

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the William J. Clinton
Presidential Library Staff.**

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Domestic Policy Council

Series/Staff Member: Jose Cerda

Subseries:

OA/ID Number: 18931

FolderID:

Folder Title:

Brady Decision [1]

Stack:

S

Row:

98

Section:

2

Shelf:

4

Position:

2

ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

July 14, 1997

Ms. Elizabeth Weaver
Press Officer
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W., Suite 2315
Washington, D.C. 20220

Dear Ms. Weaver:

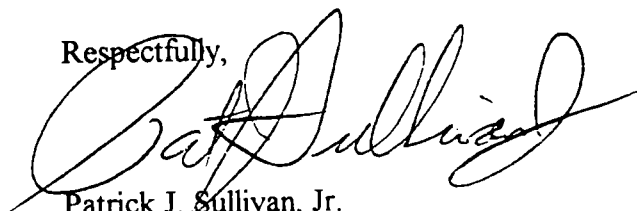
Enclosed please find my June 27, 1997, Media Release regarding the U.S. Supreme Court decision on the Brady Act. Please read it over prior to our Wednesday meeting.

We at NSA are very interested in promoting timely implementation of NICS and encouraging each state to work aggressively at criminal history improvements, particularly the posting of dispositions to criminal history records.

It is our belief that we and the Federal Government have a lot of work to do to fully implement the Brady Act before we pursue any other firearms regulatory legislation.

I look forward to seeing you on Wednesday.

Respectfully,


Patrick J. Sullivan, Jr.

Sheriff

Chairman, Congressional Affairs Committee, National Sheriffs' Association
Member, Executive Committee of the Board of Directors, National Sheriffs' Association
Commissioner, Commission on the Accreditation of Law Enforcement Agencies
Member, Colorado Crime Information Center Advisory Board
Member, NCIC Western Regional Working Group

P.S. As you may have guessed, we in Colorado are interested in eliminating the kitchen tabletop federal firearms licensees and supporting the professional retail gun dealers who have much more to lose in violating Federal and State firearms laws and regulations.



ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

July 14, 1997

Mr. Bob Scully, Executive Director
National Association of Police Organizations
750 First, N.E.
Suite 935
Washington, D.C. 20002

Dear Mr. Scully:

Enclosed please find my June 27, 1997, Media Release regarding the U.S. Supreme Court decision on the Brady Act. Please read it over prior to our Wednesday meeting.

We at NSA are very interested in promoting timely implementation of NICS and encouraging each state to work aggressively at criminal history improvements, particularly the posting of dispositions to criminal history records.

It is our belief that we and the Federal Government have a lot of work to do to fully implement the Brady Act before we pursue any other firearms regulatory legislation.

I look forward to seeing you on Wednesday.

Respectfully,

Patrick J. Sullivan, Jr.
Sheriff

Chairman, Congressional Affairs Committee, National Sheriffs' Association
Member, Executive Committee of the Board of Directors, National Sheriffs' Association
Commissioner, Commission on the Accreditation of Law Enforcement Agencies
Member, Colorado Crime Information Center Advisory Board
Member, NCIC Western Regional Working Group

P.S. As you may have guessed, we in Colorado are interested in eliminating the kitchen tabletop federal firearms licensees and supporting the professional retail gun dealers who have much more to lose in violating Federal and State firearms laws and regulations.



ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

July 14, 1997

Mr. Jim Pascoe, Executive Director
Fraternal Order of Police
309 Massachusetts Avenue, NE
Washington, D.C. 20002

Dear Mr. Pascoe:

Enclosed please find my June 27, 1997, Media Release regarding the U.S. Supreme Court decision on the Brady Act. Please read it over prior to our Wednesday meeting.

We at NSA are very interested in promoting timely implementation of NICS and encouraging each state to work aggressively at criminal history improvements, particularly the posting of dispositions to criminal history records.

It is our belief that we and the Federal Government have a lot of work to do to fully implement the Brady Act before we pursue any other firearms regulatory legislation.

I look forward to seeing you on Wednesday.

Respectfully,

Patrick J. Sullivan, Jr.
Sheriff

Chairman, Congressional Affairs Committee, National Sheriffs' Association
Member, Executive Committee of the Board of Directors, National Sheriffs' Association
Commissioner, Commission on the Accreditation of Law Enforcement Agencies
Member, Colorado Crime Information Center Advisory Board
Member, NCIC Western Regional Working Group

P.S. As you may have guessed, we in Colorado are interested in eliminating the kitchen tabletop federal firearms licensees and supporting the professional retail gun dealers who have much more to lose in violating Federal and State firearms laws and regulations.



ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

July 14, 1997

Mr. Nicholas Gess
U.S. Department of Justice
10th & Constitution Avenue, N.W.
Room 1342 Main
Washington, D.C. 20530

Dear Mr. Gess:

Enclosed please find my June 27, 1997, Media Release regarding the U.S. Supreme Court decision on the Brady Act. Please read it over prior to our Wednesday meeting.

We at NSA are very interested in promoting timely implementation of NICS and encouraging each state to work aggressively at criminal history improvements, particularly the posting of dispositions to criminal history records.

It is our belief that we and the Federal Government have a lot of work to do to fully implement the Brady Act before we pursue any other firearms regulatory legislation.

I look forward to seeing you on Wednesday.

Respectfully,

Patrick J. Sullivan, Jr.
Sheriff

Chairman, Congressional Affairs Committee, National Sheriffs' Association
Member, Executive Committee of the Board of Directors, National Sheriffs' Association
Commissioner, Commission on the Accreditation of Law Enforcement Agencies
Member, Colorado Crime Information Center Advisory Board
Member, NCIC Western Regional Working Group

P.S. As you may have guessed, we in Colorado are interested in eliminating the kitchen tabletop federal firearms licensees and supporting the professional retail gun dealers who have much more to lose in violating Federal and State firearms laws and regulations.



ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

July 14, 1997

Ms. Wendy Adler
Director, Law Enforcement Relations
Handgun Control, Inc.
1225 Eye Street, NW
Washington, D.C. 20005

Dear Ms. Adler:

Enclosed please find my June 27, 1997, Media Release regarding the U.S. Supreme Court decision on the Brady Act. Please read it over prior to our Wednesday meeting.

We at NSA are very interested in promoting timely implementation of NICS and encouraging each state to work aggressively at criminal history improvements, particularly the posting of dispositions to criminal history records.

It is our belief that we and the Federal Government have a lot of work to do to fully implement the Brady Act before we pursue any other firearms regulatory legislation.

I look forward to seeing you on Wednesday.

Respectfully,

Patrick J. Sullivan, Jr.

Sheriff

Chairman, Congressional Affairs Committee, National Sheriffs' Association
Member, Executive Committee of the Board of Directors, National Sheriffs' Association
Commissioner, Commission on the Accreditation of Law Enforcement Agencies
Member, Colorado Crime Information Center Advisory Board
Member, NCIC Western Regional Working Group

P.S. As you may have guessed, we in Colorado are interested in eliminating the kitchen tabletop federal firearms licensees and supporting the professional retail gun dealers who have much more to lose in violating Federal and State firearms laws and regulations.



ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

July 14, 1997

Mr. Sean Kirkendall, Congressional Affairs
Mr. Daniel Rosenblatt, Executive Director
International Association of Chiefs of Police
515 N. Washington Street
Alexandria, VA 22314-2367

Dear Messrs. Kirkendall and Rosenblatt,

Enclosed please find my June 27, 1997, Media Release regarding the U.S. Supreme Court decision on the Brady Act. Please read it over prior to our Wednesday meeting.

We at NSA are very interested in promoting timely implementation of NICS and encouraging each state to work aggressively at criminal history improvements, particularly the posting of dispositions to criminal history records.

It is our belief that we and the Federal Government have a lot of work to do to fully implement the Brady Act before we pursue any other firearms regulatory legislation.

I look forward to seeing you on Wednesday.

Respectfully,

Patrick J. Sullivan, Jr.
Sheriff

Chairman, Congressional Affairs Committee, National Sheriffs' Association
Member, Executive Committee of the Board of Directors, National Sheriffs' Association
Commissioner, Commission on the Accreditation of Law Enforcement Agencies
Member, Colorado Crime Information Center Advisory Board
Member, NCIC Western Regional Working Group

P.S. As you may have guessed, we in Colorado are interested in eliminating the kitchen tabletop federal firearms licensees and supporting the professional retail gun dealers who have much more to lose in violating Federal and State firearms laws and regulations.



ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: News Editors/News Directors

FROM: Sheriff Patrick J. Sullivan, Jr.

DATE: June 27, 1997

TIME: 9:30 a.m.

Total number of pages 6, including this page.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE. PHONE (303) 795-4702

M E D I A R E L E A S E

COLORADO BRADY INSTANT CHECK

This week the United States Supreme Court issued 16 landmark legal rulings. Among those 16 is the case involving the Brady Handgun Purchaser Background Check mandated by Congress to be performed by the Chief Law Enforcement Official (CLEO) for the jurisdiction where the retail handgun purchase is to occur. This is a federal law applying to all 50 states. Some states, such as California, already had a state law in place requiring such a check plus a waiting period. A state was exempt from the Federal Brady Act if it had state legislation that met Federal Brady Standards.

Colorado had no such law and therefore would be subject to all the provision of the November 1993 Federal Brady Act requiring local CLEO's to do the Brady Check for new retail handgun purchases in their respective jurisdictions throughout Colorado.

We, the County Sheriffs of Colorado, Inc. along with Detective Tony Lombard, Denver P.D.'s legislative representative approached the Speaker of the Colorado House Chuck Berry and the President of the Senate Tom Norton with the existing Virginia Instant Check Law that met all the Federal Brady Check requirements. We asked Speaker Berry and President Norton to assign sponsors and fast track a Colorado law through the Colorado Legislature to be in place by the time the Federal Brady Check and five-day waiting period law became effective on February 28, 1994.

Please find enclosed a copy of House Bill 94-1276 by Representative David Owen and Senator Jim Rizzuto signed into law on Saturday, February 26, 1994, by Governor Roy Romer.



1996

COLORADO - BRADY ACT STATS FOR YEAR ENDING 1996
COMPILED ON 1/5/97 AT 9:00 AM

1996	APPROVED	PERCENT	DENIED	PERCENT	TOTAL
	48,438	94%	3,010	6%	51,448

CAUSE FOR DENIAL SUMMARY

1996	ARRESTS	CONVICTIONS	FUGITIVE	RESTRAINT
RESTRAINT	0	0	0	185
HOMICIDE	30	5	0	0
KIDNAPPING	13	1	0	0
SEXUAL ASSAULT	70	19	0	0
ROBBERY	62	18	1	0
ASSAULT	935	118	9	0
BURGLARY	217	78	2	0
DRUGS	387	92	5	0
ALL OTHER	728	152	48	0
TOTALS	2,442	478	65	185

APPEALS	RECEIVED	REVERSED
1996	839	814

FOOTNOTE: THE ABOVE STATISTICS MAY CHANGE AFTER PUBLICATION
 DUE TO THE REVERSAL OF A TRANSACTION DENIAL DUE TO
 SUCCESSFUL APPEAL, AND/OR DUE TO THE DISCOVERY OF NEW
 INFORMATION THAT RESULTS IN THE REVERSAL OF AN
 EARLIER APPROVAL

COLORADO - BRADY ACT STATS FOR MAY 1997

COMPILED ON 5/2/97 AT 11:30 AM

MONTH	APPROVED	PERCENT	DENIED	PERCENT	TOTAL
MAY	3,451	93%	247	7%	3,698

CAUSE FOR DENIAL SUMMARY

MAY	ARRESTS	CONVICTIONS	FUGITIVE	RESTRAINT
RESTRAINT	0	0	0	27
HOMICIDE	2	4	0	0
KIDNAPPING	1	0	0	0
SEXUAL ASSAULT	9	1	1	0
ROBBERY	4	0	0	0
ASSAULT	69	8	0	0
BURGLARY	15	2	1	0
DRUGS	39	8	0	0
ALL OTHER	58	13	3	0
TOTALS	197	36	5	27

APPEALS	RECEIVED	REVERSED
MAY	71	55

FOOTNOTE: THE ABOVE STATISTICS MAY CHANGE AFTER PUBLICATION DUE TO THE REVERSAL OF A TRANSACTION DENIAL DUE TO SUCCESSFUL APPEAL, AND/OR DUE TO THE DISCOVERY OF NEW INFORMATION THAT RESULTS IN THE REVERSAL OF AN EARLIER APPROVAL

GLOSSARY

Approved	No reason was found to deny approval for the handgun transaction.
Arrest	An arrest record was found, lacking a final disposition, for which, if there were a conviction, would by law prohibit the person from possessing a firearm.
Conviction	A conviction record was found for a crime that, by federal law, prohibits the person from possessing a firearm.
Denial	The handgun transaction was denied. This means the transaction was "disapproved" pursuant to State and Federal law.
Denied	Reason was found to disapprove or to deny the handgun transaction.
Fugitive	An active arrest warrant was found for the person seeking to acquire a handgun. The law prohibits a fugitive from justice from possessing a firearm.

(Bench Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

PRINTZ, SHERIFF/CORONER, RAVALLI COUNTY, MONTANA *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 95–1478. Argued December 3, 1996—Decided June 27, 1997*

Brady Handgun Violence Prevention Act provisions require the Attorney General to establish a national system for instantly checking prospective handgun purchasers' backgrounds, note following 18 U. S. C. §922, and command the "chief law enforcement officer" (CLEO) of each local jurisdiction to conduct such checks and perform related tasks on an interim basis until the national system becomes operative, §922(s). Petitioners, the CLEOs for counties in Montana and Arizona, filed separate actions challenging the interim provisions' constitutionality. In each case, the District Court held that the background-check provision was unconstitutional, but concluded that it was severable from the remainder of the Act, effectively leaving a voluntary background-check system in place. The Ninth Circuit reversed, finding none of the interim provisions unconstitutional.

Held:

1. The Brady Act's interim provision commanding CLEOs to conduct background checks, §922(s)(2), is unconstitutional. Extinguished with it is the duty implicit in the background-check requirement that the CLEO accept completed handgun-applicant statements (Brady Forms) from firearms dealers, §§922(s)(1)(A)(i)(III) and (IV). Pp. 4–34.

(a) Because there is no constitutional text speaking to the precise question whether congressional action compelling state officers to execute federal laws is unconstitutional, the answer to the CLEOs'

* Together with No. 95–1503, *Mack v. United States*, also on certiorari to the same court.

Syllabus

challenge must be sought in historical understanding and practice, in the Constitution's structure, and in this Court's jurisprudence. P. 4.

(b) Relevant constitutional practice tends to negate the existence of the congressional power asserted here, but is not conclusive. Enactments of the early Congresses seem to contain no evidence of an assumption that the Federal Government may command the States' executive power in the absence of a particularized constitutional authorization. The early enactments establish, at most, that the Constitution was originally understood to permit imposition of an obligation on state judges to enforce federal prescriptions related to matters appropriate for the judicial power. The Government misplaces its reliance on portions of *The Federalist* suggesting that federal responsibilities could be imposed on state officers. None of these statements necessarily implies—what is the critical point here—that Congress could impose these responsibilities *without the States' consent*. They appear to rest on the natural assumption that the States would consent, see *FERC v. Mississippi*, 456 U. S. 742, 796, n. 35 (O'CONNOR, J., concurring in judgment and dissenting in part). Finally, there is an absence of executive-commandeering federal statutes in the country's later history, at least until very recent years. Even assuming that newer laws represent an assertion of the congressional power challenged here, they are of such recent vintage that they are not probative of a constitutional tradition. Pp. 4–18.

(c) The Constitution's structure reveals a principle that controls these cases: the system of “dual sovereignty.” See, e.g., *Gregory v. Ashcroft*, 501 U. S. 452, 457. Although the States surrendered many of their powers to the new Federal Government, they retained a residuary and inviolable sovereignty that is reflected throughout the Constitution's text. See, e.g., *Lane County v. Oregon*, 7 Wall. 71, 76. The Framers rejected the concept of a central government that would act upon and through the States, and instead designed a system in which the State and Federal Governments would exercise concurrent authority over the people. The Federal Government's power would be augmented immeasurably and impermissibly if it were able to impress into its service—and at no cost to itself—the police officers of the 50 States. Pp. 18–22.

