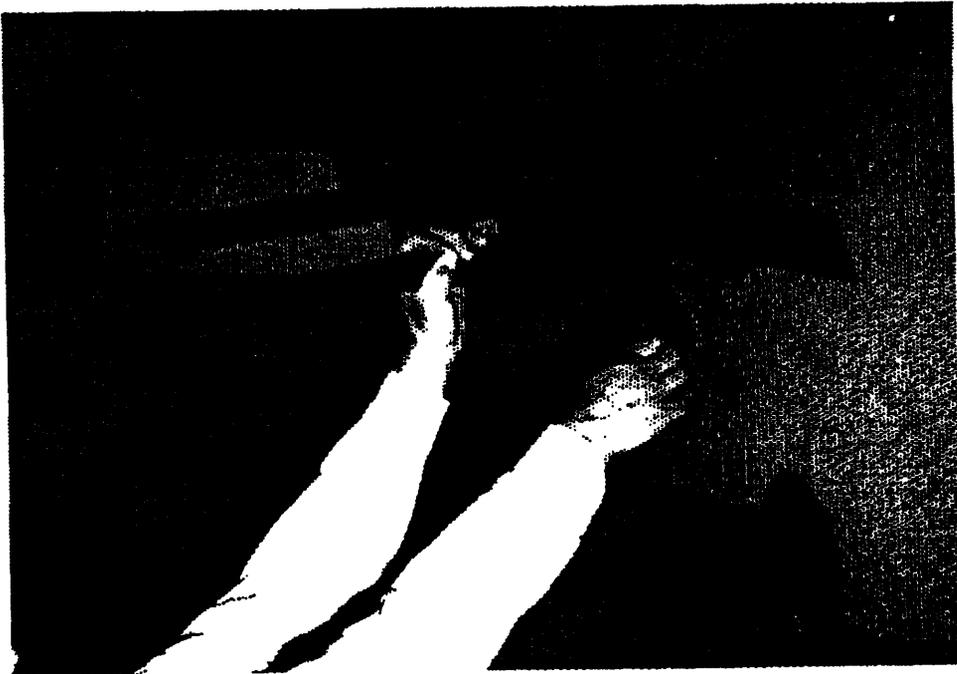


Exhibit "A"
ID# 9407120115300



Photos of the victim's father reenacting the position his son was in when the gun discharged.

Task Number: 940629 HEP9009
Date of Interview: 940803

BB GUN STUDY DATA RECORDING FORM

VICTIM'S AGE FROM THE NEISS RECORD:

(CHECK ONE:)

18 Years or older (ASK TO SPEAK WITH THE VICTIM; THEN PROCEED TO Q 1.)

Under 18 Years (ASK TO SPEAK WITH THE VICTIM'S PARENT OR GUARDIAN. WHEN CONTACT IS MADE, RECORD THE RESPONDENT'S RELATIONSHIP TO VICTIM BY CHECKING THE APPROPRIATE CHOICE BELOW. PROBE IF NECESSARY. THEN PROCEED TO Q 1.)

Parent

Guardian

Other (SPECIFY): _____

1. Hello. I'm _____ with the U.S. Consumer Product Safety Commission. In cooperation with _____ hospital we're doing a special study on BB and pellet gun injuries. The Commission is interested in learning more about these incidents, so that we can try to reduce the number and seriousness of injuries that occur.

2. Would you answer some questions so that we can learn how these incidents happen? The information that we are collecting will be used for statistical purposes only. Of course, your responses will be confidential and no names will be used in any report. This interview should take less than 10 minutes to complete. (CIRCLE RESPONSE)

0 No (ASK IF ANOTHER TIME WOULD BE BETTER AND SET UP A CALL-BACK TIME: _____)

1 Yes

3. I understand that _____ was treated at the emergency room on _____ (date) for a BB or pellet gun injury. Is that correct?

0 No (RESOLVE REASONS FOR INCONSISTENCY: _____)

1 Yes

9 Don't know (ASK IF ANOTHER TIME WOULD BE BETTER AND SET UP A CALL-BACK TIME: _____)

INTERVIEWER: THANK RESPONDENT AND END INTERVIEW IF THERE WAS NO INJURY OR IF INJURY WAS NOT RELATED TO A BB OR PELLET GUN; OTHERWISE CONTINUE.

4. Specifically, what type of gun was involved--a BB gun, pellet gun, or other type of gun? (CIRCLE RESPONSE)

1 BB Gun (shoots small round shot)

2 Pellet Gun (shoots small, non-cylindrical pellets or darts)

3 BB/Pellet Gun (shoots either BB's or pellets)

4 BB or Pellet Gun--not sure which

7 Other Gun (SPECIFY): _____
(IF A FIREARM, THANK RESPONDENT AND END INTERVIEW)

9 Respondent does not know the type of gun involved
(THANK RESPONDENT AND END INTERVIEW)

5. How would you describe the gun--was it a pistol, a rifle, or something else? (CIRCLE RESPONSE)

1 Pistol

2 Rifle

7 Other (SPECIFY): _____

9 Don't know

6. Was a gas canister (that is, CO₂) required to shoot the gun? (CIRCLE RESPONSE)

0 No

1 Yes (SKIP TO Q 6) 9

9 Don't know

7. Did the gun have to be pumped before shooting it? (CIRCLE RESPONSE)

0 No (SKIP TO Q 6) 9

1 Yes

9 Don't know (SKIP TO Q 6)

8. Was it possible to pump the gun more than once before shooting it? (CIRCLE RESPONSE)

0 No

1 Yes

9 Don't know

9. What was the muzzle velocity the gun? This information may have been on the packaging of the gun or on a hangtag or label when the gun was purchased. (SPECIFY; IF RESPONDENT DOESN'T KNOW, WRITE IN "DON'T KNOW")

