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Press Guidance
July 1, 1997

Handgun Instant Checks

In the wake of the Supreme Court decision on the Brady Law, the Administration has been criticized for foot-dragging on the instant handgun check system, scheduled to go into effect in November of 1998. Other accounts have acknowledged that the system will likely be in place at the scheduled time, but will not include accurate state information.

- We expect the system to be operational by 1998. We must also make sure that states' histories are as accurate as possible and the Department of Justice is working with states toward that end.
- In 1992, when the first complete survey was released, 18% of the records were accessible and complete (less than one out of five). In 1995, the last complete survey, we were up to 33%.
- We have fought for money in the budget to help states develop better systems. The money, some of which was appropriated, is only beginning to take hold and we expect important and visible increases by the next study.
- This system has uses well beyond the handgun issue. It will help judges with sentencing, police with arrests (they will be able to check whether someone they are about to arrest has a record of violence) and prosecutors with charges.

Following the Supreme Court decision, the Ohio AG declared they will do no background checks. Is the Administration concerned that these checks will come to a halt?

We certainly our hope and expect that state and local officials will continue to voluntarily comply.
(For briefer only - DOJ is working with Ohio on this issue)

Why not turn on system check as soon as possible?

We would rather have more time to deal with some of the inaccuracies in the system. Five days allows for a more time to double check any inaccuracies or inconsistencies.

Mellody per Jose Cerda

DRAFT

Brady Supreme Court Decision Questions and Answers June 27, 1997

Q. What did the Supreme Court rule today on the Brady Law?

A. The decision left the majority of the Brady Handgun Control Act intact--the Court simply ruled that part of the Brady Act is unconstitutional. The Supreme Court ruled that the Federal government cannot require local police officers to conduct background checks but left intact Brady's 5-day waiting period. Police can, and we expect will, continue to complete background checks on handgun buyers voluntarily because it is a common sense law enforcement practice.

Q. What did the Brady Law require?

A. The Brady Law has been the cornerstone of law enforcement's efforts to stop people who are legally barred from having access to handguns from being able to purchase them. The law provides for a 5-day waiting period on a federal firearms licensee's (FFL) transfer of a handgun to a prospective purchaser, during which time a criminal records check is completed.

Since the Brady Law was adopted, over 250,000 prohibited purchasers including convicted felons, fugitives from justice, the mentally unstable, and stalkers have been kept from purchasing handguns. The President's juvenile crime legislation would add violent juvenile offenders to the list of people who are barred from purchasing a gun.

The Brady Law permits states to use alternative criminal records checks systems, as long as they meet the minimum standard established by the Brady Act.

The Brady Law provides that a National Instant Criminal Background Check System ("insta-check") which will be administered by the FBI will be established by November 1998. Once this is complete, the 5-day waiting period under the current system will be eliminated.

Q. After today's decision, what is still required under the law?

The Brady Act requires all Federally-licensed firearms dealers (FFLs) to fill out a form for each prospective handgun purchaser. The FFL must then forward the form to the chief law enforcement officer in their jurisdiction. The Court left both of these provisions intact. If, after five days, the chief law enforcement officer has not advised the FFL not to transfer the gun to the purchaser, then the FFL may sell the handgun.

Under today's Supreme Court ruling, once the chief law enforcement officer receives the

form from the FFL, the officer may choose to complete the background check on the potential gun purchaser on a voluntary basis. Nothing in the Court's decision prohibits a chief law enforcement officer from completing these checks-- but they are not required by federal law to do so.

Q. Does this mean that police no longer have to do criminal background checks on handgun purchasers?

A. We expect the vast majority of law enforcement officers to continue to conduct background checks. Nothing in the law prohibits law enforcement from voluntarily enforcing the Brady Act checks. More importantly, it is a smart law enforcement practice to confirm that the person trying to buy a handgun down the street isn't a violent felon, a fugitive from the law, stalker, or some other prohibited gun purchaser.

In addition, we understand that most of the nation's law enforcement organizations are pledging their support for law enforcement to continue to do Brady checks voluntarily.

Q. Is the President going to do anything in response to the Supreme Court's decision?

A. While the President was disappointed by the Court's decision, he is firmly committed to the principle that those people who are prohibited by law from owning handguns should not be able to purchase them. The policy should remain: no background check, no handgun.

The President has directed his chief law enforcement officers-- Attorney General Reno and Secretary Rubin-- to immediately contact law enforcement across the country to clarify what the Supreme Court decision says, and to ask for the continued enforcement of the Brady Act through voluntary background checks.

In addition, the President has directed the Attorney General and Secretary Rubin to sit down with law enforcement and to get their recommendations to make sure that there are no safe havens for prohibited gun purchasers.

Q. How many handgun sales have been blocked by the Brady Law?

A. Since the Brady Act went into effect in February 1994, an estimated 250,000-- one quarter of a million-- handgun sales to felons, fugitives, and stalkers were blocked by background checks. An estimated 6,600 attempts are thwarted each month-- and more than 70 percent of these are rejected because the prospective purchaser was indicted or convicted as a felon.

Q. What does the letter from the Attorney General and Secretary Rubin say?

A. The letter-- from the President's own chief law enforcement officers-- will be sent to law enforcement around the nation asking them to join us and continue to enforce the Brady Act. The letter provides clarification to law enforcement about what is still required under the Brady Act and what they may do voluntarily. This should help to avoid confusion and ensure that law enforcement who want to voluntarily complete background checks will continue to do so without any gaps in coverage.

Q. Does the Supreme Court decision affect all 50 states? Weren't there some states that were not subject to the Brady waiting period for background checks?

A. The decision will affect the 23 "Brady" states that were subject to the 5-day waiting period under Brady. However, the law permits states to use alternate criminal records checks systems as long as they meet the minimum standard established by the Brady Act. These 27 states already have background checks under state law and are therefore, not subject to Brady. These states are unaffected by today's decision.

However, the Court's decision does impact about half of the states. That is why we are seeking the continued commitment of all of the chief law enforcement in those states to conduct criminal background checks on handgun purchasers.



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

June 27, 1997

Dear Law Enforcement Colleague:

Earlier today, the Supreme Court ruled that part of the Brady Handgun Control Act is unconstitutional. Although we are disappointed in the Court's decision, we must all abide by it.

All of you should understand that the Supreme Court's decision did not "strike down the Brady Act," "declare it unconstitutional" or any one of a number of broad based and inaccurate statements that you may hear. Rather, the Court simply stated that the federal government cannot require that state, county and municipal officials conduct the checks provided for under the law until November 1998, at which time the National Instacheck System (NICS) will become effective.

