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Brady Bill

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

November 24, 1993

REMARKS BY THE PRESIDENT
IN PHONE CALL TO SENATORS MITCHELL, MICHEL AND SPEAKER FOLEY

The Oval Office

2:50 P.M. EST

Q How soon do you think for the signing, Mr. President?

THE PRESIDENT: Early next week, I hope. We're working on it.

Q And what about the compromise? Were you satisfied with the kind of compromise the Republicans want to bring to a vote?

THE PRESIDENT: They asked for the right to bring it to a vote and to know that it wouldn't be vetoed if they could pass it. We all agreed -- all of us together -- that that was acceptable.

Q Do you think the Republicans were afraid to go home to their districts this weekend without reaching some kind of agreement?

THE PRESIDENT: I think the American people would have been real disappointed if we'd gone home -- Congress had gone home without this bill. And I think they'll be very happy now. It's a great Thanksgiving present.

* * * * *

THE PRESIDENT: Hello, Senator Mitchell? How are you doing? Mr. Speaker?

(Answer is inaudible.)

THE PRESIDENT: You sure are. I told you last night, see.

Q (Answer is inaudible)

THE PRESIDENT: Well, we are delighted. I am here with the Vice President and Attorney General Reno and Jim and Sarah Brady in the Oval Office and we're all happy as can be. And we thank you very much for a wonderful session of Congress and a wonderful ending.

SENATOR MITCHELL: (beginning is inaudible) -- back to health care next year.

SPEAKER FOLEY: A lot of work to be done next year, Mr. President, we're going to look forward to working with you on.

THE PRESIDENT: And we're ready to roll and we're very grateful to you. Have a good Thanksgiving and a good Christmas.

SPEAKER FOLEY: I'd like to put on Bob Michel here just to say a word to you.

SENATOR MITCHELL: And Bob Dole as well --

THE PRESIDENT: Please do.

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SENATOR MITCHELL: -- without whose cooperation we could not have achieved this result today.

SENATOR MICHEL: Hi, Mr. President, this is Bob Michel speaking.

THE PRESIDENT: Hello, Bob.

SENATOR DOLE: Bob Dole --

THE PRESIDENT: Hi, Bob. Thank you both very much.

SENATOR DOLE: We think -- well, we think it was kind of a capstone of the whole session to get the Brady bill behind us. As I indicated yesterday, I thought we could do it if we just hung in there.

THE PRESIDENT: Well, it worked out and we're -- all of us are very pleased and very grateful. And I'm especially glad that we're ending this session on two measures where there was substantial bipartisan support for the progress that we're making. And I'm very appreciative of it, grateful to both of you. I hope you have a good holiday.

SENATOR DOLE: Same to you, Mr. President.

SENATOR MICHEL: Yeah, thank you very much, Mr. President.

THE PRESIDENT: Take care of that shoulder, Bob.

SENATOR MICHEL: -- I would have to agree with the assessment. It got confrontational at times, but it's nice to leave in an amicable mood when where talking the same language. We'll be back next year.

THE PRESIDENT: Can't wait to see you. (Laughter.)

SENATOR MICHEL: Happy Thanksgiving to both you and Mrs. Clinton.

THE PRESIDENT: Thank you.

SPEAKER FOLEY: Goodbye, sir.

THE PRESIDENT: Goodbye, Mr. Speaker.

SENATOR MITCHELL: Okay, thank you again, Mr. President. Have a good Thanksgiving.

THE PRESIDENT: Thank you, Senator Mitchell.

SENATOR MITCHELL: Talk to you soon.

THE PRESIDENT: Bye bye. (Applause.)

* * * * *

I would just like to say before we leave, on behalf of the Vice President and the Attorney General and myself, that we believe very passionately in the Brady Bill. As all of you who were involved in the campaign know, that I spoke about it at every campaign stop and every country crossroads in this country. But none of this would have ever happened if it hadn't been for the courage and dedication and constancy of Jim and Sarah Brady. They worked for seven years for this day. This is their victory. And I'm glad to be a small part of it.

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And I hope that it means what I believe it does, which is that the American people are serious about our doing something about mindless violence, about the terrible conditions under which our young people are laboring where so many of the children are being shot, weapons of mass destruction that they shouldn't even have in the cities or anywhere else in this country. And I hope this is the beginning of our effort to rebuild the fabric of this country from the grass roots up.

Our administration is dedicated to that. The Attorney General has spent her life working on it. And if this is the beginning of what I think it is, then the entire nation owes Jim and Sarah Brady even more than for the Brady Bill -- they have changed the focus of our nation. It's high time. It took them too many years to do this. What a wonderful Thanksgiving for them. And we are thankful to them. Thank you very much. (Applause.)

MR. BRADY: Thank you, Mr. President. (Applause.)

