Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, JANUARY 11, 1995

BJS
202-307-0784

FIVE STATES SELECTED FOR SUPPLEMENTAL FUNDING TO IMPROVE CRIMINAL HISTORY RECORDKEEPING

WASHINGTON, D.C. -- Maine, Mississippi, New Mexico, West Virginia and Vermont will receive up to $1 million each in federal funds to jump start the automation of their criminal records.

Mississippi has computerized 7 percent of its criminal history files, but the other four states have not automated any of their records.

The grants from the Bureau of Justice Statistics, a Department of Justice agency, will ultimately enable the states to call up criminal history information quickly, communicate via computer with law enforcement agencies and with other states and tap the criminal history files of the Federal Bureau of Investigation.

"The importance of improving criminal history records cannot

(MORE)

be overstated," said Jan M. Chaiken, the BJS Director. "Fingerprint-based 'rap' sheets have always been vital for crime investigators, but criminal history records are now increasingly used in other ways, such as identifying serious offenders under 'three strikes' laws, preventing felons from purchasing handguns and screening child care providers."

A BJS survey showed that 50 states, U.S. territories and the District of Columbia held almost 48 million criminal history records at the end of 1993.

Massachusetts, Michigan, North Carolina, Rhode Island, and Wyoming reported more than 80 percent record automation, and more than 80 percent of all arrests within the last five years had complete dispositions. An additional 11 states--Alabama, Georgia, Hawaii, Montana, Nebraska, New Hampshire, New York, Oregon, Utah, South Carolina and Washington--reported 80 percent automation and between 60 and 80 percent completeness of recent arrest records.

Only 37 states flag felony convictions, which is how the computer identifies a disqualifying record.

(MORE)

The survey also reported that at the end of last year 29 states were members of the Interstate Identification Index (III), which makes possible the immediate exchange of complete criminal history records among the states and the Federal government.

The study was conducted by SEARCH (the National Consortium for Justice Information and Statistics), which is meeting with BJS in Sacramento today to address criminal record improvement among the states.

Single copies of the report, "Survey of Criminal History Information Systems, 1993" (NCJ-148951), may be obtained from the BJS Clearinghouse, Box 179, Annapolis Junction, Maryland 20701-0179. The telephone number is 1-800-732-3277. Fax orders to 410-792-4358.

# # #

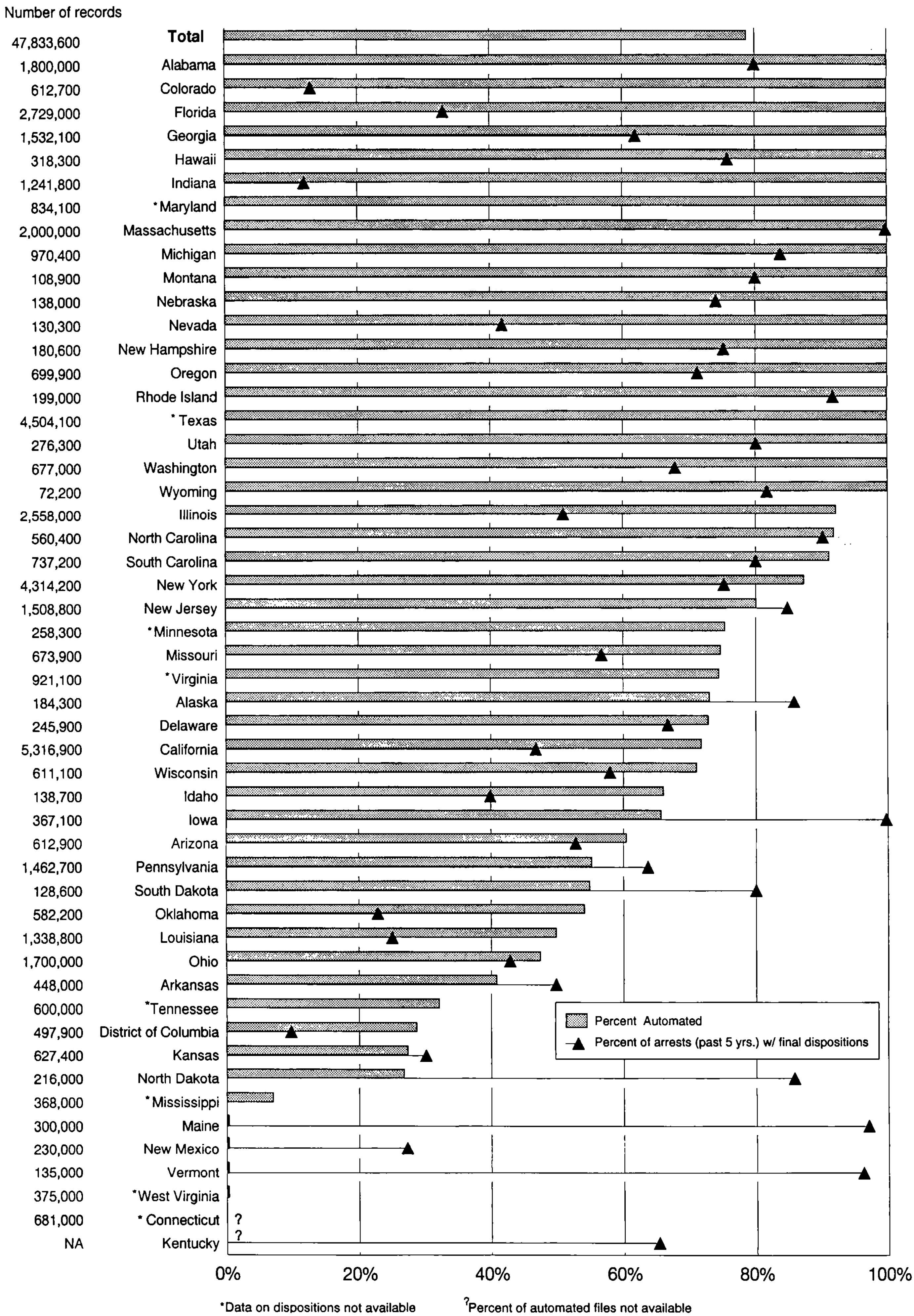
95-16
After hours contact: Stu Smith 301-983-9354

State Criminal History Records, December 1993

Percent of arrests in last 5 years with dispositions	Percent of all records that are automated: 81-100%	61-80%	41-60%	21-40%	0-20% (None exceed 7%)
81-100%	Massachusetts Michigan North Carolina Rhode Island Wyoming	Alaska Iowa New Jersey		North Dakota	Maine Vermont
61-80%	Alabama Georgia Hawaii Montana Nebraska New Hampshire New York Oregon South Carolina Utah Washington	Delaware	Pennsylvania South Dakota		
41-60%	Illinois Nevada	Arizona California Missouri Wisconsin	Arkansas Ohio		
21-40%	Florida	Idaho	Louisiana Oklahoma	Kansas	New Mexico
0-20%	Colorado Indiana			District of Columbia	
Percent of dispositions unknown	Maryland Texas	Minnesota Virginia		Tennessee	Mississippi West Virginia

Note: The number of automated records in Kentucky and Connecticut was not reported.

State criminal history records, December 1993



Survey of Criminal History Information Systems, 1993, with Supplementary Information on Presale Firearm Checks

To order please check the box below, fill in your name and address, and **fax your order to 410-792-4358.**

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☐ **NCJ 148951**

Survey of Criminal History Information Systems, 1993, with Supplementary Information on Presale Firearm Checks

80pp, 1/95; SEARCH Group, Inc., BJS cooperative agreement #92-BJ-CX-K012

This report updates the data presented in the BJS report, *Survey of Criminal History Information Systems, 1992* (NCJ 143500), released in 1993, which described the status of State criminal record systems as of 1992. The updated survey describes as of yearend 1993 the number of records maintained by each State, the percentage of automated records in the system and in the master name index, levels of fingerprint-supported data, the number of dispositions received, the percentage of records with disposition data included, State membership in the FBI's Interstate Identification Index, and procedures followed in connection with presale firearm checks.

Name____

Address______________________________________

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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.

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.*

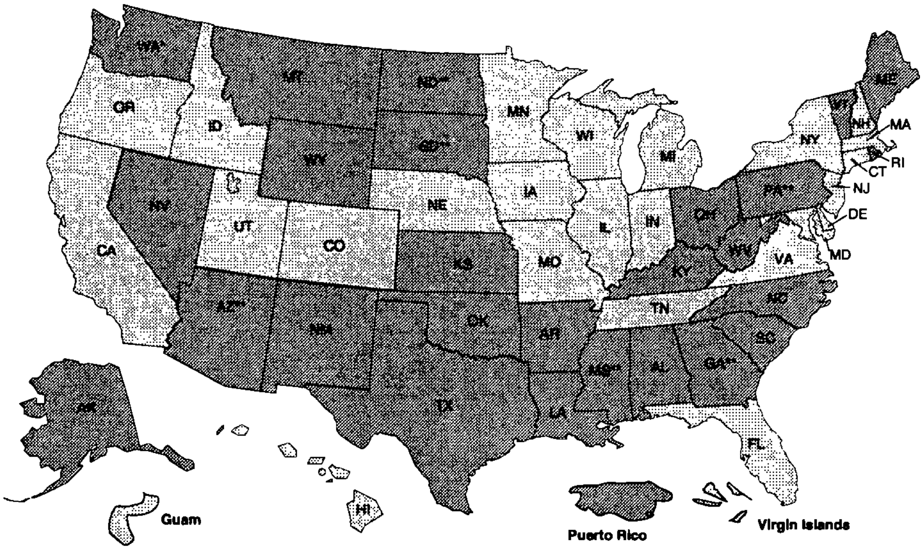
The Brady Law ameliorates the earlier, ineffective system by requiring that every retail sale of a handgun be referred to law enforcement for a possible background check. Under Brady, a prospective handgun purchaser must fill out a form, commonly called the Brady Form (see Appendix), stating that he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

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.

BRADY LAW COMPLIANCE



States which must comply with the Federal 5-day waiting period
States which meet one of the alternatives to the Federal 5-day waiting period.

Note: *Legislation pending to qualify as an "alternate state."
**Federal 5-day waiting period does not apply to persons with valid permits/licenses to carry handguns issued within 5 years.

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	1,012	11	1.1
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.

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.*

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.

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	5	302	14	4.6
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	1	13,622	113	.8
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 x .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

Form Approved: OMB No. 1512-0520 (1/31/95)

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
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.		
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.)		
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?		
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

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

Ronald K. Noble
Under Secretary
(Enforcement)

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.