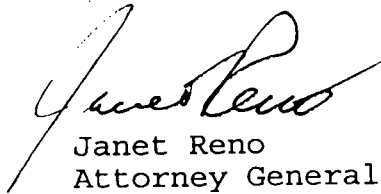
We know that the vast majority of concerned and effective law enforcement officers in this country support and conduct background checks under the Brady Act, not because they are required, but because it is good law enforcement. Therefore, this decision will likely have little impact on law enforcement. Those who wish to purchase a handgun from a licensed federal firearms dealer (FFL) must still complete a background check form under the Brady Act, and the FFL must forward that form to the chief law enforcement officer (CLEO). As before, if, after five days, the CLEO has not advised the FFL not to transfer the handgun, the FFL may sell the handgun to the purchaser.

The sole change occasioned by the Supreme Court decision is that the CLEO is no longer required by federal law to run the Brady background check. We expect and hope that the vast majority of law enforcement agencies in America will continue to run these checks voluntarily because they are saving lives, keeping guns out of the hands of criminals and generally in the best interest of law enforcement. We urge you to continue these checks.

Since the Brady Act went into effect, over 250,000 felons, fugitives and other prohibited persons have been denied handguns. We are making great strides in reducing violent crime in America and our failure to keep up these Brady background checks will seriously undermine all of our efforts in this regard.

We recognize that some CLEOs may still use the Court's decision as an excuse not to conduct Brady background checks. That would be most unfortunate for the people of this country. It is just common sense that we all keep doing whatever we can to keep guns from criminals.

Please do not let America down. Please join responsible law enforcement in continuing to serve and protect the public.



Janet Reno
Attorney General

Sincerely,



Robert E. Rubin
Secretary of the Treasury



P R E S S R E L E A S E

FOR IMMEDIATE RELEASE
June 27, 1996

CONTACT: Mary Malina
(202) 833-1460

WASHINGTON, DC—In the wake of today's Supreme Court decision to strike down the Brady Law's background check provisions, the Police Foundation, a private, independent, nonprofit organization dedicated to supporting innovation and improvement in policing, urges law enforcement agencies to continue to conduct these checks on a voluntary basis.

Police Foundation President Hubert Williams said, "The Brady Law works. Since the law went into effect on February 29, 1994, background checks have stopped nearly 250,000 convicted felons and other prohibited purchasers from buying a handgun. Every day 157 felons were stopped from buying handguns because of Brady background checks."

Prior to the enactment of the Brady Law, in 32 states, anyone including convicted felons, domestic abusers, the mentally ill, or juveniles could walk into a gun store, fill out a form, and walk out with a gun.

"For 6 years, America's law enforcement community worked tirelessly for passage of the Brady Law, and believes that background checks have reduced gun crime in America. It is our hope that law enforcement will continue to employ this important tool in its arsenal against crime and violence," said Williams.

The Law Enforcement Steering Committee

1001 22nd St., N.W., Suite 200
Washington, D.C. 20037

FOR IMMEDIATE RELEASE
June 27, 1997

CONTACT: Mary Malina (202) 833-1460 or
Walt Wallmark (202) 433-9230

WASHINGTON, DC—In the wake of today's Supreme Court's decision to strike down the Brady Law's background check provision, the Law Enforcement Steering Committee (LESC), a coalition of nine national law enforcement organizations, said it will encourage law enforcement to conduct these checks voluntarily since they have proven to be an effective tool in curbing crime.

Hubert Williams, the President of the Police Foundation and Chairman of the LESC, said, "Brady Law background checks are not an onerous burden law enforcement. Law enforcement has long been willing to conduct background checks to keep guns out of the wrong hands."

Law enforcement supports the Brady Law because it is working. Since the law went into effect on February 29, 1994, background checks have stopped nearly 250,000 convicted felons and other prohibited purchasers from buying a handgun. That means every day 157 felons were stopped from buying handguns.

"These and other statistics confirm what America's law enforcement community has always believed," said Hubert Williams, "that the Brady Law will reduce gun crime in America. The law is an important tool in law enforcement's arsenal against crime and violence."

The Brady Law has effectively ended the honor system by which guns were sold over the counter. Prior to the enactment of the Brady Law, in 32 states, any individual already prohibited from possessing a gun, including convicted felons, domestic abusers, the mentally ill or juveniles, could walk into a gun store, fill out a form and walk out with a gun.

LESC stresses that the Brady Law is sound, effective and rational public policy. It addresses one of the most serious conditions we face as a society; a level of violence that affects the safety and well being of our citizens and of the police themselves.

Founded in 1985, the Law Enforcement Steering Committee is a nonpartisan coalition of national law enforcement groups representing over 500,000 police practitioners. Comprised of the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Brotherhood of Police Officers, Major Cities Chiefs, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Troopers Coalition, the Police Executive Research Forum, and the Police Foundation, LESC embodies an unprecedented cooperative effort among law enforcement research organizations and police management and labor organizations.

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Please note new LESC address effective July 1, 1997:
1201 Connecticut Avenue, N.W., Suite 200
Washington, D.C. 20036

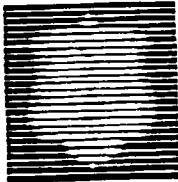
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IACP NEWS



International Association of Chiefs of Police / 516 N. Washington Street / Alexandria, Virginia 22314-2357 / 703 836-6767

FOR IMMEDIATE RELEASE
FRIDAY, JUNE 26, 1997

CONTACT: SARA JOHNSON
703/836-6767

SUPREME COURT RULING ON THE BRADY LAW

ALEXANDRIA, VIRGINIA -- IACP President Darrell L. Sanders, Chief of Police in Frankfort, Illinois, issued the following statement today in the wake of the U.S. Supreme Court ruling on the Brady Law:

"Members of the International Association of Chiefs of Police have known for decades that requiring handgun purchasers to undergo background checks and waiting periods is good policing and good crime prevention.

It is this view that prompted our support for the Brady Act and we certainly have been pleased with the results that have been achieved since its enactment.

Today's Supreme Court decision strikes down the law's mandatory requirement but allows for law enforcement to continue to conduct Brady checks.

I know that police chiefs around the country will continue to conduct these checks in large numbers, wherever and whenever they can.

We look forward to working with the President and members of his Administration along with leaders in the House and Senate to find ways to encourage greater use of the important and valuable provisions of this law in the weeks and months ahead."

The International Association of Chiefs of Police is the world's oldest and largest non-profit organization of police executives. Established in 1893, the IACP has more than 16,000 members in 97 countries.

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NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

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FOR IMMEDIATE RELEASE
June 27, 1997

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NAPO REACTS TO SUPREME COURT DECISION CALLS FOR VOLUNTARY BACKGROUND CHECKS

WASHINGTON, DC-The National Association of Police Organizations (NAPO) voiced its concern over today's Supreme Court decision to strike down the Brady Law's background check provision, and said that it will encourage law enforcement to continue to conduct these checks on a voluntary basis.