MRS. BRADY: Well, we're delighted. We hope we -- all of us have been able to bring the American people a really truly good Thanksgiving present. And I want to thank and say we could never have done it without the leadership and support of this fine President, Vice President, and Attorney General, who walked the halls, each and every one called and worked and have been working all year for this bill.

I also want to thank Senator Metzenbaum, our bill sponsor in the Senate, who worked tirelessly to get this finished up for us. Congressman Sensenbrenner and Congressman Schumer on the House side and Majority Leader, Senator Mitchell, who's worked tirelessly to make sure that this became a reality before the end of the year.

But most of all, we could never have done it unless we had this friendly face in the White House, who truly, truly gave us more than just his approval saying that he would sign it. He and his folks worked and worked hard for it.

So, for everybody we hope it's a happy Thanksgiving. We know for us -- I think my husband, who for me has been an inspiration. And if I can take one more moment, and that's to thank our son, who was only two when Jim was hurt, and has truly been victimized by this. And he's done without us pretty much for seven years. And I hope for him and the rest of our kids, some day it will be a little safer.

Thank you. Would you like to say something?

MR. BRADY: Aren't you going to thank the turkey?
(Laughter.) I thought she would at least thank the turkey.
(Laughter.) I mean, I'm going to have to get in the oven and all that. (Laughter.) I -- (inaudible) -- you use my popcorn stuffing.

MRS. BRADY: Not this year. (Laughter.) (Applause.)

END

3:00 P.M. EST

FILE: Brady / Crime
Dee Dee -
Tyr,
Rahm



Office of the Attorney General
Washington, D. C. 20530

February 26, 1994

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: RON KLAIN *RKL*

SUBJECT: BRADY BILL CHALLENGE

Rumor has it that on Monday, a challenge may be brought by NRA-backed local and state officials to enjoin enforcement of the Brady Bill. Their claim may be that the Bill's mandate that "law enforcement officers" undertake a "reasonable effort" to ascertain the background of gun purchasers is an unconstitutional infringement on state sovereignty, under the Tenth Amendment.

Background

As originally drafted in 1986, the Brady Bill provided a seven-day wait for handgun purchases, during which local law enforcement could perform a background check on a purchaser. Thus, one of the NRA's principal criticisms of the original Brady Bill was that it insured only delay in gun purchases, without guaranteeing that a background check would be performed.

In 1991, as part of a compromise that first won Senate passage of the Bill, Sen. George Mitchell combined the original Brady Bill with an NRA Instant Check alternative, to create a new version of the legislation. One of Mitchell's major changes was to make the background check mandatory on law enforcement officials. This provision was included in the final version of the Brady Bill, enacted late last year.

Constitutional Attack on the Law

Relying on a 1992 Supreme Court decision, United States v. New York, NRA-backed state and local officials may attack the Brady Bill, saying that its mandatory background checks violate the Tenth Amendment. In essence, their claim would be that the mandate from the federal government to state and local officials to perform a specific task is violative of the Tenth Amendment's protection of core state sovereignty.

The Office of Legal Counsel has never passed on this question, declining to render an opinion on the constitutionality of the mandatory background checks in February 1993. Walter Dellinger and his staff are now studying the question.

Their initial read is this: even if the mandate of background checks is unconstitutional (and they do not yet even concede this point), the five-day waiting period can probably be severed and saved. In this scenario, the Brady Bill would be restored to its original provision -- a waiting period with the opportunity for a check, but no mandate of a check. If so, the NRA's "victory" in a lawsuit against the Brady Bill would be pyrrhic at best.

What to Say If Asked

I think if you are asked on Monday about this issue, you could say:

- If it is attacked, we will defend the Brady Bill in court, and hope to prevail.
- I believe that the core of the Bill, the five-day waiting period for gun purchases, will ultimately be upheld if challenged.
- As I understand it, the legal challenge is centered on the federal mandate on local law enforcement to conduct background checks. Without speaking to the merits of that legal case, my view -- based on touring the country and talking to countless police chiefs and sheriffs -- is that the vast majority of police departments will implement this law with or without a mandate.
- Given how strongly law enforcement lobbied for the waiting period, I am confident that -- if given the time to do the checks -- law enforcement will undertake the background checks -- whether or not they are mandated.

We will keep you informed if the litigation is in fact filed, and if any Temporary Restraining Order against enforcement of the Bill (the relief that the NRA would likely seek) is granted.

Brady
Bell

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 25, 1994

PRESS BRIEFING

BY

ASSISTANT SECRETARY OF TREASURY FOR ENFORCEMENT RON NOBLE

The Briefing Room

2:40 P.M. EST

ASSISTANT SECRETARY NOBLE: Good afternoon. Thank you for coming today to discuss the implementation of the Brady Act, which goes into effect next Monday.

After a seven-year struggle in the Congress, the Brady Handgun Violence Prevention Act was signed into law by President Clinton on November 30, 1993. It is the most significant gun law curtailing criminal access to handguns since the 1968 Gun Control Act.