Brady Successes

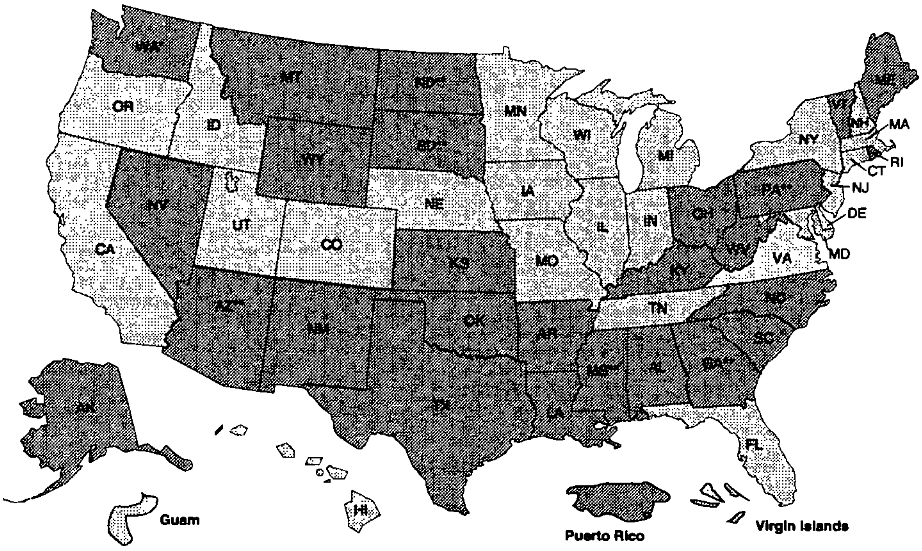
- *In March 1994, the Brady Law prevented an accused stalker in Prairie Village, Kansas, from purchasing a handgun. The attempted handgun purchase was stopped by the Prairie Village Police Department when a Brady background check conducted by the Department revealed that the prospective purchaser, who 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.*

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

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.

BRADY LAW COMPLIANCE



States which must comply with the Federal 5-day waiting period

States which meet one of the alternatives to the Federal 5-day waiting period.

Note: *Legislation pending to qualify as an "alternate state."
**Federal 5-day waiting period does not apply to persons with valid permits/licenses to carry handguns issued within 5 years.

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	1,012	11	1.1
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.

> ***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.*

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.

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	5	302	14	4.6
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	1	13,622	113	.8
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 x .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

Form Approved: OMB No. 1512-0520 (1/31/95)

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 — NUMBER ON IDENTIFICATION

☐ DRIVER'S LICENSE ☐ OTHER (Specify) ____________________

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

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.

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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.

Brady Successes

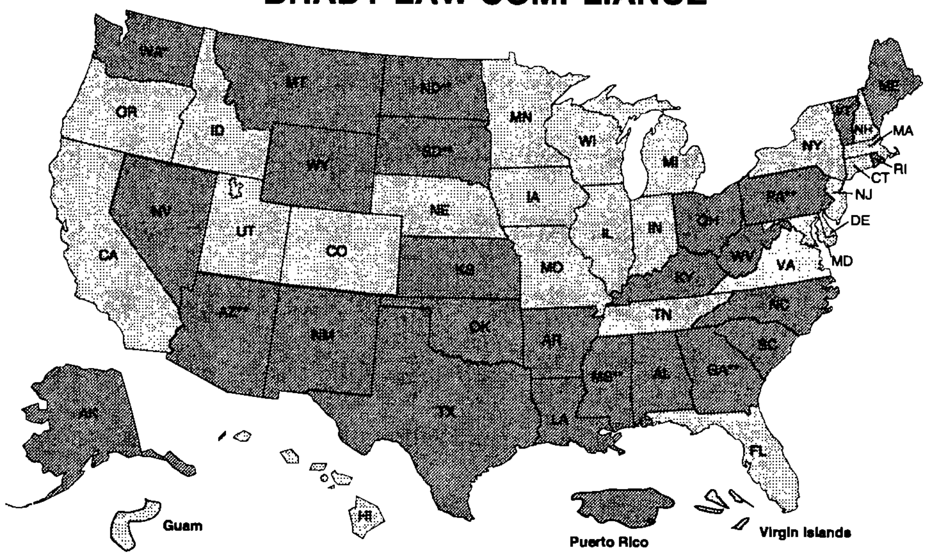
- *In March 1994, the Brady Law prevented an accused stalker in Prairie Village, Kansas, from purchasing a handgun. The attempted handgun purchase was stopped by the Prairie Village Police Department when a Brady background check conducted by the Department revealed that the prospective purchaser, who 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.*

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

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.

BRADY LAW COMPLIANCE



States which must comply with the Federal 5-day waiting period
States which meet one of the alternatives to the Federal 5-day waiting period.

Note: *Legislation pending to qualify as an "alternate state."
**Federal 5-day waiting period does not apply to persons with valid permits/licenses to carry handguns issued within 5 years.

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	1,012	11	1.1
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	5	302	14	4.6
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	1	13,622	113	.8
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 x .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

Form Approved: OMB No. 1512-0520 (1/31/95)

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
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.		
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.)		
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?		
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

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

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.*

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- *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.*
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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.

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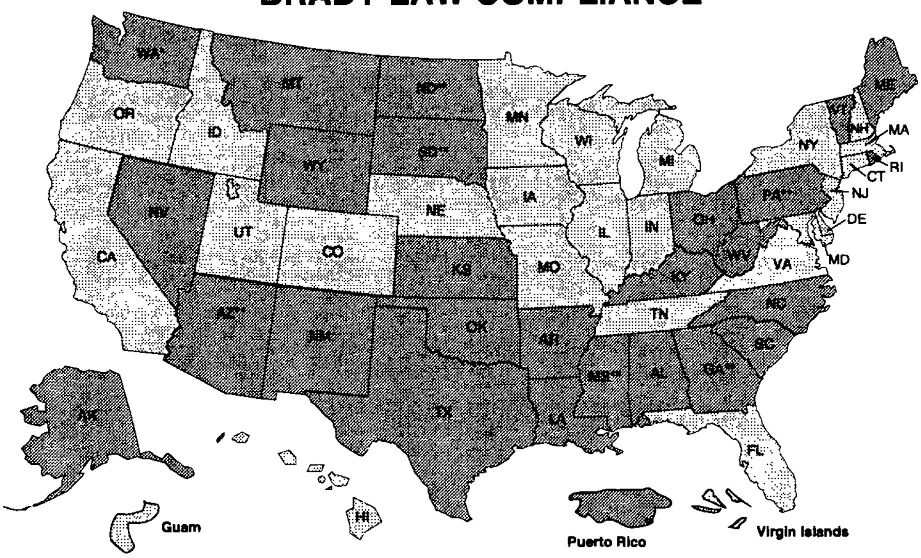
The Brady Law establishes exemptions to the background check provisions in states that already require a permit to purchase a handgun, or in states that already have in place a background check system comparable to Brady's. To date, 27 states and territories are subject to the Brady Law. One of these,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

BRADY LAW COMPLIANCE



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States which meet one of the alternatives to the Federal 5-day waiting period.

Note: *Legislation pending to qualify as an "alternate state."
**Federal 5-day waiting period does not apply to persons with valid permits/licenses to carry handguns issued within 5 years.

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	1,012	11	1.1
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.

> ***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.*

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.

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	5	302	14	4.6
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	1	13,622	113	.8
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 x .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

Form Approved: OMB No. 1512-0520 (1/31/95)

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	NUMBER ON IDENTIFICATION
☐ DRIVER'S LICENSE ☐ OTHER (Specify) ______________	

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

Clinton Presidential Records
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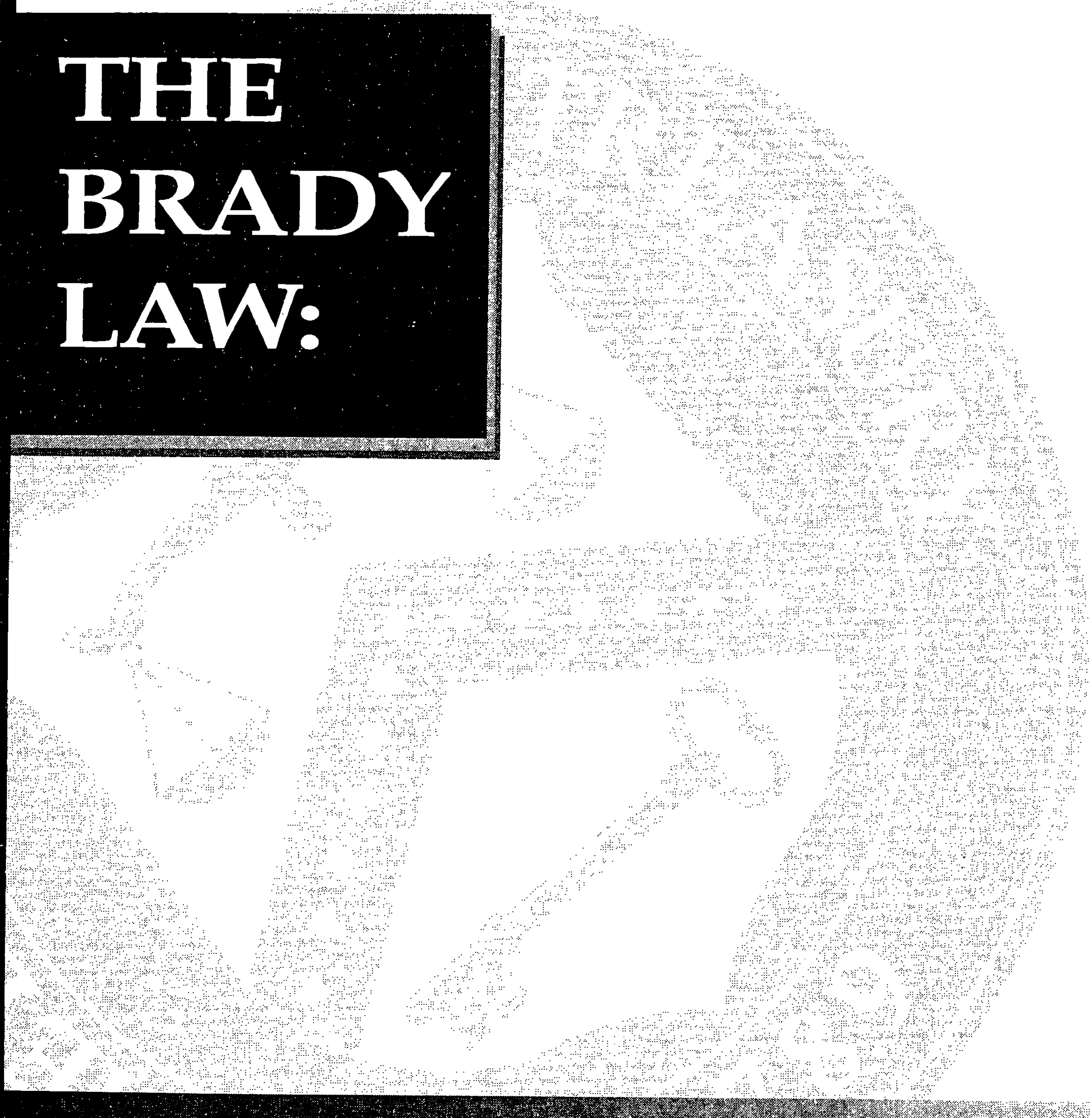
THE BRADY LAW:



THE FIRST 100 DAYS

United States Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms

THE NATION'S NEWSPAPER
USA TODAY

DATE: 2-28-(
PAGE: 3A

Brady law's scorecard: 1 year later

By Judy Keen
and Robert Davis
USA TODAY

President Clinton says the year-old Brady law has stopped stalkers, felons, drug users and fugitives from acquiring handguns.

