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Folder Title:

Brady Bill [1]

Stack:

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Row:

96

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F = Brady BTU

THE BRADY ACT

BACKGROUND:

The Brady Act [Brady Violence Prevention Act of 1993] was signed into law by President Clinton on November 30, 1993. The legislation which established a five-day waiting period for persons seeking to purchase handguns, took effect in February of 1994.

Brady is Working:

**** 60,000 Felons, Fugitives, and Other Prohibited Buyers Stopped***

The Treasury Department estimates that in the first two years, the Act stopped more than 60,000 felons, fugitives and other prohibited purchasers from buying handguns over the counter.

**** Nearly \$80 million Awarded Throughout the United States***

As part of the 1994 Crime Bill, \$100 million was provided in FY1995 for the National Criminal History Improvement Program (NCHIP). The NCHIP program, administered by the Department of Justice, provides grants and technical support to states to help them improve their criminal records systems. To date, nearly \$80 million in grants have been distributed to all fifty states. This money is helping to implement the provisions of the Brady Act as well as the National Child Protection Act of 1993.

**** Backing from Every Major Law Enforcement Group***

The Brady Act has earned the support of every major law enforcement group in the United States, including the National Sheriffs Association.

**** Overwhelming Support of the American People***

A recent survey found that over 90% of the American people support the Brady Act.

**** AND Countless Tragedies Avoided***

While critics predicted that Brady wouldn't effect criminals, an estimated 60,000 have already been stopped. For example, a Brady check in October, 1995 helped ATF agents apprehend a convicted murderer as he tried to buy three handguns in Dekalb County, Georgia. Before the Act took effect, he had purchased at least eight other handguns without being challenged. Now he has been convicted of violating federal firearms laws and returned to prison. Similar cases have occurred throughout the United States. The Brady Act is also combatting domestic violence; stalkers, domestic abusers and other violent individuals under restraining orders are being denied handguns.

OTHER ISSUES:

The Supreme Court has recently agreed to hear two cases challenging the Brady Act's requirement that local law enforcement officials check the backgrounds of gun buyers. Two appeals courts have upheld the requirement; another found it to be an unconstitutional violation of state sovereignty. The Court will most likely not decide this case until 1997.

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DRAFT

The Honorable Robert Dole
810 First Street, N.E.
Suite 300
Washington, D.C. 20002

Dear Senator Dole:

Thank you for your letter, also signed by Speaker Gingrich, regarding the implementation of the Brady Law. I believe it is important to address several of the matters raised in your letter.

First, as a result of the Brady Law, prohibited persons have found obtaining firearms from federally licensed dealers much more difficult, and many of them are being deterred from attempting to do so. According to figures compiled by the Department of Treasury, since being enacted in December of 1993 the Brady Law has functioned as intended and anticipated by preventing approximately 60,000 prohibited persons -- including convicted felons, fugitives from justice, and persons subject to certain domestic violence restraining orders -- from purchasing handguns. The fact that this number of prohibited persons were thwarted in their attempts to purchase handguns from federally licensed firearms dealers demonstrates the vital need for Brady background checks.

In addition, this Administration has aggressively pursued gun traffickers and others who commit armed and violent crimes. The Bureau of Alcohol, Tobacco, and Firearms has expanded the number of investigations aimed at illegal gun traffickers -- including dealers, gun runners, and straw purchasers -- who supply violent criminals and juveniles. Since I have been Attorney General there has been no higher priority of the Department of Justice than the prosecution of violent crimes committed with firearms. The Department of Justice, through the Anti-Violent Crime Initiative, is working with BATF and state and local law enforcement to aggressively prosecute these cases.

Second, your claim that the Administration has been

inadequate in its Brady prosecutions is unfounded. As you know, the Brady Law did not create any new substantive federal criminal offenses for purchasers. The primary function of the Brady Law was not to create new prosecutive mechanisms, but rather to prevent prohibited persons from obtaining handguns from federally licensed firearms dealers. Because the Department of Justice compiles statistics for statutory offenses, such as making false statements, figures on the breakdown of prosecutions for false statements on Brady check forms, as distinct from other firearms forms, are not available. Nonetheless, there has been no reluctance on the part of the U.S. Attorneys to prosecute defendants who have made false statements on firearm purchase forms, including Brady check forms, where appropriate. Moreover, there have been many cases where fugitives attempting to purchase firearms have been identified and apprehended as a result of the check required under the Brady Law. Because these cases generally are prosecuted at the state and local level, no national statistics are available.

Finally, the Administration, along with our law enforcement partners at the state and local level, has been working diligently to create the National Instant Criminal Background Check System (NICS). Contrary to the assertion in your letter we have met or exceeded all relevant implementation deadlines for tasks set forth in the statute.

For example, within the first six months after enactment we completed the statutorily required survey of criminal history records systems in every state, and developed timelines agreed upon by each state for provision of complete and accurate information to the NICS. In addition, the Federal Bureau of Investigation convened its Brady Act Task Force in April 1994 to help design the NICS infrastructure. In March, the FBI completed a draft Concept of Operations which their computer engineers are using to begin constructing the system. Having been approved by the FBI's Advisory Policy Board on June 12, the Concept of Operations now awaits final approval by Department of Justice. These efforts establishing the framework for the operation of the NICS are well underway.

The FBI also is collecting the necessary information for the NICS data files (e.g. federal and state criminal history records, citizenship renunciations, illegal aliens, etc). The vast majority of the information relating to the prohibiting categories originates not at the federal level but at the state and local levels. Although the Brady Act did not require states to provide such information to the NICS, most states will participate voluntarily. The FBI will have completed the NICS infrastructure before all the states are able to provide complete and accurate information to the NICS, as indicated by the published timelines for state participation.

In anticipation of these problems at the state level, the Brady Act authorized \$200 million for National Criminal History Improvement Program (NCHIP) grants to help states upgrade their records systems. Every state already has received an NCHIP award on an expedited basis and technical assistance is being provided to states at no cost to them. Although the failure to pass a permanent FY 1996 appropriation for the Department delayed the next round of NCHIP grants, since that impasse was resolved, the Department's program announcement allowing the states to obtain their second round of \$25 million in NCHIP grants was published last month. States will need more of the funding authorized by the Brady Law to help upgrade their records systems. Accordingly, the Administration has requested an additional \$50 million in its FY 1997 budget to help meet this need.

I hope you find this responsive to the issues raised in your letter. If I may be of further assistance on this or any other matter concerning the Department of Justice, please do not hesitate to contact me.

Sincerely,

Janet Reno

HANDGUN CONTROL

ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.

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THE BRADY LAW:

STILL EFFECTIVE AFTER TWENTY-TWO MONTHS

A new survey of 22 law enforcement agencies in 15 states, conducted by Handgun Control, Inc., shows nearly 15,000 felons and other prohibited purchasers in those jurisdictions alone were stopped from buying handguns during 1995.

January, 1996

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BACKGROUND

After more than seven years of debate, Congress passed the Brady Bill in 1993 and President Clinton signed it into law on November 30, 1993. On February 28, 1994, the waiting period and mandatory background check on handgun purchasers went into effect nationwide. A background check identifies those persons prohibited by law from purchasing a handgun, such as convicted felons, fugitives from justice, drug addicts, illegal aliens, juveniles and those adjudicated mentally ill. Critics argued that felons and other prohibited persons did not purchase handguns over the counter from legitimate gun dealers. Police chiefs and other law enforcement officials knew better. For the past 22 months the Brady Law has proven law enforcement correct and the critics wrong.

BRADY LAW EFFECTIVENESS

The Brady Law does not require law enforcement agencies to compile or maintain records on the aggregate number of applications or denials, but voluntary reporting gives some indication of the law's effectiveness. On February 28, 1995, Handgun Control, Inc. (HCI) and the International Association of Chiefs of Police released the results of a survey of 115 law enforcement agencies that showed that during the first year of the Brady Law those 115 agencies conducted 572,224 background checks and denied 19,098 for a denial rate of 3.34%.

A recent follow-up telephone survey conducted by HCI collected 1995 data for 22 law enforcement agencies in 15 states. The aggregate totals showed:

- 470,470 Background Checks Conducted
- 14,925 Denials
- 3.17% Denial Rate

Clearly, thousands of ineligible purchasers are being prevented from buying handguns from gun dealers. The Colorado Department of Public Safety, for example, stopped 1,324 persons charged with or convicted of a violent felony offense from purchasing handguns during 1995 and 1,657 persons charged with or convicted of non-violent felonies.

As part of the Crime Bill signed into law by President Clinton in September 1994, federal law was amended to prohibit persons under a domestic violence restraining order from purchasing a handgun. This class was added to prevent domestic abusers and stalkers from buying handguns. The HCI survey reveals that at least two jurisdictions are denying significant numbers of people under domestic violence restraining orders from buying handguns. The Kentucky State Police

denied 323 individuals and the Colorado Department of Public Safety denied 72 such individuals from purchasing handguns. Other jurisdictions report that they need improved record keeping systems in order to adequately screen out stalkers and others under a domestic violence restraining order from buying handguns.

While "denials" are one indication of the Brady Law's effectiveness, many criminals are deterred from even attempting to buy a handgun. In other instances, criminals and convicted felons flee the gun store when informed about the Brady background check. The Utah Department of Public Safety, for example, reported that:

"One gentleman, all of a sudden, realized he had forgotten something at home when advised that an out-of-state record check is part of the background check. His record showed he was currently under indictment for kidnapping.

Another person left the store before the transaction was completed and his record showed a felony conviction for the rape of a child."

