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## The Brady Law

The Brady Law continues to prevent crimes in this country. It is keeping handguns out of the reach of criminals, without infringing on the rights of legitimate and law-abiding handgun owners. Since the Brady law went into effect, nearly 45,000 convicted felons who have walked into gun stores and tried to buy handguns have been stopped by the simple means of a local Brady check. Nearly 20,000 others -- fugitives, kids, illegal drug users, and those under indictment, with mental disabilities, or under restraining order for alleged stalking -- have also been stopped from taking advantage of lawful gun sellers, and have been denied the right to buy a handgun. Doubtless many more criminals have been discouraged from even trying to buy a handgun.

Let me give you one example of who the law is stopping. Last October, the DeKalb County, Georgia police department reported to ATF that a possible convicted felon was trying to buy a handgun. It turned out that he was a convicted murderer. He had bought 8 handguns before the Brady Law went into effect. ATF arrested him and he will be sentenced in March for unlawful firearms possession.

This law is working. It is stopping crimes. And it must not be repealed.

Department of Treasury  
Felons Denied Access to Handguns by Brady Law  
March 1994 - December 1995

Prepared by the Bureau of Alcohol, Tobacco and Firearms  
January 18, 1996

The FBI's criminal history database, the Interstate Identification Index (also known as "III"), provides an accounting of the number of queries of the database made by law enforcement authorities in connection with handgun transactions.

During the period 3/1/94 through 12/31/94 there were approximately 1,489,852 queries made in Brady states<sup>1</sup>. The average number of positive responses for the period was 10% or a total of 148,710 "hits" that indicated a potential denial of access to handguns. Historical data available to the Bureau of Alcohol, Tobacco and Firearms at that time indicated that 2.5% of the total queries<sup>2</sup> would result in disabling hits, or a total of 37,246 denied purchases.

Based on information provided to the FBI by State and local agencies, during the period 1/1/95 through 12/31/95, there were approximately 1,656,755 firearms queries made in Brady states. The average number of positive responses for the period was 16% or a total of 263,480 "hits" that indicated a potential denial of access to handguns. The various states with firearms purchaser screening programs now indicate that 1-2% of total queries<sup>2</sup> will result in disabling hits, or a total of 24,851 individuals denied access to handguns. (This figure uses the conservative estimate of 1.5%).

Data has not been captured to detail each of the various types of disabilities. However, based on the February 28, 1995, study One-Year Progress Report: Brady Handgun Violence Prevention Act, prepared by the Department of Treasury, we can make certain estimates. In that study of 30 reporting law enforcement jurisdictions, it was determined that of those barred from obtaining handguns due to Federal disabilities<sup>1</sup>, 4,365 (or 71.3%) were convicted felons.

Using this data, we can state that:

- From March 1, 1994 to December 31, 1994, 26,556 felons were denied access to handguns by Brady.
- From January 1, 1995 to December 31, 1995, 17,718 felons were denied access to handguns by Brady.
- ~~This is a total of 44,274 felons denied access to handguns by Brady checks since March 1, 1994.~~

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<sup>1</sup>At the time of the study captioned above, there were 27 states covered by the Brady law. Other states had qualified as alternate states. As of 12/31/95 there were 25 Brady states. As a result, the number of persons denied access to handguns in Brady states has dropped. However, those states now qualifying as Brady-alternatives must adhere - at a minimum - to the Brady standards. (Information regarding firearms queries provided by FBI).

<sup>2</sup>The 2.5% rate was based on actual experience of hits that ultimately resulted in Federal firearms disabilities. The 1-2% rate subsequently used reflects the decline actually experienced by various states who have long experience in administering state-run firearms background screening programs. States such as California indicate that the baseline of rejected purchases is consistently in the 1-2% range after a program has been in place for a period of time.