(d) Federal control of state officers would also have an effect upon the separation and equilibration of powers between the three branches of the Federal Government itself. The Brady Act effectively transfers the President's responsibility to administer the laws enacted by Congress, Art. II, §§2 and 3, to thousands of CLEOs in the 50 States, who are left to implement the program without meaningful Presidential control. The Federal Executive's unity would be shattered, and the power of the President would be subject to reduction, if

Syllabus

Congress could simply require state officers to execute its laws. Pp. 22–23.

(e) Contrary to the dissent's contention, the Brady Act's direction of the actions of state executive officials is not constitutionally valid under Art. I, §8, as a law "necessary and proper" to the execution of Congress's Commerce Clause power to regulate handgun sales. Where, as here, a law violates the state sovereignty principle, it is not a law "proper for carrying into Execution" delegated powers within the Necessary and Proper Clause's meaning. Cf. *New York v. United States*, 505 U. S. 144, 166. The Supremacy Clause does not help the dissent, since it makes "Law of the Land" only "Laws of the United States which shall be made in Pursuance [of the Constitution.]" Art. VI, cl. 2. Pp. 24–25.

(f) Finally, and most conclusively in these cases, the Court's jurisprudence makes clear that the Federal Government may not compel the States to enact or administer a federal regulatory program. See, e.g., *New York*, *supra*, at 188. The attempts of the Government and the dissent to distinguish *New York*—on grounds that the Brady Act's background-check provision does not require state legislative or executive officials to make policy; that requiring state officers to perform discrete, ministerial federal tasks does not diminish the state or federal officials' accountability; and that the Brady Act is addressed to individual CLEOs while the provisions invalidated in *New York* were directed to the State itself—are not persuasive. A "balancing" analysis is inappropriate here, since the whole *object* of the law is to direct the functioning of the state executive, and hence to compromise the structural framework of dual sovereignty; it is the very *principle* of separate state sovereignty that such a law offends. See e.g., *New York*, *supra*, at 187. Pp. 25–34.

2. With the Act's background-check and implicit receipt-of-forms requirements invalidated, the Brady Act requirements that CLEOs destroy all Brady Forms and related records, §922(s)(6)(B)(i), and give would-be purchasers written statements of the reasons for determining their ineligibility to receive handguns, §922(s)(6)(C), require no action whatsoever on the part of CLEOs such as petitioners, who are not voluntary participants in administration of the federal scheme. As to them, these provisions are not unconstitutional, but simply inoperative. Pp. 34–36.

3. The Court declines to address the severability question briefed and argued by the parties: whether firearms dealers remain obliged to forward Brady Forms to CLEOs, §§922(s)(1)(A)(i)(III) and (IV), and to wait five business days thereafter before consummating a firearms sale, §922(s)(1)(A)(ii). These provisions burden only dealers and

Syllabus

firearms purchasers, and no plaintiff in either of those categories is before the Court. P. 36.

66 F. 3d 1025, reversed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, and THOMAS, JJ., joined. O'CONNOR, J., and THOMAS, J., filed concurring opinions. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined. SOUTER, J., filed a dissenting opinion. BREYER, J., filed a dissenting opinion, in which STEVENS, J., joined.

ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: News Editors/News Directors

FROM: Sheriff Patrick J. Sullivan, Jr. 

DATE: June 27, 1997

TIME: 9:30 a.m.

Total number of pages 6, including this page.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE. PHONE (303) 795-4702

M E D I A R E L E A S E

COLORADO BRADY INSTANT CHECK

This week the United States Supreme Court issued 16 landmark legal rulings. Among those 16 is the case involving the Brady Handgun Purchaser Background Check mandated by Congress to be performed by the Chief Law Enforcement Official (CLEO) for the jurisdiction where the retail handgun purchase is to occur. This is a federal law applying to all 50 states. Some states, such as California, already had a state law in place requiring such a check plus a waiting period. A state was exempt from the Federal Brady Act if it had state legislation that met Federal Brady Standards.

Colorado had no such law and therefore would be subject to all the provision of the November 1993 Federal Brady Act requiring local CLEO's to do the Brady Check for new retail handgun purchases in their respective jurisdictions throughout Colorado.

We, the County Sheriffs of Colorado, Inc. along with Detective Tony Lombard, Denver P.D.'s legislative representative approached the Speaker of the Colorado House Chuck Berry and the President of the Senate Tom Norton with the existing Virginia Instant Check Law that met all the Federal Brady Check requirements. We asked Speaker Berry and President Norton to assign sponsors and fast track a Colorado law through the Colorado Legislature to be in place by the time the Federal Brady Check and five-day waiting period law became effective on February 28, 1994.

Please find enclosed a copy of House Bill 94-1276 by Representative David Owen and Senator Jim Rizzuto signed into law on Saturday, February 26, 1994, by Governor Roy Romer.



News Editors/News Directors
June 27, 1997
Page 2

We, therefore, think the efforts of the County Sheriffs of Colorado, Inc., Tony Lombard of Denver P. D., Speaker Berry and Senate President Norton with sponsorship of the bill by Representative Owen and Senator Rizzuto **avoided a federal mandate on the CLEO's of Colorado**, but still accomplished what the Federal Brady Act intended. Only 23 states are now affected by the Federal Brady Background check by local CLEO's and the five-day waiting period.

We feel that today's Supreme Court 5-4 decision probably does not have any impact on the Colorado Brady Instant Check Program operated by the Colorado Bureau of Investigation since Colorado passed its own law that does not mandate background checks by CLEO's. The best authority on this determination is Colorado Attorney General Gale Norton who may rule on this issue next week.

The Federal Brady Law will extend to long barrel firearms - shotguns and rifles - on about November 30, 1998, which is the implementation date of the National Instant Criminal Background Check System (NICS).

Any efforts to repeal or modify the existing Colorado Instant Check law could result in Colorado becoming subject to the five-day waiting period still in the Federal Brady Law. The five-day waiting period was not an issue in the case before the Supreme Court nor was the requirement for retail gun dealers to complete the Brady ATF forms.

We support our Colorado Instant Check as a rational approach to taking effective steps to keep handguns out of the hands of prohibited individuals. Those who say criminals will not try to buy a handgun over the counter in a retail establishment are very wrong. See the 1996 CBI Colorado Instant Check results enclosed to prove this point. In 1996 in Colorado, the Colorado Brady Instant Check Program stopped 2557 prohibited individuals from purchasing a handgun over the counter. 185 of those prohibited individuals were subject to restraining orders, most issued out of Domestic Violence cases. The Colorado Brady Instant Check is working in Colorado.

There is broad support for the Colorado Brady Instant Check among Colorado's professional retail gun dealers. They report that it usually takes less than five minutes to contact CBI and complete the Instant Check. This effort goes a long way to protect their reputation in the community they serve. None of our Colorado professional retail gun dealers wants to sell a handgun to any

News Editors/News Directors
June 27, 1997
Page 3

individual that may use it in their community with tragic consequences. The Colorado Brady Instant Check provides Colorado professional firearms retailers a large measure of civil liability protection when they have properly cleared a purchaser with the Colorado Bureau of Investigation.

The County Sheriffs of Colorado, Inc. (CSOC) and the National Sheriffs' Association (NSA) strongly support the Federal National Instant Check System (NICS) due to be activated by November 1998. CSOC and NSA strongly encourage the 23 states that do not have a state Brady Instant Check Law to pursue such legislation and the updating of their state's criminal history records to insure a high quality NICS program on or before November 1998.

We as a nation, a state and local jurisdictions must face up to the tragic toll handguns are taking in our society particularly among our youth. We hope the Colorado Brady Instant Check Program survives the standards that have come down from the U. S. Supreme Court this week. It's a rational approach that does not bar law abiding citizens the immediate opportunity, upon successful completion of an Insta Check, to purchase a handgun for self protection or to protect their family, guests or employees.

For further information contact Sheriff Pat J. Sullivan, Jr., Chairman, Congressional Affairs Committee, Member of the Executive Committee of the Board of Directors, National Sheriffs' Association, 303-795-4701.

1996

COLORADO - BRADY ACT STATS FOR YEAR ENDING 1996
 COMPILED ON 1/5/97 AT 9:00 AM

1996	APPROVED	PERCENT	DENIED	PERCENT	TOTAL
	48,438	94%	3,010	6%	51,448

CAUSE FOR DENIAL SUMMARY

1996	ARRESTS	CONVICTIONS	FUGITIVE	RESTRAINT
RESTRAINT	0	0	0	185
HOMICIDE	30	5	0	0
KIDNAPPING	13	1	0	0
SEXUAL ASSAULT	70	19	0	0
ROBBERY	62	18	1	0
ASSAULT	935	118	9	0
BURGLARY	217	78	2	0
DRUGS	357	92	5	0
ALL OTHER	728	152	48	0
TOTALS	2,442	478	65	185

APPEALS	RECEIVED	REVERSED
1996	838	614

FOOTNOTE:

THE ABOVE STATISTICS MAY CHANGE AFTER PUBLICATION
 DUE TO THE REVERSAL OF A TRANSACTION DENIAL DUE TO
 SUCCESSFUL APPEAL, AND/OR DUE TO THE DISCOVERY OF NEW
 INFORMATION THAT RESULTS IN THE REVERSAL OF AN
 EARLIER APPROVAL

COLORADO - BRADY ACT STATS FOR MAY 1997
COMPILED ON 5/2/97 AT 11.30 AM

MONTH	APPROVED	PERCENT	DENIED	PERCENT	TOTAL
MAY	3,451	93%	247	7%	3,698

CAUSE FOR DENIAL SUMMARY

MAY	ARRESTS	CONVICTIONS	FUGITIVE	RESTRAINT
RESTRAINT	0	0	0	27
HOMICIDE	2	4	0	0
KIDNAPPING	1	0	0	0
SEXUAL ASSAULT	9	1	1	0
ROBBERY	4	0	0	0
ASSAULT	69	8	0	0
BURGLARY	15	2	1	0
DRUGS	39	8	0	0
ALL OTHER	56	13	3	0
TOTALS	197	36	5	27

APPEALS	RECEIVED	REVERSED
MAY	71	59

FOOTNOTE: THE ABOVE STATISTICS MAY CHANGE AFTER PUBLICATION
DUE TO THE REVERSAL OF A TRANSACTION DENIAL DUE TO
SUCCESSFUL APPEAL, AND/OR DUE TO THE DISCOVERY OF NEW
INFORMATION THAT RESULTS IN THE REVERSAL OF AN
EARLIER APPROVAL

GLOSSARY

Approved	No reason was found to deny approval for the handgun transaction.
Arrest	An arrest record was found, lacking a final disposition, for which, if there were a conviction, would by law prohibit the person from possessing a firearm.
Conviction	A conviction record was found for a crime that, by federal law, prohibits the person from possessing a firearm.
Denial	The handgun transaction was denied. This means the transaction was "disapproved" pursuant to State and Federal law.
Denied	Reason was found to disapprove or to deny the handgun transaction.
Fugitive	An active arrest warrant was found for the person seeking to acquire a handgun. The law prohibits a fugitive from justice from possessing a firearm.

(Bench Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

PRINTZ, SHERIFF/CORONER, RAVALLI COUNTY, MONTANA *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 95–1478. Argued December 3, 1996—Decided June 27, 1997*

Brady Handgun Violence Prevention Act provisions require the Attorney General to establish a national system for instantly checking prospective handgun purchasers' backgrounds, note following 18 U. S. C. §922, and command the "chief law enforcement officer" (CLEO) of each local jurisdiction to conduct such checks and perform related tasks on an interim basis until the national system becomes operative, §922(s). Petitioners, the CLEOs for counties in Montana and Arizona, filed separate actions challenging the interim provisions' constitutionality. In each case, the District Court held that the background-check provision was unconstitutional, but concluded that it was severable from the remainder of the Act, effectively leaving a voluntary background-check system in place. The Ninth Circuit reversed, finding none of the interim provisions unconstitutional.

Held:

1. The Brady Act's interim provision commanding CLEOs to conduct background checks, §922(s)(2), is unconstitutional. Extinguished with it is the duty implicit in the background-check requirement that the CLEO accept completed handgun-applicant statements (Brady Forms) from firearms dealers, §§922(s)(1)(A)(i)(III) and (IV). Pp. 4–34.

(a) Because there is no constitutional text speaking to the precise question whether congressional action compelling state officers to execute federal laws is unconstitutional, the answer to the CLEOs'

* Together with No. 95–1503, *Mack v. United States*, also on certiorari to the same court.

Syllabus

challenge must be sought in historical understanding and practice, in the Constitution's structure, and in this Court's jurisprudence. P. 4.

(b) Relevant constitutional practice tends to negate the existence of the congressional power asserted here, but is not conclusive. Enactments of the early Congresses seem to contain no evidence of an assumption that the Federal Government may command the States' executive power in the absence of a particularized constitutional authorization. The early enactments establish, at most, that the Constitution was originally understood to permit imposition of an obligation on state judges to enforce federal prescriptions related to matters appropriate for the judicial power. The Government misplaces its reliance on portions of *The Federalist* suggesting that federal responsibilities could be imposed on state officers. None of these statements necessarily implies—what is the critical point here—that Congress could impose these responsibilities *without the States' consent*. They appear to rest on the natural assumption that the States would consent, see *FERC v. Mississippi*, 456 U. S. 742, 796, n. 35 (O'CONNOR, J., concurring in judgment and dissenting in part). Finally, there is an absence of executive-commandeering federal statutes in the country's later history, at least until very recent years. Even assuming that newer laws represent an assertion of the congressional power challenged here, they are of such recent vintage that they are not probative of a constitutional tradition. Pp. 4–18.

(c) The Constitution's structure reveals a principle that controls these cases: the system of “dual sovereignty.” See, e.g., *Gregory v. Ashcroft*, 501 U. S. 452, 457. Although the States surrendered many of their powers to the new Federal Government, they retained a residuary and inviolable sovereignty that is reflected throughout the Constitution's text. See, e.g., *Lane County v. Oregon*, 7 Wall. 71, 76. The Framers rejected the concept of a central government that would act upon and through the States, and instead designed a system in which the State and Federal Governments would exercise concurrent authority over the people. The Federal Government's power would be augmented immeasurably and impermissibly if it were able to impress into its service—and at no cost to itself—the police officers of the 50 States. Pp. 18–22.

(d) Federal control of state officers would also have an effect upon the separation and equilibration of powers between the three branches of the Federal Government itself. The Brady Act effectively transfers the President's responsibility to administer the laws enacted by Congress, Art. II, §§2 and 3, to thousands of CLEOs in the 50 States, who are left to implement the program without meaningful Presidential control. The Federal Executive's unity would be shattered, and the power of the President would be subject to reduction, if

Syllabus

Congress could simply require state officers to execute its laws. Pp. 22–23.

(e) Contrary to the dissent's contention, the Brady Act's direction of the actions of state executive officials is not constitutionally valid under Art. I, §8, as a law "necessary and proper" to the execution of Congress's Commerce Clause power to regulate handgun sales. Where, as here, a law violates the state sovereignty principle, it is not a law "proper for carrying into Execution" delegated powers within the Necessary and Proper Clause's meaning. Cf. *New York v. United States*, 505 U. S. 144, 166. The Supremacy Clause does not help the dissent, since it makes "Law of the Land" only "Laws of the United States which shall be made in Pursuance [of the Constitution.]" Art. VI, cl. 2. Pp. 24–25.