"NAPO fought hard for background checks on handgun purchasers," said Robert T. Scully, Executive Director. "It does not create an extra burden on our law enforcement officers — it helps to save their lives, and the lives of the citizens they are sworn to protect."

"According to the Justice Department, to date, background checks authorized under the Brady Law have stopped more than 250,000 prohibited purchasers from buying handguns, including 157 felons everyday," continued Scully.

"The police of this country fight the daily battle against crime and put our lives on the line all in a day's work. NAPO calls for the continued use of background checks by all police departments affected by this ruling on a voluntary basis to help our officers in their fight against crime," said Scully.

Today's Supreme Court decision directly affects 23 states (Brady States) who have been operating background checks under the Brady Law, but does not affect 28 other states (Brady Alternates) which conduct their background checks under state laws.

The ruling appears not to have affected the "waiting period" in the 23 "Brady States" which was designed to give law enforcement officers the time they need to conduct background checks, and also serves as a "cooling off period" for handgun purchasers. The National Instant Criminal Background Check System (NICS) is scheduled to be fully operational by November 30, 1998, however, many states have not yet made their computerized criminal history records available through the Interstate Identification Index (III).

"NAPO also calls for the swift cooperation of all states to make their computerized criminal history records available through the Interstate Identification Index," said Scully.

The National Association of Police Organizations (NAPO) is a coalition of police unions and associations from across the United States that serves to advance the interests of America's law enforcement officers through legislative and legal advocacy, political action and education. Founded in 1978, NAPO now represents 4,000 police organizations and nearly 200,000 sworn law enforcement officers.

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INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

A DIVISION OF THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, AFL/CIO

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FOR IMMEDIATE RELEASE
June 27, 1997

Contact: Chris Donnellan
(703) 519-0300

STATEMENT OF

KENNETH T. LYONS
NATIONAL PRESIDENT

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

Today, the Supreme Court ruled one provision of the Brady Law unconstitutional. That provision is a requirement that state and local law enforcement officials make a reasonable effort to conduct a background check on handgun purchasers.

The IBPO along with other law enforcement organizations worked long and hard for passage of the Brady Bill. Police organizations know first hand that background checks work. Since the Brady Law went into effect, background checks have stopped more than 250,000 prohibited purchasers from buying handguns, including 157 felons a day,

This decision by the Supreme Court will not end background checks in every state. Today's decision will effect 23 states. The other 27 states have their own laws requiring a background check.

As President of the International Brotherhood of Police Officers, I urge local and state law enforcement agencies to voluntarily continue background checks. The reason for this request is simple. The Brady Law works! Handgun crimes have declined dramatically after passage of this law. Police officers know first hand the success of the Brady Bill.

The IBPO is an affiliate of the Service Employees International Union. It is the largest police union in the AFL-CIO representing over 40,000 police officers nationwide.



FRATERNAL ORDER OF POLICE

NATIONAL LEGISLATIVE PROGRAM

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FOR IMMEDIATE RELEASE
27 JUNE 1997

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NATIONAL FRATERNAL ORDER OF POLICE DOWNPLAYS BRADY DECISION

Today's Supreme Court decision overturning the Brady Law on the basis that it violates the Tenth Amendment will have very limited impact on public safety and law enforcement efforts to prevent criminals from illegally obtaining firearms.

"The battle to ensure that criminals do not obtain weapons from Federally licensed firearms dealers will go on," said Gilbert G. Gallegos, National President of the Fraternal Order of Police. "We urge the public not to be taken in by the special interests who would portray this decision as either a great victory or a great defeat for reasonable regulation of firearms. It is neither--it's just a little bump in the road to sane firearms policy."

The Fraternal Order of Police played a pivotal role in the debate and eventual adoption of the Brady Law and we remain committed to the merits of that legislation. Its passage caused many States, particularly larger, more populous States with high violent crime rates to recognize the value of what the Brady Law set out to do--keep guns out of the hands of criminals. To this end, many States have already moved to the next level of Brady--"instant check" systems--a more efficient and less costly way to accomplish the aims of the Brady Law.

Law enforcement officers are not compelled to make "Brady checks"--but they can. Several States have already committed to continue doing Brady checks, today's decision notwithstanding. The waiting period to purchase firearms is still in place, as are the rules regarding the completion of the "Brady forms." This decision, therefore, affects a very narrow population--those from smaller, less populous States with significantly less violent crime.

The Fraternal Order of Police remains committed to the intent of the Brady Law and our attorneys will be studying the decision announced today. Further action will be considered by the F.O.P. National Board at the 53rd Biennial Conference in Orlando, Florida, August 3rd-6th.

"While other organizations may try to maximize the effect of this decision for political ends through strident rhetoric, the Fraternal Order of Police maintains that it will have a very minimal real effect on public safety. We remain committed to working toward a safer America for our officers and our families, and toward reasonable measures which will help us achieve that goal," said Gallegos.

The Fraternal Order of Police is the largest organization of law enforcement professionals in the United States, with over 278,000 members.

TALKING POINTS ON BARR INTRODUCTION OF LEGISLATION TO STOP
RETROACTIVE APPLICATION OF LAUTENBERG DOMESTIC VIOLENCE/GUNS BILL
JANUARY 8, 1997

- * The Lautenberg bill was the expansion of the Brady bill, in effect, to include domestic violence misdemeanor convictions.
- * Barr introduced legislation today to stop Lautenberg bill from being applied retroactively for previous domestic violence misdemeanors. He claimed the Administration was enforcing the law unconstitutionally. He says law was not intended to be retroactive.
- * Our view is that the law is constitutional, and we believe the law requires that it be applied retroactively.
- * The Justice Department will work with everybody concerned to address the issue.

(Interesting note -- it was Barr who eliminated the previous exemption for law enforcement personnel, and that is why it applies now to police. That isn't something we did.)

TOIV

Gregory King, Public Affairs, Justice Dept.