The primary purpose of the Brady Law is to stop felons and other prohibited persons from making an over-the-counter purchase of a handgun. The law's background checks have led to the arrest of many fugitives. The Utah Department of Public Safety reports numerous examples of arrests resulting from Brady background checks including the following:

"Another subject trying to purchase a handgun from a pawn dealer was arrested by the Salt Lake City Police Department on a felony warrant out of Colorado for aggravated sexual abuse of a child. The pawn dealer stalled the subject until police could arrive."

In Alexandria, Louisiana, a man tried to purchase a handgun at a local store and submitted a Brady background check form. The local sheriff's office ran his name through the National Crime Information Computer and discovered a felony theft warrant for him from the state of Colorado. The Alexandria police arrested the man and extradited him to the Adams County Sheriff's office in Colorado.

SUMMARY

The Brady Law has been in effect since February 28, 1994. In the 22 months since its implementation, the law has been responsible for stopping tens of thousands of felons and other prohibited persons from buying handguns. Hundreds of fugitives are being caught and arrested as a result of Brady Law background checks. In at least two states, stalkers, domestic abusers and other violent-prone individuals who are under restraining orders are being stopped from buying handguns. Undoubtedly, many American lives are being saved as a result of the Brady Law.

1995 Brady Law Breakdown

Law Enforcement Agency	Number of Background Checks	Felony Offense (violent)	Felony Offense (non-violent)	Restraining Order	Drug Offenses	Mental Health	Illegal Alien	False Identification	Warrant	Total Number of Denials	Percent of Denials
Arkansas State Police	28,298	133	384	0	n/a	3	n/a	0	17	537	1.90%
Colorado DPS	52,894	1324	1159	72	498	n/a	n/a	n/a	320	3,373	6.38%
Kentucky State Police	59,500	282	387	323	137	n/a	n/a	n/a	163 *	1,292	2.17%
Utah DPS	33,314	n/a	339*	n/a	n/a	n/a	n/a	10	211	560	1.68%
Albuquerque P.D., NM	4,521	4	11	n/a	0	2	19	n/a	15	163	
Amarillo P.D., TX	2,532	6	38	0	n/a	6	n/a	n/a	2	52	2.05%
Corpus Cristi P.D., TX	3,218	41	102	0	n/a	n/a	n/a	n/a	23*	166	5.16%
Oklahoma City P.D., OK	14,130	21	212	0	n/a	3	n/a	n/a	16	252	1.78%
San Antonio P.D., TX	10,122	n/a	203*	5	n/a	n/a	n/a	n/a	2	210	2.07%
Yellowstone Co. Sheriff, MT	698	n/a	7 *	0	n/a	2	n/a	n/a	1	10	1.43%
Totals	209,227	1811	2842	400	635	16		10	770	6,615	3.16%

*Kentucky State Police included in their "other" category, warrants and incomplete forms.

✧Utah Department of Public Safety (DPS), San Antonio P.D., and Yellowstone Co. Sheriff category "Felony Offenses (non-violent)" includes both violent and non-violent felony offenses. These departments did not distinguish between violent and non-violent felony offenses in their records.

*Corpus Christi P.D. included outstanding warrants in their "other" category. Of the 23 "other", two were for outstanding warrants.

1995 Brady Law Background Checks

Department	City	State	Number of Brady Checks	Number of Denials	Percentage
Arizona Department of Public Safety	Phoenix	AZ	88,668	2,229	2.51%
Arkansas State Police Department	Little Rock	AR	28,298	537	1.90%
Colorado Department of Public Safety	Denver	CO	52,894	3,373	6.38%
Idaho Department of Law Enforcement	Boise	ID	28,633	883	3.08%
Kentucky State Police	Frankfort	KY	59,500	1,129	1.90%
Nevada Highway Patrol	Carson City	NV	31,067	552	1.78%
South Carolina Department of Law Enforcement	Columbia	SC	53,157	2,106	3.96%
Utah Department of Public Safety	Salt Lake City	UT	33,314	560	1.68%
West Virginia State Police	Charleston	WV	25,288	187	0.74%
Albuquerque Police Department	Albuquerque	NM	4,521	163	3.61%
Amarillo Police Department	Amarillo	TX	2,532	52	2.05%
Choctaw Police Department	Choctaw	OK	85	1	1.18%
Corpus Christi Police Department	Corpus Christi	TX	3,218	166	5.16%
Dallas Police Department	Dallas	TX	12,994	921*	7.09%
El Paso Police Department	El Paso	TX	4,774	220	4.61%
New Orleans Police Department	New Orleans	LA	11,237	1,124	10.00%
Oklahoma City Police Department	Oklahoma City	OK	14,130	252	1.78%
Plano Police Department	Plano	TX	2,093	52	2.48%
San Antonio Police Department	San Antonio	TX	10,122	210	2.07%
Shawnee County Sheriff's Department	Topeka	KS	1,877	77	4.10%
Wyandotte County Sheriff's Department	Kansas City	KS	1,370	92	6.72%
Yellowstone County Sheriff's Department	Billings	MT	698	10	1.43%
Totals			470,470	14,896	3.17%

*Dallas Police Department rejected a total of 2,996 applicants. Of those 2,996, 921 were denied based on felony convictions, outstanding warrants, or other criminal activity. 2,075 were rejected because of clerical errors or they were referred to the Chief Law Enforcement Officer (CLEO) of another jurisdiction. They defined clerical errors as unsigned forms, incomplete forms, or improper identification.

COPS UNDER FIRE

**Law Enforcement Officers Killed
With Assault Weapons or
Guns With High Capacity Magazines**

**Handgun Control, Inc.
Wendy Chris Adler
Frederick M. Bielke
David J. Doi
John F. Kennedy**

November 29, 1995

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1225 Eye Street, NW, Suite 1100, Washington, DC 20005, 202-898-0792
3rd printing, April, 1996

INTRODUCTION

- Northridge, CA, February 22, 1994 -- Officer Christy Lynne Hamilton, the oldest rookie in the history of the Los Angeles Police Department, was gunned down with an AR-15 assault rifle by a teenager who had already used the gun to kill his father. Officer Hamilton graduated from the Police Academy three days prior to the shooting.
- Waukesha, WI, March 28, 1994 -- Captain James A. Lutz, a 30 year veteran of the Waukesha Police Department, died in a hail of bullets from a Springfield M1-A assault rifle when he intercepted two fleeing bank robbers. Two other officers were also wounded as the assailants fired more than 100 rounds at a police roadblock.
- Washington, D.C., November 22, 1994 -- In the Headquarters of the Metropolitan Police Department, an angry young man armed with a TEC-9 assault pistol took the elevator to the third floor where he shot and killed Sergeant Hank Daly, Special Agent Martha Dixon-Martinez and Special Agent Mike Miller. Special Agent John Kuchta was seriously wounded.
- Chicago, IL, March 8, 1995 -- Officer Daniel Doffyn, a rookie with the Chicago Police Department and still in his probationary period, responded to a robbery in progress call and was killed by a known gang member armed with a TEC-9 assault pistol. Another officer was wounded in the attack. Prior to this incident the assailant had been involved in a shoot-out with a rival gang.
- Oakland, CA, April 13, 1995 -- While approaching a vehicle during a traffic stop, Oakland Police Officer Timothy Howe was shot and killed with an AK-47 assault rifle. The bullet pierced the front of his protective vest and exited the rear panel. Five days later, the gunman used the same weapon to shoot two civilians and another officer before he was killed by police.
- Prince George's Co., MD, April 26, 1995 -- Officer John Novabilski was working at a local convenience store as an off-duty uniformed security guard when an assailant armed with a MAC-11 assault pistol came up to him while he was sitting in a marked police squad car and sprayed the car with a flurry of bullets. Officer Novabilski was killed as he was shot at least 10 times.

These six incidents stand as graphic reminders of what the availability of military-style assault weapons on America's streets has meant for the country's law enforcement community. Unfortunately, these are not isolated incidents. There is growing evidence that criminals, particularly younger offenders, have armed themselves with assault weapons and semi-automatic handguns sold with high capacity ammunition magazines¹ -- and police officers are paying a terribly high price. Too often law enforcement officers face these deadly guns which explains why so many officials think assault weapons would be more accurately described as "cop killer" guns.

PURPOSE:

The purpose of this study is to determine what percentage of fatal shootings of law enforcement officers involved assault weapons or guns sold with high capacity magazines that were banned by the 1994 Crime Bill. The study covers all fatal shootings reported to the Federal Bureau of Investigation (FBI) from January 1, 1994 through September 30, 1995.

FINDINGS

This report reviewed incidents in which law enforcement officers were killed with firearms and finds that an alarming number of these shootings involved assault weapons and firearms sold with high capacity magazines. The study covers a 21 month period from January 1, 1994 to September 30, 1995.

Although production of assault weapons and high capacity magazines for civilian use was banned by the 1994 Crime Bill, there has been a move in Congress to repeal the ban.² It is not difficult to conclude from this report that limiting access to assault weapons and high capacity magazines will save law enforcement lives.

The gun lobby maintains that assault weapons are seldom used in crime and rarely encountered by police officers. These numbers clearly tell a different story.

36% of law enforcement officers killed with firearms, when the make and model could be identified, involved assault weapons or guns sold with magazines affected by the assault weapon law.

Handgun Control, Inc. (HCI) reviewed reports of 122 law enforcement officers that the FBI identified as being killed with firearms. At a minimum, 33 of those shootings (or 27%) involved firearms that were affected by the Crime Bill. Sixteen involved assault weapons and 17 involved other firearms sold with high capacity magazines.³ In the 92 shootings where the make and model of the firearm could be identified, 33 or (36%) involved either assault weapons or other firearms sold with high capacity magazines.