Don't know feet per second

10. What were the manufacturer and model of the gun? (SPECIFY; IF RESPONDENT DOESN'T KNOW, WRITE IN "DON'T KNOW")

Manufacturer: Daisy

Model: Don't know

11. How did the injury happen? (RECORD THE RESPONDENT'S NARRATIVE OF THE INCIDENT. PROBE FOR THE IMMEDIATE ACTIVITIES LEADING UP TO THE INCIDENT, DETERMINING THE ACTIONS OF THE VICTIM AND THE PERSON HANDLING THE GUN. INDICATE IF THE RESPONDENT WITNESSED THE INCIDENT.)

The 17 year old male victim was outside his house, near a woodshed, shooting cans off a rock with a BB gun. The respondent did not witness the incident, but believes that the BB pellet ricochet off either a can or a rock and struck the victim in the chest. The pellet was lodged just underneath the skin. The victim went inside and told his mother, who immediately drove him to the emergency room. At the emergency room, the pellet was removed, a "band-aid" was placed on the wound, and the victim was released. The victim has fully recovered from the injury.

INTERVIEWER: IF THE PERSON HANDLING THE GUN WAS THE VICTIM, AND WAS UNDER AGE 16, SKIP TO Q 15;

IF THE PERSON HANDLING THE GUN WAS THE VICTIM, AND WAS AGE 16 OR OLDER, SKIP TO Q 16;

12. When the injury occurred, about how far away was the victim from the gun--fairly close, say less than 10 feet, or was the victim farther away?
1 Less than 10 feet
2 10 feet or farther
7 Other (SPECIFY): _____
9 Don't know
13. About how old was the person handling the gun? (SPECIFY YEARS OR CIRCLE RESPONSE)
_____ Years (IF UNDER AGE 16, SKIP TO Q 15;
IF 16 OR OLDER, SKIP TO Q 16)
99 Don't know
14. Was the person handling the gun under age 16, or was the person older? (CIRCLE RESPONSE)
1 Under 16
2 16 Years or older (SKIP TO Q 16)
9 Don't know
15. Was an adult (that is, someone age 18 or older) present when the incident happened? (CIRCLE RESPONSE)
0 No adult was present
1 Yes, an adult was present
9 Don't know
16. Whose gun was it--the victim's, the person handling the gun's, or some other person's? (CIRCLE RESPONSE)
1 Victim's (IF VICTIM WAS AGE 16 OR OLDER, THANK RESPONDENT AND END INTERVIEW)
2 Person handling the gun (not the victim) (IF HANDLER WAS AGE 16 OR OLDER, THANK RESPONDENT AND END INTERVIEW)
7 Other (SPECIFY RELATIONSHIP TO VICTIM; E.G., FRIEND, RELATIVE, ETC.): _____
9 Don't know
17. About how old was the owner of the gun? (SPECIFY YEARS OR CIRCLE RESPONSE)
_____ Years (IF AGE 16 OR OLDER, THANK RESPONDENT AND END INTERVIEW; IF UNDER AGE 16, SKIP TO Q 19)
99 Don't know
18. Was the owner of the gun under age 16 or was the owner older?
1 Under age 16
2 Age 16 or older (THANK RESPONDENT AND END INTERVIEW)
9 Don't know

19. Did the gun's owner purchase the gun alone, with the help of an adult, or was the gun was received as a gift? (CIRCLE RESPONSE)

- 1 Purchased the gun alone
- 2 Purchased the gun with the help of an adult (SPECIFY RELATIONSHIP OF ADULT TO VICTIM; E.G., PARENT, GUARDIAN, OLDER BROTHER) _____
- 3 Received the gun as a gift
- 7 Other _____
- 9 Don't know

Thank you very much for help in this effort to prevent similar injuries to others.

Can we CB^g yes after 9pm

DATE 30/06/94

NEISS INDEPTH ASSIGNMENT QUESTIONNAIRE

***** INDEPTH ASSIGNMENT MESSAGE *****

TASK NUMBER : 940629HEP9004
OFFICE : MESQ
CATEGORY : PAAN011994
HOSPITAL : 6W861016 MADIGAN ARMY/ TACOMA, WA
TREATMENT DATE : 940610
COLLECTION DATE : 940613
RECORD NUMBER : 94001950
AGE : 017 17 YEARS
SEX : 1 MALE
DIAGNOSIS : 56 FOREIGN BODY
BODY PART : 31 UPPER TRUNK
DISPOSITION : 1 TREATED & RELEASED, OR EXAMINED & RELEASED WITHOUT TRTMENT
FIRST PRODUCT : 1237 GAS, AIR OR SPRING-OPERATED GUNS
SECOND PRODUCT : 1936 BB'S OR PELLETS
THIRD PRODUCT : 0 CLOSURE TYPE UNKNOWN OR N.A. & 3RD PROD NOT INVOLVED
LOCALE : 0 UNKNOWN
F/M VEHICLE : 0 NO MOTOR VEHICLE; NO FIRE INVOLVEMENT
OCCUPATIONAL : 2 INJURY NOT OCCUPATIONAL OR WORK-RELATED

***** NEISS COMMENT *****

DX FOREIGN BODY IN CHEST REMOVED: SHOOTING BB GUN WHEN BB RICOCHETED OF
F ROCK AND HIT PATIENT IN CHEST.