• We

Brady Act Supreme Court Oral Argument Talking Points

- Walter Dellinger, Acting Solicitor General, today defended the constitutionality of the Brady Act against a challenge by two sheriffs in Arizona and Montana.
 - The Brady Act provides that the Attorney General -- in response to the national epidemic of gun violence -- to establish a national instant criminal background check system (insta-check) by November 30, 1998.
 - Once that system is in place, firearms dealers will be required to contact it to determine whether a proposed sale of a handgun is lawful.
 - Until the insta-check system is in place, the Brady Act requires firearms dealers to contact their chief local law enforcement officer and, in essence, wait five days for the officer to make "a reasonable effort" to determine whether the proposed sale is lawful.
- The two sheriffs challenged the interim Brady Act requirement that they must make "a reasonable effort" to determine whether the sale of a firearm in their county is lawful by consulting "available" records..
- General Dellinger, on behalf of the United States, argued strongly that the interim and minimal duties of local law enforcement officers are consistent with constitutional principles of federalism.
 - The duties imposed are temporary, limited, non-policymaking tasks to give effect to a federal scheme.
 - Local law enforcement officers are uniquely suited to assist in the prevention of illegal sales of firearms until the creation of the insta-check system.
 - Any other approach at this time would have involved greater federal bureaucratic intrusion in local law enforcement offices.
- The five-day waiting period imposed on firearms dealers is not at risk in this case.
 - The Solicitor General argued that even if the Court found that Congress could not require local law enforcement officers to assist in the Brady Act, firearms dealers would still be subject to the five-day waiting period.
 - The vast majority of local law enforcement officers support the Brady Act and would voluntarily comply, even if not obligated to do so.

Dennis Burke 65568

Lucy/Hill

THE BRADY ACT

BACKGROUND:

The Brady Act [Brady Violence Prevention Act of 1993] was signed into law by President Clinton on November 30, 1993. The legislation took effect in February of 1994.

REQUIREMENTS:

The Brady Act established a five-day waiting period for persons seeking to purchase handguns. During this period, local law enforcement agencies can conduct criminal history background checks to determine if the sales in question are prohibited by law. The Act requires prospective purchasers to complete a form that is forwarded to the chief law enforcement officer in the area where the buyer resides. Law enforcement then has five business days to check an applicant's record and advise the dealer as to whether or not the sale is legal.

NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM:

The Violent Crime Control Act of 1994 also provided \$100 million in FY1995 for the National Criminal History Improvement Program (NCHIP). The NCHIP program, administered by the Department of Justice, provides grants and technical support to states to help them improve their criminal records systems. To date, nearly \$80 million in grants have been distributed by the Justice Department to all fifty states, the District of Columbia, and eligible territories. This money is helping to implement the provisions of the Brady Act as well as the National Child Protection Act of 1993. In addition, the grants help states to participate in the FBI's National Instant Criminal Background Check Systems (NICS).

ACHIEVEMENTS:

The Treasury Department estimates that in the first two years, the Act stopped more than 60,000 felons, fugitives and other prohibited purchasers from buying handguns over the counter. Treasury Secretary Robert Rubin stated that the act is "preventing nearly 2,500 criminals from buying guns while permitting law-abiding citizens to do so." Attorney General Janet Reno added that the Brady Act checks have helped local police "identify and arrest gun-buying criminals, often on other serious charges." For example, a Brady check in October, 1995 helped ATF agents apprehend a convicted murderer as he tried to buy three handguns in Dekalb County, Georgia. Before the Act took effect, he had purchased at least eight other handguns without being challenged. Now he has been convicted of violating federal firearms laws and returned to prison.

OTHER ISSUES:

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

BRADY LAW TALKING POINTS:

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

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

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

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

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

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

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

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

Talking Points
Brady Law Anniversary
February 28, 1995

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

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

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

Questions & Answers
Brady Law Anniversary
February 28, 1995

Q. What does the Brady Law do?

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

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

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

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

Q. Who is prohibited from possessing firearms under Brady?

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

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

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

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

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

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

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

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

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

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

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

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

Q. Is the Brady Law working?

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

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

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

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

Q. How were the survey subjects selected?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Q. Beyond the evidence of criminals whose applications to purchase handguns were denied, has your research indicated whether the Brady Law is having a chilling effect on would-be purchasers? In other words, is Brady causing bad guys to think twice about trying to buy a handgun?**
- A.** ATF feasibly cannot poll an undefined universe of convicted felons, illegal drug users and other criminals to determine whether the Brady Law dissuaded them from attempting a handgun purchase. Miscreants of this sort are not apt to participate in a survey conducted by a federal law enforcement agency, and it always is difficult to prove a negative. Nevertheless, given the large numbers of actual applications denied, let alone the criminal investigations opened and convictions obtained as a consequence of the Brady Law process, it is reasonable to assume that Brady may be convincing some bad guys not to try to buy handguns.
- Q. What impact have the lawsuits against the Brady Law had on its effectiveness?**
- A.** Sheriffs in nine states, Arizona, Louisiana, Mississippi, Montana, New Mexico, North Carolina, Texas, Vermont and Wyoming, have filed lawsuits seeking to have the Brady law declared unconstitutional. The sheriffs argue that the Brady Law requirement that they conduct background checks of handgun purchasers violates the Tenth Amendment. More specifically, they contend that the background check requirement establishes an unfunded mandate with which the states must comply, an impermissible intrusion on state sovereignty. The Justice Department asserts, on the other hand, that the national law enforcement interests served by the Brady background check provision outweigh the minimal duties placed on the sheriffs. Therefore, the Brady Law passes constitutional muster.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Have Brady Law implementing regulations been published?

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

Q. What is Brady II?

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

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

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

Q. Does the Administration support "Brady II?"

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

File
ATF

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO & FIREARMS

One-Year Progress Report:

Brady Handgun
Violence Prevention Act

February 28, 1995





DEPARTMENT OF THE TREASURY
WASHINGTON

UNDER SECRETARY

February 28, 1995

The Honorable Robert E. Rubin
Secretary
Department of the Treasury
Washington, DC 20220

Dear Mr. Secretary:

The attached report sets forth the findings of a recently completed survey conducted by the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (ATF) regarding the impact of the Brady Law. The survey, a precursor to a broader Department of Justice study regarding pre-purchase screening of firearms, covers the first year of Brady's implementation, and contains information voluntarily submitted by 30 law enforcement authorities across the country.

The results of this study are extremely promising. More than 15,500, or approximately 3.5 percent, of the persons who applied to purchase handguns in the surveyed jurisdictions had their applications denied because they were convicted felons, fugitives from justice, persons subject to a restraining order for alleged domestic violence, or other prohibited persons. ATF estimates that the number of applications to purchase handguns that were denied in Brady states nationwide was approximately 41,000. Significantly, ATF reports that these denial rates were achieved without affecting the overall volume of handgun sales. This suggests that the Brady Law is accomplishing its goal -- keeping handguns out of the reach of that small percentage of persons who use handguns criminally, while not unduly inconveniencing law-abiding handgun owners.

Anecdotal evidence emerging from the recent ATF survey, and an earlier ATF study assessing the efficacy of the Brady Law during its first 100 days, illustrates vividly that the Brady Law is working. Brady has alerted law enforcement authorities to attempts by convicted and potential offenders to purchase handguns -- including convicted rapists, murderers and drug dealers, as well as suspected spouse abusers.

The Office of Enforcement and ATF will continue to monitor the Brady Law's impact as implementation proceeds.