Clinton today commemorates the law's anniversary and releases a federal study — obtained by USA TODAY — reviewing the law's effectiveness.

The Treasury Department sampled 441,545 handgun applications and found 15,506 were denied — including those of 4,365 convicted felons, 945 fugitives, 97 people under indictment and 649 drug users.

"The American people are safer" as a result of the law requiring up to a five-day wait for background checks, Clinton said in an interview Monday. "We did the right thing."

But as the president celebrates in Washington, the law's effect on crime is still being debated across the nation.

"It's a law that's broken," says Tanya Metaksa of the National Rifle Association. "It's broken in the whole concept that it's going to get the bad guys off the streets."

"It was a feel-good law" that doesn't reduce crime, says gun expert Peter Alan Kasler. "It doesn't help get guns out of the wrong people's hands."

Alfred Blumstein of the Heinz School of Public Policy and Management in Pittsburgh says the law "was important as a symbolic act more so than for whatever effectiveness it would have in limiting access to guns to undesirables."

Critics see it as a symbol of an overreaching government.

▶ Sheriffs or citizens have filed 10 lawsuits in nine states challenging the constitutionality of the law.

▶ Five courts have said the law violates the 10th Amendment of the Constitution because the federal government requires state officials to act without providing federal funding. Three cases are pending. One was dismissed.

"We've been on the winning wave," says lawyer Stephen Halbrook, who's handled four of the cases.

If two federal appeals courts considering the issue rule for the sheriffs, Halbrook says, they'll take the battle to the U.S. Supreme Court.

Clinton promises to fight and says, "I think we'll prevail."

Fort Worth police officer Jim Cushman works on the front lines of the debate.

After chasing "bad guys" for 25 years, he now reaches for a computer instead of a gun, a fax instead of a radio.

And at the end of a day conducting Brady background checks, Cushman "feels like I've accomplished something."

Fort Worth tops a national survey of law enforcement agencies that have kept guns out of the hands of criminals and, some say, law-abiding people caught in red tape.

Of 114 police departments surveyed by the International Association of Chiefs of Police, Fort Worth denied 1,142 of 8,120 applications, or 14%.

"What makes you feel good is when you get somebody on an outstanding felony warrant," Cushman says.

As many as 41,000 are thought to have been denied a handgun based on Brady background checks nationwide.

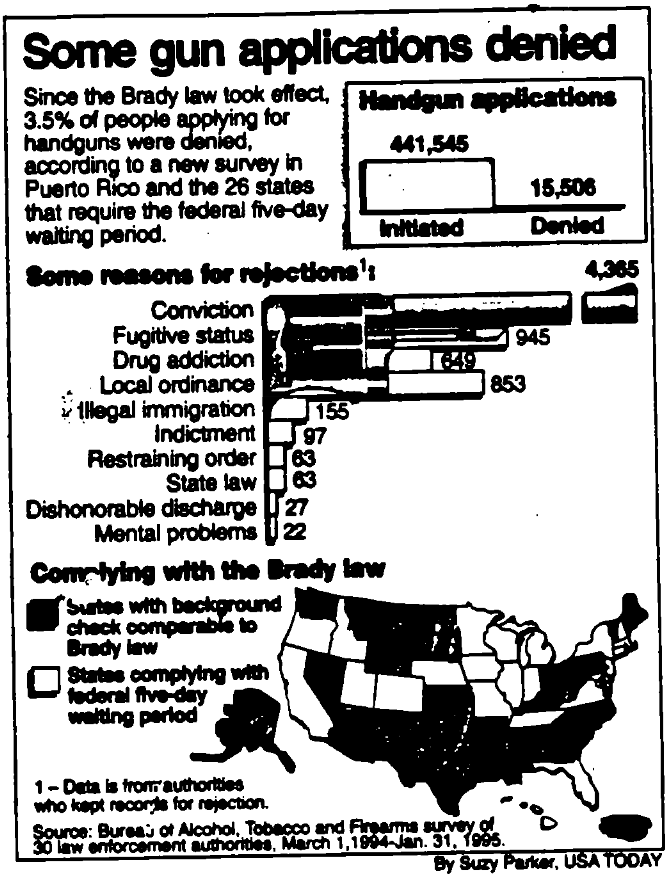
But "most aren't armed robbers trying to get tools for their trade," says Dave Kopel of the Cato Institute. "They're just people who got into a fight in a bar ... and they struck a plea bargain and didn't realize they had a felony conviction."

Critics say criminals will always find ways to get guns.

Clinton says, "It's pretty hard to argue that the minor inconvenience of complying with the Brady law is not worth the major, major increases in safety and welfare.

"I hope this can be just like an airport check, you know? A lot of people didn't like going through metal detectors at airports when we started it. Now ... not only are we used to it, but we'd be upset if they took them away."

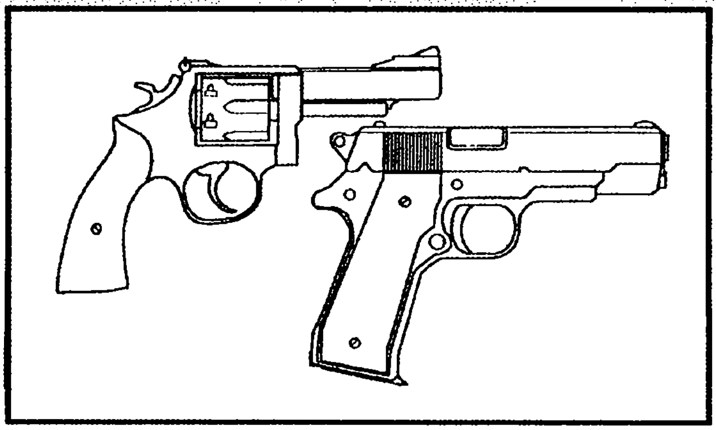
cont'd


Some gun applications denied
Since the Brady law took effect, 3.5% of people applying for handguns were denied, according to a new survey in Puerto Rico and the 26 states that require the federal five-day waiting period.
Handgun applications
441,545
15,506
Initiated
Denied
Some reasons for rejections[1]:
Conviction
4,365
Fugitive status
945
Drug addiction
649
Local ordinance
853
Illegal immigration
155
Indictment
97
Restraining order
63
State law
63
Dishonorable discharge
27
Mental problems
22
Complying with the Brady law
States with background check comparable to Brady law
States complying with federal five-day waiting period
1 – Data is from authorities who kept records for rejection.
Source: Bureau of Alcohol, Tobacco and Firearms survey of 30 law enforcement authorities, March 1,1994-Jan. 31, 1995.
By Suzy Parker, USA TODAY

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Brady Law Implementation

State by State Summary



Date: as of February 23, 1994

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1. Status of Brady Law Implementation

2. Regulations

3. Statement of Intent to Obtain a Handgun (ATF F 5300.35)

4. Letters to Federal Firearms Licensees
   (Brady State) and (Alternative State)

5. Letter to Chief Law Enforcement Officer

6. Sample of Multiple Handgun Disposition Form (ATF F 3310.4)

7. Common Carrier Poster and Letter

8. Copy of Brady Law

9. Brady Law Questions and Answers

10. Letters sent to Federal Firearm Licenses in Brady States
    Designating the Chief Law Enforcement Officer

Clinton Presidential Records
Digital Records Marker

Divider Title: 1

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

LIST OF STATES SUBJECT TO THE FEDERAL FIVE DAY WAITING PERIOD OR STATES HAVING ALTERNATIVE SYSTEMS AS DEFINED IN THE LAW

As of 2-23-94

STATES WHICH MUST COMPLY WITH THE FEDERAL 5-DAY WAITING PERIOD

Alabama
Alaska
Arizona
Arkansas
Colorado *
Georgia **
Idaho
Kansas
Kentucky
Louisiana
Maine
Marianas Islands
Minnesota
Mississippi **
Montana
Nevada
New Hampshire
New Mexico
North Carolina *
North Dakota **
Ohio
Oklahoma
Pennsylvania **
Puerto Rico
Rhode Island
South Carolina
South Dakota **
Tennessee
Texas
Utah *
Vermont
Washington State *
West Virginia
Wyoming

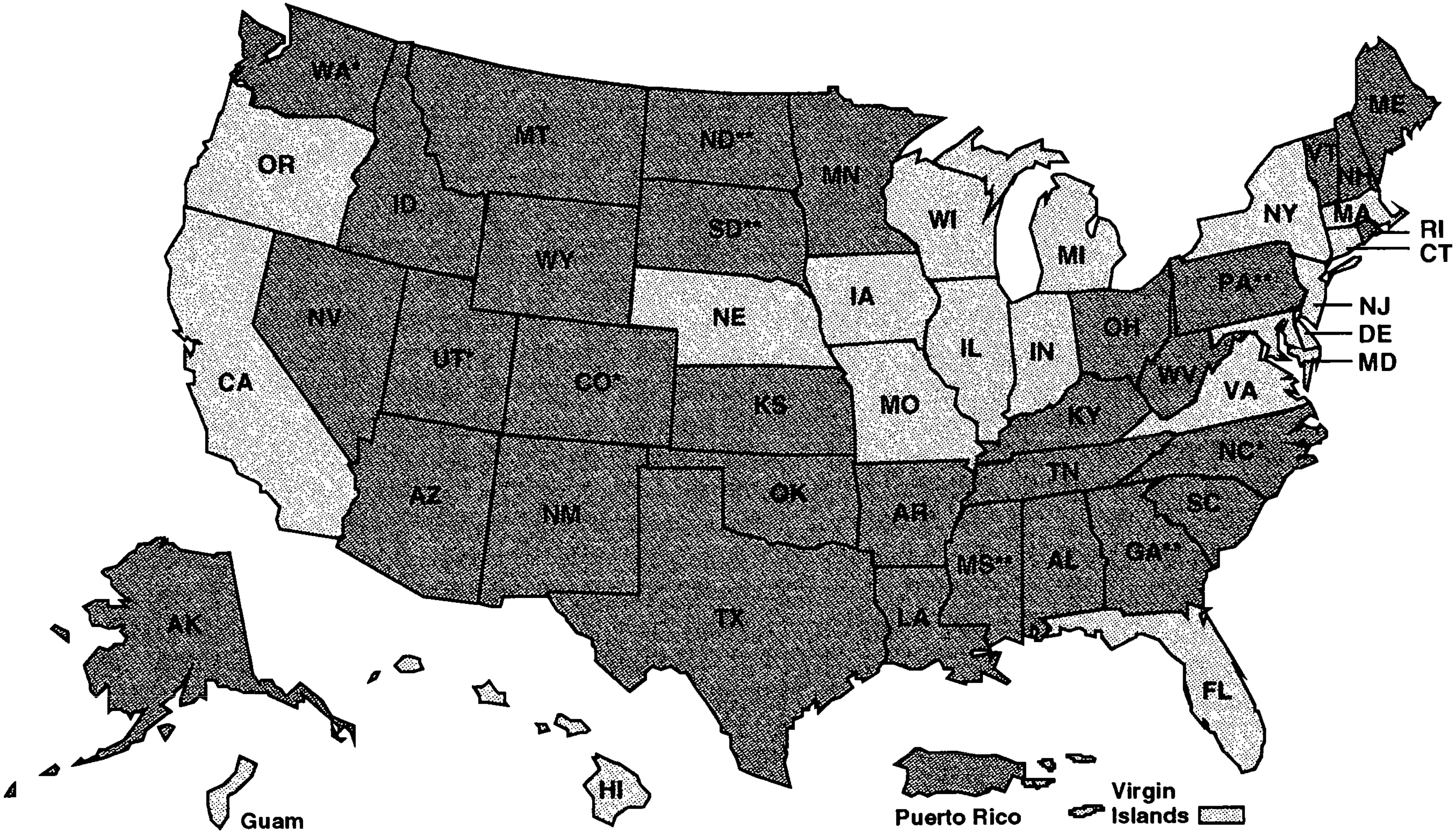
* Legislation pending to qualify as an "alternate state".