<sup>3</sup>The above captioned report indicates that 15,500 persons who applied to purchase handguns were denied. The numbers used to project percentages of persons denied access to handguns is based on the total number of Federal disabilities reported, and not on the greater number that includes state disabilities or other positive responses that do not constitute disability under the Gun Control Act of 1968 (as amended).

TREASURY



NEWS

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**ON SECOND ANNIVERSARY, RUBIN AND RENO HAIL BRADY ACT'S SUCCESS  
LIMITING ILLEGAL HANDGUN SALES AND FIGHTING CRIME**  
More than 60,000 Felons, Fugitives and Others Denied Handguns

Two years after the Brady Act took effect, Attorney General Janet Reno and Treasury Secretary Robert Rubin said that it was working the way it should and warned against any efforts to repeal it.

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

The Act and other crime-fighting measures, say Rubin and Reno, helped reduce national violent crime rates by four percent in 1994 and another 5 percent in the first half of 1995. Firearms were used in six percent fewer assaults in 1994 than in 1993.

When signed into law by President Clinton in November 1993, the Brady Act -- named for Jim Brady, the former press secretary to President Ronald Reagan seriously injured in a 1981 assassination attempt -- established a waiting period of up to five business days, affording local law enforcement authorities a chance to determine if sales are prohibited by law.

"Each month the Brady Act is preventing nearly 2,500 criminals from buying guns while permitting law-abiding citizens to do so," said Rubin. "Gun dealers and their customers have now had time to adjust to the simple Brady background form as a necessary means of denying guns to criminally dangerous individuals."

Reno added, "Brady law checks are also helping local police identify and arrest gun-buying criminals, often on other serious charges. The Brady checks have helped law enforcement arrest murderers, drug dealers, wife-beaters and other criminals."

**Brady Act Success**

Just this month, for example, a Brady check helped the Wichita County Sheriff stop a

handgun sale to a man who had battered and threatened to kill his ex-wife and children. He was under a restraining order.

Another 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 Brady Act, he had purchased at least eight other guns without being challenged. He has since been convicted of violating federal firearms laws and awaits a prison sentence of up to ten years.

And last April, a Brady check helped ATF agents and local police apprehend a convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania. Prior to Brady, he had purchased at least seven other guns without challenge and traded them to support his crack cocaine addiction. He is now serving two years in prison on various charges.

Other leading law enforcement officials also expressed their support for the Act.

"It is clear on this second anniversary of the Brady Act that the waiting period has prevented thousands of criminals from obtaining firearms and has saved lives," said Gilbert G. Gallegos, National President of the Fraternal Order of Police (FOP). "Members of the FOP continue to be impressed with the cooperation between the ATF and local law enforcement in implementing the Brady Act."

International Association of Chiefs of Police (IACP) President David Walchak noted, "The IACP strongly pushed for Congress to pass legislation allowing for a five-day waiting period to conduct thorough background checks on all prospective handgun purchasers. The IACP continues to strongly support the Brady Act."

Reno also pointed to the Act's other benefits. "The Brady Act has been a catalyst for improvements in automating the nation's criminal history records, helping prepare for 21st century crime fighting. In the last two years the Justice Department has made more than \$130 million available to states and worked with localities to help them automate their criminal history records -- improvements that will also help track sex offenders, domestic abusers and child molesters, and help child-care facilities and nursing homes screen potential employees."

### **How It Works**

Federal law prohibits possession of a handgun by a variety of persons: 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" or committed to mental institutions, persons who have renounced their U.S. citizenship, persons dishonorably discharged from the military, illegal aliens and, generally, persons under 18 years of age.

The Brady Act requires prospective handgun purchasers to complete a background form that is forwarded to the chief law enforcement officer (CLEO) where the applicant resides. Law enforcement then has up to five business days to check the applicant's record and advise the gun dealer as to whether or not the purchase is legal. However, a CLEO can approve a legal gun sale in fewer than five business days. And if the dealer receives no response by law enforcement in five days, a sale can go forward.