Sincerely,

Ronald K. Noble
Under Secretary
(Enforcement)

One Year Progress Report: Brady Handgun Violence Prevention Act

I. OVERVIEW

The Brady Law is working. One year after the Brady Handgun Violence Prevention Act became effective, the evidence indicates that Brady is doing what it was designed to do — keeping handguns out of the reach of the “bad guys,” that small percentage of the population using handguns criminally, while not unduly infringing on the rights of legitimate handgun owners.

A recently completed survey of 30 law enforcement authorities conducted by the U.S. Treasury Department's Bureau of Alcohol, Tobacco and Firearms, a precursor to a broader Department of Justice/Bureau of Justice Statistics study, reveals that from March 1994 through January 1995, *more than 15,500 persons* who applied to purchase handguns in the surveyed jurisdictions had their applications denied. The bad guys blocked by Brady from obtaining handguns included:

- 4,365** Convicted felons;
- 945** Fugitives;
- 97** Persons under indictment;
- 649** Illegal drug users;
- 2** Juveniles; and
- 63** Persons under restraining order for alleged stalking, harassment or other forms of domestic threats or intimidation.

The more than 15,500 Brady applications denied represent *only 3.5 percent* of the total number of applications submitted in the surveyed jurisdictions. ATF has confirmed through discussions with the firearms industry that the overall volume of handgun sales remained relatively constant during the survey period. This suggests that *the Brady Law effectively is preventing the criminal element from accessing handguns, and is doing so with minimal inconvenience to law-abiding handgun owners.*

Brady Successes

- *In Boston, Massachusetts, a suspect who was arrested and indicted on gun-trafficking charges informed ATF that the Brady Law prompted him to cease his illegal conduct. The suspect, along with his partner, allegedly flooded the city of Boston with illegally sold handguns originally purchased in the Atlanta area between December 1993 and February 1994. When apprehended, the suspect told ATF that he halted his operations in February 1994 because he knew that the soon to be implemented Brady Law would permit pre-handgun transaction checks of his criminal record.*
- *During the first three months of the Brady Law, the Ohio Attorney General's office conducted 16,499 background checks. It reported that 129 convicted felons — among them convicted rapists, murderers and drug dealers — were prohibited from purchasing handguns.*

This report presents the results of the recent ATF study on the Brady Law, and of an earlier-released ATF survey tracking the Brady Law during the first 100 days following its inception. The report also provides an estimate of the number of denials of applications to purchase handguns in Brady states nationwide, based on records of inquiries made to the Federal Bureau of Investigation's criminal history database.

II. THE BRADY LAW

Nearly 7.5 million firearms are sold through retail outlets in the United States annually. Of these, almost half are handguns. Prior to February 28, 1994, the effective date of the Brady Law, there was no nationwide system in place to prevent handgun purchases by persons legally precluded from owning such weapons. The prospective purchaser merely had to sign a statement attesting that he or she was not legally forbidden from purchasing a firearm.

There was no nationwide system through which law enforcement officials could confirm that representation.

The Brady Law ameliorates the earlier, ineffective system by requiring that every retail sale of a handgun be referred to law enforcement for a possible background check. Under Brady, a prospective handgun purchaser must fill out a form, commonly called the Brady Form (see

Appendix), stating that he or she intends to purchase a handgun, and certifying that he or she does not fall within one of several enumerated categories of persons prohibited from making such a purchase. Prohibited persons include convicted felons, illegal drug users, persons under indictment, fugitives, illegal aliens, and persons subject to a restraining order for alleged domestic violence.

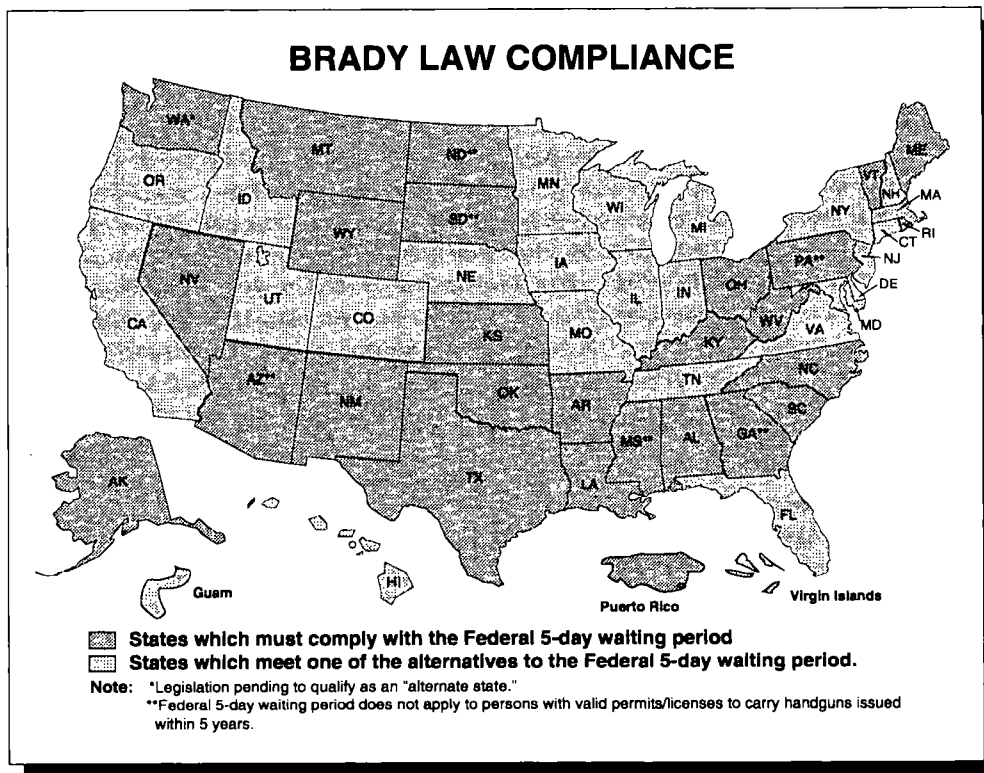
The gun dealer must transmit the Brady Form to the Chief Law Enforcement Officer of his or her particular jurisdiction within 24 hours. The Chief Law Enforcement Officer then makes a reasonable effort to ascertain within five business days whether receipt or

Brady Successes

- *In March 1994, the Brady Law prevented an accused stalker in Prairie Village, Kansas, from purchasing a handgun. The attempted handgun purchase was stopped by the Prairie Village Police Department when a Brady background check conducted by the Department revealed that the prospective purchaser, who was the subject of a restraining order for allegedly stalking his wife and threatening to kill her, was a resident of Missouri, not Kansas, as he had represented in his Brady Form.*
- *In April 1994, a handgun sale in Lexington, Kentucky was stopped by the Kentucky State Police when a Brady background check revealed that the intended purchaser was under indictment on felony cocaine charges. The Brady check also revealed that the purchaser had a previous felony conviction in Kansas for a "terroristic threat" offense.*

possession of a handgun would be in violation of the law. If the Chief Law Enforcement Officer or his or her designee does not inform the dealer within five working days that the proposed sale cannot go forward, the sale may be consummated.