** In these States, the Federal 5-day waiting period does not apply to transfers of handguns to persons holding valid permits/licenses to carry handguns issued within 5 years of the proposed purchase.

STATES WHICH MEET ONE OF THE ALTERNATIVES TO THE FEDERAL 5-DAY WAITING PERIOD

California	–	Permit or other approval type system
Connecticut	–	Permit or other approval type system
Delaware	–	"Instant check"
Florida	–	"Instant check"
Guam	–	Permit or other approval type system
Hawaii	–	Permit or other approval-type system
Illinois	–	Permit and "instant check"
Indiana	–	Permit or other approval-type system
Iowa	–	Permit or other approval-type system
Maryland	–	Permit or other approval-type system
Massachusetts	–	Permit or other approval-type system
Michigan	–	Permit or other approval-type system
Missouri	–	Permit or other approval-type system
Nebraska	–	Permit or other approval-type system
New Jersey	–	Permit or other approval-type system
New York	–	Permit or other approval-type system
Oregon	–	Permit or other approval-type system
Wisconsin	–	"Instant check"
Virginia	–	"Instant check"
Virgin Islands	–	Permit or other approval type system

Status of States Under the Brady Law



(dark)	States which must comply with the Federal 5-day waiting period.
(light)	States which meet one of the alternatives to the Federal 5-day waiting period.

NOTE:
* Legislation pending to qualify as an "alternate state".
** Federal 5-day waiting period does not apply to persons with valid permits/licenses to carry handguns issued within 5 years.

LIST OF CHIEF LAW ENFORCEMENT OFFICERS FOR PURPOSES OF THE BRADY LAW (Public Law 103-159, November 30, 1993)

Beginning on February 28, 1994, the Brady law imposes a 5-day waiting period on the sale of a handgun by Federal firearms licensees to nonlicense's in States that do not already require a prior background check. In this regard, the law requires licensees to notify the Chief Law Enforcement Officer (CLEO) of the purchaser's residence upon the proposed sale of the handgun. The CLEO is required to make a reasonable effort to ascertain within 5 business days whether the buyer's receipt or possession of a handgun would be in violation of law.

The following list of CLEOs was developed from information provided by the law enforcement community.

Alabama

As of February 16, 1994, the Chief Law Enforcement Officer in Alabama is the County Sheriff. They will also receive the reporting on the multiple sale of handguns.

Alaska

As of February 16, 1994, the Chief Law Enforcement Officer in Alaska is the Chief of Police in areas having a Police Department or the Alaska State Troopers in areas without a Chief of Police. They will also receive the reporting on the multiple sale of handguns.

Arizona

As of February 16, 1994, the Chief Law Enforcement Officer in Arizona is the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas. However, in Maricopa County, the Chief of Police, Phoenix Police Department, is the Chief Law Enforcement Officer for both the City of Phoenix and all other municipalities in the metropolitan Phoenix area, and the County Sheriff is the Chief Law Enforcement Officer for the unincorporated areas of the County. In the reporting of multiple sale of handguns the forms should be sent to the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. However, in the City of Phoenix and all other municipalities in the metropolitan areas, the forms should be sent to the Chief of Police, Phoenix Police Department.

Arkansas

As of February 16, 1994, the Chief Law Enforcement Officer in Arkansas is the Arkansas State Police. They will also receive the reporting on the multiple sale of handguns.

Colorado

As of February 16, 1994, the Colorado Bureau of Investigation will be the recipient of reporting on the multiple sale of handguns.

Georgia

As of February 16, 1994, the Chief Law Enforcement Officer in Georgia is the County Sheriff except as indicated. They will also receive the reporting on the multiple sale of handguns. (See attached letter)

Idaho

As of the February 18, 1994, the Chief Law Enforcement Officer in Idaho is the Idaho Department of Law Enforcement, Bureau of Criminal Identification. The Chief of Police in incorporated areas or the County Sheriff in unincorporated areas will receive the reporting on the multiple sale of handguns.

Kansas

As of February 17, 1994, the Chief Law Enforcement Officer in Kansas is the County Sheriff, except for the incorporated cities and towns in Johnson County where the Chiefs of Police are the Chief Law Enforcement Officers. The Kansas Bureau of Investigation will receive the reporting on the multiple sale of handguns.

Kentucky

As of February 18, 1994, the Chief Law Enforcement Officer can be either the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. They will also receive the reporting on the multiple sale of handguns.

Louisiana

As of February 16, 1994, the Chief Law Enforcement Officer in Louisiana is the Sheriff, except in Orleans Parish where the Chief Law Enforcement Officer is the Superintendent of Police for New Orleans. They will also receive the reporting on the multiple sale of handguns.

Maine

As of February 16, 1994, the Chief Law Enforcement Officer in Maine is the Chief of Police in areas having a municipal police department and the State Police in all other areas. They will also receive the reporting of the multiple sale of handguns.

Minnesota

As of February 16, 1994, the Chief Law Enforcement Officer in Minnesota is the Municipal Police Chief. However, where there is no local police agency, the County Sheriff will be the Chief Law Enforcement Officer. They will also receive the reporting of the multiple sale of handguns.

Mississippi

As of February 16, 1994, the Chief Law Enforcement Officer in Mississippi is the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas. They will also receive the reporting of the multiple sale of handguns.

Montana

As of February 16, 1994, the Chief Law Enforcement Officer is either the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. They will also receive the reporting of the multiple sale of handguns.

Nevada

As of February 16, 1994, the Chief Law Enforcement Officer in Nevada is the Department of Motor Vehicles and Public Safety, Nevada Highway Patrol, Records and Identification Services. They will also receive the reporting of the multiple sale of handguns.

New Hampshire

As of February 16, 1994 the Chief Law Enforcement in New Hampshire is the Chief of Police or the County Sheriff in areas not covered by a Chief of Police. They will also receive the reporting on the multiple sale of handguns.

New Mexico

As of February 16, 1994, the Chief Law Enforcement Officer in New Mexico is the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas. They will also receive the reporting of the multiple sale of handguns.

North Carolina

As of February 17, 1994, the Chief Law Enforcement Officer in North Carolina is the County Sheriff. They will also receive the reporting on the multiple sale of handguns.

North Dakota

As of February 16, 1994 the Chief Law Enforcement Officer in North Dakota is the County Sheriff. They will also receive the reporting on the multiple sale of handguns.

Ohio

As of February 18, 1994, the Chief Law Enforcement Officer in Ohio is the Attorney General whose designated representative is the Superintendent of the Bureau of Criminal Identification and Investigation. They will also receive the reporting on the multiple sale of handguns.

Oklahoma

As of February 16, 1994, the Chief Law Enforcement Officer in Oklahoma is the Chief of Police in incorporated cities and towns, except that the County Sheriff is the Chief Law Enforcement Officer in incorporated cities and towns having no police authority of their own. The Chief Law Enforcement Officer in unincorporated areas is the County Sheriff. They will also receive the reporting on the multiple sale of handguns.

Pennsylvania

As of February 18, 1994, the Chief Law Enforcement Officer in Pennsylvania is the County Sheriff except in Philadelphia County where the Chief Law Enforcement Officer shall be the Commissioner of the Philadelphia Police Department. They will also receive the reporting on the multiple sale of handguns.

Puerto Rico

As of February 17, 1994, the Chief Law Enforcement Officer in Puerto Rico is the Police Superintendent, Firearms Bureau Chief. The Superintendent will also receive the reporting on the multiple sale of handguns.

Rhode Island

As of February 16, 1994, the Chief Law Enforcement Officer in Rhode Island is the Chief of Police. The reporting on the multiple sale of handguns will be sent to the Rhode Island State Police Detective Division.

South Carolina

As of February 16, 1994, the Chief Law Enforcement Officer in South Carolina is the South Carolina Law Enforcement Division. South Carolina Law prohibits the sale of more than one handgun during any 30-day period to a nonlicensee.

South Dakota

As of February 17, 1994, the Chief Law Enforcement Officer in South Dakota is the County Sheriff. They will also receive the reporting on the multiple sale of handguns.

Tennessee

As of February 18, 1994, the Chief Law Enforcement Officer in Tennessee is the Chief of Police in municipalities or the County Sheriff in other areas. They will also receive the reporting on the multiple sale of handguns.

Texas

As of February 16, 1994, the Chief Law Enforcement Officer in Texas is the Chief of Police in incorporated cities and towns and the County Sheriff in unincorporated areas. They will also receive the reporting on the multiple sale of handguns.

Utah

As of February 16, 1994, the Chief Law Enforcement Officer is the Utah Department of Public Safety, Bureau of Criminal Identification. They will also receive the reporting on the multiple sale of handguns.

Vermont

As of February 17, 1994, the Chief Law Enforcement Officer in Vermont is the Chief of Police or the County Sheriff, or the State Police depending on the area. They will also receive the reporting on the multiple sale of handguns. (See attached letter)

Washington

As of February 16, 1994, the Chief Law Enforcement Officer in Washington is the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. They will also receive the reporting on the multiple sale of handguns.

West Virginia

As of February 17, 1994, the Chief Law Enforcement Officer in West Virginia is the West Virginia State Police. They will also receive the reporting on the multiple sale of handguns.

Wyoming

As of February 16, 1994, the Chief Law Enforcement in Wyoming is the Chief of Police or in other areas the County Sheriff. They will also receive the reporting on the multiple sale of handguns. (See attached letter)

FOR THE PURPOSES OF THE BACKGROUND CHECKS REQUIRED BY THE BRADY LAW, THESE STATES WILL CONTINUE TO FOLLOW THE PROCEDURES UNDER THEIR EXISTING STATE LAW.