(f) Finally, and most conclusively in these cases, the Court's jurisprudence makes clear that the Federal Government may not compel the States to enact or administer a federal regulatory program. See, e.g., *New York, supra*, at 188. The attempts of the Government and the dissent to distinguish *New York*—on grounds that the Brady Act's background-check provision does not require state legislative or executive officials to make policy; that requiring state officers to perform discrete, ministerial federal tasks does not diminish the state or federal officials' accountability; and that the Brady Act is addressed to individual CLEOs while the provisions invalidated in *New York* were directed to the State itself—are not persuasive. A "balancing" analysis is inappropriate here, since the whole *object* of the law is to direct the functioning of the state executive, and hence to compromise the structural framework of dual sovereignty; it is the very *principle* of separate state sovereignty that such a law offends. See e.g., *New York, supra*, at 187. Pp. 25–34.

2. With the Act's background-check and implicit receipt-of-forms requirements invalidated, the Brady Act requirements that CLEOs destroy all Brady Forms and related records, §922(s)(6)(B)(i), and give would-be purchasers written statements of the reasons for determining their ineligibility to receive handguns, §922(s)(6)(C), require no action whatsoever on the part of CLEOs such as petitioners, who are not voluntary participants in administration of the federal scheme. As to them, these provisions are not unconstitutional, but simply inoperative. Pp. 34–36.

3. The Court declines to address the severability question briefed and argued by the parties: whether firearms dealers remain obliged to forward Brady Forms to CLEOs, §§922(s)(1)(A)(i)(III) and (IV), and to wait five business days thereafter before consummating a firearms sale, §922(s)(1)(A)(ii). These provisions burden only dealers and

Syllabus

firearms purchasers, and no plaintiff in either of those categories is before the Court. P. 36.

66 F. 3d 1025, reversed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, and THOMAS, JJ., joined. O'CONNOR, J., and THOMAS, J., filed concurring opinions. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined. SOUTER, J., filed a dissenting opinion. BREYER, J., filed a dissenting opinion, in which STEVENS, J., joined.

ARAPAHOE COUNTY SHERIFF'S OFFICE

5686 S. Court Pl. • Littleton, Colorado 80120-1200

PATRICK J. SULLIVAN JR., SHERIFF

(303) 795-4711

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: News Editors/News Directors

FROM: Sheriff Patrick J. Sullivan, Jr.

DATE: June 27, 1997

TIME: 9:30 a.m.

Total number of pages 6, including this page.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE. PHONE (303) 795-4702

M E D I A R E L E A S E

COLORADO BRADY INSTANT CHECK

This week the United States Supreme Court issued 16 landmark legal rulings. Among those 16 is the case involving the Brady Handgun Purchaser Background Check mandated by Congress to be performed by the Chief Law Enforcement Official (CLEO) for the jurisdiction where the retail handgun purchase is to occur. This is a federal law applying to all 50 states. Some states, such as California, already had a state law in place requiring such a check plus a waiting period. A state was exempt from the Federal Brady Act if it had state legislation that met Federal Brady Standards.

Colorado had no such law and therefore would be subject to all the provision of the November 1993 Federal Brady Act requiring local CLEO's to do the Brady Check for new retail handgun purchases in their respective jurisdictions throughout Colorado.

We, the County Sheriffs of Colorado, Inc. along with Detective Tony Lombard, Denver P.D.'s legislative representative approached the Speaker of the Colorado House Chuck Berry and the President of the Senate Tom Norton with the existing Virginia Instant Check Law that met all the Federal Brady Check requirements. We asked Speaker Berry and President Norton to assign sponsors and fast track a Colorado law through the Colorado Legislature to be in place by the time the Federal Brady Check and five-day waiting period law became effective on February 28, 1994.

Please find enclosed a copy of House Bill 94-1276 by Representative David Owen and Senator Jim Rizzuto signed into law on Saturday, February 26, 1994, by Governor Roy Romer.



We, therefore, think the efforts of the County Sheriffs of Colorado, Inc., Tony Lombard of Denver P. D., Speaker Berry and Senate President Norton with sponsorship of the bill by Representative Owen and Senator Rizzuto **avoided a federal mandate on the CLEO's of Colorado**, but still accomplished what the Federal Brady Act intended. Only 23 states are now affected by the Federal Brady Background check by local CLEO's and the five-day waiting period.

We feel that today's Supreme Court 5-4 decision probably does not have any impact on the Colorado Brady Instant Check Program operated by the Colorado Bureau of Investigation since Colorado passed its own law that does not mandate background checks by CLEO's. The best authority on this determination is Colorado Attorney General Gale Norton who may rule on this issue next week.

The Federal Brady Law will extend to long barrel firearms - shotguns and rifles - on about November 30, 1998, which is the implementation date of the National Instant Criminal Background Check System (NICS).

Any efforts to repeal or modify the existing Colorado Instant Check law could result in Colorado becoming subject to the five-day waiting period still in the Federal Brady Law. The five-day waiting period was not an issue in the case before the Supreme Court nor was the requirement for retail gun dealers to complete the Brady ATF forms.

We support our Colorado Instant Check as a rational approach to taking effective steps to keep handguns out of the hands of prohibited individuals. Those who say criminals will not try to buy a handgun over the counter in a retail establishment are very wrong. See the 1996 CBI Colorado Instant Check results enclosed to prove this point. In 1996 in Colorado, the Colorado Brady Instant Check Program stopped 2557 prohibited individuals from purchasing a handgun over the counter. 185 of those prohibited individuals were subject to restraining orders, most issued out of Domestic Violence cases. The Colorado Brady Instant Check is working in Colorado.

There is broad support for the Colorado Brady Instant Check among Colorado's professional retail gun dealers. They report that it usually takes less than five minutes to contact CBI and complete the Instant Check. This effort goes a long way to protect their reputation in the community they serve. None of our Colorado professional retail gun dealers wants to sell a handgun to any

individual that may use it in their community with tragic consequences. The Colorado Brady Instant Check provides Colorado professional firearms retailers a large measure of civil liability protection when they have properly cleared a purchaser with the Colorado Bureau of Investigation.

The County Sheriffs of Colorado, Inc. (CSOC) and the National Sheriffs' Association (NSA) strongly support the Federal National Instant Check System (NICS) due to be activated by November 1998. CSOC and NSA strongly encourage the 23 states that do not have a state Brady Instant Check Law to pursue such legislation and the updating of their state's criminal history records to insure a high quality NICS program on or before November 1998.

We as a nation, a state and local jurisdictions must face up to the tragic toll handguns are taking in our society particularly among our youth. We hope the Colorado Brady Instant Check Program survives the standards that have come down from the U. S. Supreme Court this week. **It's a rational approach that does not bar law abiding citizens the immediate opportunity, upon successful completion of an Insta Check, to purchase a handgun for self protection or to protect their family, guests or employees.**

For further information contact Sheriff Pat J. Sullivan, Jr., Chairman, Congressional Affairs Committee, Member of the Executive Committee of the Board of Directors, National Sheriffs' Association, 303-795-4701.

1996

COLORADO - BRADY ACT STATS FOR YEAR ENDING 1996
 COMPILED ON 1/5/97 AT 9:00 AM

1996	APPROVED	PERCENT	DENIED	PERCENT	TOTAL
	48,438	94%	3,010	6%	51,448

CAUSE FOR DENIAL SUMMARY

1996	ARRESTS	CONVICTIONS	FUGITIVE	RESTRAINT
RESTRAINT	0	0	0	185
HOMICIDE	30	5	0	0
KIDNAPPING	13	1	0	0
SEXUAL ASSAULT	70	10	0	0
ROBBERY	62	18	1	0
ASSAULT	935	118	9	0
BURGLARY	217	78	2	0
DRUGS	387	82	5	0
ALL OTHER	728	152	48	0
TOTALS	2,442	479	65	185

APPEALS	RECEIVED	REVERSED
1996	838	614

FOOTNOTE:

THE ABOVE STATISTICS MAY CHANGE AFTER PUBLICATION
 DUE TO THE REVERSAL OF A TRANSACTION DENIAL DUE TO
 SUCCESSFUL APPEAL, AND/OR DUE TO THE DISCOVERY OF NEW
 INFORMATION THAT RESULTS IN THE REVERSAL OF AN
 EARLIER APPROVAL

COLORADO - BRADY ACT STATS FOR MAY 1997
COMPILED ON 5/2/97 AT 11.30 AM

MONTH	APPROVED	PERCENT	DENIED	PERCENT	TOTAL
MAY	3,451	93%	247	7%	3,698

CAUSE FOR DENIAL SUMMARY

MAY	ARRESTS	CONVICTIONS	FUGITIVE	RESTRAINT
RESTRAINT	0	0	0	27
HOMICIDE	2	4	0	0
KIDNAPPING	1	0	0	0
SEXUAL ASSAULT	9	1	1	0
ROBBERY	4	0	0	0
ASSAULT	69	8	0	0
BURGLARY	15	2	1	0
DRUGS	39	8	0	0
ALL OTHER	56	13	3	0
TOTALS	197	36	5	27

APPEALS	RECEIVED	REVERSED
MAY	71	55

FOOTNOTE: THE ABOVE STATISTICS MAY CHANGE AFTER PUBLICATION
DUE TO THE REVERSAL OF A TRANSACTION DENIAL DUE TO
SUCCESSFUL APPEAL AND/OR DUE TO THE DISCOVERY OF NEW
INFORMATION THAT RESULTS IN THE REVERSAL OF AN
EARLIER APPROVAL

GLOSSARY

Approved	No reason was found to deny approval for the handgun transaction.
Arrest	An arrest record was found, lacking a final disposition, for which, if there were a conviction, would by law prohibit the person from possessing a firearm.
Conviction	A conviction record was found for a crime that, by federal law, prohibits the person from possessing a firearm.
Denial	The handgun transaction was denied. This means the transaction was "disapproved" pursuant to State and Federal law.
Denied	Reason was found to disapprove or to deny the handgun transaction.
Fugitive	An active arrest warrant was found for the person seeking to acquire a handgun. The law prohibits a fugitive from justice from possessing a firearm.

(Bench Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

PRINTZ, SHERIFF/CORONER, RAVALLI COUNTY, MONTANA *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 95-1478. Argued December 3, 1996—Decided June 27, 1997*

Brady Handgun Violence Prevention Act provisions require the Attorney General to establish a national system for instantly checking prospective handgun purchasers' backgrounds, note following 18 U. S. C. §922, and command the "chief law enforcement officer" (CLEO) of each local jurisdiction to conduct such checks and perform related tasks on an interim basis until the national system becomes operative, §922(s). Petitioners, the CLEOs for counties in Montana and Arizona, filed separate actions challenging the interim provisions' constitutionality. In each case, the District Court held that the background-check provision was unconstitutional, but concluded that it was severable from the remainder of the Act, effectively leaving a voluntary background-check system in place. The Ninth Circuit reversed, finding none of the interim provisions unconstitutional.

Held:

1. The Brady Act's interim provision commanding CLEOs to conduct background checks, §922(s)(2), is unconstitutional. Extinguished with it is the duty implicit in the background-check requirement that the CLEO accept completed handgun-applicant statements (Brady Forms) from firearms dealers, §§922(s)(1)(A)(i)(III) and (IV). Pp. 4-34.

(a) Because there is no constitutional text speaking to the precise question whether congressional action compelling state officers to execute federal laws is unconstitutional, the answer to the CLEOs'

* Together with No. 95-1503, *Mack v. United States*, also on certiorari to the same court.

Syllabus

challenge must be sought in historical understanding and practice, in the Constitution's structure, and in this Court's jurisprudence. P. 4.

(b) Relevant constitutional practice tends to negate the existence of the congressional power asserted here, but is not conclusive. Enactments of the early Congresses seem to contain no evidence of an assumption that the Federal Government may command the States' executive power in the absence of a particularized constitutional authorization. The early enactments establish, at most, that the Constitution was originally understood to permit imposition of an obligation on state judges to enforce federal prescriptions related to matters appropriate for the judicial power. The Government misplaces its reliance on portions of *The Federalist* suggesting that federal responsibilities could be imposed on state officers. None of these statements necessarily implies—what is the critical point here—that Congress could impose these responsibilities *without the States' consent*. They appear to rest on the natural assumption that the States would consent, see *FERC v. Mississippi*, 456 U. S. 742, 796, n. 35 (O'CONNOR, J., concurring in judgment and dissenting in part). Finally, there is an absence of executive-commandeering federal statutes in the country's later history, at least until very recent years. Even assuming that newer laws represent an assertion of the congressional power challenged here, they are of such recent vintage that they are not probative of a constitutional tradition. Pp. 4–18.

(c) The Constitution's structure reveals a principle that controls these cases: the system of “dual sovereignty.” See, e.g., *Gregory v. Ashcroft*, 501 U. S. 452, 457. Although the States surrendered many of their powers to the new Federal Government, they retained a residuary and inviolable sovereignty that is reflected throughout the Constitution's text. See, e.g., *Lanc County v. Oregon*, 7 Wall. 71, 76. The Framers rejected the concept of a central government that would act upon and through the States, and instead designed a system in which the State and Federal Governments would exercise concurrent authority over the people. The Federal Government's power would be augmented immeasurably and impermissibly if it were able to impress into its service—and at no cost to itself—the police officers of the 50 States. Pp. 18–22.

(d) Federal control of state officers would also have an effect upon the separation and equilibration of powers between the three branches of the Federal Government itself. The Brady Act effectively transfers the President's responsibility to administer the laws enacted by Congress, Art. II, §§2 and 3, to thousands of CLEOs in the 50 States, who are left to implement the program without meaningful Presidential control. The Federal Executive's unity would be shattered, and the power of the President would be subject to reduction, if

Syllabus

Congress could simply require state officers to execute its laws. Pp. 22–23.

(e) Contrary to the dissent's contention, the Brady Act's direction of the actions of state executive officials is not constitutionally valid under Art. I, §8, as a law "necessary and proper" to the execution of Congress's Commerce Clause power to regulate handgun sales. Where, as here, a law violates the state sovereignty principle, it is not a law "proper for carrying into Execution" delegated powers within the Necessary and Proper Clause's meaning. Cf. *New York v. United States*, 505 U. S. 144, 166. The Supremacy Clause does not help the dissent, since it makes "Law of the Land" only "Laws of the United States which shall be made in Pursuance [of the Constitution.]" Art. VI, cl. 2. Pp. 24–25.

(f) Finally, and most conclusively in these cases, the Court's jurisprudence makes clear that the Federal Government may not compel the States to enact or administer a federal regulatory program. See, e.g., *New York*, *supra*, at 188. The attempts of the Government and the dissent to distinguish *New York*—on grounds that the Brady Act's background-check provision does not require state legislative or executive officials to make policy; that requiring state officers to perform discrete, ministerial federal tasks does not diminish the state or federal officials' accountability; and that the Brady Act is addressed to individual CLEOs while the provisions invalidated in *New York* were directed to the State itself—are not persuasive. A "balancing" analysis is inappropriate here, since the whole *object* of the law is to direct the functioning of the state executive, and hence to compromise the structural framework of dual sovereignty; it is the very *principle* of separate state sovereignty that such a law offends. See e.g., *New York*, *supra*, at 187. Pp. 25–34.

2. With the Act's background-check and implicit receipt-of-forms requirements invalidated, the Brady Act requirements that CLEOs destroy all Brady Forms and related records, §922(s)(6)(B)(i), and give would-be purchasers written statements of the reasons for determining their ineligibility to receive handguns, §922(s)(6)(C), require no action whatsoever on the part of CLEOs such as petitioners, who are not voluntary participants in administration of the federal scheme. As to them, these provisions are not unconstitutional, but simply inoperative. Pp. 34–36.

3. The Court declines to address the severability question briefed and argued by the parties: whether firearms dealers remain obliged to forward Brady Forms to CLEOs, §§922(s)(1)(A)(i)(III) and (IV), and to wait five business days thereafter before consummating a firearms sale, §922(s)(1)(A)(ii). These provisions burden only dealers and

Syllabus

firearms purchasers, and no plaintiff in either of those categories is before the Court. P. 36.