An analysis of the data indicates that assault weapons and guns sold with high capacity magazines are disproportionately involved in the fatal shootings of law enforcement officers. It has been estimated that assault weapons account for less than 1% of the privately owned firearms in the United States.⁴ Yet this study shows that, at a minimum, assault weapons are involved in 13% of fatal shootings of law enforcement officers. When firearms that account for less than 1% of America's guns are involved in 13% or more of law enforcement fatal shootings, the need for decisive action is clear.

BACKGROUND

For six years, America's law enforcement community worked tirelessly to pass a national prohibition on the production of military-style assault weapons and high capacity magazines for civilian use. The

near unanimity of the law enforcement community on this issue was based on their knowledge, backed by real-life experience, that these weapons posed an intolerable threat to their members.

Police chiefs, sheriffs, rank and file officers and other law enforcement officials made it clear that they did not oppose the use of firearms for hunting, sport or home protection, but that weapons of war had no legitimate sporting use, and do not belong on America's streets. To the men and women who put their lives on the line for public safety, these assault weapons were too often cop killer guns.

When the Crime Bill was enacted on September 13, 1994, with the assault weapon provisions intact, it was hailed as a victory for the country's law enforcement. Nine major national law enforcement organizations, which represent over 450,000 law enforcement practitioners, endorsed the 1994 Crime Bill.⁵ However, the change in Congressional Leadership in 1995 emboldened the gun lobby to launch a full scale effort to repeal the prohibition on assault weapons. In a March 10, 1995 letter to the Executive Director of the National Rifle Association's Institute for Legislative Action, Senator Dole, the majority leader, promised to make a repeal of the ban on assault weapons a legislative priority.⁶

At the same time that this campaign for a repeal is being conducted, we are continually reminded of the deadly potential of assault weapons for law enforcement. Across the country -- in Washington, D.C. to Colorado, Michigan, Florida, Maryland, New Jersey and elsewhere -- there have been numerous tragic shooting incidents in which police officers have been killed with assault weapons or firearms sold with high capacity magazines. Police officers continue to face these deadly weapons in alarming numbers.

LAW ENFORCEMENT KILLED WITH FIREARMS

The true danger presented to law enforcement can be measured by the number of times these guns and firearms sold with high capacity magazines are used against law enforcement officers. The evidence strongly reinforces what the law enforcement community has known for years: when expecting a

...when expecting a confrontation with police, criminals often arm themselves with assault weapons or semi-automatic pistols sold with magazines that provide heavy duty firepower without a need to reload.

confrontation with police, criminals often arm themselves with assault weapons or semi-automatic pistols sold with high capacity magazines that provide heavy duty firepower without a need to reload.

While there is no reporting requirement on assault weapon incidents, police across America report that semi-automatic assault weapons have become the "weapons of choice" for drug traffickers, street gangs and paramilitary extremist groups. A 1991 survey of 835 inmates in four states shows that 35% of the inmates reported owning a "military style automatic or semi-automatic rifle," and 53% of gang affiliated inmates reported owning a "military style" weapon.⁷

The data for this study was collected from FBI reports. Supplemental information was gathered from newspapers, reference books and follow-up phone calls to law enforcement agencies and gun manufacturers. The focus of this study was on law enforcement firearm deaths for the period from

January 1, 1994 to September 30, 1995, and did not include incidents in which officers were fired upon or wounded but not killed.

1994:

According to the FBI, in 1994, 75 law enforcement officers were killed with firearms. The make and model of the gun used was established for 57 shootings. Ten killings involved firearms specifically prohibited by the assault weapon law, including the AK-47, TEC-9, UZI, MAC-11 and AR-15⁸. Thirteen were handguns which, prior to the passage of the assault weapons bill, were sold with magazines that hold more than 10 rounds of ammunition,⁹ the limit imposed by the new law.

In 1994, a minimum of 23 out of 75 killings (31%) involved firearms that were affected by the assault weapon law. Moreover, of the 57 shootings in which the make and the model of the firearms was known, 41% involved assault weapons or guns sold with high capacity magazines that were banned by the Crime Bill.

1995:

According to the FBI, from January 1 to September 30, 1995, 47 law enforcement officers were killed with firearms. The make and model for the gun used was established for 35 shootings. Ten killings involved firearms specifically prohibited by the assault weapon law, including 6 assault weapons, 3 semi-automatic handguns sold with a high capacity magazine and one SKS rifle armed with a 30-round magazine.

In 1995, a minimum of 10 out of 47 fatal shootings (21.3%) involved firearms that were affected by the assault weapon law. Moreover, of the 35 shootings in which the make and model of the firearms was known, 28.6% involved assault weapons or guns sold with high capacity magazines that were banned by the Crime Bill.

A DEADLY COMBO: ASSAULT WEAPONS AND HIGH CAPACITY MAGAZINES

The threat to law enforcement posed by assault weapons becomes even more apparent when their frequency of use is considered relative to the prevalence of these firearms in circulation. It has been

When firearms that account for less than 1% of America's guns are involved in 13% or more of law enforcement fatal shootings, the need for decisive action is clear.

estimated that assault weapons account for approximately one percent of the estimated 200 million guns in circulation.¹⁰ Their impact relative to their numbers is devastating. When firearms that account for less than one percent of America's guns are involved in 13% or more of law enforcement fatal shootings, the need for decisive action is clear. When combined with the growing popularity of semi-automatic handguns and the use of large capacity magazines, this is a deadly combination for both America's citizens and for the men and women of law enforcement.

A recent study released by the Bureau of Justice Statistics (BJS) reinforces the bad news for police officers.¹¹ The study showed that the use of guns, particularly handguns, in crime is on the rise. Juveniles were found to be responsible for most of the increase: semi-automatic pistols and assault weapons were becoming their weapons of choice. This trend has serious implications for law enforcement. According to BJS, during the period 1982 to 1993, the .38 caliber revolver was the type of handgun most frequently used against law enforcement. Today, the trend is toward more deadly and powerful weapons.

CONCLUSION

America's law enforcement community took the lead in the fight to ban assault weapons and high capacity magazines. For police, the assault weapon issue is not a second amendment issue or a question about any hunter or sport shooter's pursuit of a hobby. Police understand that a desire to protect one's family or home does not justify owning assault weapons or having the capability to fire 20, 30 or more shots without reloading. To police officers, getting these guns off the street is a matter of life and death. The more we do to keep assault weapons and high capacity magazines off the streets, the more we do to protect the lives of the men and women who wear the badge. In 1989, after President Bush banned the importation of assault rifles, the number of these weapons traced to crime decreased by 45% the following year.¹²

Given a chance to work, the assault weapons ban in the 1994 Crime Bill will produce similar results. A recent study by the Center to Prevent Handgun Violence provided strong evidence that in its first year of implementation, the ban on assault pistols and high capacity (more than 20 rounds) magazines in Maryland, helped reduce the number of weapons being used by criminals.¹³ The data showed a 55 percent drop in assault pistols recovered by the Baltimore City Police Department during the first six months of 1995 compared to what would have been expected had the Maryland ban not been implemented.

The assault weapons legislation enacted in September, 1994, enjoyed the overwhelming support of the law enforcement community and the American people. It represents a good faith effort to provide reasonable relief to the thousands of men and women in law enforcement who put their lives on the line for us every day. When you look past the rhetoric and the sound bites, the information in this report shows the degree to which assault weapons and high capacity magazines have raised the stakes for police officers.

ACKNOWLEDGMENTS

We thank Loretta Behm of the FBI Department of Law Enforcement Support, and local and state law enforcement agencies for their cooperation and support. We would also like to thank Becca Knox, Mark Polston, Bob Walker and Doug Weil for their comments.

ENDNOTES

¹ Joseph F. Sheley and James D. Wright, "Gun Acquisition and Possession in Selected Juvenile Samples," *Research in Brief*, (Washington, D.C.: National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, December 1993), 5.

² H.R. 1488, a bill to repeal the assault weapon ban, was introduced by Representative Barr on April 7, 1995.

³ Although each firearm referred to in this report was sold with a high capacity magazine of 11 rounds or more, the SKS Rifle was not. However, a 30 round magazine was used in the SKS Rifle when it was used against the law enforcement officer.

⁴ Jim Stewart and Andrew Alexander, "Assault Weapons Muscle in on the Front Lines of Crime," in *Firepower: Assault Weapons in America*, (Washington, D. C.: Cox Newspapers, May 21, 1989), 3.

⁵ Letter to Honorable William J. Clinton from Law Enforcement Steering Committee, Washington, D.C., May 4, 1995. Letter was signed by Fraternal Order of Police, National Association of Police Organizations, National Sheriffs' Association, Federal Law Enforcement Officers Association, International Brotherhood of Police Officers, Major Cities Chiefs of Police, Police Executive Research Forum, Police Foundation and National Organization of Black Law Enforcement Executives.

⁶ Jerry Gray, "Dole, In a 2D [sic] Nod to Right, Pledges to Fight Gun Ban," *New York Times*, March 18, 1995, 1.

⁷ Sheley, 4.

⁸ Assault Weapons and high capacity magazines manufactured before September 13, 1994 may still be legally purchased or transferred.

⁹ Ken Warner, ed., *Gun Digest: 1995/49th Annual Edition*, (Northbrook: DBI Books, Inc., 1994).

¹⁰ Stewart, 3.

¹¹ Marianne W. Zawitz, "Guns Used in Crime: Firearms, Crime, and Criminal Justice," *Selected Findings*, (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics - Number 5, July 1995), 4.

¹² Based on BATF tracing data received by Handgun Control, Inc.

¹³ Douglas Weil and Rebecca Knox, *Estimating the Impact in Baltimore of the Maryland Ban on the Sale of Assault Pistols and High Capacity Magazines*, (Washington, D.C., November 2, 1995), 2.