California	Permit or other Approval-type system
Connecticut	Permit or other Approval-type system
Delaware	"Instant check"
Florida	"Instant Check"
Hawaii	Permit or other Approval-type system
Illinois	Permit and "Instant Check"
Indiana	Permit or other Approval-type system
Iowa	Permit or other Approval-type system
Maryland	Permit or other Approval-type system
Massachusetts	Permit or other Approval-type system
Michigan	Permit or other Approval-type system
Missouri	Permit or other Approval-type system
Nebraska	Permit or other Approval-type system
New Jersey	Permit or other Approval-type system
New York	Permit or other Approval-type system
Oregon	Permit or Other Approval-type system
Wisconsin	"Instant Check"
Virginia	"Instant Check"

Clinton Presidential Records
Digital Records Marker

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

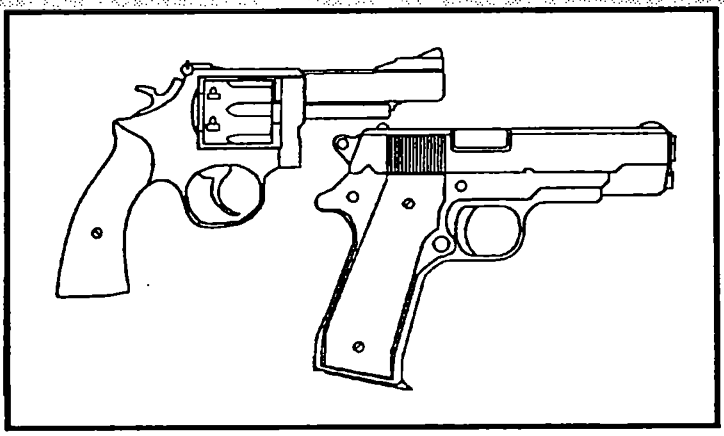
This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Divider Title: **2**

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Regulations Implementing

The Brady Handgun Violence Prevention Act



February 1994

federal register

Monday
February 14, 1994

Part III

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

Implementation of Public Law 103–159, Including the Brady Handgun Violence Prevention Act; Rule and Proposed Rule

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[T.D. ATF-354; (93F-057P)]

RIN: 1512-AB23

Implementation of Public Law 103-159, Including the Brady Handgun Violence Prevention Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements the provisions of Public Law 103-159, including the Brady Handgun Violence Prevention Act. These regulations implement the law by imposing a waiting period of 5 days before a licensed firearms importer, manufacturer, or dealer may lawfully transfer a handgun to a nonlicensed individual. Regulations are also prescribed with regard to reporting requirements for multiple handgun sales, labeling of packages containing a firearm, theft of firearms from firearms licensees, and increased license fees for dealers in firearms. The temporary rule will remain in effect until superseded by final regulations. In the Proposed Rules section of this **Federal Register**, ATF is also issuing a notice of proposed rulemaking inviting comments on the temporary rule for a 90-day period following the publication date of this temporary rule.

EFFECTIVE DATES: The temporary regulations are effective on February 28, 1994, except for §§ 178.31 (b) and (d), 178.33a, 178.42(c), and 178.126a, which were effective on November 30, 1993.

ADDRESSES: Send written comments to: Chief, Revenue Programs Division; Bureau of Alcohol, Tobacco and Firearms; Washington, DC 20091-0221.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1993, Public Law 103-159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Public Law 103-159, cited as the "Brady Handgun Violence Prevention Act" (hereinafter, "the Act"), provides for a national waiting period of 5 days before a licensed importer, manufacturer, or dealer may lawfully transfer a handgun to a nonlicensed individual (interim provision), and for the establishment of a national instant criminal background check system to be queried by firearms licensees before transferring any firearm to nonlicensed individuals (permanent provision). The permanent system will be effective on November 30, 1998. Violations of either the interim or permanent provision are punishable by a fine or imprisonment for not more than 1 year, or both.

Titles II and III of Public Law 103-159 relate to reporting requirements for multiple handgun sales, labeling of packages containing a firearm, thefts of firearms from licensed firearms dealers, and increased license fees for dealers in firearms. Regulations implementing these provisions are also part of this Treasury decision.

Waiting Period (Interim Provision)

The Act provides that the waiting period provisions of the law become effective on February 28, 1994, and cease to apply on November 30, 1998. The Act imposes a waiting period of 5 business days (defined in the statute as days on which State offices are open) before a licensee may sell or deliver a handgun. As defined in the Act, the term "handgun" means—

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and (B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

Basically, the waiting period provision makes it unlawful for any licensed firearms importer, manufacturer, or dealer to sell, deliver, or transfer a handgun to a nonlicensed individual (transferee), unless the licensee—

(1) Obtains a statement of the transferee's intent to obtain a handgun containing the transferee's name, address, and date of birth appearing on a valid photo identification, a description of the identification document, a statement that the transferee is not a felon, under indictment, or otherwise prohibited from receiving or possessing the handgun under Federal law, and the date the statement is made;

(2) Verifies the identity of the transferee by examining the identification document presented;

(3) Within 1 day after the transferee furnishes the statement, contacts the chief law enforcement officer of the place of residence of the transferee and advises such officer of the contents of the statement;

(4) Within 1 day after the transferee furnishes the statement, transmits to the chief law enforcement officer of the place of residence of the transferee a copy of the statement; and

(5) Waits 5 business days from the date the licensee furnished notice of the contents of the statement to the chief law enforcement officer before transferring the handgun to the transferee (during which period the licensee has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of law); or receives notice from the chief law enforcement officer of the place of residence of the transferee that the officer has no information that the transferee's receipt or possession of the handgun would violate the law.

In addition to the items in (1) above, the regulations request certain additional optional information about the transferee to facilitate the transfer of a handgun and assist law enforcement officials in verifying the transferee's eligibility to possess a handgun. This optional information includes the social security number, height, weight, sex, and place of birth of the transferee. The optional information will help minimize the misidentification of handgun purchasers as felons or other prohibited persons whose receipt and possession of firearms violate the law. For example, this information would distinguish the transferee from a prohibited buyer having the same name and date of birth as the transferee and, therefore, help expedite the transfer.

Subsequent to the sale or transfer of the handgun, the law requires a licensee, who receives a report from the chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law, shall within 1 day communicate any information the licensee has concerning the transfer to the chief law enforcement officer of the place of business of the licensee and to the chief law enforcement officer of the place of residence of the transferee.

As provided in the Act, the term "chief law enforcement officer" means "the chief of police, the sheriff, or an equivalent officer or the designee of any such individual." The law requires that the chief law enforcement officer within 5 business days make a reasonable effort to determine whether the transferee is prohibited by law from receiving or possessing the handgun sought to be purchased. Except for records relating to a proposed handgun sale that would violate the law, law enforcement officers are required to destroy within 20 days the purchaser's statement, any record containing information derived from the statement, and any record created as a result of the notice referred to in (3) above. Furthermore, these records may only be used to carry out the purposes of the Act, and no information in the records may be conveyed to any person for purposes other than complying with the Act.

The Act also provides that an individual who is determined to be ineligible to purchase a handgun under the waiting period provision may request that the chief law enforcement officer who made the determination provide reasons for that determination. The officer must provide such reasons to the individual in writing within 20 business days after receipt of the request.

Alternatives to the Waiting Period

The statute provides the following alternatives to the waiting period provision:

(1) The transferee provides a written statement issued within the last 10 days by the chief law enforcement officer of the transferee's place of residence that the transferee requires a handgun because of a threat to the life of the transferee or any member of the transferee's household;

(2) The transferee presents to the licensee a permit issued by the State within the past 5 years to possess a handgun and the law of the State requires verification that the transferee is not prohibited by law from possessing the handgun;

(3) Purchases in States which require that, before any licensee transfers a handgun to an individual, an authorized government official has verified that possession of the handgun by the transferee would not violate the law (e.g., a background check);

(4) Purchases of handguns which are subject to the National Firearms Act and which have been approved for transfer under 27 CFR part 179 (Machine Guns, Destructive Devices, and Certain Other Firearms);

(5) Purchases of handguns for which the Secretary has certified that compliance with the 5-day waiting period procedure is impracticable because the purchaser resides in a rural area, the premises of the licensee are remote in relation to the chief law enforcement officer of the area, and there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

Additional Provisions of Public Law 103–159

Titles II and III of Public Law 103–159 provide additional amendments to the GCA. These provisions, which became effective on November 30, 1993, are as follows:

(1) *Multiple sales reports.* In addition to furnishing reports of multiple handgun sales to ATF, licensees are required to submit such reports to the "department of State police or State law enforcement agency of the State or local law enforcement agency of the jurisdiction in which the sale or other disposition took place."

(2) *Common carriers.* Common or contract carriers are prohibited from requiring or causing any label or other written notice to be placed on the outside of any package, luggage, or other container indicating that such package contains a firearm. In addition, common or contract carriers who deliver firearms in interstate or foreign commerce are required to obtain written acknowledgement of receipt from the recipient of the package or other container.

(3) *Theft of firearms.* It is unlawful for any person to steal from the person or premises of a Federal firearms licensee any firearm in the licensee's business inventory which has been shipped or transported in interstate or foreign commerce.

(4) *License fees.* License fees for all dealers in firearms (other than destructive devices), including pawnbrokers, have been increased to $200 for 3 years, except that the fee for renewal of a license is $90 for 3 years.

Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action, because the economic effects flow directly from the underlying statute and not from this temporary rule. Therefore, it is found that this temporary rule is not likely to (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, of State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Administrative Procedure Act

Because this document merely implements the law and because immediate guidance is necessary to implement the provisions of the law, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. § 553(b), or subject to the effective date limitation in section 553(d).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this temporary rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1512–0520. The estimated average annual burden associated with the collection of information in this regulation is 2.52 hours per respondent or recordkeeper.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, refer to the preamble to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Drafting Information

The author of this document is James P. Ficaretta, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

27 CFR Part 178—Commerce in Firearms and Ammunition is amended as follows:

Paragraph 1. The authority citation for 27 CFR part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Section 178.1(a) is revised to read as follows:

§ 178.1 Scope of regulations.

(a) *General.* The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99–308 (100 Stat. 449), Pub. L. 99–360 (100 Stat. 766), Pub. L. 99–408 (100 Stat. 920), and Pub. L. 103–159 (107 Stat. 1536).

* * * * *

Par. 3. Section 178.11 is amended by revising the definition for "handgun," and by adding definitions for "chief law enforcement officer" and "identification document," to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Chief law enforcement officer. The chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

* * * * *

Handgun. (a) Any firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(b) Any combination of parts from which a firearm described in paragraph (a) can be assembled.

Identification document. A document containing the name, residence address, date of birth, and photograph of the holder and which was made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

* * * * *

Par. 4. Section 178.31 is amended by redesignating paragraph (b) as paragraph (c), and by adding new paragraphs (b) and (d), to read as follows:

§ 178.31 Delivery by common or contract carrier.

* * * * *

(b) No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container indicating that such package, luggage, or other container contains a firearm.

* * * * *

(d) No common or contract carrier shall deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

Par. 5. Section 178.33a is added to Subpart C to read as follows:

§ 178.33a Theft of firearms.

No person shall steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

Par. 6. Section 178.42 is amended by revising the introductory text, and by revising paragraph (c) to read as follows:

§ 178.42 License fees.

Each applicant shall pay a fee for obtaining a firearms license or ammunition license, a separate fee being required for each business or collecting activity at each place of such business or activity, as follows:

* * * * *

(c) For a dealer:

(1) In destructive devices—$1,000 per year.