The Brady Law establishes exemptions to the background check provisions in states that already require a permit to purchase a handgun, or in states that already have in place a background check system comparable to Brady's. To date, 27 states and territories are subject to the Brady Law. One of these, Washington, presently is considering legislation which would remove it from Brady's purview.



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

Other elements of the Brady Law include: an increase in the fee for a three-year license for gun dealers and pawnbrokers from \$30 to \$200 (the renewal fee for such licenses also

is increased from \$30 to \$90); a provision making it a federal offense to steal firearms from the inventories of firearms licensees; and a prohibition against common carriers identifying packages containing firearms.

III. ATF BRADY LAW ANNIVERSARY SURVEY

The Brady Law itself does not authorize ATF to require any kind of reports from federal firearms licensees concerning Brady's impact or implementation. The statute provides no mechanism for monitoring trends in handgun purchases and denials. To assess the Brady Law's efficacy, therefore, ATF solicited the voluntary cooperation of 30 law enforcement officials. Drawn from every region of the country, communities large and small, rural and urban, the survey group was structured to represent a cross section of the nation's law enforcement scene. Each of the participating law enforcement authorities agreed to disclose to ATF information regarding the Brady pre-handgun purchase screening process in their particular jurisdiction. The data collected included the number of applications to purchase handguns submitted to the law enforcement officials since Brady went into effect, the number of applications denied, and the grounds for the denials.

Table 1 below sets forth the number of applications for handgun purchases that were submitted during the relevant period and the corresponding number of denials, as reported by the law enforcement officials surveyed.

Table 1
Brady Law Anniversary Survey
(for the period 3/1/94 through 1/31/95)

Location • Law Enforcement Authority Surveyed	Number of Brady Applications Initiated	Number of Applications Denied	Denial Rate (%)
Alabama			
• Jefferson County Sheriff's Department	19,646	964	4.9
Alaska			
Anchorage Police Department	6,960	111	1.6
Arizona			
• Phoenix Police Department	28,708	1,718	6.0
• AZ Department of Public Safety	32,374	776	2.4

continued

Location • Law Enforcement Authority Surveyed	Number of Brady Applications Initiated	Number of Applications Denied	Denial Rate (%)
Arkansas			
• Arkansas State Police	25,434	472	1.8
Georgia			
• DeKalb County Police Department	4,685	680	14.5
Kansas			
• Elk County Sheriff's Department	15	0	0
Kentucky			
• Kentucky State Police	58,474	2,030	3.5
Louisiana			
• Superintendent of Police, New Orleans Parish	5,337	607	11.4
Maine			
• Lewiston Police Department	190	6	3.1
Mississippi			
• Rankin County Sheriff's Department	1,150	24	2.1
Montana			
• Yellowstone County Sheriff's Department	698	12	1.7
• Billings Police Department	1,519	11	.7
Nevada			
• Department of Motor Vehicles and Public Safety	33,550	522	1.5
New Mexico			
• Albuquerque Police Department	5,338	192	3.6
North Carolina			
• Rowan County Sheriff's Department		NO DATA AVAILABLE	
North Dakota			
• Cass County Sheriff's Department	735	9	1.2
Ohio			
• Bureau of Criminal Identification	61,074	447	.7

continued

Location • Law Enforcement Authority Surveyed	Number of Brady Applications Initiated	Number of Applications Denied	Denial Rate (%)
Oklahoma			
• Oklahoma City Police Department	9,197	165	1.8
Pennsylvania			
• Philadelphia Police Department	10,238	487	4.7
Puerto Rico			
• Superintendent of Police	5,390	150	2.8
Rhode Island			
• Providence Police Department	175	10	5.7
South Carolina			
• South Carolina Law Enforcement Division	55,171	2,199	4.0
South Dakota			
• Minnehaha County Sheriff's Department	236	6	2.5
Texas			
• Harris County Sheriff's Department	10,139	1,117	11.0
• Houston Police Department	32,137	2,442	7.6
Vermont			
• Montpelier Police Department	38	2	5.3
Washington			
• Seattle Police Department	6,213	154	2.5
West Virginia			
• West Virginia State Police	25,712	182	.7
Wyoming			
• Cheyenne Police Department	<u>1,012</u>	<u>11</u>	<u>1.1</u>
Total	441,545	15,506	3.5

IV. THE BRADY LAW 100-DAY SURVEY

On July 27, 1994, the Treasury Department released the results of an earlier ATF study assessing the impact of the Brady Law during the first 100 days of its implementation. In this study, ATF surveyed 70 of the largest federally licensed firearms dealers in nine cities: Abilene, Texas;

Atlanta, Georgia; Cleveland, Ohio; Houston, Texas; Louisville, Kentucky; Pittsburgh, Pennsylvania; Providence, Rhode Island; Seattle, Washington; and Shreveport, Louisiana. ATF also polled 16 law enforcement authorities in the same locations.

The 100-day study revealed that 5.3 percent of the applications to purchase firearms submitted to the surveyed gun dealers during the relevant period had

been denied. The chief law enforcement officers polled, however, reported a 4.7 percent cumulative denial rate. This apparent discrepancy can be attributed to two factors. First, not all gun dealers in the participating cities were surveyed. In addition, the law enforcement officers contributing to the study performed background checks on residents of their jurisdictions who bought handguns guns from dealers in *other* jurisdictions, as well as residents who purchased handguns from local dealers.

Table 2 sets forth the number of applications for handgun purchases that were submitted during the relevant period and the corresponding number of denials, as reported by the law enforcement officials and gun dealers surveyed.