Table 1

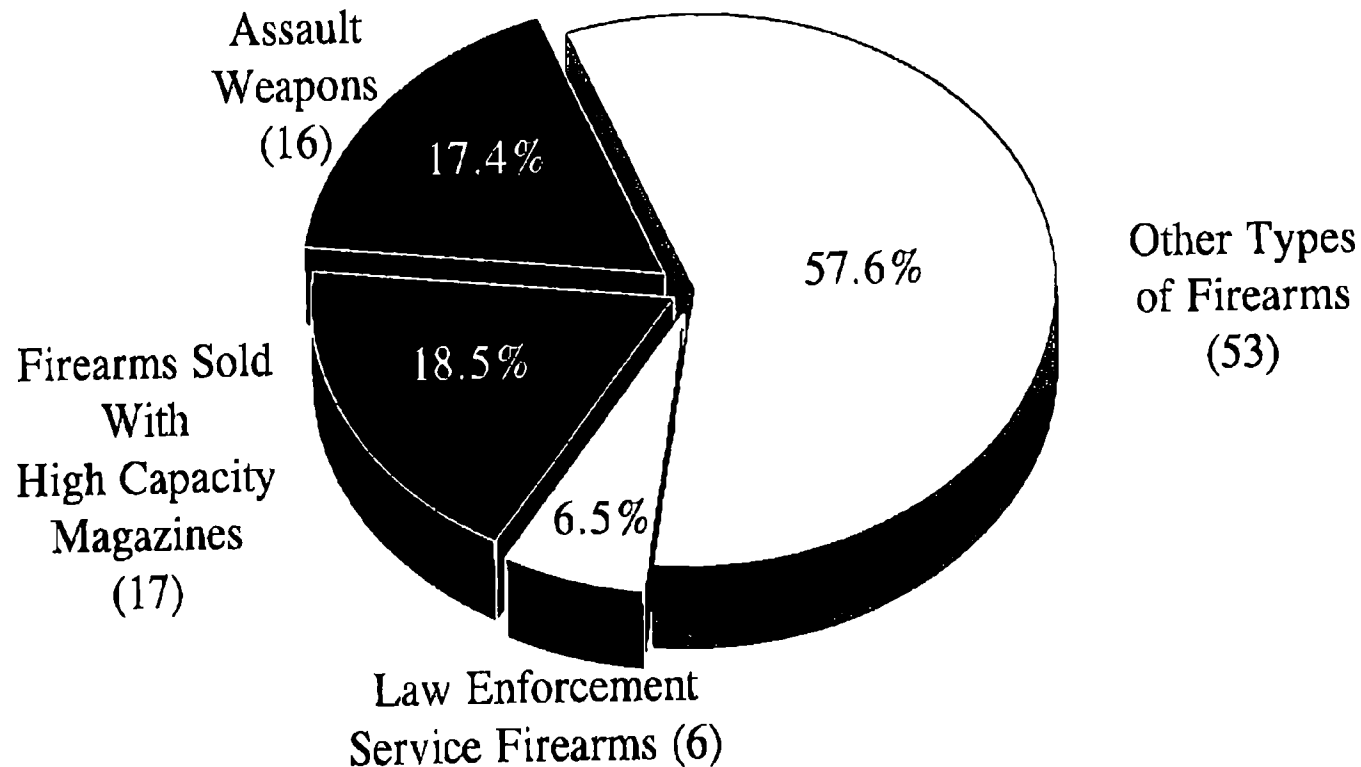
JANUARY 1, 1994 - SEPTEMBER 30, 1995
Law Enforcement Officers Killed With Assault Weapons
or Guns Sold With High Capacity Magazines

Assault Weapons	16 (17.4%)
High Capacity Magazines (11 + Rounds)	17 (18.5%)
Other Firearms	53 (57.6%)
Law Enforcement Service Firearms	6 (6.5%)
Total Firearms where Gun Make and Model are Known*	92 (100%)

*From January 1, 1994 to September 30, 1995, there were 122 law enforcement officials killed with firearms. Of these 122 deaths, the make and model of the firearm are known in 92 incidents.

Figure 1

JANUARY 1, 1994 - SEPTEMBER 30, 1995
Law Enforcement Officers Killed With Assault Weapons
or Guns Sold With High Capacity Magazines



From January 1, 1994 to September 30, 1995, there were 122 law enforcement officials killed with firearms. Of these 122 deaths, the make and model of the firearm are known in 92 incidents.

JANUARY 1, 1994 - SEPTEMBER 30, 1995

Law Enforcement Officers Killed With Assault Weapons

Date	Name	Department	State	Weapon	Other
May 29, 1995	William H. Christian, Jr.	FBI, Washington	MD	MAC-11	Gunman also had Officer Novabilski's 9mm Beretta
April 26, 1995	John J. Novabilski	Prince George's Co. P.D.	MD	MAC-11	
April 20, 1995	John Norcross	Haddon Heights P.D.	NJ	AK-47	
April 20, 1995	John McLaughlin	Camden Co. Prosecutor	NJ	AK-47	
April 14, 1995	Timothy Howe	Oakland School Dist. P.D.	CA	AK-47	
March 8, 1995	Daniel Doffyn	Chicago P.D.	IL	TEC-9	
November 22, 1994	Henry J. Daly	Washington P.D.	DC	TEC-9	
November 22, 1994	Michael J. Miller	F.B.I., Washington	DC	TEC-9	
November 22, 1994	Martha Dixon-Martinez	F.B.I., Washington	DC	TEC-9	
November 13, 1994	James Guelff	San Francisco P.D.	CA	Uzi	Gunman also had: Glock, Steyr, Fabriques Rifle.
September 7, 1994	Julio Andino-Rivera	Police of Puerto Rico	PR	AR-15	
June 29, 1994	Philip Hochstetler	Kosciusko Co P.D.	IN	Cobray 9mm	
June 12, 1994	Daniel Calabrese	Winslow Township P.D.	NJ	Uzi	
April 28, 1994	James A. Lutz	Waukesha P.D.	WI	Springfield	
				M1-A	
April 10, 1994	Issac Martinez	San Ildefonso Tribal Police	NM	Norinco 56S	
February 22, 1994	Christy L. Hamilton	Los Angeles P.D.	CA	AR-15	

JANUARY 1, 1994 - SEPTEMBER 30, 1995

Law Enforcement Officers Killed With Firearms Sold With High Capacity Magazines

Date	Name	Department	State	Weapon	Size of Magazine
August 4, 1995	Michael F. Clark	Simi Valley P.D.	CA	Glock 22	15 Round Clip
July 4, 1995	Michael L. Crowe	Arizona Dept. of Public Safety	AZ	S & W 659	14 Round Clip
July 4, 1995	Daniel P. Elkins	Yuma P.D.	AZ	S & W 659	14 Round Clip
April 28, 1995	Timothy Mossbrucker	Jefferson Co. Sheriff	CO	SKS Rifle	30 Round Clip
November 1, 1994	Lawrence King	Indianola P.D.	MS	Ruger P85	15 Round Clip
August 26, 1994	Timothy Jones	St. Paul P.D.	MN	Glock 20	15 Round Clip
August 15, 1994	James Kinard	Snohomish Co. Sheriff	WA	Ruger P91DC	11 Round Clip
August 14, 1994	Dennis Glivar	Garfield Heights P.D.	OH	Ruger P89	15 Round Clip
June 28, 1994	Len Rowell	Pearl River Co. Sheriff	MS	Ruger P85	15 Round Clip
June 14, 1994	Gary Heath	Greenville P.D.	AL	Star 31P	15 Round Clip
May 27, 1994	William Sibrava	Bernalillo Co. Sheriff	NM	Baretta 92FS	15 Round Clip
May 13, 1994	Larry Bland	Newport News P.D.	VA	Grendel P-12	11 Round Clip
April 19, 1994	Michael Hester	Lilburn P.D.	GA	Beretta 92FS	15 Round Clip
February 24, 1994	Michael Welcker	Salt Lake Co. Sheriff	UT	Ruger P-85	15 Round Clip
February 14, 1994	Tracy Michael	Palos Verdes Estates P.D.	CA	Sig Sauer P226	15 Round Clip
February 14, 1994	Vernon Vanderpool	Palos Verdes Estates P.D.	CA	Sig Sauer P226	15 Round Clip
February 1, 1994	Robert Mortell	Paxton P.D.	MA	Taurus 92AF	15 Round Clip

House Votes to Repeal Federal Ban on Assault Weapons

With remarkably little warning, the House of Representatives voted on March 22, 1996 to repeal the federal ban on assault weapons. The measure (H.R. 125) passed by a vote of 239-173. It was decided on Wednesday, March 20 that H.R. 125 would be quickly brought to the floor for a vote that Friday. Contrary to the customary legislative process there were no hearings or mark-up of the bill - it by-passed the Judiciary Committee entirely, going straight to the Rules Committee on Thursday and the floor on Friday.

While repeal was successful in the House, the assault weapon ban is in no immediate danger. Senator Dole (R-KS) has publicly stated that the Senate does not have the votes necessary to repeal the law. It is highly unlikely that the Senate will take up the assault weapon ban this Congress. Even if the Senate did vote to repeal the assault weapon ban, President Clinton would veto the measure. The gun lobby has vowed, however, to push for another repeal vote next year if no further action is taken this year.

Attached you will find a listing of how each House member voted on H. R. 125. Check to see how your representatives voted. Please take a moment to call your representative at 202-225-3121. If he/she voted YES voice your outrage, if he/she voted NO express your gratitude. Many thanks to all who helped in this effort.