(2) Who is not a dealer in destructive devices—$200 for 3 years, except that the fee for renewal of a valid license shall be $90 for 3 years.

* * * * *

Par. 7. Section 178.96(b) is amended by revising the first sentence to read as follows:

§ 178.96 Out-of-State and mail order sales.

* * * * *

(b) A licensed importer, licensed manufacturer, or licensed dealer may sell a rifle, shotgun, or handgun that is not subject to the waiting period provisions of § 178.102(a) to a nonlicensee who does not appear in person at the licensee's business premises if the nonlicensee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee furnishes to the licensee the firearms transaction record, Form 4473, required by § 178.124. * * *

* * * * *

Par. 8. Section 178.102 is added to subpart F to read as follows:

§ 178.102 Sales or deliveries of handguns after February 27, 1994, and before November 30, 1998.

(a) *Waiting period.* Except as provided in paragraph (b), a licensed importer, licensed manufacturer, or licensed dealer shall not sell, deliver, or transfer a handgun to any individual who is not licensed under this part.

(1) The licensee shall:

(i) Receive from the transferee a statement of intent to obtain a handgun on Form 5300.35 in accordance with § 178.130;

(ii) Verify the identity of the transferee by examining the identification document presented, and noting on Form 5300.35 the type of identification used;

(iii) Within 1 day after the transferee furnishes the statement, provide notice of the contents of the statement on Form 5300.35, in the manner prescribed by paragraph (a)(3) of this section, to the chief law enforcement officer of the place of residence of the transferee; and

(iv) Within 1 day after the transferee furnishes the statement to the licensee, transmit a copy of Form 5300.35 to the chief law enforcement officer of the place of residence of the transferee.

(2)(i) The licensee shall not sell, deliver, or transfer a handgun to any individual unless 5 business days (meaning days on which State offices are open) have elapsed from the date the licensee furnished actual notice of the contents of the statement to the chief law enforcement officer, during which period the licensee has not received information from such officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(ii) The licensee has received notice from the chief law enforcement officer within the 5 business days that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law.

Example 1. A licensee furnishes actual notice of the contents of the statement to the chief law enforcement officer on Tuesday. If State offices are not open on Saturday and Sunday, 5 business days would have elapsed on the following Tuesday. The licensee may deliver the handgun on the next day, Wednesday.

Example 2. A licensee furnishes actual notice of the contents of the statement to the chief law enforcement officer on Saturday. If State offices are not open on Saturday and Sunday, 5 business days would have elapsed on the following Friday. The licensee may deliver the handgun on the next day, Saturday.

(3) The notice required by paragraph (a)(1)(iii) of this section shall be actual notice and shall be given in a manner

acceptable to such officer. For example, if the chief law enforcement officer will only accept notice in writing and not by telephone, notice shall be given by the licensee to the chief law enforcement officer in writing. In that case, the 5-day waiting period prescribed by paragraph (a)(2)(i) of this section begins at the time such written notice is received by the chief law enforcement officer. If the licensee sends notice to such officer by mail, the licensee shall send the notice by registered or certified mail (return receipt requested).

(4) The law requires that notice of the contents of the transferee's statement of intent to obtain a handgun and the statement be provided by the licensee to the chief law enforcement officer of the place of residence of the transferee. Under the law, the chief law enforcement officer means "the chief of police, the sheriff, or an equivalent officer or the designee of any such individual." Where the State or local law enforcement officials have notified the licensee that a particular official has been designated to receive the notice and statement specified in paragraphs (a)(1) (iii) and (iv) of this section, the licensee shall provide the information to that designated official.

(b) *Alternatives to waiting period.* The provisions of paragraph (a) of this section shall not apply if—

(1) The transferee has presented to the licensee a written statement, issued by the chief law enforcement officer of the transferee's place of residence, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee. The written statement must have been issued by the chief law enforcement officer during the 10-day period ending on the date that the transferee has informed the licensee of the transferee's intention to obtain a handgun. The written statement shall be on a letter bearing the letterhead of the chief law enforcement officer and shall be signed by the officer and dated;

(2) The transferee has presented to the licensee a permit or license that—

(i) Allows the transferee to possess or acquire a handgun;

(ii) Was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(iii) The law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of Federal, State, or local law;

(3) The law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under this part, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(4) The handgun is subject to the provisions of the National Firearms Act and has been approved for transfer under 27 CFR part 179; or

(5) On application of the licensee, in accordance with the provisions of § 178.150, the Director has certified that compliance with paragraph (a) of this section is impracticable.

(6) The documents referred to in paragraphs (b) (1) and (2) of this section shall be retained in the records of the licensee in accordance with the provisions of § 178.131.

(c) *Disclosure of information.* (1) Any licensed importer, licensed manufacturer, or licensed dealer who, after the transfer of a handgun to a nonlicensee, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day (meaning a day on which State offices are open) after receipt of the report, communicate any information the licensee has concerning the transfer and the transferee, including a copy of Form 4473 required by § 178.124, to the chief law enforcement officer of the place of business of the licensee and to the chief law enforcement officer of the place of residence of the transferee. The licensee may also provide this information to the local ATF office.

(2) Any licensed importer, licensed manufacturer, or licensed dealer who receives information from a chief law enforcement officer regarding the transfer of a handgun to a nonlicensee, not otherwise available to the public, shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(Approved by the Office of Management and Budget under control number 1512–0520)

Par. 9. Section 178.126a is amended by revising the second sentence to read as follows:

§ 178.126a Reporting multiple sales or other disposition of pistols and revolvers.

* * * The report shall be prepared on Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers. Not later than the close of business on the day that the multiple sale or other disposition occurs, the licensee shall forward two copies of Form 3310.4 to the ATF office specified thereon and one copy to the State police or to the local law enforcement agency in which the sale or other disposition took place. Where the State or local law enforcement officials have notified the licensee that a particular official has been designated to receive Forms 3310.4, the licensee shall forward such forms to that designated official.

* * * * *

Par. 10. Section 178.129(b) and the parenthetical text at the end of the section are revised to read as follows:

§ 178.129 Record retention.

* * * * *

(b) *Firearms transaction record and statement of intent to obtain a handgun.* Licensees shall retain each Form 4473 and Form 4473(LV) for a period of not less than 20 years after the date of sale or disposition. Licensees shall retain each Form 5300.35 for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer.

* * * * *

(Paragraph (b) approved by the Office of Management and Budget under control number 1512–0520; all other recordkeeping approved by the Office of Management and Budget under control number 1512–0129.)

Par. 11. Sections 178.130 and 178.131 are added to Subpart H to read as follows:

§ 178.130 Statement of intent to obtain a handgun after February 27, 1994, and before November 30, 1998.

(a)(1) Except as provided in §§ 178.102(b) and 178.131, a licensed importer, licensed manufacturer, or licensed dealer shall not sell, deliver, or transfer a handgun unless the licensee has received from the transferee a statement of intent to obtain a handgun on Form 5300.35 in duplicate. The statement shall contain the transferee's name, address, and date of birth. The transferee must date and execute the sworn statement contained on the form showing that the transferee is not under indictment for a crime punishable by imprisonment for a term exceeding 1 year; has not been convicted in any court of such a crime; is not a fugitive from justice; is not an unlawful user of or addicted to any controlled substance; has not been adjudicated as a mental defective or been committed to a mental institution; is not an alien who is illegally or unlawfully in the United States; has not been discharged from the Armed Forces under dishonorable conditions; and is not a person who, having been a citizen of the United States, has renounced such citizenship.

(2) In order to facilitate the transfer of a handgun and enable the chief law enforcement officer to verify the identity of the person acquiring the handgun, Form 5300.35 requests certain additional optional information. This information includes the social security number, height, weight, sex, and place of birth of the transferee. Such information may help avoid the possibility of the transferee being misidentified as a felon or other prohibited person.

(b) Upon receipt of Form 5300.35 from the transferee, the licensee shall:

(1) Verify the identity of the transferee by examining the identification document presented and note on Form 5300.35 the type of identification used; and

(2) Complete Form 5300.35 to show that notice of the transferee's statement of intent to obtain a handgun and a copy of the form have been provided to the chief law enforcement officer in compliance with § 178.102(a).

(c) The licensee shall retain the original Form 5300.35 as part of the records required to be kept under this subpart. If the sale, delivery, or transfer of the handgun to the transferee is made, Form 5300.35 shall be attached to the firearms transaction record, Form 4473, executed upon delivery of the handgun as provided in § 178.124. If the sale, delivery, or transfer is not made, the licensee shall retain Form 5300.35 as part of the records required to be kept under this subpart. Forms 5300.35 with respect to which a sale, delivery, or transfer did not take place shall be retained in alphabetical (by name of transferee) or chronological (by date of transferee's sworn statement) order.

(d) The requirements of this section shall be in addition to any other recordkeeping requirements contained in this part.

(e) A licensee may obtain, upon request, an emergency supply of Forms 5300.35 from any regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512–0520)

§ 178.131 Handgun transactions not subject to the waiting period.

(a)(1) A licensed importer, licensed manufacturer, or licensed dealer whose sale, delivery, or transfer of a handgun is made pursuant to the alternative provisions of § 178.102(b) and is not subject to the waiting period prescribed by § 178.102(a) shall maintain the records required by this paragraph (a).

(2) If the transfer is pursuant to a written statement of the chief law enforcement officer in accordance with § 178.102(b)(1), the licensee shall retain such statement and attach it to the firearms transaction record, Form 4473, executed upon delivery of the handgun.

(3) If the transfer is pursuant to a permit or license in accordance with § 178.102(b)(2), the licensee shall retain a copy of such permit or license and attach it to the firearms transaction record, Form 4473, executed upon delivery of the handgun.

(4) If the transfer is pursuant to a verification of eligibility to possess a handgun (e.g., an instant record check) by a government official in accordance with § 178.102(b)(3), the licensee shall attach to the firearms transaction record, Form 4473, executed upon delivery of the handgun, a statement showing the date of verification, any identifying number assigned to the transaction by the official, and the name, location, and title of the official.

(5) If the transfer is pursuant to a certification by ATF in accordance with §§ 178.102(b)(5) and 178.150, the licensee shall maintain the certification as part of the records required to be kept under this subpart and for the period prescribed for the retention of Form 5300.35 in § 178.129(b).

(b) The requirements of this section shall be in addition to any other recordkeeping requirements contained in this part.

(Approved by the Office of Management and Budget under control number 1512–0520)

§ 178.150 [Redesignated as § 178.151.]

Par. 12. Section 178.150 of Subpart I is redesignated as § 178.151, and new § 178.150 is added to read as follows:

§ 178.150 Alternative to handgun waiting period in certain geographical locations.

(a) The provisions of § 178.102(b)(5) shall be applicable when the Director has certified that compliance with the waiting period provisions of § 178.102(a) is impracticable because:

(1) The ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(2) The business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(3) There is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(b) A licensee who desires to obtain a certification under this section shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain information sufficient for the Director to make such certification. Such information shall include statistical data, official reports, or other statements of government agencies pertaining to the ratio of law enforcement officers to the number of square miles of land area of a State and statements of government agencies and private utility companies regarding the absence of telecommunications facilities in the geographical area in which the licensee's business premises are located.