66 F. 3d 1025, reversed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, and THOMAS, JJ., joined. O'CONNOR, J., and THOMAS, J., filed concurring opinions. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined. SOUTER, J., filed a dissenting opinion. BREYER, J., filed a dissenting opinion, in which STEVENS, J., joined.

Why is Arapahoe County Sheriff Pat Sullivan, Jr., and Chiefs of Police and Sheriff's Across Colorado so concerned about more guns on our streets?

National Firearms Deaths 1994

<u>Age</u>	<u>Homicide</u>	<u>Suicide</u>	<u>Un- intentional</u>	<u>Intent Unknown</u>	<u>ALL</u>
< 1	11	0	2	0	13
1-4	60	0	32	2	94
5-9	73	1	25	6	105
10-14	325	187	126	22	660
15-19	3,150	1,377	327	107	4,961
20-24	3,833	1,967	213	82	6,095
25-34	5,183	3,532	243	116	9,074
35-44	3,025	3,264	155	75	6,519
45-54	1,233	2,443	95	45	3,816
55-64	531	1,797	46	30	2,404
65-74	282	2,010	46	15	2,353
75-84	119	1,684	32	14	1,849
85+	19	497	13	3	532
Age not stated	22	6	1	1	30
TOTAL	17,866	18,765	1,356	518	38,505

*National Center for Health Statistics, Unpublished data from the Vital Statistics System 10/96

Firearm-Related Deaths Colorado, 1995

<u>Age</u>	<u>Homicide</u>	<u>Suicide</u>	<u>Uninten- tional</u>	<u>Intent Unknown</u>	<u>ALL</u>
<15	3	4	4	0	11
15-19	26	22	4	1	53
20-24	22	32	3	0	57
25-34	33	71	4	1	109
35-44	23	72	4	1	100
45-54	10	51	*	0	62
55-64	*	27	*	2	32
65-74	3	24	3	0	30
75-84	3	28	*	0	32
85 +	*	10	*	0	11
TOTAL	126	341	25	5	497

*Firearm-Related Injury Surveillance Project Colorado Dept. of Public Health and Environment 5/6/97

Firearm-related deaths were identified from 1995 Death Certificates using ICD-9 codes E922 (Unintentional), E955.0-E955.4 (Suicides, E965.0-E965.4 and E970 (Homicide and Legal Intervention) and E985.0 - E985.4 (Undetermined Intent). "*" Indicates that less than three events occurred in that group.

CHILDREN & GUNS

Every day in America, 16 children ages 19 and under are killed in gun homicides, suicides and unintentional shootings. Many more are wounded.

National Center for Health Statistics, 1996

In 1992, 3,362 children and teenagers were murdered with guns, 1,426 committed suicide with guns, and 501 died in unintentional shootings.

National Center for Health Statistics, 1996

Two in 25 high school students, that is 7.9 percent, reported having carried a gun in the last 30 days.

Centers for Disease Control, 1995

During 1994, almost one-half of all the murders of those under age 18 involved handguns. Ten years earlier, handguns were involved in one-quarter of such offenses.

Bureau of Justice Statistics, 1996

In 1994, about 70 percent of the murder victims aged 15 to 17 years old were killed with a handgun.

Bureau of Justice Statistics, 1996

Gunshot wounds are the second leading cause of death for all people aged 10-34.

National Center for Health Statistics, 1993

Firearm homicide is the leading cause of death for black men aged 15-34.

National Center for Health Statistics, 1993

One in six parents say they know a child who accidentally shot himself or herself with a gun.

LH Research, Inc., 1993

Hospital emergency room departments treat four children for gunshot wounds for every child killed by gunfire.

Annest, J.L., Journal of American Medical Association, 1995

"Before the age of eight, few children can reliably distinguish a toy gun from a real one."

Ms., 1994

Twelve percent of all adults, 15 percent of all parents, 17 percent of African Americans and 13 percent of Hispanic Americans know a child who accidentally shot himself or herself with a gun.

"The firearm injury epidemic, due largely to handgun injuries, is ten times larger than the polio epidemic of the first half of this century."

Christoffel K., Children's Environments, 1995

Updated 10/96

THE RISKS OF GUNS IN THE HOME

Guns kept in the home for self protection are 43 times more likely to kill someone you know than to kill in self-defense.

Kellermann A. *New England Journal of Medicine*, 1986

When someone is home, a gun is used for protection in fewer than two percent of home invasion crimes.

Kellermann A. *Journal of the American Medical Association*, 1995

The risk of homicide in the home is three times greater in households with guns.

Kellermann A. *New England Journal of Medicine*, 1993

The risk of suicide is five times greater in households with guns.

Kellermann A. *New England Journal of Medicine*, 1993

In 1995, there were only 179 justifiable handgun homicides compared with a total of 11,198 handgun murders in the United States.

FBI Uniform Crime Reporting, released October 1996

From 1987-1990, victims used firearms to protect themselves in fewer than one percent of all violent offenses.

McDowell D. *American Journal of Public Health*, 1994

A 1994 national survey found that 71 percent of the U.S. population feels less safe when others in the community acquire firearms.

Hemenway D. *Journal of Criminal Law and Criminology*, 1995

Victims in spouse murders were the most likely to have died from gunshot wounds (53%), compared to victims in other types of family murder.

Bureau of Justice Statistics, 1994

Every day, 16 American children are killed with guns.

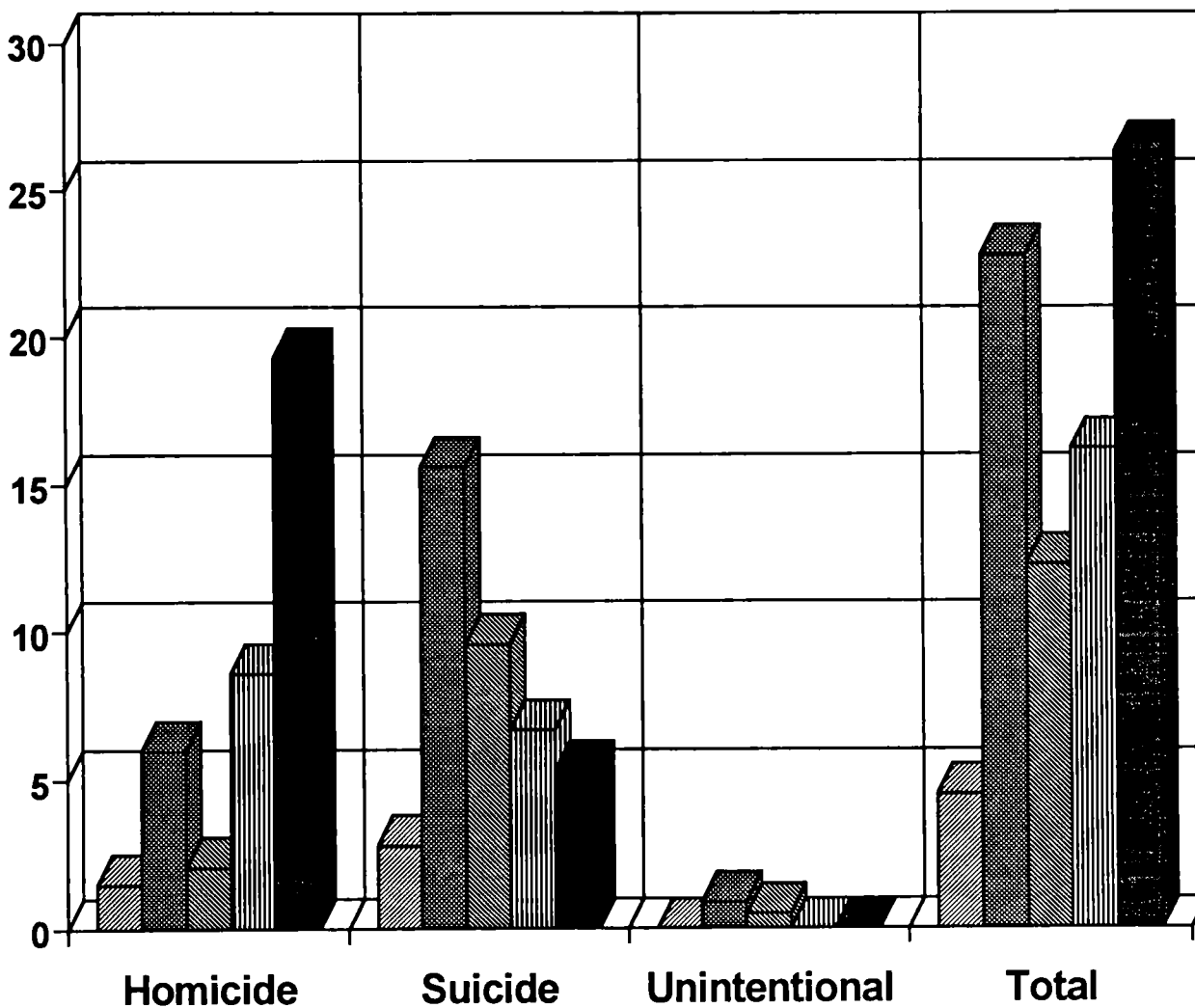
National Center for Health Statistics, 1996

More than 1.2 million elementary-aged, latch-key children have access to guns in their homes.

Lee, *Journal of the American Medical Association*, 1990

Firearm Related Age-Adjusted Death Rates Per 100,000 Population Colorado Annual Average 1980 to 1995

Deaths
Per 100K



Female

Male

White

Hispanic

Black

*Firearm-Related Injury Surveillance Project Colorado Dept. of Public Health and Environment 5/7/97

elements of change

highlighting trends and issues in the criminal justice system

vol. 1 / no. 3

Firearms Are Expected to Surpass Motor Vehicles as the Leading Cause of Injury-related Death in the U.S. by the Year 2003

Nationally, firearm-related deaths increased by 60% (from 23,875 to 38,317) between 1968 and 1991.¹ Based on trends identified by the Centers for Disease Control (CDC), firearms are expected to become the leading cause of injury-related death in the United States by the year 2003.

According to the CDC,¹ prior to 1990, the number of firearm-related deaths exceeded motor vehicle-related deaths in only Alaska and the District of Columbia. Additionally, since 1968, the number of motor vehicle-related deaths has steadily decreased, while the number of firearm-related deaths has increased. The CDC reports that these trends may reflect differences in the approaches to preventing motor vehicle and firearm-related injuries and deaths. Specifically, "reductions in the occurrence of motor vehicle-related injuries have been associated with the development of a set of comprehensive and science-based interventions and policies; in contrast, there have been limited efforts to develop a systematic framework to reduce the incidence and impact of injuries associated with firearms."¹

We can learn from the National Highway Traffic Safety Administration's (NHTSA) effective efforts at reducing motor vehicle fatalities. Based on NHTSA's campaign, the CDC recommends that any attempt to reduce firearm-related injuries and deaths should be multifaceted, and should contain at least the following three elements:

- 1) *Campaigns to change behavior*, including education about the risks and benefits of firearm possession and the safe use and storage of firearms;
- 2) *Legislative efforts* directed toward preventing access to/acquisition of firearms by specific groups that should not possess firearms (e.g., felons and children) and toward regulating the storage, transport, and use of firearms; and
- 3) *Technologic changes* used to modify firearms and ammunition to render them less lethal (e.g., requirements for childproof safety devices [i.e., trigger locks] and loading indicators).¹



In This Issue:

- ① Firearm Deaths
- ② Plea Practices
- ③ ISP and Community Corrections Program Outcomes

GUN OWNERSHIP in the U.S., 1973-1994

✱ *The percentage of American households who report owning guns has decreased.*

ESP (from 48% in 1973 to 41% in 1994)

✱ *Ownership of shotguns and rifles has declined.*

ESP (from 40% in 1973 to 32% in 1994)

✱ *Ownership of pistols has increased.*

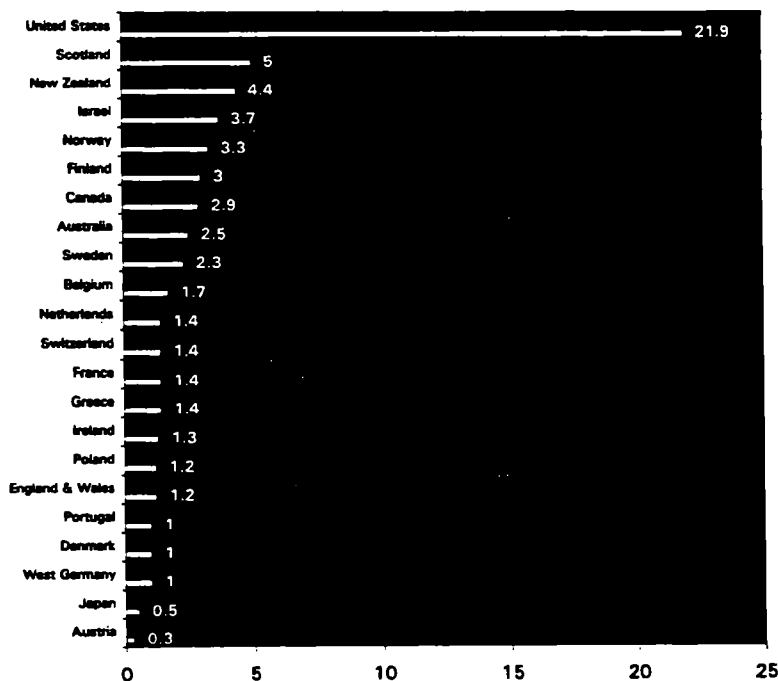
ESP (from 20% in 1973 to 25% in 1994)

Source: Public opinion data from Davis and Smith, General Social Surveys, 1972-1994. Journal of American Medical Association, June 12, 1996.

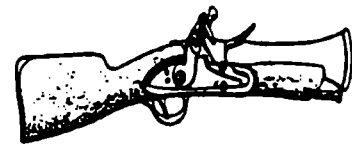
FYI Firearm-related Homicide

- ⑦ Nationally, the presence of a gun in a household increases threefold the risk of homicide for household residents.²
- ⑦ In the U. S., gun homicide has been the leading cause of death for young black males ages 15-19 since 1969.³
- ⑦ In 1990, approximately 15,000 Americans were murdered with guns.⁴
If all Americans were shot and killed at the same rate as young black males, 260,000 Americans would have been murdered with guns in that year.⁵
- ⑦ The national firearm homicide rate for 15-19 year olds increased 61% from 1979 through 1989. The rate for homicide by all other methods remained stable or decreased.⁶
- ⑦ In 1987, 1300 males under the age of 19 were murdered with guns in the United States. In the same time period, in Canada, Japan, France, West Germany, Australia, England, Wales, and Sweden combined, fewer than 80 males under the age of 19 were murdered with guns.⁷

International Homicide Rates for Males 15-24 Years Old, 1986 and 1987, Rate per 100,000



Source: Fingerhut, L.A., and Kleinman, J.C. (1990). International and interstate comparisons of homicide among young males. *Journal of the American Medical Association* 263:3292-3295.



**Five-Year (1988-1992)
Cumulative State by State
Ranking of Firearm-related
Deaths* (rate per 100,000)**

Rank	State	Rate
1	Washington, D.C.	48.9
2	Louisiana	23.0
3	Nevada	22.5
4	Mississippi	19.3
5	Alabama	19.1
6	Texas	18.7
7	Georgia	18.5
8	New Mexico	18.3
9	Florida	17.5
10	Arizona	17.4
11	Tennessee	17.3
12	Arkansas	17.3
13	Wyoming	16.4
14	South Carolina	15.9
15	North Carolina	15.9
16	Missouri	15.3
17	California	15.2
18	Michigan	14.7
19	Montana	14.6
20	Maryland	14.5
21	Virginia	14.2
22	Oklahoma	14.2
23	Alaska	14.0
24	Idaho	13.7
25	West Virginia	13.6
26	Kentucky	13.6
27	New York	13.2
28	Illinois	12.4
29	COLORADO	12.3
30	Vermont	11.9
31	Oregon	11.9
32	Indiana	11.5
33	Utah	11.3
34	Kansas	11.2
35	Washington	10.5
36	Pennsylvania	10.4
37	Ohio	10.0
38	Maine	9.4
39	Wisconsin	9.2
40	Nebraska	8.6
41	South Dakota	8.5
42	Delaware	8.4
43	Connecticut	8.0
44	North Dakota	7.5
45	New Hampshire	7.5
46	Minnesota	7.4
47	Iowa	6.9
48	Rhode Island	5.4
49	New Jersey	5.3
50	Massachusetts	4.6
51	Hawaii	4.6

* Firearm-related deaths include suicide, homicide, accidental, unknown intent, and legal intervention.