BRADY LAW TALKING POINTS:

A recently-completed Bureau of Alcohol, Tobacco and Firearms' ("ATF") survey of 30 law enforcement authorities, a precursor to a broader Department of Justice/Bureau of Justice Statistics' study, reveals that from March 1994 through January 1995, more than 15,500 persons in the surveyed jurisdictions who applied to purchase handguns had their applications denied.

The ATF report being released tomorrow will show that the Brady Law has blocked the following people from obtaining handguns:

- 4,365 convicted felons;
- 945 fugitives;
- 63 persons under restraining order for alleged stalking, harassment or other forms of domestic threats or intimidation.
- 97 persons under indictment;
- 649 illegal drug users;

Every time a criminal is prevented from purchasing a handgun; it is one less possible crime.

The Brady Law is working by every measure available. It is stopping convicted criminals and prohibited persons from getting handguns, not by the tens, hundreds, or thousands, but by the tens of thousands a year.

The Brady Law works by empowering state and local police in the fight against violent crime. Every Brady check that reveals a criminal record tells a local or state police agency about a convicted criminal trying to get a handgun in their jurisdiction.

The Brady Law is not preventing law abiding citizens from buying a firearm. Look at the number of checks being run: local and state police are doing hundreds of thousands of checks, but only a small percent are being stopped. Brady is like security at airports. A slight inconvenience is worth the protection that all of us are getting from preventing potentially dangerous persons from getting immediate access to handguns.

Law abiding citizens who want to buy a handgun can do so. Persons who are a threat to those citizens cannot go to the same gun store and arm themselves. This is a law against criminals. What Brady does is put the balance of safety on the side of law abiding citizens.

THE WHITE HOUSE
WASHINGTON

February 25, 1995

PHONE INTERVIEW WITH JUDY KEEN OF USA TODAY

DATE: February 27, 1995
LOCATION: Oval Office
TIME: 10:35am - 10:45am
FROM: Rahm Emanuel *RE*

I. PURPOSE

To discuss the success of the Brady Law, its importance, and why we cannot retreat from it. The story will appear in USA Today on February 28, 1995, the one-year anniversary of the implementation of the Brady Law.

II. BACKGROUND

On February 28, the Department of Treasury's Bureau of Alcohol, Tobacco and Firearms ("ATF") will be releasing a report on the effectiveness of the Brady Law in its first year. (Judy Keen will be given a copy of the report following your phone call.) The survey of 30 law enforcement jurisdictions reveals the following:

- Of 30 law enforcement authorities surveyed, more than 15,500, or approximately 3.5 percent, of the persons who applied to purchase handguns during the relevant period had their applications denied because they were convicted felons, illegal drug users, fugitives or other prohibited persons.
- ATF has confirmed through discussions with the firearms industry that the denial rates reported were realized with no appreciable affect on the overall volume of handgun sales. This suggests that **the Brady Law is accomplishing its goal: keeping handguns out of the reach of criminals, while not unduly infringing on the rights of law-abiding handgun owners.**
- ATF estimates that the number of persons precluded under the Brady Law from purchasing a handgun during Brady's first year exceeded 40,000 nationwide -- an estimate recently corroborated by the findings of a CBS News public polling unit survey.

III. PARTICIPANTS

Rahm Emanuel

IV. PRESS PLAN

Interview with Judy Keen exclusively for February 28 USA Today.

V. SEQUENCE OF EVENTS

Judy Keen will ask questions on Brady Law.

VI. REMARKS

See attached Q & A.

Talking Points
Brady Law Anniversary
February 28, 1995

The Brady Law clearly is working. Evidence of Brady's success over the past year comes from both U.S. Government and private sources:

1. A recently-completed Bureau of Alcohol, Tobacco and Firearms' ("ATF") survey of 30 law enforcement authorities, a precursor to a broader Department of Justice/Bureau of Justice Statistics' study, reveals that from March 1994 through January 1995, **more than 15,500 persons** in the surveyed jurisdictions who applied to purchase handguns had their applications denied. The officials polled constitute a cross section of the national law enforcement scene. Drawn from every region of the country, they represent communities large and small, rural and urban.
 - The "bad guys" blocked by Brady from obtaining handguns included:
 - 4,365 convicted felons;
 - 945 fugitives;
 - 97 persons under indictment;
 - 649 illegal drug users;
 - two juveniles; and
 - 63 persons under restraining order for alleged stalking, harassment or other forms of domestic threats or intimidation.
 - The more than 15,500 Brady applications denied represent **only 3.5 percent** of the total number of applications submitted in the surveyed jurisdictions (more than 440,000). Further, ATF has confirmed through discussions with the firearms industry that the overall volume of handgun sales remained relatively constant during that time. **This suggests that the Brady Law is doing what it was designed to do -- keeping handguns out of the reach of that small percentage of persons who use handguns criminally, while not unduly infringing on the rights of legitimate handgun owners.**
 - Anecdotal evidence gleaned during the recent ATF survey, and an earlier survey tracking the first 100 days of the Brady Law's activation, provide even more proof of Brady's impact. The Brady Law has prevented thousands of convicted and potential offenders -- including murderers, rapists, drug dealers and suspected stalkers -- from purchasing handguns.
 - In March 1994, the Brady Law prevented an accused stalker in Prairie

- Village, Kansas, from purchasing a handgun. The attempted handgun purchase was stopped by the Prairie Village Police Department when a Brady background check revealed that the prospective purchaser, who was the subject of a restraining order for allegedly stalking his wife and threatening to kill her, was a resident of Missouri, not Kansas, as he had represented in his Brady form.
 - In April 1994, a suspected drug dealer was arrested in San Antonio, Texas after a Brady background check performed by the Uvalde County Sheriff's Office indicated that the alleged dealer was the subject of outstanding warrants for possession of cocaine with intent to distribute, possession of heroin with intent to distribute and failure to appear in court.
 - In November 1994, the Brady Law was instrumental in securing the apprehension of two gang members, both convicted felons, who traveled from California to Nevada to purchase handguns. An investigation conducted by ATF's Reno, Nevada field office, with the assistance of the Nevada Division of Investigation, revealed that the suspects sought to purchase arms using false identification.
2. National estimates of the number of prohibited persons who were prevented by Brady from purchasing a handgun in Brady states -- based on information supplied by the FBI's criminal history database, the Interstate Identification Index ("Triple I") -- **was approximately 41,000** for the period from March 1, 1994 through January 31, 1995.
 3. ATF has learned that CBS News' public polling unit has completed its own survey of law enforcement authorities charged with administering the Brady Law. The CBS study purportedly estimates that more than 44,000, or approximately two percent, of the applications to purchase handguns submitted during the one-year period following the Brady Law's effective date were denied.
 4. ATF reports that the combined effect of the Brady Law provision which increased the start-up costs to become a federally-licensed firearms dealer (from \$30 to \$200 for a new three-year license) and President Clinton's gun dealer reform initiatives, has caused the number of licensed gun dealers to plummet by more than 50,000 in the last year and a half.
 - Josh Sugarmann, the Executive Director of the Violence Policy Center, which recently released a study on the decline in gun dealers, was quoted in the Washington Post as saying that "[i]n the long term, [the decline in the number of gun dealers] will reduce gun violence and illegal gun trafficking."

Questions & Answers
Brady Law Anniversary
February 28, 1995

Q. What does the Brady Law do?

- A. The Brady Law establishes a period during which a federally-licensed firearms dealer must wait before consummating a handgun transaction. This waiting period permits state or local law enforcement authorities to perform a background check to determine whether the prospective purchaser is prohibited by law from possessing a firearm

Under a separate Brady Law provision the fee for a new three-year license for firearms dealers was increased from \$30 to \$200.

Q. When did the Brady Law background check provision become effective?

- A. Background checks conducted pursuant to the Brady Law began on February 28, 1994.

Q. Who is prohibited from possessing firearms under Brady?

The following categories of persons are prohibited from possessing firearms: convicted felons; fugitives from justice; persons under indictment; persons subject to restraining orders for alleged domestic violence; illegal drug users; persons who have been adjudicated "mentally defective;" persons who have renounced their U.S. citizenship; persons who have been dishonorably discharged from the military; and illegal aliens.

Q. How does the Brady Law background check provision work?

- A. The Brady Law requires a prospective handgun purchaser to complete a form, under penalty of perjury, which asks for certain identifying information, and which asks whether the intended purchaser is a prohibited person (e.g., a convicted felon, a fugitive, or an alleged domestic abuser). The form is forwarded by the firearms dealer to the chief law enforcement officer in that jurisdiction. The chief law enforcement officer then should check the appropriate and reasonably available databases to determine whether the prospective purchaser can, in fact, legally possess a firearm. The firearms dealer is advised "yes" or "no." If the dealer does not receive an answer within five days, the sale can go forward.

Q. What is the intent underlying the Brady Law background check provision?

- A. The Brady Law is designed to prevent the "bad guys," those prohibited by law from possessing firearms, from accessing handguns.

Q. Are all states subject to the Brady Law background check provision?

A. No. The Brady Law establishes exemptions to the background check provision in states that already require a permit to purchase a handgun, or in states that already have in place in background check system comparable to Brady's. To date, 28 states and territories are subject to the Brady Law. One of these, Washington, is considering legislation which would remove it from Brady's purview.

Q. Does the Brady background check provision apply for an indefinite period or is it scheduled to expire some time in the future?

A. The five-day waiting period the Brady Law establishes is scheduled to terminate in 1998, at which time an nationwide "instant check" system is to be in place. The Department of Justice is responsible for developing the instant check system which, in addition to its use in regulating handgun purchases, will be employed for a variety of law enforcement purposes. ATF is working with Justice on the development of the system. Eight states, Colorado, Delaware, Florida, Idaho, New Hampshire, Utah, Virginia and Wisconsin, currently operate their own instant check systems.