Each year, nearly 7.5 million firearms are sold at retail in the U.S., about half of them handguns. Until now, those guns have been sold primarily on an honor system, wherein the purchasers ensure the sellers they are legally entitled to buy firearms. On February 28, 1994, retail sales of handguns will be preceded by background checks. Honest, law-abiding citizens will be able to continue to purchase firearms; criminals will not. At least not without law enforcement first having an opportunity to prevent the sale.

The Brady Act is complex, and requires close cooperation between the private sector and law enforcement. It also requires close cooperation among local, state and federal officials.

Allow me to explain the mechanics of Brady. A handgun purchaser must fill out a form stating that he or she intends to purchase a handgun and is not in one of the prohibitive categories, such as convicted felon, under indictment, or drug addict. The seller must transmit the form to the chief law enforcement officer of the purchaser's residence within 24 hours.

Each state designates which law enforcement organization will serve this role. Law enforcement is required to make a reasonable effort to determine whether the prospective purchaser is legally prohibited from purchasing a firearm. If law enforcement determines that the buyer is prohibited, they can stop the sale. If law enforcement has not informed the dealer within five business days that the sale must be stopped, the sale may be completed. They can stop the sale. If law enforcement has not informed the dealer within five business days that the sale must be stopped, the sale may be completed.

Treasury's regulations for implementing the five-day waiting period and background check for the purchaser of handguns were printed on February 14 -- two weeks before the deadline -- to ensure that all affected parties had an adequate opportunity to understand their new responsibilities. There is a 90-day comment period before regulations are finalized for us to get the feedback and find out how it's going.

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Several informational mass mailings have been sent to the 284,000 current federal firearms licensees and the thousands of state and local law enforcement offices around the country. The Bureau of Alcohol, Tobacco and Firearms has conducted numerous meetings with state and local law enforcement officials to advise them of their responsibilities and to tailor the implementation process to the needs of each state.

The law allows for several state exemptions to the Brady background check: One, if there's a state system in place which requires a permit to purchase a handgun; and two, if the state already has an adequate background check system in place. Thirty-four states and territories will be required to implement Brady on Monday. In addition, certain transactions may be exempt from Brady: one, if it had been certified impracticable because of remote geographic location and a lack of telecommunications facilities; or, two, if the purchaser has received a law enforcement waiver based upon threats against the lives of the purchaser or the purchaser's family.

The five-day waiting period will sunset in five years, at which time a new automated instant check system is to be instituted. The Department of Justice's response -- for developing the automated data system to be accessed in the instant check. This system will be used for the purchase of all firearms, not just handguns, beginning in 1999.

With me today, I have Bob Creighton -- ask him to come forward -- who's a Special Agent in Charge of the Miami Division of ATF; and Brad Buckles, ATF's Counsel.

At this point we're available for questions.

Q Why only 34 states?

ASSISTANT SECRETARY NOBLE: Only 34 states because there are certain states which already comply with the intent of Brady. That is, they're already doing a background check before individuals purchase firearms.

Q Do you all have any estimates of how many sales that you'll stop in a given month?

ASSISTANT SECRETARY NOBLE: Let me ask Bob to take that question.

MR. CREIGHTON: We know from the experience of the states that had instant check systems an alternative systems up that they've excluded already thousands. So we can assume that throughout the 50 states when it's fully implemented, there will be many thousands of sales which are excluded each year.

Q There is at least one -- I believe it was a sheriff in Arizona who said he's not going to do checks; he doesn't have the money, the manpower. What are you going to do about that?

ASSISTANT SECRETARY NOBLE: Well, it's very important that local law enforcement officers do the check. And we're confident that with the proper coordination and cooperation with us at the federal level, we can assist them in whatever way possible. So we expect that people will do the checks.

Local law enforcement wanted this. This is not something the federal government is forcing upon state and local law enforcement. This is something state and local law enforcement officers have been seeking for some time.

Q You say the exclusions, thousands of them? What were they based on?

ASSISTANT SECRETARY NOBLE: They're based on people obtaining firearms -- people trying to obtain firearms with criminal records, with felony violations.

Q Are they all criminal records, is that the basic --

ASSISTANT SECRETARY NOBLE: Yes.

Q When you say the regulation -- 30-day comment period --

ASSISTANT SECRETARY NOBLE: Ninety.

Q I'm sorry, 90-day comment period -- in other words, the regulations that were published are proposed regulations or are they actually in place?

ASSISTANT SECRETARY NOBLE: They're actually effective now, but during the 90 days that follow, we will get feedback and see if we have to amend them or tailor them in some other way.

Q They are in effect now?

ASSISTANT SECRETARY NOBLE: They are in effect, beginning Monday.

In other questions? Thank you very much.

THE PRESS: Thank you.

END

2:46 P.M. EST

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