Signed: January 21, 1994.

Daniel R. Black,

Acting Director.

Approved: January 27, 1994.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 94–3227 Filed 2–11–94; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[Notice No. 789; (93F–057P)]

RIN: 1512–AB23

Implementation of Public Law 103–159, Including the Brady Handgun Violence Prevention Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rulemaking cross referenced to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing temporary regulations regarding the implementation of Public Law 103–159, including the Brady Handgun Violence Prevention Act, enacted November 30, 1993. These regulations implement the law by imposing a 5-day waiting period before a Federally licensed firearms importer, manufacturer, or dealer may lawfully transfer a handgun to a nonlicensed individual. Regulations are also prescribed with regard to reporting requirements for multiple handgun sales, labeling of packages containing a firearm, theft of firearms from firearms licensees, and increased license fees for dealers in firearms. The temporary regulations also serve as the text of this notice of proposed rulemaking for final regulations.

DATES: Written comments must be received on or before May 16, 1994.

ADDRESSES: Send written comments to: Chief, Revenue Programs Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; ATTN: Notice No. 789.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Revenue Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866, because the economic effects flow directly from the underlying statute and not from this notice of proposed rulemaking. Accordingly, this proposal is not subject to the analysis required by this Executive order.

Regulatory Flexibility Act

It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute.

Paperwork Reduction Act

The collection of information contained in this notice has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project 1512–0520, Washington, DC 20503, with copies to the Chief, Information Programs Branch, room 3110, Bureau of Alcohol, Tobacco, and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

The collection of information in this proposed regulation is in 27 CFR 178.130. This information is required by the Bureau of Alcohol, Tobacco and Firearms to comply with the provisions of Public Law 103–159 (107 Stat. 1536). This information will be used to prevent the purchase of handguns by convicted felons and other persons who are prohibited by law from receiving or possessing firearms, which is the purpose of Public Law 103–159. The likely respondents and recordkeepers are individuals and small businesses. Estimated total annual reporting and recordkeeping burden: 516,750 hours. Estimated number of respondents and recordkeepers: 8,213,450. Estimated annual frequency of responses: on occasion.

Public Participation

ATF requests comments on the temporary regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

The temporary regulations in this issue of the **Federal Register** amend the regulations in 27 CFR part 178. For the text of the temporary regulations, see T.D. ATF–354 published in the Rules and Regulations section of this issue of the **Federal Register**.

Drafting Information

The author of this document is James P. Ficaretta, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

Signed: January 21, 1994.

Daniel R. Black,

Acting Director.

Approved: January 27, 1994.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 94–3226 Filed 2–11–94; 8:45 am]

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Divider Title: **3**

Form Approved: OMB No. 1512-0520 (1/31/95)

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
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.		
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.)		
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?		
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

INSTRUCTIONS FOR ATF F 5300.35

NOTICE

The Brady Handgun Violence Prevention Act is effective on February 28, 1994, and imposes a 5-day waiting period on the transfer of a handgun(s).

PRIVACY ACT

Disclosure of the individual's social security number is voluntary. Under 18 U.S.C. 923(a), ATF has the authority to solicit this information. The number may be used to verify the individual's identity.

WARNING

Any seller who knowingly transfers a handgun(s) to any person prohibited from receiving or possessing any firearm violates the law even though the seller has met the waiting period requirements.

INSTRUCTIONS TO TRANSFEREE (BUYER)

1. The buyer must personally complete Section A of the form and certify (sign) that the answers are true and correct.

   If the buyer is unable to read and/or write, the answers may be written by other persons, excluding the licensee. Two persons (other than the dealer) will then sign as witnesses to the buyer's answers and signature.

2. The buyer shall print the responses to Section A, Items 1, 2, 3, 4, and 5.

3. The buyer must provide a valid government-issued photo identification to the seller that contains the buyer's name, date of birth, and residence address.

INSTRUCTIONS TO TRANSFEROR (SELLER)

NOTE: This form need not be completed if the proposed transfer of a handgun(s) is subject to any of the exceptions contained in 27 CFR 178.

1. You may use Forms 5300.35 supplied by ATF or use photocopies of such forms. If photocopies are used, the photocopies must include the instructions.

2. The Federal 5-day waiting period is inapplicable and this form need not be completed is the transfer if subject to any of the alternatives in 27 CFR 178.102(b). Generally, these include transfers (a) pursuant to an official's written statement of the buyer's need for a handgun based upon a threat to life; (b) to buyers having a State permit whose records have been checked and an official has verified eligibility to possess firearms; (c) of National Firearms Act weapons approved by ATF; and (d) certified by ATF as exempt because compliance with the waiting period is impractical. See section 178.102(b) for a detailed explanation of these alternatives.

   If the transfer is subject to an alternative, the seller must obtain the supporting documentation required by section 178.131. A handgun(s) must not be transferred to any buyer who fails to provide such information."

3. If the proposed transfer of a handgun(s) is subject to the 5-day waiting period, the buyer must complete Section A, and the seller must complete Section B.

4. The seller must:

   (a) ensure that the buyer completes Section A and signs and dates the statement;

   (b) if the buyer's name is illegible, print the buyer's name above the name of the buyer; and

   (c) establish the identity of the buyer by requiring the buyer to provide a valid government-issued photo identification bearing the buyer's name, date of birth, and residence address.

5. Within 1 day after the buyer furnishes the statement, the seller to provide actual notice of the contents of this statement to the Chief Law Enforcement Officer of the place of residence of the buyer. (See Item 8 on the form.)

6. Within 1 day after the buyer furnishes the statement, the seller shall sign and date the form in Item 11 and transmit a copy of this form, including its instructions to the Chief Law Enforcement Officer of the place of residence of the buyer. See Item 9 on the form.)

7. The seller shall delay delivery of the handgun(s) until 5 business days (meaning days on which State Offices are open) have elapsed from the actual date the seller has furnished notice of the contents of the statement to the Chief Law Enforcement Officer. (Unless, within the 5-day period, the seller has received notice from the Chief Law Enforcement Officer of the place of residence of the buyer that the buyer's receipt or possession of the handgun(s) would not violate the law.)

8. After the seller has provided actual notice of the contents of the buyer's intent to obtain a handgun(s) to the Chief Law Enforcement Officer, this form must be maintained as part of the seller's permanent records, regardless of whether the transfer occurs.

9. If prior to the expiration of the 5-day waiting period or prior to actual delivery of the handgun(s) to the buyer, the seller receives notification from the Chief Law Enforcement Officer that the officer has reason to believe that the possession or receipt of a handgun by the buyer would violate the law, the seller is **prohibited** from transferring the handgun(s) to the buyer. Include in Item 10 any agency number or other identifier assigned by the Chief Law Enforcement Officer to the transaction.

10. Any seller, who after the transfer of a handgun(s) receives a report from a Chief Law Enforcement Officer containing information that the receipt or possession of the handgun(s) by the buyer would violate the law, shall within 1 business day communicate all information that the seller has about the transfer and the buyer to a) the Chief Law Enforcement Officer of the place of business of the seller and b) the Chief Law Enforcement Officer of the place of residence of the buyer. The seller may also provide this information to the local ATF office.

11. After the seller has provided a copy of this form to the Chief Law Enforcement Officer, any subsequent proposal(s) made by the same buyer to obtain a handgun(s) require the execution of a new ATF Form 5300.35.

12. After the seller has completed the handgun(s) transaction, the original ATF Form 5300.35 becomes part of the seller's permanent records. ATF Form 5300.35 must be attached to the ATF Form 4473 that reflects the handgun transfer.

INSTRUCTIONS TO CHIEF LAW ENFORCEMENT OFFICIALS

1. This form contains the statement of intent to obtain a handgun(s) by the person identified in Section A. The seller may not lawfully deliver the handgun(s) to the buyer until 5 business days have elapsed from the date the seller furnished actual notice of the contents of this statement to you, or you have notified the seller within the 5-day period that you have no information that the buyer's receipt or possession of the handgun(s) would violate Federal, State, or local law.

2. You are required to make a reasonable effort to ascertain within the 5-day period whether the buyer's receipt or possession of a handgun(s) would violate the law, including research in whatever State and local recordkeeping systems are available to you, and in the National Crime Information Center, to include a wanted person check and the Interstate Identification Index. For your information, the receipt or possession of a handgun by a person who falls within any category of persons listed in Section A, Item 5, would violate Federal law.

3. At the earliest possible time, you should advise the seller you have reason to believe that if the buyer's receipt or possession of the handgun(s) would violate the law. Unless you notify the seller that the buyer's receipt or possession of a handgun(s) would violate the law, the seller may deliver the handgun(s) to the buyer. Notification either during or after the 5-day

(Continued on reverse)

waiting period may prevent the unlawful receipt of a handgun(s). You are not required to notify the seller of the circumstances upon which your advice was based.

4. Unless you determine that the buyer's receipt or possession of the handgun(s) may violate the law, you shall, within 20 business days from the date of the buyer's statement, destroy this form, any record containing information derived from this form, and any record created as a result of the notice of the contents of this form.

5. If you determine that the buyer is ineligible to receive or possess a handgun(s), you should maintain this form. The buyer may request that you provide the reason(s) for such determination, and you must provide such reason(s) to the buyer within 20 business days after the receipt of the request. Your retention of this form may assist you in responding to such inquiries.

DEFINITIONS

1. The term "Chief Law Enforcement Officer" means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

2. The term "handgun" means (a) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and (b) any combination of parts from which a firearm described by (a) can be assembled.

Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1980. The purpose of the information is to determine the eligibility of the transferee (buyer) to receive firearms under Federal law. The information is subject to inspection by ATF officers. The information on this form is required by 18 U.S.C. sections 922 and 923.

The estimated average burden associated with this collection is 6 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Information Programs Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, and the Office of Management and Budget, Paperwork Reduction Project (1512-0520), Washington, DC 20503.

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Divider Title: **4**

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

DIRECTOR

OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES NOT SUBJECT TO THE WAITING PERIOD PROVISIONS OF THE BRADY LAW:

The purpose of this letter is to advise you of your responsibilities under Public Law 103-159, commonly referred to as the "Brady Law."

Beginning on February 28, 1994, the Brady Law imposes a 5-day waiting period on the sale of handguns in States that do not already require a prior background check. ATF has made a preliminary determination that your State has a system that already subjects handgun purchasers to a prior background check. Therefore, sales made in compliance with the existing permit or background check system in your State will not be subject to the waiting period procedure. Regulations will, however, require that you maintain records to demonstrate that a sale was made under the State system. If the sale is made to a handgun permit holder, the permit must have been issued within 5 years.

