

CRIME & PUBLIC SAFETY

When children unintentionally shoot themselves or other children, who is to blame?

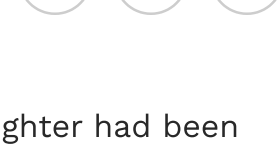
Prosecutors have tough decisions to make after rash of incidents in metro Atlanta



A 4-year-old boy accidentally shot and killed himself after finding a gun in a vehicle Feb. 27 in DeKalb County, according to police.

By Rosana Hughes

April 28, 2022



It was January 2021 when a Georgia mother got a call that her 4-year-old daughter had been shot in the eye with a BB gun.

The LaGrange woman told police she was at work while her daughter stayed with a babysitter. The child was playing with the babysitter's 5-year-old boy when he pulled out his BB gun, accidentally firing it in the girl's direction. It hit her in the right eye and caused her to lose her vision.

So who is to blame when a child finds a gun, uses it and hurts themselves or another? And should that person be punished, or is the pain enough punishment?

"Each case is different, and you've got to review each case on its own," said Coweta Judicial Circuit District Attorney Herb Cranford, who handled the case.

In that incident, the babysitter left the house without telling anyone, and during that time is when the shooting happened. As a result, the babysitter was charged with second-degree cruelty to children and was sentenced to three years of probation.

"I can see a different scenario where she was doing something a babysitter would legitimately do, and unbeknownst to her, a child grabbed a BB gun and shot somebody. That may not rise to the level of criminal negligence," Cranford said. "But when she leaves the house and leaves a 5-year-old and a 4-year-old unattended when she's supposed to be babysitting, we thought that crossed the line of like, 'OK, that's criminally negligent.'"

It's a tragic situation for parents, even when they're the ones in charge of supervision.

"They've lost a child. What more can you do to a parent?" said Pete Skandalakis, the director of the Prosecuting Attorneys Council.

"But then there are people that say, 'Well, we understand that, but he's the adult. He's the one that should have had a safety mechanism on (the gun). He should have had it in a gun safe. You know, there has to be some consequences.' And prosecutors have to make a decision on a case-by-case basis what the consequence should be," Skandalakis added.

Rash of child shootings

It's a dilemma that repeats itself year after year, and several metro Atlanta district attorneys are having to untangle right now.

At least 18 children (under the age of 18) have been shot in the metro area within the first four months of the year, including 10 fatally. Ten of the 18 unintentionally shot themselves or were shot by another child. Of those, six — all under 9 years old — have died.

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Six of the unintentional cases have resulted in criminal charges: parents or guardians are charged in five cases with second-degree child cruelty or second-degree murder, and a 16-year-old is charged in a sixth case.

In DeKalb County, three children under the age of 6 were killed by accidental gunfire in just over a month. Most recently, a 6-year-old boy was accidentally shot and killed by his 8-year-old brother at a Stone Mountain home April 8. The boy's father, 29-year-old D'Onte Patterson, was charged with second-degree murder and cruelty to children.



A 6-year-old was shot and killed by his 8-year-old brother at a DeKalb County home April 8, according to police.

Details are scarce in most of the cases, as the investigations are still open, and police have been unwilling to answer questions. How much information is included in police documents also varies from case to case and jurisdiction to jurisdiction, making it difficult to determine why charges might be filed in one case but not in another.

In a Jan. 12 case, for example, Atlanta police charged a 1-year-old boy's mother with second-degree murder after he was fatally shot in the head by another child in northwest Atlanta. During a news conference, investigators said only that she left her 1-year-old unsupervised with an unsecured, loaded gun within reach.

But in a similar case from December, the same department did not charge a mother whose 1-year-old girl was injured after being shot in the head by her 3-year-old brother. No other information was provided.

Police declined to explain what differentiated the two cases, and incident reports and court records do not include a narrative of what is alleged to have happened.

Not all cases the same

The scenario plays out all the time in America's judicial system, especially in cases of accidental shootings among children. Two cases, near-identical facts, two different results: serious charges for one parent, no charges at all for another.

In 2017, an investigation by the Associated Press and the USA Today Network found that while almost all deaths involve the same circumstances — an unsecured, loaded gun left within reach of an unsupervised child — questions over whether to prosecute are answered haphazardly.