Q. What is the status of the nationwide "instant check" system? When will funding be released to the states and the work done to upgrade the criminal history database system?

A. Efforts are underway both at the federal level and within the states to develop an accurate and efficient criminal history check system. The FBI is making the hardware, software, database and systems improvements to accommodate the national instant check system. The primary undertaking lying ahead is improving all of the state criminal history databases which form the backbone of the national system. Congress authorized \$200 million for criminal history record improvements. Virtually all of that money will be spent on upgrading state systems. A Department of Justice survey indicates that most states will have complete and accessible records for over 80 percent of the felonies committed in their jurisdictions by December 1998, when the national instant check system goes into effect. But there is much work to be done between now and then.

\$100 million has been appropriated for this year for criminal history record improvements, of which \$25 million has been set aside for early grants to states that were able to prepare and present upgrade plans quickly. Proposals for early grants were due on January 31, 1995. The Bureau of Justice Statistics is reviewing those proposals so that grant awards can be made as soon as possible. States seeking funding out of the remaining appropriation for this year must submit a plan by June 1.

Q. Is the Brady Law working?

- A. The Brady Law clearly is working. ATF recently completed a survey of 30 law enforcement authorities charged with administering the Brady Law pre-handgun purchase screening process. The survey, a precursor to a larger Department of Justice/Bureau of Justice Statistics' study regarding firearms purchaser screening, covered the period from March 1994 through January 1995. The results are extremely promising. In the surveyed areas more than 15,500, or approximately 3.5 percent, of the persons who applied to purchase handguns during the relevant period had their applications denied because they were convicted felons, illegal drug users, fugitives from justice, subject restraining order for alleged stalking or domestic violence, or other prohibited persons. Further, ATF estimates, based on the number of second-level queries made to the FBI's criminal history database, that the number of denials in Brady states nationwide was approximately 41,000.

Notably, ATF has confirmed through discussions with the firearms industry that the denial rates reported in its recent survey were achieved with no appreciable affect on the overall volume of handgun sales. This suggests that the Brady Law is accomplishing its goal: keeping handguns out of the reach of the "bad guys" -- that small fraction of the population which uses handguns criminally -- while not infringing on the rights of law-abiding handgun owners.

Q. What was the purpose of surveying law enforcement authorities?

- A. The Brady Law itself does not authorize ATF to require any kind of reports from federal firearms licensees concerning Brady's impact or implementation. Therefore, there is no mechanism in place to track trends in handgun purchases and denials. ATF solicited the voluntary cooperation of 30 randomly-chosen law enforcement officials, however, who agreed to disclose information regarding the Brady application requests they received. Among the information ATF sought was statistics regarding the number of applications filed, the number of applications denied, and the grounds for denial.

Q. How were the survey subjects selected?

- A. The participating law enforcement authorities were randomly selected from a pool of law enforcement entities. ATF chose at least one law enforcement authority per Brady state. In addition, ATF sought to obtain a national representative sample, including rural and urban districts, as opposed to concentrating on just one region of the country.

Q. Explain how ATF came up with an estimate of the number of applications to purchase handguns denied in Brady states nationwide over the past year. How did the FBI's criminal history database figure into this calculation?

A. The FBI's criminal history database, the Interstate Identification Index ("Triple I"), provides an accounting of the number of queries of the database made by law enforcement authorities in connection with firearms transactions. Generally speaking, the first step a law enforcement officer takes in processing a Brady application is to check the information disclosed in the application against a prospective purchaser's criminal record maintained in the Triple I. When the initial check reveals that an intended purchaser may be prohibited from buying a gun, the officer usually will run a follow-up query to obtain the criminal record and confirm independently whether the individual is prohibited from purchasing a firearm. This makes Triple I checks a rough but useful measurement of the number of possible denials of handguns purchased under Brady. Indeed, estimates based on Triple I can be characterized as quite modest, since Triple I only identifies felony convictions, pending indictments or fugitive status. Triple I contains no information bearing on whether a putative purchaser falls within one of the remaining six categories of persons prohibited from buying handguns.

During the period from March 1, 1994 through January 31, 1995, approximately 1.6 million firearm queries were made in Brady states. ATF estimated, conservatively, that no more than 2.5 percent of those follow-up queries actually uncovered facts leading law enforcement to nullify a pending handgun transaction. The 2.5 percent figure was based on historical rates of denials realized in certain states that had their own laws requiring pre-handgun purchase screening. Using this formula, the number of times that convicted felons, drug offenders, fugitives and other prohibited persons are estimated to have been prevented from obtaining handguns in Brady states during Brady's first year was approximately 41,000.

The ATF pilot study was a small one, polling only 30 of the hundreds of law enforcement officials utilizing the Brady Law. The Triple I records regarding follow-up queries provide some insight into the numbers of murderers, drug dealers, rapists, accused stalkers and others who are being denied access to handguns nationwide.

Q. Has the Brady waiting period caused the overall volume of handgun sales to decline?

A. No. ATF has learned in discussions with the firearms industry that the Brady Law has had no appreciable impact on the aggregate volume of handgun sales in this country.

An earlier ATF survey of federal firearms dealers during the first 100 days of the Brady Law's implementation indicated that immediately prior to February 28, 1994

(Brady's effective date), sales of handguns were higher than normal. Sales then decreased dramatically in the first month after the Brady Law went into effect. By the 100-day mark, however, sales returned to a level similar to that realized in previous years, and have remained at regular levels since.

The only handgun sales the Brady Law was designed to reduce are those to prohibited persons such as convicted felons, drug offenders, and fugitives. Anyone who can own a handgun legitimately remains free to purchase firearms through dealers notwithstanding Brady. The Brady Law was never intended to deter handgun sales to people who are avid sportsmen or who want to buy a handgun for their own protection.

Q. In addition to the ATF study and the Triple I estimate, does evidence from other source indicate that Brady is working?

A. Yes. ATF has learned that CBS News' public polling unit has completed its own survey of law enforcement authorities charged with administering the Brady Law. The CBS study purportedly estimates that more than 44,000, or approximately two percent, of the applications to purchase handguns submitted during the one year period following the Brady Law's effective date were denied. Thus, the CBS poll corroborates generally ATF's findings.

Q. Under Brady, can a felon or other prohibited person be arrested simply because he or she attempted to buy a handgun?

A. Yes. A prohibited person who makes a false statement on the Brady form commits a federal offense. The prospective purchaser need not actually receive or possess a firearm.

Q. How many investigations have been opened, arrests made and prosecutions obtained as a consequence of the Brady Law application process? Isn't it true that there have been few prosecutions under the Brady Law?

A. There are a number of ongoing investigations involving people who allegedly have lied on their Brady form, and I expect that several of those investigations will result in prosecutions.

But keep in mind that federal prosecutions are only one way in which the Brady Law keeps guns out of the hands of people who are prohibited from possessing them. There are two other ways.

Brady is first about prevention. People who are not allowed to possess guns are turned away at the gun store counter. Over time, prohibited persons will learn that the nation's gun stores are not open to them.

At a second level, Brady gives state and local law enforcement another tool to protect the public. Those officers receive the Brady information in the first instance, run the record checks and, as the surveys show, have been making arrests for violations of state and local law.

The information we are reporting today shows that Brady is working at all levels: prohibited persons are being denied handguns; local police are making arrests and charging offenders; and successful federal investigations and prosecutions are occurring.

- Q. Beyond the evidence of criminals whose applications to purchase handguns were denied, has your research indicated whether the Brady Law is having a chilling effect on would-be purchasers? In other words, is Brady causing bad guys to think twice about trying to buy a handgun?**
- A.** ATF feasibly cannot poll an undefined universe of convicted felons, illegal drug users and other criminals to determine whether the Brady Law dissuaded them from attempting a handgun purchase. Miscreants of this sort are not apt to participate in a survey conducted by a federal law enforcement agency, and it always is difficult to prove a negative. Nevertheless, given the large numbers of actual applications denied, let alone the criminal investigations opened and convictions obtained as a consequence of the Brady Law process, it is reasonable to assume that Brady may be convincing some bad guys not to try to buy handguns.

Q. What impact have the lawsuits against the Brady Law had on its effectiveness?

- A.** Sheriffs in nine states, Arizona, Louisiana, Mississippi, Montana, New Mexico, North Carolina, Texas, Vermont and Wyoming, have filed lawsuits seeking to have the Brady law declared unconstitutional. The sheriffs argue that the Brady Law requirement that they conduct background checks of handgun purchasers violates the Tenth Amendment. More specifically, they contend that the background check requirement establishes an unfunded mandate with which the states must comply, an impermissible intrusion on state sovereignty. The Justice Department asserts, on the other hand, that the national law enforcement interests served by the Brady background check provision outweigh the minimal duties placed on the sheriffs. Therefore, the Brady Law passes constitutional muster.

To date, six district courts have issued decisions. Judge Prado of the Western District of Texas found that the Brady background check provision does not raise constitutional concerns. Five other district courts, however, in Louisiana, Montana, Mississippi, Arizona and Vermont, ruled that requiring sheriffs to carry out the background check impermissibly commandeers state executive officers to administer a federal program in violation of the Tenth Amendment.

Significantly, the adverse court decisions were limited only to the sheriffs in those particular jurisdictions. Sheriffs in neighboring jurisdictions still must comply with the Brady background check provision. Even more importantly, the courts in the adverse cases upheld the constitutionality of the core elements of the Brady Law. In those jurisdictions, prospective handgun purchasers still must complete the Brady form, gun dealers still must notify law enforcement authorities, and a five-day waiting period still must pass before a handgun can be transferred. Further, the court decisions do not prohibit the law enforcement officials from conducting background checks if they so choose.