Additionally, the Brady law :

- requires you to furnish multiple sales reports to the State or local law enforcement agency of the jurisdiction in which the sale or other disposition took place (Use the enclosed order form to request a supply of the revised ATF Form 3310.4. In the interim, you are to forward the "Post of Duty"copy of the current ATF Form 3310.4 to the appropriate State or local law enforcement agency.) ;

- requires you to sign for the receipt of firearms that have moved in interstate commerce by common carrier, i.e., UPS, Federal Express, etc.;

- makes it a Federal crime for any person to steal a firearm from your business inventory;

  (NOTE: Report any theft of firearms to your local ATF office.)

- increases the licensing fee for all firearms dealers, including pawnbrokers, to $200 for 3 years, except that the fee for renewal of a valid license is $90 for 3 years.

Regulations explaining the requirements of the Brady law will be published prior to February 28, 1994.

For your information, effective March 1, 1994, out-of-business firearms records are to be submitted to the following address:

ATF Firearms Out-of-Business Records Center
Spring Mills Office Park
2020 Stonewall Jackson Drive
Falling Waters, West Virginia 25419

We have enclosed a list of questions and answers addressing various aspects of the Act that should be of additional assistance to you. If you have any questions concerning these new requirements, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw
Director

Enclosures

DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

February 24, 1994

BRIEFING PAPER FROM THE OFFICE OF THE ASSISTANT SECRETARY (ENFORCEMENT) DEPARTMENT OF THE TREASURY

Brady Implementation

* After seven years of hearings and debate in the Congress, the Brady Handgun Violence Prevention Act was passed and promptly signed into law by President Clinton on November 30, 1993. It is the most significant gun law curtailing criminal access to handguns since the 1968 Gun Control Act.

* Each year nearly 7.5 million firearms are sold at retail in the United States.

* Until February 28, 1994, the effective date of the Brady Act, those guns have been sold primarily on the honor system. Although the purchaser had to sign a statement attesting to the fact that s/he was not legally prohibited from purchasing a firearm, there was no nationwide system to permit law enforcement to verify that statement.

* On February 28, 1994, every retail sale of a handgun will be preceded by a background check. Honest, law abiding citizens will continue to be able to purchase firearms. Criminals will not.

* According to a Justice Department survey of prison inmates, nearly 30 percent had purchased their firearms from a licensed gun dealer.

* States that have had statewide systems of background checks tell us that they reject between 2 and 6 percent of the purchase requests they receive.

* Brady stops convicted criminals from arming themselves out of the yellow pages, and it does far more:

  - Gun runners have traditionally gone from states where the police check on buyers to states where law enforcement does not do background checks. Under Brady, there will be no such states.
  - Under Brady, law enforcement can learn that a violent criminal suspect is shopping for a new handgun.
  - Under Brady, law enforcement will know if a buyer is going from store to store to buy one handgun at a time to avoid filing the multiple sales report -- a possible indicator of illegal street sales.

Title I: 5-Day Waiting Period and Background Check -- Effective on February 28, 1994

* The mechanics of Brady are as follows: a handgun purchaser must fill out a form stating that s/he intends to purchase a handgun and is not in one of the prohibited categories. The gun dealer must transmit the form to the Chief Law Enforcement Officer (CLEO) within 24 hours. The CLEO is required to make a "reasonable effort" to determine whether the prospective purchaser is legally prohibited from purchasing a firearm. If the CLEO has not informed the dealer that the sale cannot go forward within five working days, the sale may be completed.

* Regulations for implementing the 5-day waiting period and background check for the purchase of *handguns* were developed by the Treasury, through the Bureau of Alcohol, Tobacco, and Firearms. The regulations were printed in the Federal Register on February 14, two weeks before the deadline, to ensure that all affected parties had adequate opportunity to learn and understand their new responsibilities. There is a 90-day comment period, after which final regulations will be issued.

* In addition to the regulations, several informational mass mailings have been sent to all 284,000 current Federal Firearms Licensees and to thousands of state and local law enforcement offices around the country. ATF has conducted numerous meetings with state and local law enforcement officials to advise them of their responsibilities and to tailor the implementation process to the needs of each state.

* The Justice Department has held several meetings and conferences concerning the information to be accessed in the background checks required by Brady. The Attorney General has designated the National Crime Information Center (NCIC) as the national system to be used in the criminal history background check.

* The law allows for several alternatives to the Brady background check (commonly referred to as State exemptions). ATF has analyzed state laws and regulations to determine which states meet the following alternative criteria:

    - if there is a State system in place which requires a permit to purchase a handgun. The permit cannot be issued more than 5 years earlier and must have been issued following an adequate background check; or

    - if the state already has an adequate background check system in place.

  Thirty-four states and territories will be required to implement Brady. (See attached list.) Of the states which will be required to implement Brady as of February 28, four are considering new legislation which will qualify them as alternative states. They include Colorado, North Carolina, Utah and Washington.

* In addition, certain transactions may be exempt from Brady: (1) if it has been

* In addition, certain transactions may be exempt from Brady: (1) if it has been certified impracticable because of remote geographic location and a lack of telecommunications facilities; or (2) if the purchaser has received a waiver from law enforcement due to threat(s) against the lives of the purchaser or his/her family.

* The burden of implementing the background check rests on the local "Chief Law Enforcement Officer" (CLEO). The CLEO will vary from jurisdiction to jurisdiction. CLEO is statutorily defined as "chief of police, or sheriff, or equivalent officer, or their designee" -- a definition we interpret to allow state and local governments the flexibility to develop the most effective and efficient background check system which is appropriate for their areas.

* The law neither provides for, nor prohibits, the CLEOs from defraying their costs with some type of user fee. ATF has provided to the states model fee structures utilized in states that are successfully implementing alternatives to Brady.

* The 5-day waiting period will sunset in 5 years, at which time a new automated "Instant Check" system is to be in place. The Department of Justice is responsible for developing the automated data system to be accessed in the Instant Check. This system will be used for the purchase of all firearms, not just handguns.

* Treasury and Justice are working closely together on all aspects of Brady implementation. Both Departments have designated Brady coordinators.

Titles II and III: Other Provisions
ATF has sent out notification and is implementing the following provisions:

* Multiple sales reports of firearms purchases are now required to be disseminated to state and/or local law enforcement.

* Common carriers are prohibited from labeling packages or other containers of firearms.

* Common carriers are required to obtain written receipt for imports or interstate deliveries of firearms.

* It is now a federal felony to steal a firearm from a licensee (dealer, manufacturer or importer).

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

LIST OF STATES SUBJECT TO THE FEDERAL FIVE DAY WAITING PERIOD OR STATES HAVING ALTERNATIVE SYSTEMS AS DEFINED IN THE LAW

As of 2-23-94

STATES WHICH MUST COMPLY WITH THE FEDERAL 5-DAY WAITING PERIOD

Alabama
Alaska
Arizona
Arkansas
Colorado *
Georgia **
Idaho
Kansas
Kentucky
Louisiana
Maine
Marianas Islands
Minnesota
Mississippi **
Montana
Nevada
New Hampshire
New Mexico
North Carolina *
North Dakota **
Ohio
Oklahoma
Pennsylvania **
Puerto Rico
Rhode Island
South Carolina
South Dakota **
Tennessee
Texas
Utah *
Vermont
Washington State *
West Virginia
Wyoming

* Legislation pending to qualify as an "alternate state".

** In these States, the Federal 5-day waiting period does not apply to transfers of handguns to persons holding valid permits/licenses to carry handguns issued within 5 years of the proposed purchase.

STATES WHICH MEET ONE OF THE ALTERNATIVES TO THE FEDERAL 5-DAY WAITING PERIOD

California	–	Permit or other approval type system
Connecticut	–	Permit or other approval type system
Delaware	–	"Instant check"
Florida	–	"Instant check"
Guam	–	Permit or other approval type system
Hawaii	–	Permit or other approval-type system
Illinois	–	Permit and "instant check"
Indiana	–	Permit or other approval-type system
Iowa	–	Permit or other approval-type system
Maryland	–	Permit or other approval-type system
Massachusetts	–	Permit or other approval-type system
Michigan	–	Permit or other approval-type system
Missouri	–	Permit or other approval-type system
Nebraska	–	Permit or other approval-type system
New Jersey	–	Permit or other approval-type system
New York	–	Permit or other approval-type system
Oregon	–	Permit or other approval-type system
Wisconsin	–	"Instant check"
Virginia	–	"Instant check"
Virgin Islands	–	Permit or other approval type system

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DIRECTOR

OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES SUBJECT TO THE WAITING PERIOD PROVISIONS OF THE BRADY LAW:

The purpose of this letter is to advise you of your responsibilities under Public Law 103-159, commonly referred to as the "Brady Law."

Beginning on February 28, 1994, the Brady Law imposes a 5-day waiting period on the sale of a handgun in States that do not already require a prior background check. ATF has made a preliminary determination that your State does not currently impose a requirement that handgun purchasers must undergo a background check. Therefore, your sales to non-licensees will be subject to the waiting period procedures.

In brief, before you sell a handgun to anyone who is not an FFL you must:

1. **have the purchaser complete and sign ATF Form 5300.35, Statement Of Intent To Obtain A Handgun (copies of this form will be provided to you prior to the effective date);**

2. **examine the purchaser's photo identification, and verify that it identifies the purchaser and agrees with the information on the ATF Form 5300.35;**

3. **within one day after the purchaser completes the form, notify the Chief Law Enforcement Officer where the purchaser lives of the information on ATF Form 5300.35;**

4. **within one day after the purchaser completes the form, send a copy of it to the Chief Law Enforcement Officer;**

5. **wait 5 business days (days on which State offices are open) from the date the Chief Law Enforcement Officer received notice of the sale before transferring the handgun.**

If you are advised by the officer that he has reason to believe the purchaser is prohibited from possessing the handgun, the transfer must not be made.

The law defines Chief Law Enforcement Officer to mean the chief of police, sheriff or equivalent officer or designee. In some jurisdictions there may be more than one official that meets this definition. You should contact any one of the listed officials and follow their advice as to which agency you should contact and what procedures you should follow in providing the required notice.

Additionally, the Brady Law:

- requires you to furnish multiple sales reports to the State or local law enforcement agency of the jurisdiction in which the sale or other disposition took place (Use the enclosed order form to request a supply of the revised ATF Form 3310.4. In the interim, you are to forward the "Post of Duty" copy of the current ATF Form 3310.4 to the appropriate State or local law enforcement agency);

- requires you to sign for the receipt of firearms that have moved in interstate commerce by common carrier, i.e., UPS, Federal Express, etc.;

- makes it a Federal crime for any person to steal a firearm from your business inventory;

  (NOTE: Report any theft of firearms to your local ATF office.)

- increases the licensing fee for all firearms dealers, including pawnbrokers, to $200 for 3 years, except that the fee for renewal of a valid license is $90 for 3 years.

Regulations explaining the requirements of the Brady law will be published prior to February 28, 1994.

For your information, effective March 1, 1994, out-of-business firearms records are to be submitted to the following address:

ATF Firearms Out-of-Business Records Center
Spring Mills Office Park
2020 Stonewall Jackson Drive
Falling Waters, West Virginia 25419

We have enclosed a list of questions and answers addressing various aspects of the Act that should be of additional assistance to you. If you have any questions concerning these new requirements, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw

John W. Magaw
Director

Enclosures