That inconsistency is something that concerns Tom Rawlings, former head of Georgia's Division of Family and Children Services.

"There doesn't seem to be a lot of consistency on this particular issue," he said. "But it's something that I think we're starting to see more and more — cases where the adults in the home are being charged with some sort of legal responsibility for leaving that gun within reach of the child, especially if it's loaded."

In many cases, the decision to file charges boils down to whether investigators can prove criminal negligence — whether an adult was aware or should have been aware of a gun being in the area and did nothing to keep it out of the reach of children.

Time after time, police and other government leaders have pleaded with the public to be responsible gun owners and securely store firearms. Studies have shown that laws requiring the safe storage of firearms are associated with a reduction in unintentional shootings and lower suicide rates among children, but no such laws exist in Georgia.

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A bill introduced in this year's legislative session would have added penalties to the failure to securely store a firearm.

The proposal, however, did not make it out of the House before the legislative deadline, leaving the pursuit of second-degree child cruelty charges as one of the few avenues to impose consequences — but only after a child has already been hurt and only if criminal negligence can be proven. Second-degree child cruelty can be upgraded to second-degree murder if the child dies, according to Georgia law.

If a person doesn't have a reason to be aware that a firearm is in the vicinity, that is usually enough to exonerate them, former Gwinnett County District Attorney Danny Porter said.

"It becomes an accidental shooting then, because how can you be charged and held criminally responsible for something you didn't know about?" he said.

THE TOLL

Ten metro Atlanta children have unintentionally shot themselves or were shot by other children this year. Children who were shot by adults are not included.

Jan. 12: Saint Bailey, 1, was [shot in a Harwell Road home](#) in northwest Atlanta when another child found an unsecured gun and fired it, according to police. The 1-year-old was shot once and rushed to a hospital, where he died three days later. The boy's mother, Amaiya Dachanel Williams, 21, was [charged with murder in the second degree](#).

Jan. 30: A 7-year-old, whose name was not released, was [accidentally shot by a 9-year-old outside a Chipotle](#) in Snellville. The 7-year-old was shot with a firearm that was left in a vehicle while an adult went inside the restaurant to pick up food. The injured child was alert when taken to a hospital, police said.

Feb. 3: A 4-year-old boy was [shot in a Griffin apartment](#), according to police. He died a week later. The boy's mother, 24-year-old Jamacia Lyons of McDonough, and James Lee Evans, 20, of Griffin, were both charged with cruelty to children and reckless conduct.

Feb. 16: A 6-year-old boy, who was not identified, was [shot in the hand in the Pittsburgh neighborhood](#) of southeast Atlanta. Police said the injury appeared to be self-inflicted. The child was taken to Children's Healthcare of Atlanta Egleston Hospital and was said to be stable.

Feb. 24: Kemoni Mack, 9, was [fatally shot while at an apartment](#) in The Station at Richmond Hill apartment complex in southeast Atlanta. A minor, who was not identified, was [charged with second-degree murder](#), aggravated assault and possession of a firearm during the commission of a felony.

Feb. 27: Miyell Hernandez, 4, died when he [accidentally shot himself](#) with a gun that was inside a vehicle after his mother went into a Publix on Panola Road in DeKalb County, police said.

March 28: Janyiah Jenkins, 4, [was shot at a home in DeKalb County](#). She was taken to a hospital but died the following day. Levante Cummings, 27, was charged with second-degree murder and second-degree child cruelty.

April 1: A [3-year-old Austell boy](#) was seriously injured after he accidentally shot himself in the head. A woman, [Olivia Sands](#), was charged with second-degree cruelty to children.

April 8: A 6-year-old boy, whose name was not released, was [accidentally shot and killed by his 8-year-old brother](#) while at a home in Stone Mountain. The boy's father, 29-year-old D'Onte Patterson, was charged with second-degree murder and cruelty to children.

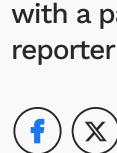
April 8: A 15-year-old, who was not identified, accidentally shot himself while handling a firearm in a Chick-fil-A parking lot on Turner Hill Road in DeKalb County.

About the Author



Rosana Hughes

Rosana Hughes is an award-winning bilingual (fluent in Spanish) journalist with a passion for explanatory public service journalism. She has been a reporter on the breaking news team since January 2022.



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