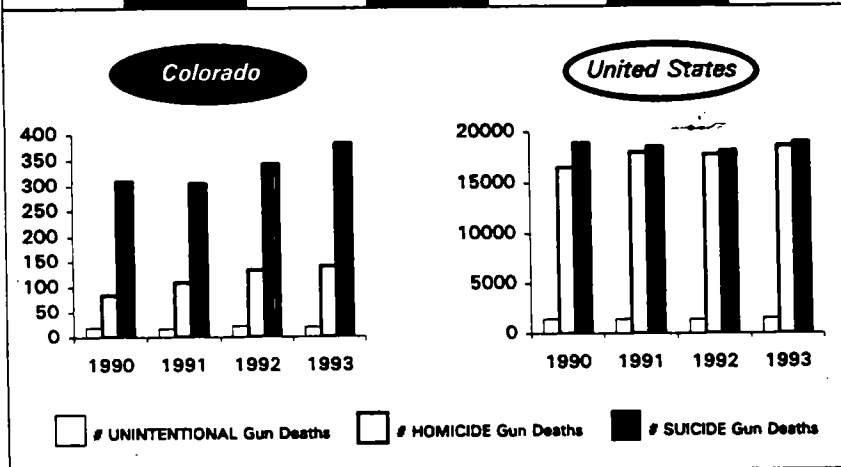
Source: Colorado Department of Public Health and Environment

Suicide Accounts for the Greatest Number of Gun-related Deaths in Colorado and Nationally

- ① Nationally, the presence of a gun in a household increases fivefold the risk of suicide for household residents.¹
- ② Between 1980 and 1992 in the United States, the annual number of firearm suicides increased by 18%. Firearms accounted for 77% of the increased number of suicides between 1980 and 1992.²
- ③ Nationally, on average, one adolescent 10 to 14 years of age commits suicide with a gun every 6 hours – approximately 1,500 lives lost annually.¹⁰

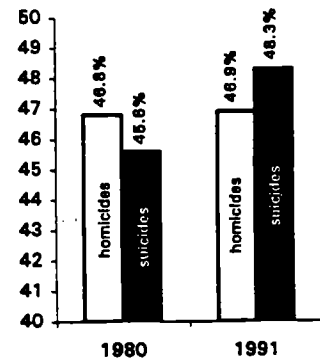
Firearm-related Homicides, Suicides, and Unintentional Deaths: Colorado and the U.S., 1990 - 1993, Number and (Rate/100,000)

Year	Homicides/ Legal Intervention		Suicides		Unintentional/ Undetermined Deaths	
	Colorado	U.S.	Colorado	U.S.	Colorado	U.S.
1990	84 (2.5)	16507 (6.6)	310 (9.4)	18885 (7.6)	19 (0.6)	1416 (0.8)
1991	109 (3.2)	17986 (7.1)	305 (9.0)	18526 (7.4)	17 (0.5)	1441 (0.6)
1992	133 (3.9)	17790 (7.0)	343 (10.0)	18169 (7.1)	22 (0.6)	1409 (0.6)
1993	140 (3.9)	18571 (7.2)	382 (10.7)	18940 (7.4)	20 (0.6)	1521 (0.8)



Source: National firearm data from the Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Colorado firearm data from the Colorado Department of Public Health and Environment.

In the U.S., Suicides Have Surpassed Homicides as the Leading Manner of Firearm-related Deaths



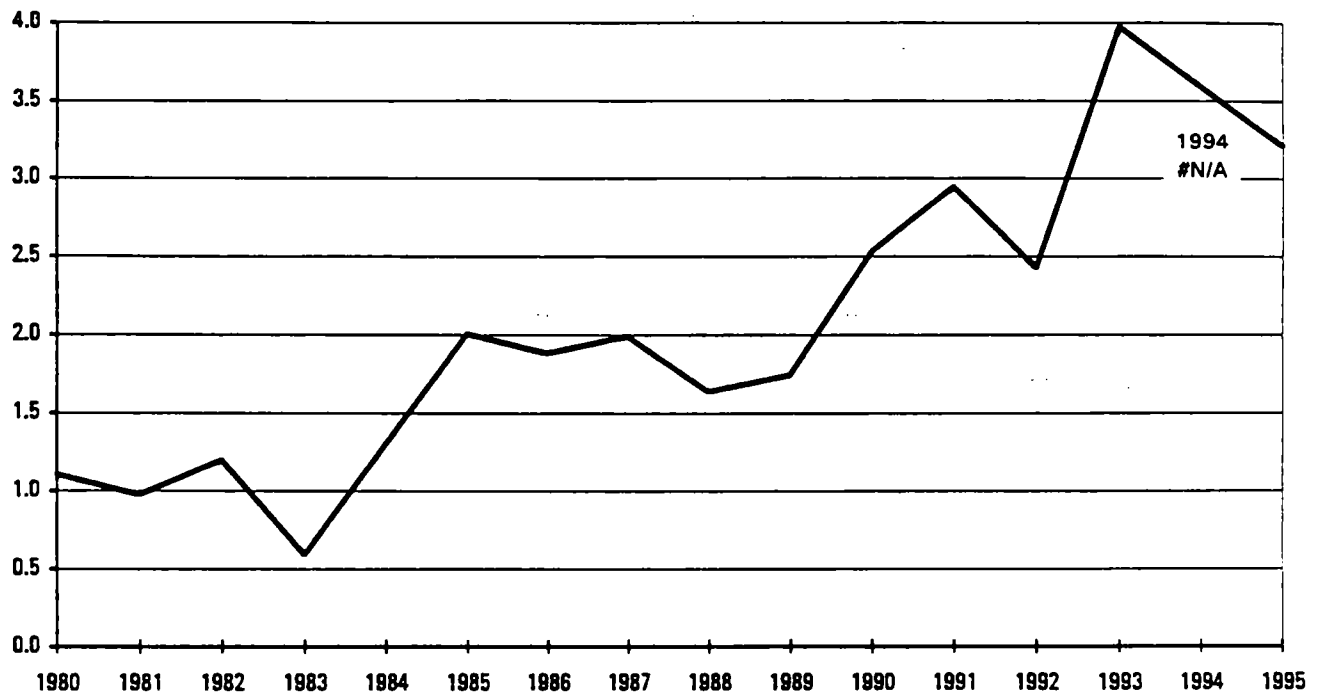
Source: U.S. Department of Health and Human Services (1994). *Morbidity and Mortality Weekly Report* 43(33):609.

Source Notes:

1. U.S. Department of Health and Human Services (1994). *Morbidity and Mortality Weekly Report* 43(33).
2. Kellermann, A.L., Rivara, F.P., Rushforth, M.B., et al. (1993). Gun ownership as a risk factor for homicide in the home. *New England Journal of Medicine* 329:1084-81.
3. Fingerhut, L.A., Ingram D.D., and Feldman, J.J. (1992). Firearm homicide among black teenage males in metropolitan counties. *Journal of the American Medical Association* 267:3054-3058.
4. Federal Bureau of Investigation (1993). *Crime in the United States, Uniform Crime Reports, 1992*. U.S. Department of Justice, Washington, D.C.
5. Fingerhut, L.A. (1993). Firearm mortality among children, youth, and young adults 1-34 years of age, trends and current status: United States, 1985-90. *Advance Data from Vital and Health Statistics*, No. 231, National Center for Health Statistics, Hyattsville, MD.
6. Fingerhut, L.A., Ingram, D.D., and Feldman, J.J. (1992). Firearm and nonfirearm homicide among persons 15 through 19 years of age. *Journal of the American Medical Association* 267:3048-3053.
7. Fingerhut, L.A., Kleinman, J.C., Gedrey, E., and Rosenberg, H. (1991). Firearm mortality among children, youth, and young adults 1-34 years of age, trends and current status: United States, 1979-88. *Monthly Vital Statistics Report* 39:1-15, National Center for Health Statistics, Hyattsville, MD.
8. Kellermann, A.L., Rivara, F.P., Somes, G., et al. (1992). Suicide in the home in relation to gun ownership. *New England Journal of Medicine* 327:467-472.
9. Katcher, S.P., Potter, L.B., James, S.P., and Powell, K.E. (1996). *Suicide in the United States 1980-1992*. Violence Surveillance Summary Series, No. 1, National Center for Injury Prevention and Control, Atlanta, GE.
10. Katcher, M.L. (1994). Firearm injuries among children and adolescents: The facts. *Wisconsin Medical Journal*, October, pp. 511-514.

HOMICIDE

Colorado Juvenile ARREST Rate 1980-1995*
(Rate per 100,000)



*Excludes Negligent Manslaughter

Sources:

OFFENSE/ARREST DATA—Colorado Bureau of Investigation Annual Reports 1980-1995.

POPULATION DATA—Colorado State Demographer's Office, Department of Local Affairs.

1980-1989: intercensal estimates, based on 1980 and 1990 Census. 1990-1995: Postcensal estimates, based on 1990 Census. (Data extracted 10/95.)

Note: All rates in this chart/graph were calculated using the juvenile Colorado population (0-17 / males + females). Rate per 100,000.

Note: Numbers are not shown for 1994 due to inconsistencies in the source data.

Why is Arapahoe County Sheriff Pat Sullivan, Jr., and Chiefs of Police and Sheriff's Across Colorado so concerned about more guns on our streets?

National Firearms Deaths 1994

<u>Age</u>	<u>Homicide</u>	<u>Suicide</u>	<u>Un-intentional</u>	<u>Intent Unknown</u>	<u>ALL</u>
< 1	11	0	2	0	13
1-4	60	0	32	2	94
5-9	73	1	25	6	105
10-14	325	187	126	22	660
15-19	3,150	1,377	327	107	4,961
20-24	3,833	1,967	213	82	6,095
25-34	5,183	3,532	243	116	9,074
35-44	3,025	3,264	155	75	6,519
45-54	1,233	2,443	95	45	3,816
55-64	531	1,797	46	30	2,404
65-74	282	2,010	46	15	2,353
75-84	119	1,684	32	14	1,849
85+	19	497	13	3	532
Age not stated	22	6	1	1	30
TOTAL	17,866	18,765	1,356	518	38,505

**National Center for Health Statistics, Unpublished data from the Vital Statistics System 10/96*

Firearm-Related Deaths Colorado, 1995

<u>Age</u>	<u>Homicide</u>	<u>Suicide</u>	<u>Uninten-tional</u>	<u>Intent Unknown</u>	<u>ALL</u>
<15	3	4	4	0	11
15-19	26	22	4	1	53
20-24	22	32	3	0	57
25-34	33	71	4	1	109
35-44	23	72	4	1	100
45-54	10	51	*	0	62
55-64	*	27	*	2	32
65-74	3	24	3	0	30
75-84	3	28	*	0	32
85 +	*	10	*	0	11
TOTAL	126	341	25	5	497

**Firearm-Related Injury Surveillance Project Colorado Dept. of Public Health and Environment 5/6/97*

Firearm-related deaths were identified from 1995 Death Certificates using ICD-9 codes E922 (Unintentional), E955.0-E955.4 (Suicides, E965.0-E965.4 and E970 (Homicide and Legal Intervention) and E985.0 - E985.4 (Undetermined Intent). "*" Indicates that less than three events occurred in that group.

CHILDREN & GUNS

Every day in America, 16 children ages 19 and under are killed in gun homicides, suicides and unintentional shootings. Many more are wounded.

National Center for Health Statistics, 1996

In 1992, 3,362 children and teenagers were murdered with guns, 1,426 committed suicide with guns, and 501 died in unintentional shootings.

National Center for Health Statistics, 1996

Two in 25 high school students, that is 7.9 percent, reported having carried a gun in the last 30 days.

Centers for Disease Control, 1995

During 1994, almost one-half of all the murders of those under age 18 involved handguns. Ten years earlier, handguns were involved in one-quarter of such offenses.

Bureau of Justice Statistics, 1996

In 1994, about 70 percent of the murder victims aged 15 to 17 years old were killed with a handgun.

Bureau of Justice Statistics, 1996

Gunshot wounds are the second leading cause of death for all people aged 10-34.

National Center for Health Statistics, 1993

Firearm homicide is the leading cause of death for black men aged 15-34.

National Center for Health Statistics, 1993

One in six parents say they know a child who accidentally shot himself or herself with a gun.

LH Research, Inc., 1993

Hospital emergency room departments treat four children for gunshot wounds for every child killed by gunfire.

Annest, J.L., Journal of American Medical Association, 1995

"Before the age of eight, few children can reliably distinguish a toy gun from a real one."

Ms., 1994

Twelve percent of all adults, 15 percent of all parents, 17 percent of African Americans and 13 percent of Hispanic Americans know a child who accidentally shot himself or herself with a gun.

"The firearm injury epidemic, due largely to handgun injuries, is ten times larger than the polio epidemic of the first half of this century."

Christoffel K., Children's Environments, 1995

Updated 10/96

THE RISKS OF GUNS IN THE HOME

Guns kept in the home for self protection are 43 times more likely to kill someone you know than to kill in self-defense.

Kellermann A. *New England Journal of Medicine*, 1986

When someone is home, a gun is used for protection in fewer than two percent of home invasion crimes.

Kellermann A. *Journal of the American Medical Association*, 1995

The risk of homicide in the home is three times greater in households with guns.

Kellermann A. *New England Journal of Medicine*, 1993

The risk of suicide is five times greater in households with guns.

Kellermann A. *New England Journal of Medicine*, 1993

In 1995, there were only 179 justifiable handgun homicides compared with a total of 11,198 handgun murders in the United States.

FBI Uniform Crime Reporting, released October 1996

From 1987-1990, victims used firearms to protect themselves in fewer than one percent of all violent offenses.

McDowell D. *American Journal of Public Health*, 1994

A 1994 national survey found that 71 percent of the U.S. population feels less safe when others in the community acquire firearms.

Hemenway D. *Journal of Criminal Law and Criminology*, 1995

Victims in spouse murders were the most likely to have died from gunshot wounds (53%), compared to victims in other types of family murder.

Bureau of Justice Statistics, 1994

Every day, 16 American children are killed with guns.

