

**From:** [REDACTED] Public Interest Exemption  
**Sent:** Oct 11, 2022 22:59:09.000000000 UTC  
**Subject:** Re: Brandishing 'imitation' guns in public  
**To:** Jody Cox

**CAUTION:** This is an external email. Please take care when clicking links or opening attachments.

Chief Cox,  
Thank you for your prompt response.

Based on the vocal reaction of the audience, Mr. Duringer caused apprehension if not real fear.

I only saw the video of the forum, but it appeared to me that the clip protruding from the butt of the gun was black.

In this day and age where real guns are being manufactured in all colors of the rainbow, red may legally qualify as an exclusion, but it is no longer a guarantee of 'imitation.'

I hope Mr. Duringer understands that he did, in fact, cause apprehension in a reasonable body of Morro Bay citizens.

Sincerely,

[REDACTED] Public Interest Exemption

On Tuesday, October 11, 2022 at 03:39:32 PM PDT, Jody Cox <jcox@morrobayca.gov> wrote:

Good afternoon [REDACTED] Public Interest Exemption

Yes, I am well aware of the incident and have discussed the incident in detail with our City Manager, City Attorney and Mr. Duringer. Thank you for your reference of Penal Code 12556 as it relates to "Imitation Firearms". There are numerous Penal Code sections that we have reviewed related to this incident in addition to PC 12556, specifically PC 417.4 and PC 16700 (b)(5). I have included these sections for your review below, and highlighted the language applicable to this incident. Based on the Penal Code definitions, there is not a criminal violation.

417.4. Every person who, except in self-defense, **draws or exhibits an imitation firearm, as defined in subdivision (a) of Section 16700, in a threatening manner against another** in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a misdemeanor punishable by imprisonment in a county jail for a term of not less than 30 days.

(Amended by Stats. 2010, Ch. 178, Sec. 56. (SB 1115) Effective January 1, 2011. Operative January 1, 2012, by Sec. 107 of Ch. 178.)

#### **16700.**

(a) (1) As used in this part, "imitation firearm" means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

(2) "Imitation firearm" also includes, but is not limited to, a protective case for a cellular telephone that is so

substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the case is a firearm.

**(b) As used in Section 20165, "imitation firearm" does not include any of the following:**

(1) A nonfiring collector's replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A spot marker gun which expels a projectile that is greater than 10mm caliber.

(3) A BB device that expels a projectile, such as a BB or pellet, that is other than 6mm or 8mm caliber.

(4) A BB device that is an airsoft gun that expels a projectile, such as a BB or pellet, that is 6mm or 8mm caliber which meets the following:

(A) If the airsoft gun is configured as a handgun, in addition to the blaze orange ring on the barrel required by federal law, the airsoft gun has a trigger guard that has fluorescent coloration over the entire guard, and there is a two centimeter wide adhesive band around the circumference of the protruding pistol grip that has fluorescent coloration.

(B) If the airsoft gun is configured as a rifle or long gun, in addition to the blaze orange ring on the barrel required by federal law, the airsoft gun has a trigger guard that has fluorescent coloration over the entire guard, and there is a two centimeter wide adhesive band with fluorescent coloring around the circumference of any two of the following:

(i) The protruding pistol grip.

(ii) The buttstock.

(iii) A protruding ammunition magazine or clip.

**(5) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern,** or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents.

(c) The adhesive bands described in paragraph (4) of subdivision (b) shall be applied in a manner not intended for removal, and shall be in place on the airsoft gun prior to sale to a customer.

*(Amended by Stats. 2016, Ch. 198, Sec. 1. (AB 1798) Effective January 1, 2017.)*

Respectfully,

Chief Jody Cox

---

**From:** [REDACTED] Public Interest Exemption  
**Sent:** Tuesday, October 11, 2022 3:07 PM  
**To:** Jody Cox <jcox@morrobayca.gov>  
**Subject:** Brandishing 'imitation' guns in public

**CAUTION:** This is an external email. Please take care when clicking links or opening attachments.

Dear Chief of Police Cox,

As I'm sure you're aware, David Durringer drew what appeared to be a pistol at the forum for Morro Bay's city council candidates. On the recording of the event, the audience can be heard gasping at Mr. Durringer's gun theatrics.

There has been some lively speculation on social media as to the legality of that public display of an imitation gun.

Did Mr. Durringer break the law?

Thank you.

Public Interest Exemption

[Penal Code 12556 PC - Imitation Firearms - California Law](#)

### **Penal Code 12556 PC - Imitation Firearms - California Law**

Penal Code 12556 PC is the California statute that makes it a crime for a person to display an imitation firearm...

# Redaction Log

Reason	Page (# of occurrences)	Description
Public	1 (3)	California Government Code section 7922.000 authorizes a public agency to withhold an otherwise public record from disclosure when the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. In this case, we have determined that the public interest served by not disclosing the records you have requested clearly outweighs the public interest served by disclosure of the records. Accordingly, to the extent that section 7922.000 applies to the records that you have requested, your request is denied.
Interest	2 (1)	
Exemption	3 (1)	