Brady Successes

- *In April 1994, a suspected drug dealer was arrested in San Antonio, Texas, after a Brady background check performed by the Uvalde County Sheriff's Office indicated that the alleged dealer was the subject of outstanding warrants for possession of cocaine with intent to distribute, possession of heroin with intent to distribute and failure to appear in court.*
- *In June 1994, a person convicted for reckless homicide was prohibited from purchasing a handgun in Lexington, Kentucky when the Kentucky State Police discovered the felony conviction during the Brady application process. Prior to the enactment of the Brady Law, that same convicted felon was able to make two handgun purchases and still escape detection by law enforcement officials.*

Table 2
100 Day Survey Results

Gun Dealer 100 Day Survey				
Survey City	Number of Gun Dealers Interviewed	Number of Applications Initiated	Number of Applications Denied	Denial Rate (%)
Houston, TX	5	2,104	345	16.4
Louisville, KY	10	1,670	100	6.0
Seattle, WA	8	2,135	9	.4
Pittsburgh, PA	10	2,204	39	1.8
Providence, RI	5	113	13	11.5
Abilene, TX	8	437	6	1.4
Atlanta, GA	10	1,385	33	2.4
Shreveport, LA	9	1,377	65	4.7
Cleveland, OH	<u>5</u>	<u>302</u>	<u>14</u>	<u>4.6</u>
Total	70	11,727	624	5.3
Law Enforcement Officers 100 Day Survey				
Survey City	Number of Law Enforcement Officers Interviewed	Number of Applications Initiated	Number of Applications Denied	Denial Rate (%)
Houston, TX	3	12,832	1,220	9.5
Louisville, KY	1	17,440	624	3.6
Seattle, WA	1	2,200	36	1.6
Pittsburgh, PA	1	8,600	533	6.2
Providence, RI	1	348	5	1.4
Abilene, TX	1	501	12	2.4
Atlanta, GA	5	7,054	365	5.2
Shreveport, LA	2	1,835	100	5.4
Cleveland, OH	<u>1</u>	<u>13,622</u>	<u>113</u>	<u>.8</u>
Total	16	64,432	3008	4.7

V. NATIONWIDE ESTIMATED DENIALS BASED ON FIREARM CRIMINAL RECORD QUERIES THROUGH III

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

Brady Successes

- *In the summer of 1994, the Brady Law prevented an accused wife beater in Beaver County, Pennsylvania from obtaining several handguns. The putative purchaser, who was the subject of spousal assault charges in both New York and Pennsylvania, was denied access to the guns when a Brady background check performed by the Beaver County Sheriff uncovered the outstanding charges.*
- *In November 1994, the Brady Law was instrumental in securing the apprehension of two gang members, both convicted felons, who traveled from California to Nevada to purchase handguns. An investigation conducted by ATF's Reno, Nevada field office, with the assistance of the Nevada Division of Investigation, revealed that the suspects sought to purchase arms using false identification.*

As Table 3 on the following page indicates, during the period from March 1, 1994 through January 31, 1995, approximately 1.6 million queries made in Brady states resulted in follow-up queries. ATF estimated, conservatively, that no more than 2.5 percent of those follow-up queries actually uncovered facts leading law enforcement to nullify a pending handgun transaction. The 2.5 percent figure was based on historical rates of denials realized in certain states that had their own laws requiring pre-handgun purchase screening. Using this formula, the number of convicted felons, drug offenders, fugitives and other prohibited persons estimated to have been prevented from obtaining handguns was approximately 41,000.

Table 3
"III" Criminal History Database Queries
 (for the period 3/1/94 through 1/31/95)

States/Territories	Firearms† Transactions Checks	Second Level Queries	Potential Denials (%)
Alabama (B)	155,818	9,812	6.3
Alaska (B)	15,041	2,240	14.9
Arizona (B)	141,726	15,249	10.8
Arkansas (B)	30,278	775	2.6
California	724,972	13	0.0
Colorado	73,398	9,015	12.3
Connecticut	30,190	3,058	10.1
Delaware	18,046	957	5.3
District of Columbia***	0	0	0.0
Florida	291,573	28,707	9.8
Georgia (B)	81,926	24,969	30.5
Hawaii	8,436	946	11.2
Idaho	34,874	4,030	11.6
Illinois	407,800	2,609	0.6
Indiana	49,426	2,893	5.9
Iowa	18,886	1,749	9.3
Kansas (B)	24,326	3,644	15.0
Kentucky (B)	64,294	5,954	9.3
Louisiana (B)	51,607	5,352	10.4
Maine (B)	11,238	605	5.4
Maryland	71,206	5,191	7.3
Massachusetts	12,298	317	2.6
Michigan	94,713	2,116	2.2
Minnesota	33,185	2,191	6.6
Mississippi (B)	37,145	2,870	7.7
Missouri	27,024	3,560	13.2
Montana (B)	12,654	1,598	12.6
Nebraska	8,565	397	4.6
Nevada (B)	43,612	7,494	17.2
New Hampshire	22,088	1,465	6.6
New Jersey	2,273	709	31.2
New Mexico (B)	21,330	3,285	15.4
New York	35,687	599	1.7
North Carolina (B)	133,213	6,181	4.6
North Dakota (B)	4,028	185	4.6
Ohio (B)	75,531	2,493	3.3
Oklahoma (B)	49,404	5,427	11.0
Oregon	104,811	8,834	8.4
Pennsylvania (B)	146,489	10,862	7.4
Puerto Rico (B)	10,794	654	6.1
Rhode Island (B)	11,462	840	7.3
South Carolina (B)	83,565	3,914	4.7
South Dakota (B)	3,567	350	9.8
Tennessee*	30,083	2,606	8.7
Texas (B)	245,845	29,233	11.9
Utah*	25,442	3,447	13.5
Vermont (B)	4,892	335	6.8
Virginia	226,686	22,040	9.7
Washington (B)	139,058	15,156	10.9
West Virginia (B)	28,967	2,909	10.0
Wisconsin**	0	0	0.0
Wyoming (B)	11,028	1,195	10.8
Totals	3,990,500	271,030	6.8
Brady State Totals	1,638,838	163,581	10.0

Potential Brady denials based on historical data (estimating that 2.5% of the number of queries reveal conditions warranting denial) $1,638,838 \times .025 = 40,971$

† Tracks the number of first-level queries to the FBI's criminal history database, the Interstate Identification Index.

Firearms transaction checks may include other firearms-related checks by law enforcement.

* Statistics available beginning of May 1994

** No statistics are available

*** Not applicable. Transactions in handguns are prohibited in the District of Columbia.

(B) Brady state

VI. CONCLUSION

ATF has collected empirical and anecdotal evidence of the Brady Law's impact during its first year of implementation. By all indications, Brady is achieving its intended results. First, Brady is keeping handguns out of the reach of the bad guys. ATF's focused survey indicates that more than 15,500 convicted felons, fugitives, persons under restraining order for alleged acts of domestic violence and others were unable to obtain handguns last year because of Brady. Nationwide, the aggregate number of prohibited persons denied handguns in Brady states may be as high as 41,000. Second, the bad guys who were denied access to handguns constituted a fraction of the overall number of people who purchased handguns during the same period. The overall volume of handgun sales has remained substantially the same both before and after Brady's implementation. The conclusion is simple. Brady is not disrupting sales of handguns to legitimate purchasers. To the criminal element, however, Brady is extremely disruptive.