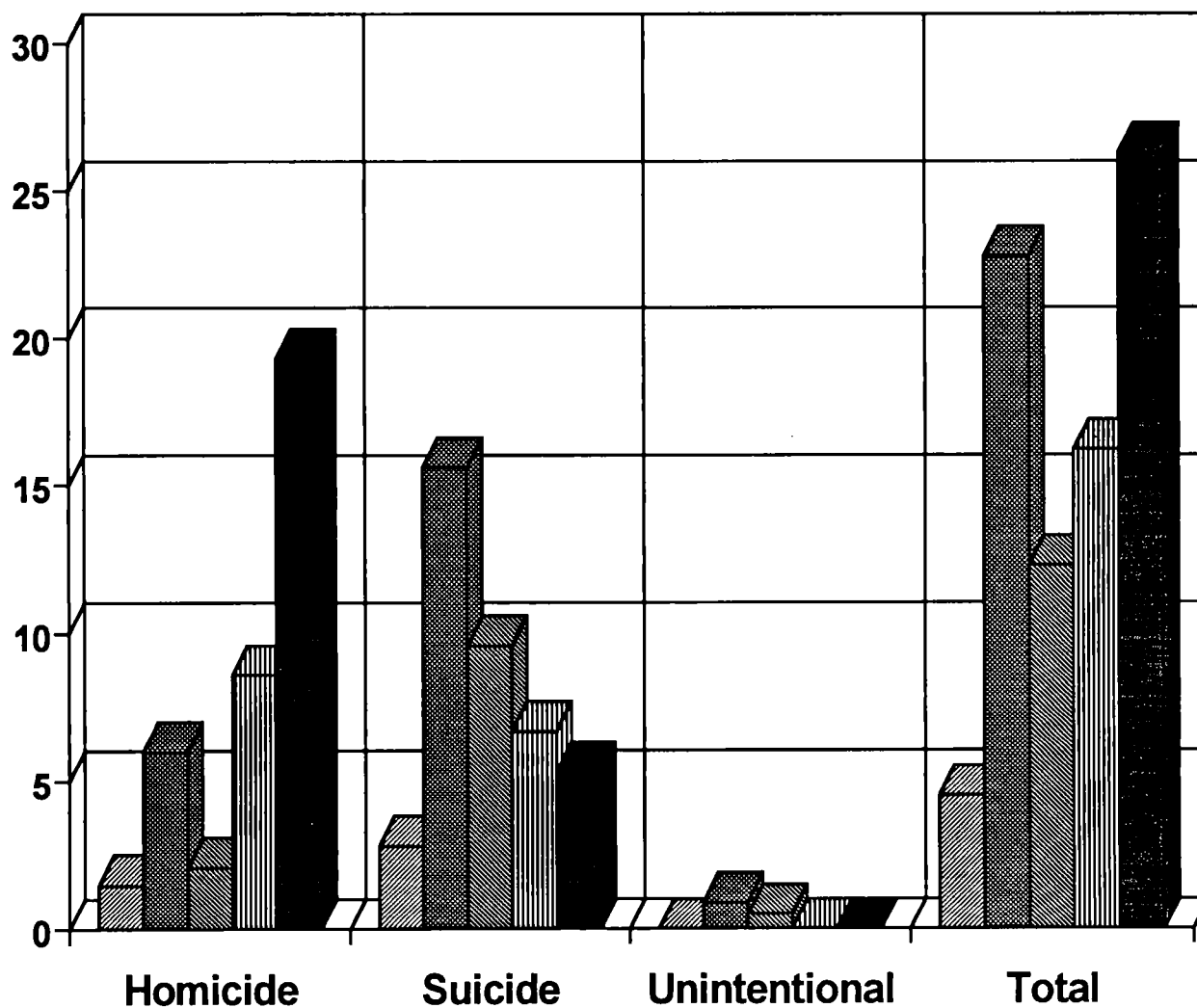
National Center for Health Statistics, 1996

More than 1.2 million elementary-aged, latch-key children have access to guns in their homes.

Lee, *Journal of the American Medical Association*, 1990

Firearm Related Age-Adjusted Death Rates Per 100,000 Population Colorado Annual Average 1980 to 1995

Deaths
Per 100K



Female

Male

White

Hispanic

Black

*Firearm-Related Injury Surveillance Project Colorado Dept. of Public Health and Environment 5/7/97

elements of change

highlighting trends and issues in the criminal justice system

vol. 1 / no. 3

Firearms Are Expected to Surpass Motor Vehicles as the Leading Cause of Injury-related Death in the U.S. by the Year 2003

Nationally, firearm-related deaths increased by 60% (from 23,875 to 38,317) between 1968 and 1991.¹ Based on trends identified by the Centers for Disease Control (CDC), firearms are expected to become the leading cause of injury-related death in the United States by the year 2003.

According to the CDC,¹ prior to 1990, the number of firearm-related deaths exceeded motor vehicle-related deaths in only Alaska and the District of Columbia. Additionally, since 1968, the number of motor vehicle-related deaths has steadily decreased, while the number of firearm-related deaths has increased. The CDC reports that these trends may reflect differences in the approaches to preventing motor vehicle and firearm-related injuries and deaths. Specifically, "reductions in the occurrence of motor vehicle-related injuries have been associated with the development of a set of comprehensive and science-based interventions and policies; in contrast, there have been limited efforts to develop a systematic framework to reduce the incidence and impact of injuries associated with firearms."¹

We can learn from the National Highway Traffic Safety Administration's (NHTSA) effective efforts at reducing motor vehicle fatalities. Based on NHTSA's campaign, the CDC recommends that any attempt to reduce firearm-related injuries and deaths should be multifaceted, and should contain at least the following three elements:

- 1) *Campaigns to change behavior*, including education about the risks and benefits of firearm possession and the safe use and storage of firearms;
- 2) *Legislative efforts* directed toward preventing access to/acquisition of firearms by specific groups that should not possess firearms (e.g., felons and children) and toward regulating the storage, transport, and use of firearms; and
- 3) *Technologic changes* used to modify firearms and ammunition to render them less lethal (e.g., requirements for childproof safety devices [i.e., trigger locks] and loading indicators).¹



In This Issue:

- ① Firearm Deaths
- ② Plea Practices
- ③ ISP and Community Corrections Program Outcomes

GUN OWNERSHIP in the U.S., 1973-1994

✱ *The percentage of American households who report owning guns has decreased.*

ESP (from 48% in 1973 to 41% in 1994)

✱ *Ownership of shotguns and rifles has declined.*

ESP (from 40% in 1973 to 32% in 1994)

✱ *Ownership of pistols has increased.*

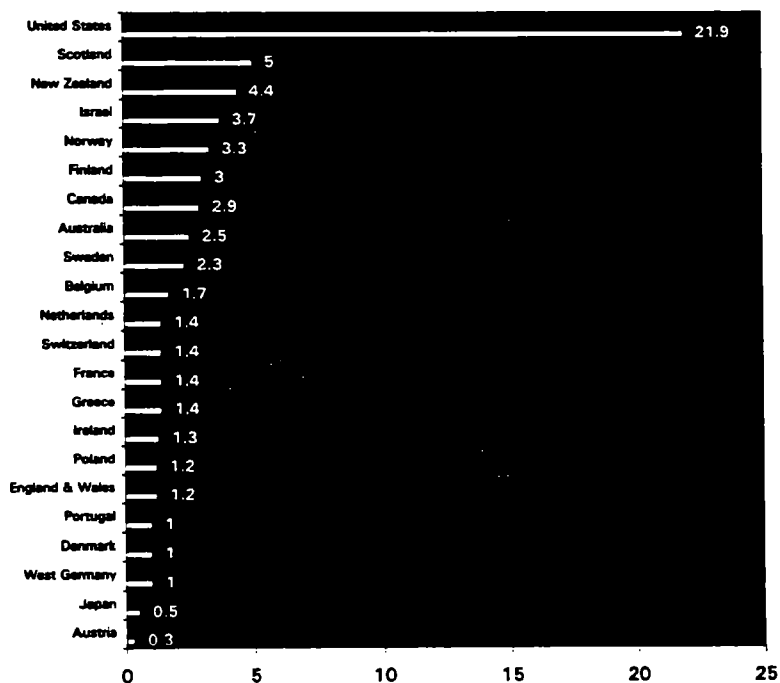
ESP (from 20% in 1973 to 25% in 1994)

Source: Public opinion data from Davis and Smith, General Social Surveys, 1972-1994. *Journal of American Medical Association*, June 12, 1996.

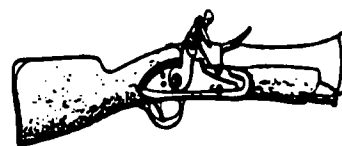
FYI ★ Firearm-related Homicide

- ① Nationally, the presence of a gun in a household increases threefold the risk of homicide for household residents.²
- ① In the U. S., gun homicide has been the leading cause of death for young black males ages 15-19 since 1969.³
- ① In 1990, approximately 15,000 Americans were murdered with guns.⁴
If all Americans were shot and killed at the same rate as young black males, 260,000 Americans would have been murdered with guns in that year.⁵
- ① The national firearm homicide rate for 15-19 year olds increased 61% from 1979 through 1989. The rate for homicide by all other methods remained stable or decreased.⁶
- ① In 1987, 1300 males under the age of 19 were murdered with guns in the United States. In the same time period, in Canada, Japan, France, West Germany, Australia, England, Wales, and Sweden combined, fewer than 80 males under the age of 19 were murdered with guns.⁷

International Homicide Rates for Males 15-24 Years Old, 1986 and 1987, Rate per 100,000



Source: Fingerhut, L.A., and Kleinman, J.C. (1990). International and interstate comparisons of homicide among young males. *Journal of the American Medical Association* 263:3292-3295.



Five-Year (1988-1992) Cumulative State by State Ranking of Firearm-related Deaths* (rate per 100,000)

Rank	State	Rate
1	Washington, D.C.	48.9
2	Louisiana	23.0
3	Nevada	22.5
4	Mississippi	19.3
5	Alabama	19.1
6	Texas	18.7
7	Georgia	18.5
8	New Mexico	18.3
9	Florida	17.5
10	Arizona	17.4
11	Tennessee	17.3
12	Arkansas	17.3
13	Wyoming	16.4
14	South Carolina	15.9
15	North Carolina	15.9
16	Missouri	15.3
17	California	15.2
18	Michigan	14.7
19	Montana	14.6
20	Maryland	14.5
21	Virginia	14.2
22	Oklahoma	14.2
23	Alaska	14.0
24	Idaho	13.7
25	West Virginia	13.6
26	Kentucky	13.6
27	New York	13.2
28	Illinois	12.4
29	COLORADO	12.3
30	Vermont	11.9
31	Oregon	11.9
32	Indiana	11.5
33	Utah	11.3
34	Kansas	11.2
35	Washington	10.5
36	Pennsylvania	10.4
37	Ohio	10.0
38	Maine	9.4
39	Wisconsin	9.2
40	Nebraska	8.6
41	South Dakota	8.5
42	Delaware	8.4
43	Connecticut	8.0
44	North Dakota	7.5
45	New Hampshire	7.5
46	Minnesota	7.4
47	Iowa	6.9
48	Rhode Island	5.4
49	New Jersey	5.3
50	Massachusetts	4.6
51	Hawaii	4.6

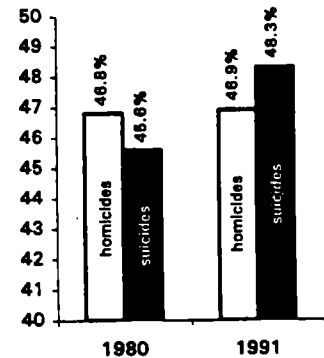
* Firearm-related deaths include suicide, homicide, accidental, unknown intent, and legal intervention.

Source: Colorado Department of Public Health and Environment

Suicide Accounts for the Greatest Number of Gun-related Deaths in Colorado and Nationally

- ⑦ Nationally, the presence of a gun in a household increases fivefold the risk of suicide for household residents.⁸
- ⑦ Between 1980 and 1992 in the United States, the annual number of firearm suicides increased by 18%. Firearms accounted for 77% of the increased number of suicides between 1980 and 1992.⁹
- ⑦ Nationally, on average, one adolescent 10 to 14 years of age commits suicide with a gun every 6 hours – approximately 1,500 lives lost annually.¹⁰

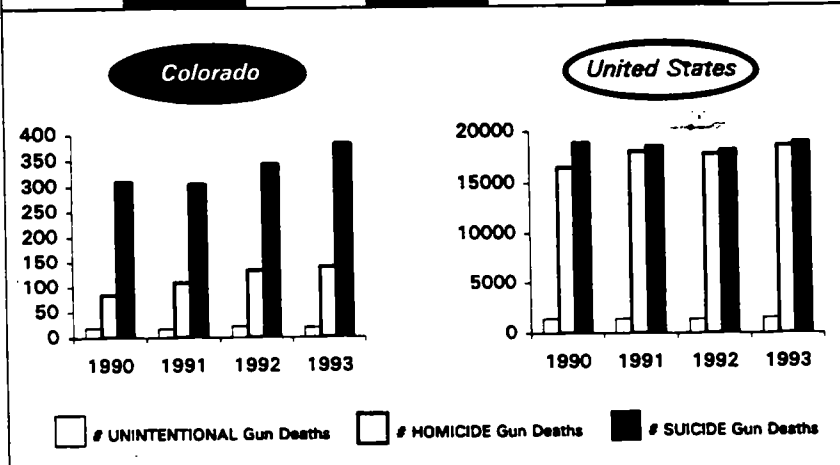
In the U.S., Suicides Have Surpassed Homicides as the Leading Manner of Firearm-related Deaths



Source: U.S. Department of Health and Human Services (1994). *Morbidity and Mortality Weekly Report* 43(33):609.

Firearm-related Homicides, Suicides, and Unintentional Deaths: Colorado and the U.S., 1990 - 1993, Number and (Rate/100,000)

Year	Homicides/ Legal Intervention		Suicides		Unintentional/ Undetermined Deaths	
	Colorado	U.S.	Colorado	U.S.	Colorado	U.S.
1990	84 (2.5)	16507 (6.6)	310 (9.4)	18885 (7.6)	19 (0.6)	1416 (0.6)
1991	109 (3.2)	17986 (7.1)	305 (9.0)	18526 (7.4)	17 (0.5)	1441 (0.8)
1992	133 (3.9)	17790 (7.0)	343 (10.0)	18169 (7.1)	22 (0.6)	1409 (0.8)
1993	140 (3.9)	18571 (7.2)	382 (10.7)	18940 (7.4)	20 (0.6)	1521 (0.8)



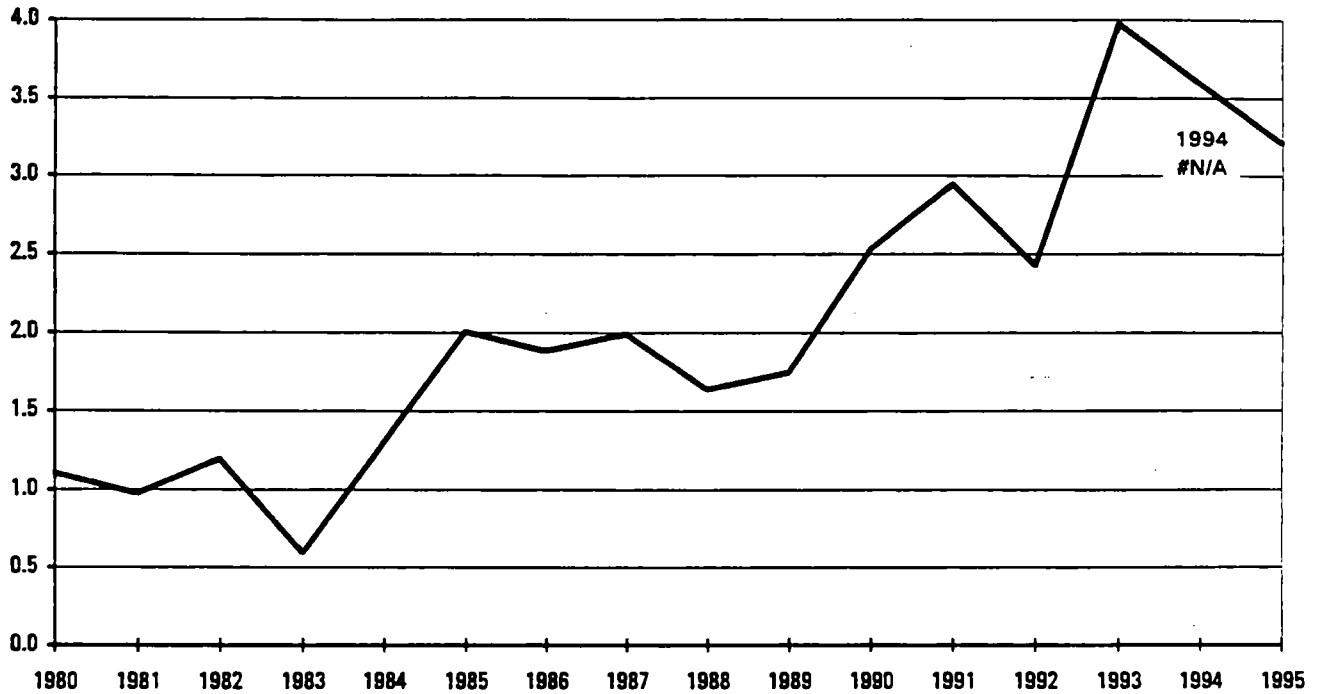
Source: National firearm data from the Centers for Disease Control and Prevention, National Center for Injury Prevention and Control. Colorado firearm data from the Colorado Department of Public Health and Environment.