Appeals presently are pending in the Fifth and Ninth Circuits. The Administration is confident that the constitutionality of the Brady background check provision will be affirmed through the appellate process.

The Brady Law was designed to be a tool for law enforcement officers to fight crime by keeping handguns out of the reach of criminals. The vast majority of law enforcement officers welcome this tool and have used it to prevent criminals from obtaining handguns.

Q. Would the Brady Law have prevented John Hinckley from buying the firearm used in the assassination attempt on President Reagan?

A. Technically speaking, no. Under federal law, a person is prohibited from owning or purchasing a handgun if he or she is adjudicated mentally defective. At the time he purchased the gun used in the assault on President Reagan and James Brady, John Hinckley's psychological problems had not resulted in his being adjudicated mentally ill.

Still, the prospect of having to fill out an application alerting law enforcement officials to his intent to purchase a handgun, and of waiting five days for those officials possibly to perform a check on his background, may have prompted Mr. Hinckley to consider abandoning his plan.

Q. Are suspected stalkers prohibited from owning or possessing firearms under federal law?

A. Yes. federal law previously did not prohibit persons subject to court restraining orders for suspected domestic violence from possessing firearms. The Crime Law closed that loophole, however. Now, accused stalkers, spouse abusers and others subject to court orders are treated similarly to convicted felons, drug offenders and fugitives for purposes of the federal firearms laws. This legislative development, coupled with implementation of the Brady Law, has taken guns out of the hands of suspected domestic offenders and, quite possibly, prevented some tragedies.

The law enforcement officials surveyed by ATF reported a total of 63 persons subject to restraining orders who were denied access to handguns during the Brady's first year.

Q. Are people who redeem pawned firearms required to undergo a background check?

A. No. While the Brady Law originally applied to pawn redemptions, Congress amended Brady during deliberations on the Crime Bill to remove pawn redemptions from Brady's scope. This loophole has been criticized as diminishing the Brady Law's efficacy. Indeed, one can only imagine the how the number of prohibited persons prevented by Brady from accessing handguns would increase if pawn redemptions were covered under the Law as well.

New purchases of handguns from pawnshops still are subject to the Brady Law.

Q. Apart from preventing prohibited persons from purchasing handguns, has the Law had a positive impact in other ways?

A. Yes. ATF reports that the combined effect of the Brady Law provision increasing start-up costs to become a federally-licensed firearms dealer (from \$30 to \$200 for a new three-year license) and President Clinton's gun dealer reform initiatives, has caused the number of licensed gun dealers to plummet by more than 50,000 in the year and a half. Josh Sugarmann, the Executive Director of the Violence Policy Center, which last week released a study on the decline in gun dealers, was quoted in the Washington Post as saying that "[i]n the long term, [the decline in the number of gun dealers] will reduce gun violence and illegal gun trafficking."

Q. Some people who lose their right to possess a firearm because of a criminal conviction subsequently have that right restored under state law. Will they be denied the ability to purchase a handgun under Brady?

A. A person whose rights have been restored and who is not prohibited from possessing firearms under state law is not prohibited under federal firearms laws from owning guns. A law enforcement officer conducting a Brady background check of a prospective handgun purchaser may find that the person has a prior felony conviction, and may find that no record of the subsequent restoration of rights. For this reason, the law enforcement officer may deny the proposed transfer of a handgun. If the prospective purchaser can satisfy the law enforcement officer that he or she has had their rights restored, however, the sale may be approved.

The Administration has proposed, and continues to propose, that there be a standard definition of "felony conviction" for purposes of federal law. We continue to call on Congress to make this common sense change. Unfortunately, in the meantime, some

risk exists that individuals once convicted of a crime could initially be denied a handgun until it can be proven that the individual's right to own a gun had been restored..

Q. Have Brady Law implementing regulations been published?

A. Yes. Final regulations were published in the Federal Register February 27, 1995.

Q. What is Brady II?

A. Proposed legislation known as the Handgun Control and Violence Prevention Act of 1994, and otherwise known as "Brady II" was introduced in the House of Representatives (H.R. 4300) and the Senate (S.2053) on April 26, 1994. To our knowledge, the bill has not been introduced in the current Congress.

Several of the provisions of Brady II were incorporated into the Crime Bill. These include: the requirement that federal firearms licensees comply with state and local gun standards; the obligation of federal firearms licensees to report thefts to ATF and local law enforcement; and the provision mandating that federal licensees assist ATF in tracing firearms.

Brady II also contains several, more controversial provisions, including: a state licensing requirement for purchasers of handguns and handgun ammunition; an increase in the dealer license fee to \$3,000 for a three-year license (from the current \$200 for new licenses and \$90 for renewals); a prohibition on sales of handguns at gun shows to non-licensees; a requirement that dealers provide security on their premises; and a prohibition against non-licensees purchasing two or more handguns during any 30-day period.

Q. Does the Administration support "Brady II?"

A. At this time, the Administration is focusing on monitoring the efficacy of the Brady Law and the assault weapons ban, and on fighting off congressional efforts to compromise this country's crime-fighting capacity by gutting key components of the Crime Law.

Presidential Scheduling Request

TODAY'S DATE: 2/22/95

☐ ACCEPT	☐ REGRET	☐ PENDING
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TO: Billy Webster
Director of Scheduling & Advance

FROM: Rahm Emanuel ^{RS.}
Director of Special Projects

REQUEST: Phone interview with USA Today on Brady Bill.

PURPOSE: To promote the success of the Brady Bill in its first year. The President should do this on February 27, so that it appears in USA Today on the anniversary of the Brady Bill, February 28.

BACKGROUND: The Treasury Department is releasing a report which confirms the successes of the Brady Bill in its first year: of 30 law enforcement authorities, more than 15,500 applicants denied from purchasing handguns because they were prohibited persons.

PREVIOUS PARTICIPATION: Brady Bill Signing.

DATE & TIME: February 27, 1995

DURATION: 10 minutes

LOCATION: Oval Office

PARTICIPANTS: POTUS

OUTLINE OF EVENTS: Phone call interview with USA Today reporters.

REMARKS REQUIRED: Q & A

MEDIA COVERAGE: Yes - USA Today

FIRST LADY'S ATTENDANCE: No

VP'S ATTENDANCE: No

RECOMMENDED BY: Rahm Emanuel

CONTACT: Rahm Emanuel

ORIGIN OF THIS PROPOSAL: Rahm Emanuel

WHITE HOUSE STAFFING MEMORANDUM

DATE: 02/27/95 ACTION/CONCURRENCE/COMMENT DUE BY: ----SUBJECT: PRESIDENTIAL REMARKS: BRADY BILL IMPLEMENTATION ANNIVERSARY

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	QUINN	☐	☐
PANETTA	☐	☒	RASCO	☐	☐
McLARTY	☐	☐	RUBIN	☐	☐
ICKES	☐	☒	SEGAL	☐	☐
BOWLES	☐	☒	STEPHANOPOULOS	☐	☒
RIVLIN	☐	☐	TYSON	☐	☐
EMANUEL	☐	☒	WEBSTER	☐	☐
GEARAN	☐	☒	WILLIAMS	☐	☐
GIBBONS	☐	☐	<u>REED</u>	☐	☒
GRIFFIN	☐	☐	<u>CERDA</u>	☐	☒
HALE	☐	☐	<u>BAER</u>	☐	☒
HERMAN	☐	☐	<u>PRINCE</u>	☐	☒
LAKE	☐	☐	_____	☐	☐
LINDSEY	☐	☐	_____	☐	☐
MIKVA	☐	☒	_____	☐	☐
McCURRY	☐	☒	_____	☐	☐
McGINTY	☐	☐	_____	☐	☐

REMARKS:

RESPONSE:

JOHN D. PODESTA
 Assistant to the President
 and Staff Secretary
 Ext. 2702

**President William J. Clinton
First Anniversary of
Brady Bill Implementation
February 28, 1995**

[Acknowledgments: Vice President Gore, Attorney General Reno, Secretary Rubin, Kentucky State Police Commissioner Jerry Lovitt (just back from a weekend tour in the Kentucky Army National Guard, where he is a Chief Warrant Officer. [Jim Brady acknowledgment in first paragraph])]

I want to say a special word about a man who has always understood his responsibility to the larger community and to his country. Jim Brady dedicated his life to public service. In no small measure because he did, fourteen years ago, his life was changed forever. In spite of all the hardship and pain that followed, he never looked back, but instead, fought on, determined to do his part to prevent the tragedy that struck him from striking again. Thank you, Jim.

In many ways, Jim and Sarah Brady are exactly what I'm talking about when I talk about the New Covenant. I believe the best way for us to preserve the American Dream for all Americans is to build a new partnership in our country: between Americans and their government, and especially, Americans with their communities and each other. I call that partnership the New Covenant.

Government's responsibility is to expand opportunity while shrinking bureaucracy; to empower people to make the most of their own lives; and to enhance our security, not just abroad, but at home. At the same time, we must demand more responsibility from every citizen in return -- responsibility for our country, for our communities, for our families and ourselves.

A crucial part of our job in Washington is to help arm the American people -- and America's police officers -- to fight crime and violence. The Brady Bill may be one of the things I am most proud of as President. Today marks the end of its first full year in effect. We put an end to seven years of politics-as-usual to pass the Brady Bill in 1993.

Now, a year after it was implemented, we know the Brady Law works. National estimates show that over 40,000 convicted felons, fugitives, drug dealers, and gang members were prevented from purchasing a handgun in the Brady Law's first eleven months.