Appendix

Sample Brady Form

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
STATEMENT OF INTENT TO OBTAIN A HANDGUN(S)

Prepare in duplicate. All entries must be in ink. Before completing, please see notices and instructions on the back of this form.

SECTION A - TO BE COMPLETED PERSONALLY BY THE TRANSFEREE (BUYER). THE BUYER MUST PRINT ITEMS 1, 2, 3, 4, AND 5 OF THIS SECTION.

1. TRANSFEREE'S (BUYER'S) NAME (Last, (and maiden, if applicable), first, middle) _____

2. DATE OF BIRTH (Month, day, year) _____

3. RESIDENCE ADDRESS (No., street, county, city, State, and ZIP code) _____

4. OPTIONAL INFORMATION - THE INFORMATION REQUESTED IN THIS ITEM (4) IS OPTIONAL BUT WILL HELP AVOID THE POSSIBILITY OF BEING MISIDENTIFIED AS A FELON OR OTHER PROHIBITED PERSON.

SOCIAL SECURITY NUMBER	HEIGHT	WEIGHT	SEX

PLACE OF BIRTH _____

5. STATEMENT OF TRANSFEREE (BUYER), EACH QUESTION MUST BE ANSWERED WITH "YES" OR "NO" CHECKED IN THE APPROPRIATE BOX FOR EACH QUESTION.

	YES	NO		YES	NO
a. Are you under indictment or information* in any court for a crime punishable by imprisonment for a term exceeding one year? *A formal accusation of a crime made by a prosecuting attorney, as distinguished from an indictment presented by a grand jury.			c. Are you a fugitive from justice?		
			d. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?		
b. Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? (Note: A "YES" answer is necessary if the judge could have given a sentence of more than one year. A "YES" answer is not required if you have been pardoned for the crime or the conviction has been expunged or set aside, or you have had your civil rights restored, and under the law where the conviction occurred, you are not prohibited from receiving or possessing any firearm.)			e. Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?		
			f. Have you been discharged from the Armed Forces under dishonorable conditions?		
			g. Are you illegally in the United States?		
			h. Are you a person who, having been a citizen of the United States, has renounced his/her citizenship?		

I hereby certify that the answers to the above are true and correct. I understand that a person who answers "Yes" to any of the above questions is prohibited from purchasing and/or possessing a firearm, except as otherwise provided by Federal law. I also understand that the making of any false oral or written statement or the exhibiting of any false or misrepresented identification with respect to this transaction is a crime punishable as a felony.

TRANSFEREE'S (BUYER'S) SIGNATURE _____

DATE _____

SECTION B - TO BE COMPLETED BY THE TRANSFEROR (SELLER) (SEE NOTICES AND INSTRUCTIONS ON REVERSE.)

6. TRADE/CORPORATE NAME, ADDRESS, AND TELEPHONE NUMBER OF TRANSFEROR (SELLER) _____

FEDERAL FIREARMS LICENSE NUMBER _____

7. THE TRANSFEREE (BUYER) HAS IDENTIFIED HIMSELF/HERSELF TO ME BY USING A DRIVER'S LICENSE OR OTHER IDENTIFICATION THAT CONTAINS THE TRANSFEREE'S (BUYER'S) NAME, DATE OF BIRTH, RESIDENCE ADDRESS AND PHOTOGRAPH.

TYPE OF IDENTIFICATION

☐ DRIVER'S LICENSE ☐ OTHER (Specify) _____

NUMBER ON IDENTIFICATION _____

8. CONTENTS OF THE STATEMENT IN SECTION A OF THIS FORM WERE RECEIVED BY _____ OF _____ ON _____ BY _____

(Chief Law Enforcement Officer) (Law Enforcement Agency) (Date)

(Check the appropriate answer.)

☐ TELEPHONE ☐ TELEFAX ☐ IN PERSON ☐ OTHER (Specify) _____

9. A COPY OF THE STATEMENT IN SECTION A OF THIS FORM WAS TRANSMITTED TO THE CHIEF LAW ENFORCEMENT OFFICER ON _____ BY _____

(Date) (Check the appropriate answer.)

☐ MAIL ☐ TELEFAX ☐ IN PERSON ☐ OTHER (Specify) _____

10. ON _____, THE CHIEF LAW ENFORCEMENT OFFICER PROVIDED REASON TO BELIEVE THAT THIS TRANSFER _____

(Date)

☐ WOULD ☐ WOULD NOT VIOLATE FEDERAL, STATE, OR LOCAL LAWS. AGENCY IDENTIFIER _____

11. TRANSFEROR'S (SELLER'S) SIGNATURE _____

TRANSFEROR'S TITLE _____

DATE _____

Hate Crimes Q&A
May 13, 1999

Q. What is the President's position on the hate crimes bill currently before the Texas legislature described in the New York Times today?

A. The President has spoken out strongly in favor of the hate crimes bill currently before the Texas legislature. While in Texas last week the President met with members of the Byrd family and urged the state legislature to pass the state hate crimes bill. The President stated that "[I]f we want to do good abroad, we have to be good at home." This week the President also urged passage of his federal hate crimes bill which expands the principal federal hate crimes statute. Senator Hatch held hearings on the federal bill this week.

Brady Law
December 1, 1999

Q: Yesterday, you released new figures showing that a total of 470,000 individuals were blocked by Brady background checks from buying a gun – 160,000 of such checks were conducted by the National Instant Criminal Background Check System (NICS) in the last year. *USA Today* reports that only 29 of these individuals have been convicted by federal prosecutors. Why so few?

A: Let me begin by saying that the most important measure of the success of the Brady Law and the NICS is not how many prosecutions result from lying on the firearms form, but how many guns are kept out of the wrong hands and the countless lives that are saved and crimes averted as a result. By that measure, the Brady law has been an overwhelming success, keeping nearly half a million individuals who shouldn't buy guns from getting them. The gun lobby said it would never work, but it has – and law enforcement officers will tell you it has been a major factor in the nation's record decline in crime over the past six years. The best measure of our success is the dramatic reduction in gun violence that this nation has experienced under this Administration: violent gun crimes are down by over 35 percent, and the homicide rate is at a 31-year low.

At the same time, we agree that prosecution of gun offenses is important to an overall strategy to fight gun violence. That is why, under the Attorney General's leadership, federal prosecutors have worked closely with law enforcement at the local level to dramatically improve coordination of prosecutions of gun offenders. As a result, overall prosecutions of gun criminals are up and federal prosecutions of the most serious gun offenders are also up by over 25 percent. Since the NICS took effect last November, the ATF has opened about 1,000 investigations involving individuals who illegally attempted to buy firearms – hundreds of which have been referred for federal prosecution thus far, and many others that have been referred to local law enforcement.

Note: The Justice Department could not confirm the 29 convictions figure, but is currently collecting data on prosecutions that should be available at the end of the month.