Source Notes:

- U.S. Department of Health and Human Services (1994). *Morbidity and Mortality Weekly Report* 43(3).
- Kellermann, A.L., Rivara, F.P., Rushforth, N.B., et al. (1993). Gun ownership as a risk factor for homicide in the home. *New England Journal of Medicine* 329:1064-61.
- Fingerhut, L.A., Ingram, D.D., and Feldman, J.J. (1982). Firearm homicide among black teenage males in metropolitan counties. *Journal of the American Medical Association* 267:3054-3058.
- Federal Bureau of Investigation (1993). *Crime in the United States, Uniform Crime Reports, 1992*. U.S. Department of Justice, Washington, D.C.
- Fingerhut, L.A. (1993). Firearm mortality among children, youth, and young adults 1-34 years of age, trends and current status: United States, 1985-90. *Advance Data from Vital and Health Statistics*, No. 231, National Center for Health Statistics, Hyattsville, MD.
- Fingerhut, L.A., Ingram, D.D., and Feldman, J.J. (1982). Firearm and nonfirearm homicide among persons 15 through 19 years of age. *Journal of the American Medical Association* 267:3048-3053.
- Fingerhut, L.A., Kleinman, J.C., Godfrey, E., and Rosenberg, H. (1991). Firearm mortality among children, youth, and young adults 1-34 years of age, trends and current status: United States, 1979-88. *Monthly Vital Statistics Report* 39:1-15, National Center for Health Statistics, Hyattsville, MD.
- Kellermann, A.L., Rivara, F.P., Somes, G., et al. (1992). Suicide in the home in relation to gun ownership. *New England Journal of Medicine* 327:467-472.
- Kasner, S.P., Potter, L.B., James, S.P., and Powell, K.E. (1996). *Suicide in the United States 1980-1992*. Violence Surveillance Summary Series, No. 1, National Center for Injury Prevention and Control, Atlanta, GE.
- Kasner, M.J. (1994). Firearm injuries among children and adolescents: The facts. *Wisconsin Medical Journal*, October, pp. 511-514.

HOMICIDE

Colorado Juvenile ARREST Rate 1980-1995*
(Rate per 100,000)



*Excludes Negligent Manslaughter

Sources:

OFFENSE/ARREST DATA--Colorado Bureau of Investigation Annual Reports 1980-1995.

POPULATION DATA--Colorado State Demographer's Office, Department of Local Affairs.

1980-1989: intercensal estimates, based on 1980 and 1990 Census. 1990-1995: Postcensal estimates, based on 1990 Census. (Data extracted 10/95.)

Note: All rates in this chart/graph were calculated using the juvenile Colorado population (0-17 / males + females). Rate per 100,000.

Note: Numbers are not shown for 1994 due to inconsistencies in the source data.

An Act

HOUSE BILL 94-1276

BY REPRESENTATIVES Owen, Agler, Anderson, Chlouber, Martin, Hagedorn, Jerke, and Lawrence;
also SENATORS Rizzuto, Cassidy, Johnson, Norton, and Ruddick.

CONCERNING A STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM
IN CONNECTION WITH THE TRANSFER OF HANDGUNS IN THIS STATE,
AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 26.5

Handguns - Statewide Instant Criminal Background Check System

12-26.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "INSTANT CRIMINAL BACKGROUND CHECK SYSTEM ACT".

12-26.5-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BUREAU" MEANS THE COLORADO BUREAU OF INVESTIGATION IN THE DEPARTMENT OF PUBLIC SAFETY AND CREATED PURSUANT TO ARTICLE 33.5 OF TITLE 24, C.R.S.

(2) "HANDGUN" MEANS:

(a) A FIREARM THAT HAS A SHORT STOCK AND IS DESIGNED TO BE HELD AND FIRED BY THE USE OF A SINGLE HAND; AND

(b) ANY COMBINATION OF PARTS FROM WHICH SUCH FIREARM CAN

BE ASSEMBLED.

(3) "FIREARM" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "GUN CONTROL ACT OF 1968", 18 U.S.C. SEC. 921.

(4) "LICENSED COLLECTOR" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "GUN CONTROL ACT OF 1968", 18 U.S.C. SEC. 921.

(5) "TRANSFER" MEANS THE SALE OR DELIVERY OF ANY HANDGUN IN THIS STATE BY A TRANSFEROR, AS SUCH TERM IS DEFINED IN SUBSECTION (7) OF THIS SECTION, TO A TRANSFEREE, AS SUCH TERM IS DEFINED IN SUBSECTION (6) OF THIS SECTION.

(6) "TRANSFEREE" MEANS ANY PERSON TO WHOM A TRANSFEROR, AS SUCH TERM IS DEFINED IN SUBSECTION (7) OF THIS SECTION, WISHES TO SELL OR DELIVER A HANDGUN.

(7) "TRANSFEROR" MEANS ANY FIREARM IMPORTER, MANUFACTURER, OR DEALER WHO IS LICENSED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, IN ACCORDANCE WITH THE FEDERAL "GUN CONTROL ACT OF 1968" AND IS ENGAGED IN THE TRANSFER OF HANDGUNS IN THIS STATE.

12-26.5-103. Transfer of handguns - duty of transferors - collection of fee - duty of bureau. (1) ON AND AFTER FEBRUARY 28, 1994, A TRANSFEROR SHALL NOT TRANSFER A HANDGUN TO ANY PERSON WHO:

(a) IS PROHIBITED UNDER LOCAL, STATE, OR FEDERAL LAW FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN;

(b) HAS BEEN CONVICTED OF ANY OF THE CRIMES DESCRIBED IN SUBPARAGRAPHS (I) TO (VIII) OF THIS PARAGRAPH (b), INVOLVING THE USE OF FORCE AGAINST A SPOUSE, A FORMER SPOUSE, OR A CHILD:

(I) FIRST DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-202, C.R.S.;

(II) SECOND DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-203, C.R.S.;

(III) THIRD DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-204, C.R.S.;

(IV) FIRST DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.;

(V) SECOND DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-403, C.R.S.;

(VI) THIRD DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-404, C.R.S.;

(VII) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION 18-3-405, C.R.S.;

(VIII) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401, C.R.S.;

(c) IS SUBJECT TO A RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE ISSUED PURSUANT TO SECTIONS 14-4-102 OR 14-4-103, C.R.S., OR IS SUBJECT TO A RESTRAINING ORDER ISSUED PURSUANT TO SECTION 18-1-1001; C.R.S., IN CONNECTION WITH CHARGES BROUGHT AGAINST THE TRANSFEREE FOR ANY OF THE CRIMES DESCRIBED IN SUBPARAGRAPHS (I) TO (VIII) OF PARAGRAPH (b) OF THIS SUBSECTION (1).

(1.5) FOR THE PURPOSES OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, "CONVICTION" MEANS A PLEA OF GUILTY, OR A VERDICT OF GUILTY BY A JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

(2) ON AND AFTER FEBRUARY 28, 1994, A TRANSFEROR SHALL NOT TRANSFER A HANDGUN TO ANY PERSON, OTHER THAN ANOTHER TRANSFEROR OR LICENSED COLLECTOR, UNTIL THE TRANSFEROR COMPLETES EACH OF THE FOLLOWING:

(a) PROVIDES TO AND OBTAINS FROM THE TRANSFEREE A FORM ADOPTED BY THE BUREAU WHICH REQUESTS INFORMATION FROM THE TRANSFEREE INCLUDING, BUT NOT LIMITED TO, THE TRANSFEREE'S NAME, DATE OF BIRTH, GENDER, RACE, AND SOCIAL SECURITY NUMBER OR OTHER ACCEPTABLE IDENTIFICATION NUMBER;

(b) INSPECTS PROPER IDENTIFICATION OF THE TRANSFEREE. A DEFINITION OF PROPER IDENTIFICATION SHALL BE DETERMINED BY THE BUREAU. SUCH IDENTIFICATION MAY INCLUDE A FORM CONTAINING A PHOTOGRAPH OF THE TRANSFEREE;

(c) COLLECTS A FEE FROM THE TRANSFEREE FOR THE PURPOSE OF PROCESSING THE CRIMINAL HISTORY INSTANT CHECK OF THE TRANSFEREE IN ACCORDANCE WITH SECTION 12-26.5-104. THE BUREAU SHALL ESTABLISH THE FEE IN ACCORDANCE WITH SECTION 12-26.5-107.

(d) (I) (A) REQUESTS THE BUREAU TO CONDUCT AN INSTANT CHECK OF ANY INFORMATION CONCERNING THE TRANSFEREE THAT HAS BEEN REPORTED AND IS REFLECTED IN THE BUREAU'S COMPUTERIZED DATA BASE SYSTEM AS OF THE DATE OF THE REQUEST; AND

(B) RECEIVES A UNIQUE APPROVAL NUMBER FOR THE INQUIRY FROM THE BUREAU AND RECORDS THE DATE AND THE APPROVAL NUMBER ON THE FORM COMPLETED BY THE TRANSFEREE.

(II) THE REQUEST MADE BY THE TRANSFEROR TO THE BUREAU IN ACCORDANCE WITH SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL BE MADE BY MEANS OF A TOLL-FREE TELEPHONE CALL.

(3) (a) A TRANSFEROR IS NOT REQUIRED TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION WHEN:

(I) TELEPHONE SERVICES ARE INTERRUPTED DUE TO A HURRICANE, TORNADO, FLOOD, OR OTHER NATURAL DISASTER, WAR, INVASION, INSURRECTION, RIOT, OR OTHER BONA FIDE EMERGENCY;

(II) TELEPHONE SERVICES ARE UNAVAILABLE DUE TO ANY OTHER REASON BEYOND THE CONTROL OF THE TRANSFEROR.

(b) UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3), A TRANSFEROR SHALL NOT TRANSFER A HANDGUN FOR THIRTY HOURS OR UNTIL TELEPHONE SERVICE IS AVAILABLE, WHICHEVER OCCURS SOONER. A TRANSFEROR SHALL COMPLETE A BUREAU FORM CONCERNING A SALE MADE PURSUANT TO THIS PARAGRAPH (b) AND SHALL SUBMIT A REPORT TO THE BUREAU WITHIN TWENTY-FOUR HOURS.

(4) IF A PERSON IS DENIED AN APPROVAL NUMBER TO PURCHASE, RECEIVE, OR POSSESS A HANDGUN AS A RESULT OF THE PROCEDURES SET FORTH IN SECTION 12-26.5-104, THE TRANSFEROR SHALL PROVIDE THE TRANSFEREE WITH WRITTEN INFORMATION PREPARED BY THE BUREAU, IN ACCORDANCE WITH SECTION 12-26.5-104 (9), CONCERNING THE PROCEDURE BY WHICH THE TRANSFEREE MAY REQUEST A REVIEW OF THE BUREAU'S DECISION AND A REVIEW OF THE CRIMINAL HISTORY RECORDS.

12-26.5-104. Statewide instant criminal background check system - duties of bureau. (1) THE BUREAU SHALL BE RESPONSIBLE FOR ADMINISTERING A STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN CONNECTION WITH THE TRANSFER OF HANDGUNS IN THIS STATE.

(2) (a) UPON RECEIPT OF A REQUEST FOR A CRIMINAL HISTORY RECORD CHECK FROM A TRANSFEROR IN ACCORDANCE WITH SECTION 12-26.5-103 (2) (d), THE BUREAU, DURING THE TRANSFEROR'S CALL OR WITHIN TWENTY-FOUR HOURS IF SUBSECTION (4) OF THIS SECTION APPLIES, SHALL REVIEW ITS CRIMINAL HISTORY RECORDS TO DETERMINE IF THE TRANSFEREE:

(I) IS PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN UNDER LOCAL, STATE, OR FEDERAL LAW;

(II) HAS BEEN ARRESTED FOR OR CHARGED WITH A CRIME FOR WHICH THE TRANSFEREE, IF CONVICTED, WOULD BE PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN;

(III) IS THE SUBJECT OF AN INFORMATION OR A FELONY COMPLAINT ALLEGING THAT THE TRANSFEREE HAS COMMITTED A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM THAT EXCEEDS ONE YEAR;

(IV) HAS BEEN CONVICTED OF ANY OF THE CRIMES DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (H) OF THIS SUBPARAGRAPH (IV), INVOLVING THE USE OF FORCE AGAINST A SPOUSE, A FORMER SPOUSE, OR A CHILD;

(A) FIRST DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-202, C.R.S.;

(B) SECOND DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-203, C.R.S.;

(C) THIRD DEGREE ASSAULT, AS DESCRIBED IN SECTION 18-3-204, C.R.S.;

(D) FIRST DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.;

(E) SECOND DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-403, C.R.S.;

(F) THIRD DEGREE SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-404, C.R.S.;

(G) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION 18-3-405, C.R.S.;

(H) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401, C.R.S.;

(V) IS SUBJECT TO A RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE ISSUED PURSUANT TO SECTIONS 14-4-102 OR 14-4-103, C.R.S., OR IS SUBJECT TO A RESTRAINING ORDER ISSUED PURSUANT TO SECTION 18-1-1001, C.R.S., IN CONNECTION WITH CHARGES BROUGHT AGAINST THE TRANSFEREE FOR ANY OF THE CRIMES DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (H) OF SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a).

(a.5) FOR THE PURPOSES OF SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (2), "CONVICTION" MEANS A PLEA OF GUILTY, OR A VERDICT OF GUILTY BY A JUDGE OR JURY, AND INCLUDES A PLEA OF NO CONTEST ACCEPTED BY THE COURT.

(b) THE BUREAU SHALL DETERMINE AS QUICKLY AS POSSIBLE WHETHER THE TRANSFEREE IS PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN.

(3) (a) (I) IF A REVIEW IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION INDICATES THAT ANY OF THE ITEMS DESCRIBED IN THAT PARAGRAPH APPLY TO THE TRANSFEREE, THE BUREAU SHALL PROVIDE A NONAPPROVAL NUMBER TO THE TRANSFEROR.

(II) IF THE BUREAU ISSUES A NONAPPROVAL NUMBER ON THE BASIS OF A RECORD THAT DOES NOT INCLUDE DISPOSITIONAL INFORMATION, THE TRANSFEREE MAY SEEK REVIEW OF THE BUREAU'S DETERMINATION IN ACCORDANCE WITH SUBSECTION (9) OF THIS SECTION.

(b) IF A REVIEW IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION INDICATES THAT NONE OF THE ITEMS DESCRIBED IN THAT PARAGRAPH APPLY TO THE TRANSFEREE, THE BUREAU

SHALL PROVIDE AN APPROVAL NUMBER TO THE TRANSFEROR.

(4) IN THE EVENT OF ANY SCHEDULED COMPUTER DOWNTIME, ELECTRONIC FAILURE, OR SIMILAR PROBLEM THAT DELAYS THE BUREAU'S ABILITY TO RESPOND DURING A TRANSFEROR'S PHONE CALL, THE BUREAU SHALL IMMEDIATELY NOTIFY THE TRANSFEROR OF THE REASON FOR AND ESTIMATED LENGTH OF ANY DELAY. AFTER PROVIDING SUCH NOTIFICATION, THE BUREAU SHALL, AS SOON AS POSSIBLE BUT AT LEAST WITHIN TWENTY-FOUR HOURS, EITHER INFORM THE TRANSFEROR THAT ITS RECORDS DEMONSTRATE THAT THE TRANSFEREE IS PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN UNDER SECTION 12-26.5-103 (1) OR PROVIDE THE TRANSFEROR WITH A UNIQUE APPROVAL NUMBER.