According to a recent study by the Bureau of Alcohol, Tobacco and Firearms, that's only about 3 and a half percent of all the people who applied to buy handguns. Contrary to the alarmist claims of some special interests, the Brady Law isn't infringing on the rights of legitimate handgun owners. It's doing exactly what it was designed to do -- keeping weapons out of the hands of criminals.

There are thousands of examples around the country of its success. Let me share three of them with you. In March 1994, the Brady Law stopped a handgun purchase by a man in Kansas under a restraining order for allegedly stalking his wife and threatening to kill her.

In April, the Brady Law led to the arrest of a suspected drug dealer in Texas with outstanding warrants for possession of cocaine and heroin with intent to distribute.

In November, the Brady Law helped to catch two gang members, both convicted felons, who traveled from California to Nevada to purchase weapons.

These are the people the Brady Bill was meant to stop -- law-abiding Americans are the people the Brady Bill was meant to protect. The test for the Brady Bill was simple -- could it save one life? Protect one child walking home from school, so she would feel a little safer? Could it spare one woman from abuse? If it could, it would be a success. It has done all of these things many times over. The Brady Bill has passed with flying colors.

After years and years of the same old Washington excuses and tired old partisan politics, the last Congress stood up to the special interests and stood up for the American people. They heard the pleas of countless victims and answered the call of America's police officers. They passed the Brady Bill and they banned 19 deadly assault weapons. Some of them laid down their seats to do it, but America is safer for their courage.

As well as these two laws are working, some people in Congress actually want to take back. I will not let anyone take this protection away from the American people. **Mark my words: The Brady Bill and the Assault Weapons Ban are working, and they are here to stay.**

Thank you.

THE WHITE HOUSE
WASHINGTON

February 25, 1995

PHONE INTERVIEW WITH JUDY KEEN OF USA TODAY

DATE: February 27, 1995
LOCATION: Oval Office
TIME: 10:35am - 10:45am
FROM: Rahm Emanuel *RE*

I. PURPOSE

To discuss the success of the Brady Law, its importance, and why we cannot retreat from it. The story will appear in USA Today on February 28, 1995, the one-year anniversary of the implementation of the Brady Law.

II. BACKGROUND

On February 28, the Department of Treasury's Bureau of Alcohol, Tobacco and Firearms ("ATF") will be releasing a report on the effectiveness of the Brady Law in its first year. (Judy Keen will be given a copy of the report following your phone call.) The survey of 30 law enforcement jurisdictions reveals the following:

- Of 30 law enforcement authorities surveyed, more than 15,500, or approximately 3.5 percent, of the persons who applied to purchase handguns during the relevant period had their applications denied because they were convicted felons, illegal drug users, fugitives or other prohibited persons.
- ATF has confirmed through discussions with the firearms industry that the denial rates reported were realized with no appreciable affect on the overall volume of handgun sales. This suggests that **the Brady Law is accomplishing its goal: keeping handguns out of the reach of criminals, while not unduly infringing on the rights of law-abiding handgun owners.**
- ATF estimates that the number of persons precluded under the Brady Law from purchasing a handgun during Brady's first year exceeded 40,000 nationwide -- an estimate recently corroborated by the findings of a CBS News public polling unit survey.

III. PARTICIPANTS

Rahm Emanuel

IV. PRESS PLAN

Interview with Judy Keen exclusively for February 28 USA Today.

V. SEQUENCE OF EVENTS

Judy Keen will ask questions on Brady Law.

VI. REMARKS

See attached Q & A.

Brady Law Anniversary
February 28, 1995

Most important 3 points about Brady:

The Brady Law is working by every measure available. It is stopping convicted criminals and prohibited persons from getting handguns, not by the tens, hundreds, or thousands, but by the tens of thousands a year.

The Brady law works by empowering state and local police in the fight against violent crime. Every Brady check that reveals a criminal record tells a local or state police agency about a convicted criminal trying to get a handgun in their jurisdiction.

Brady is not preventing law abiding citizens from buying a firearm. Look at the number of checks being run: local and state police are doing hundreds of thousands of checks, but only a small percent are being stopped. Brady is like security at airports. A slight inconvenience is worth the protection that all of us are getting from preventing potentially dangerous persons from getting immediate access to handguns.

Law abiding citizens who want to buy a handgun can do so. Persons who are a threat to those citizens cannot go to the same gun store and arm themselves. This is a law against criminals. What Brady does is put the balance of safety on the side of law abiding citizens.

BRADY LAW TALKING POINTS:

A recently-completed Bureau of Alcohol, Tobacco and Firearms' ("ATF") survey of 30 law enforcement authorities, a precursor to a broader Department of Justice/Bureau of Justice Statistics' study, reveals that from March 1994 through January 1995, **more than 15,500 persons** in the surveyed jurisdictions who applied to purchase handguns had their applications denied.

The ATF report being released tomorrow will show that the Brady Law has blocked the following people from obtaining handguns:

- 4,365 convicted felons;
- 945 fugitives;
- 63 persons under restraining order for alleged stalking, harassment or other forms of domestic threats or intimidation.
- 97 persons under indictment;
- 649 illegal drug users;

Every time a criminal is prevented from purchasing a handgun, it is one less possible crime.

The Brady Law is working by every measure available. It is stopping convicted criminals and prohibited persons from getting handguns, not by the tens, hundreds, or thousands, but by the tens of thousands a year.

The Brady Law works by empowering state and local police in the fight against violent crime. Every Brady check that reveals a criminal record tells a local or state police agency about a convicted criminal trying to get a handgun in their jurisdiction.

The Brady Law is not preventing law abiding citizens from buying a firearm. Look at the number of checks being run: local and state police are doing hundreds of thousands of checks, but only a small percent are being stopped. Brady is like security at airports. A slight inconvenience is worth the protection that all of us are getting from preventing potentially dangerous persons from getting immediate access to handguns.

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- ATF estimates that the number of persons precluded under the Brady Law from purchasing a handgun during Brady's first year exceeded 40,000 nationwide -- an estimate recently corroborated by the findings of a CBS News public polling unit survey.

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Talking Points
Brady Law Anniversary
February 28, 1995

The Brady Law clearly is working. Evidence of Brady's success over the past year comes from both U.S. Government and private sources:

1. A recently-completed Bureau of Alcohol, Tobacco and Firearms' ("ATF") survey of 30 law enforcement authorities, a precursor to a broader Department of Justice/Bureau of Justice Statistics' study, reveals that from March 1994 through January 1995, **more than 15,500 persons** in the surveyed jurisdictions who applied to purchase handguns had their applications denied. The officials polled constitute a cross section of the national law enforcement scene. Drawn from every region of the country, they represent communities large and small, rural and urban.
 - The "bad guys" blocked by Brady from obtaining handguns included:
 - 4,365 convicted felons;
 - 945 fugitives;
 - 97 persons under indictment;
 - 649 illegal drug users;
 - two juveniles; and
 - 63 persons under restraining order for alleged stalking, harassment or other forms of domestic threats or intimidation.
 - The more than 15,500 Brady applications denied represent **only 3.5 percent** of the total number of applications submitted in the surveyed jurisdictions (more than 440,000). Further, ATF has confirmed through discussions with the firearms industry that the overall volume of handgun sales remained relatively constant during that time. **This suggests that the Brady Law is doing what it was designed to do -- keeping handguns out of the reach of that small percentage of persons who use handguns criminally, while not unduly infringing on the rights of legitimate handgun owners.**
 - Anecdotal evidence gleaned during the recent ATF survey, and an earlier survey tracking the first 100 days of the Brady Law's activation, provide even more proof of Brady's impact. The Brady Law has prevented thousands of convicted and potential offenders -- including murderers, rapists, drug dealers and suspected stalkers -- from purchasing handguns.
 - In March 1994, the Brady Law prevented an accused stalker in Prairie

- Village, Kansas, from purchasing a handgun. The attempted handgun purchase was stopped by the Prairie Village Police Department when a Brady background check revealed that the prospective purchaser, who was the subject of a restraining order for allegedly stalking his wife and threatening to kill her, was a resident of Missouri, not Kansas, as he had represented in his Brady form.
 - In April 1994, a suspected drug dealer was arrested in San Antonio, Texas after a Brady background check performed by the Uvalde County Sheriff's Office indicated that the alleged dealer was the subject of outstanding warrants for possession of cocaine with intent to distribute, possession of heroin with intent to distribute and failure to appear in court.
 - In November 1994, the Brady Law was instrumental in securing the apprehension of two gang members, both convicted felons, who traveled from California to Nevada to purchase handguns. An investigation conducted by ATF's Reno, Nevada field office, with the assistance of the Nevada Division of Investigation, revealed that the suspects sought to purchase arms using false identification.
2. National estimates of the number of prohibited persons who were prevented by Brady from purchasing a handgun in Brady states -- based on information supplied by the FBI's criminal history database, the Interstate Identification Index ("Triple I") -- **was approximately 41,000** for the period from March 1, 1994 through January 31, 1995.
 3. ATF has learned that CBS News' public polling unit has completed its own survey of law enforcement authorities charged with administering the Brady Law. The CBS study purportedly estimates that more than 44,000, or approximately two percent, of the applications to purchase handguns submitted during the one-year period following the Brady Law's effective date were denied.
 4. ATF reports that the combined effect of the Brady Law provision which increased the start-up costs to become a federally-licensed firearms dealer (from \$30 to \$200 for a new three-year license) and President Clinton's gun dealer reform initiatives, has caused the number of licensed gun dealers to plummet by more than 50,000 in the last year and a half.
 - Josh Sugarmann, the Executive Director of the Violence Policy Center, which recently released a study on the decline in gun dealers, was quoted in the Washington Post as saying that "[i]n the long term, [the decline in the number of gun dealers] will reduce gun violence and illegal gun trafficking."