(5) UNLESS NOTIFIED WITHIN TWENTY-FOUR HOURS THAT THE TRANSFER IS PROHIBITED, AND WITHOUT REGARD AS TO WHETHER THE BUREAU HAS PROVIDED A UNIQUE APPROVAL NUMBER, THE TRANSFEROR MAY COMPLETE THE TRANSFER AND SHALL NOT BE DEEMED IN VIOLATION OF THIS ARTICLE.

(6) (a) ANY RECORDS CONTAINING ANY OF THE INFORMATION SET FORTH IN SECTION 12-26.5-103 (2) (a) PERTAINING TO A TRANSFEREE WHO THE BUREAU DETERMINES IS NOT PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN UNDER LOCAL, STATE, OR FEDERAL LAW, WHICH RECORDS ARE CREATED OR MAINTAINED BY THE BUREAU TO CONDUCT THE CRIMINAL HISTORY RECORD CHECK REQUIRED BY THIS ARTICLE, SHALL BE CONFIDENTIAL, AND THE BUREAU AND ALL OF ITS EMPLOYEES OR AGENTS SHALL NOT DISCLOSE ANY INFORMATION CONTAINED THEREIN TO ANY PERSON OR TO ANOTHER AGENCY.

(b) THE BUREAU SHALL DESTROY ANY RECORD CREATED OR OBTAINED FOR THE PURPOSES OF THIS ARTICLE AS SOON AS POSSIBLE AFTER THE BUREAU COMMUNICATES AN APPROVAL NUMBER TO THE TRANSFEROR. THE BUREAU SHALL NOT RETAIN A RECORD FOR MORE THAN FORTY-EIGHT HOURS AFTER THE DAY ON WHICH THE BUREAU APPROVES THE TRANSFEROR'S REQUEST.

(c) THE BUREAU MAY MAINTAIN RECORDS OF THE NATIONAL CRIME INFORMATION CENTER TRANSACTIONS TO THE EXTENT REQUIRED BY FEDERAL LAW AND MAY MAINTAIN A LOG OF DATES OF REQUESTS FOR CRIMINAL HISTORY RECORDS CHECKS, UNIQUE APPROVAL AND NONAPPROVAL NUMBERS, LICENSE IDENTIFICATION NUMBERS, AND TRANSACTION NUMBERS CORRESPONDING TO SUCH DATES FOR A PERIOD OF NO MORE THAN TWO YEARS UNLESS OTHERWISE PROHIBITED BY FEDERAL LAW, IN WHICH CASE THE BUREAU MAY MAINTAIN RECORDS ONLY FOR SO LONG AS PERMITTED UNDER FEDERAL LAW.

(d) EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPH (e) OF THIS SUBSECTION (6), IF AN APPLICANT IS DENIED AN APPROVAL NUMBER TO PURCHASE, RECEIVE, OR POSSESS A HANDGUN AS A RESULT OF ANY INFORMATION OBTAINED PURSUANT TO THE CRIMINAL BACKGROUND CHECK SYSTEM, SUCH INFORMATION SHALL NOT BE USED AGAINST THAT INDIVIDUAL FOR ANY OTHER PURPOSES, INCLUDING BUT NOT LIMITED TO THE DENIAL

OF EMPLOYMENT OPPORTUNITIES.

(e) IF THE BUREAU PROVIDES A TRANSFEROR WITH A NON-APPROVAL NUMBER FOR A TRANSFEREE, THE BUREAU SHALL IMMEDIATELY NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY WHERE THE TRANSFEREE RESIDES AND THE LOCAL LAW ENFORCEMENT AGENCY OF THE TRANSFEROR'S PLACE OF BUSINESS OF THE NON-APPROVAL NUMBER. IN ADDITION, THE BUREAU SHALL PROVIDE THE LAW ENFORCEMENT AGENCIES WITH ANY CRIMINAL BACKGROUND INFORMATION AND ANY INFORMATION PROVIDED BY THE TRANSFEROR CONCERNING THE TRANSFEREE.

(7) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO ALLOW THE BUREAU TO MAINTAIN RECORDS CONTAINING THE NAMES OF PURCHASERS OR TRANSFEREES WHO RECEIVE UNIQUE APPROVAL NUMBERS OR TO MAINTAIN RECORDS OF FIREARM TRANSACTIONS.

(8) THE BUREAU SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER THAT IS OPERATIONAL EVERY DAY OF THE WEEK, TWELVE HOURS A DAY, FOR THE PURPOSE OF RESPONDING TO REQUESTS FROM TRANSFERORS IN ACCORDANCE WITH THIS SECTION. THE BUREAU SHALL EMPLOY AND TRAIN SUCH PERSONNEL AS ARE NECESSARY TO ADMINISTER THE PROVISIONS OF THIS SECTION.

(9) (a) ANY PERSON WHO IS DENIED AN APPROVAL NUMBER TO PURCHASE, RECEIVE, OR POSSESS A HANDGUN AS A RESULT OF THE PROCEDURES ESTABLISHED BY THIS SECTION MAY REQUEST A REVIEW OF THE BUREAU'S DECISION AND A CRIMINAL HISTORY RECORDS REVIEW IN ACCORDANCE WITH THE RULES ADOPTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY. THE EXECUTIVE DIRECTOR SHALL INCLUDE A RULE THAT REQUIRES THE BUREAU TO PREPARE WRITTEN INSTRUCTIONS FOR THE REVIEW, WHICH INSTRUCTIONS SHALL BE PROVIDED TO THE TRANSFEREE BY THE TRANSFEROR IN ACCORDANCE WITH SECTION 12-26.5-103 (4).

(b) WHEN DISPOSITIONAL INFORMATION INDICATING A TRANSFEREE IS NOT PROHIBITED FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN IS NOT INCLUDED IN THE BUREAU'S RECORDS, IT IS THE TRANSFEREE'S RESPONSIBILITY TO OBTAIN AND PROVIDE THE DISPOSITIONAL INFORMATION TO THE BUREAU BEFORE THE BUREAU MAY RELEASE AN APPROVAL NUMBER TO THE TRANSFEROR.

(10) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL ADOPT RULES TO ENSURE THE PROPER MAINTENANCE, CONFIDENTIALITY, AND SECURITY OF ALL RECORDS AND DATA PROVIDED PURSUANT TO THIS ARTICLE. THE EXECUTIVE DIRECTOR SHALL FOLLOW THE RECOMMENDATIONS MADE BY THE DIRECTOR OF THE BUREAU IN ADOPTING RULES PURSUANT TO THIS SECTION.

12-26.5-105. Unlawful act - criminal and civil penalties - immunities. (1) IT IS UNLAWFUL FOR:

(a) ANY TRANSFEREE TO WILLFULLY AND KNOWINGLY PROVIDE FALSE

INFORMATION OR FALSE OR FRAUDULENT IDENTIFICATION IN CONNECTION WITH A TRANSFER MADE PURSUANT TO THIS ARTICLE;

(b) ANY TRANSFEROR, OR EMPLOYEE OR AGENT OF A TRANSFEROR, TO VIOLATE THE PROVISIONS OF THIS ARTICLE;

(c) ANY PERSON TO KNOWINGLY ACQUIRE A HANDGUN FOR A PERSON WHO IS PROHIBITED BY LOCAL, STATE, OR FEDERAL LAW FROM PURCHASING, RECEIVING, OR POSSESSING A HANDGUN;

(d) ANY TRANSFEROR TO REQUEST CRIMINAL HISTORY RECORD INFORMATION UNDER FALSE PRETENSES OR TO WILLFULLY AND INTENTIONALLY DISSEMINATE CRIMINAL HISTORY RECORD INFORMATION TO ANY PERSON OTHER THAN THE SUBJECT OF SUCH INFORMATION;

(e) ANY AGENT OR EMPLOYEE, OR FORMER AGENT OR EMPLOYEE, OF THE BUREAU TO INTENTIONALLY VIOLATE THE PROVISIONS OF THIS ARTICLE.

(2) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(3) ANY LAW ENFORCEMENT AGENCY, INCLUDING THE BUREAU, THE STATE JUDICIAL DEPARTMENT, OR ANY COURT OF THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, THAT ACTS IN GOOD FAITH IN COMPLYING WITH THE PROVISIONS OF THIS ARTICLE OR ANY EMPLOYEE OR AGENT OF SUCH ENTITIES WHO ACTS IN GOOD FAITH IN COMPLYING WITH THE PROVISIONS OF THIS ARTICLE SHALL NOT BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY OR REGULATORY SANCTION THEREFOR.

(4) ANY TRANSFEROR WHO COMPLIES WITH THE PROVISIONS OF THIS ARTICLE SHALL NOT BE SUBJECT TO ANY CIVIL OR CRIMINAL LIABILITY OR REGULATORY SANCTION THEREFOR.

12-26.5-106. Persons exempt as transferees - transferors.

(1) THE PROVISIONS OF THIS ARTICLE THAT APPLY TO TRANSFERORS OR TRANSFEREES SHALL NOT APPLY TO:

(a) ANY LOCAL, STATE, OR FEDERAL LAW ENFORCEMENT OFFICER OR AGENT, WHEN THE TRANSFER IS MADE TO THE OFFICER OR AGENT FOR OFFICIAL LAW ENFORCEMENT PURPOSES;

(b) ANY LICENSED COLLECTOR.

12-26.5-107. Fees - fines - collection - cash fund created - allocation of moneys from fund. (1) THE DIRECTOR OF THE BUREAU SHALL ESTABLISH A FEE TO BE CHARGED TO A TRANSFEROR EACH TIME THE TRANSFEROR MAKES A REQUEST USING THE STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN ACCORDANCE WITH SECTION 12-26.5-103. THE TRANSFEROR SHALL COLLECT THE FEE FROM THE TRANSFEREE IN ACCORDANCE WITH SECTION 12-26.5-103 (2) (c). THE DIRECTOR SHALL

ESTABLISH A FEE THAT IS SUFFICIENT TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE.

(2) ANY FEE COLLECTED PURSUANT TO SUBSECTION (1) OF THIS SECTION OR ANY FINE COLLECTED PURSUANT TO SECTION 12-26.5-105 (3) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK CASH FUND, REFERRED TO IN THIS ARTICLE AS THE "FUND", WHICH FUND IS HEREBY CREATED. ANY INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ALL MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE PROVISIONS OF THIS ARTICLE.

12-26.5-108. General assembly's intent to comply with federal law. (1) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE PROVISIONS OF THIS ARTICLE BE IMPLEMENTED IN A MANNER THAT IS CONSISTENT WITH THE FEDERAL "BRADY HANDGUN VIOLENCE PREVENTION ACT", AND ANY FEDERAL RULES ADOPTED PURSUANT TO THE ACT.

(2) IT IS THE GENERAL ASSEMBLY'S FURTHER INTENT THAT THE BUREAU ACT AS THE AUTHORIZED GOVERNMENT OFFICIAL FOR THE PURPOSE OF IMPLEMENTING THIS ARTICLE IN ACCORDANCE WITH THE FEDERAL LAW.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO ALLOW A TRANSFEROR TO COMPLY WITH THE FEDERAL "BRADY HANDGUN VIOLENCE PREVENTION ACT" IN ANY MANNER OTHER THAN THAT SET FORTH IN THIS ARTICLE.

12-26.5-109. Repeal of article. THIS ARTICLE IS REPEALED EFFECTIVE FEBRUARY 28, 1999, WHICH IS THE DATE OF THE IMPLEMENTATION OF THE FEDERAL NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN ACCORDANCE WITH THE FEDERAL "BRADY HANDGUN VIOLENCE PREVENTION ACT", WHICH PROVIDES FOR ACCESS TO NATIONAL CRIMINAL HISTORY INFORMATION AND REQUIRES NATIONAL CRIMINAL HISTORY CHECKS OF TRANSFEREES TO WHOM A FIREARM MAY BE TRANSFERRED.

SECTION 2. 24-33.5-412 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-412. Functions of bureau - legislative review.
(1) The bureau has the following authority:

(1) TO CARRY OUT THE DUTIES SET FORTH IN ARTICLE 26.5 OF TITLE 12, C.R.S., CONCERNING THE STATEWIDE INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IN CONNECTION WITH THE TRANSFER OF HANDGUNS.

SECTION 3. Appropriation - loan authorized. (1)(a) In addition to any other appropriation heretofore made for the

current fiscal year, there is hereby appropriated, out of any moneys in the statewide instant criminal background check cash fund created by section 12-26.5-107, Colorado Revised Statutes, not otherwise appropriated, to the department of public safety for allocation to the Colorado bureau of investigation, the sum of one hundred five thousand six hundred sixty-nine dollars (\$105,669) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

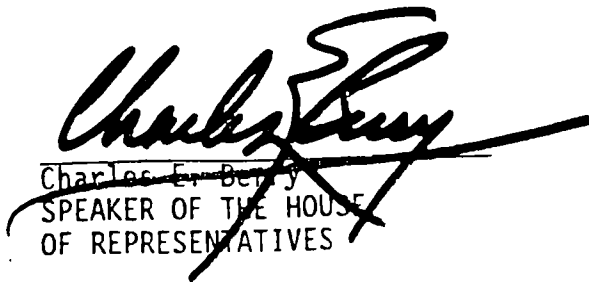
(b) For the purpose of implementing this act prior to sufficient moneys becoming available in the statewide instant criminal background check cash fund, the department of public safety is authorized to borrow moneys from the general fund pursuant to section 24-75-203, C.R.S., during the fiscal year beginning July 1, 1993, in an amount up to the amount appropriated in paragraph (a) of this subsection (1). The advanced moneys shall be transferred and credited to the statewide instant criminal background check cash fund. As moneys become available to the cash fund, any moneys borrowed from the general fund shall be repaid from the cash fund, without interest.

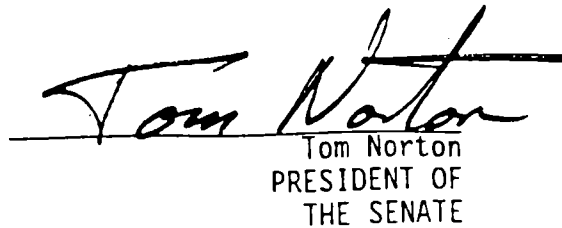
(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the statewide instant criminal background check cash fund created by section 12-26.5-107, Colorado Revised Statutes, not otherwise appropriated, to the department of public safety for allocation to the Colorado bureau of investigation, for the fiscal year beginning July 1, 1994, the sum of one hundred eighty-seven thousand nine hundred eighty-five dollars (\$187,985) and 6.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

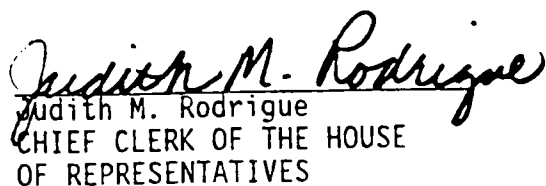
SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to the sale or delivery of any handgun in this state on or after said date.

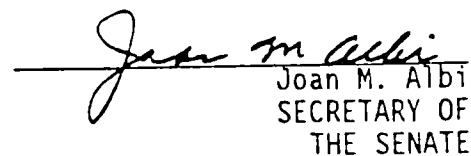
SECTION 5. Safety clause. The general assembly hereby

finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

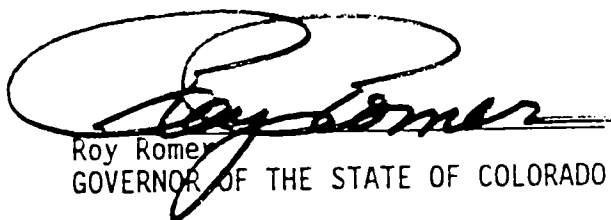

Charles E. Berry
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Tom Norton
PRESIDENT OF
THE SENATE


Judith M. Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES


Joan M. Albi
SECRETARY OF
THE SENATE

APPROVED February 26, 1994 at 10:50 a.m.


Roy Romeo
GOVERNOR OF THE STATE OF COLORADO