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DIRECTOR

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

JAN 21 1994

OPEN LETTER TO STATE AND LOCAL
LAW ENFORCEMENT OFFICIALS

The purpose of this letter is to disseminate information to all State and local law enforcement agencies regarding Public Law 103-159, 107 Stat. 1536 (hereafter, "the Act"), signed by the President on November 30, 1993. It is also intended to provide law enforcement agencies with the Bureau of Alcohol, Tobacco and Firearms' (ATF) interpretation of the Act so that you will be better able to fulfill the requirements the Act imposes on "Chief Law Enforcement Officers" (CLEO) throughout the Nation. ATF places a high priority on ensuring that you are provided with accurate and reliable information regarding this matter.

First, we hope that you will undertake a thorough reading of the Act, a copy of which we have enclosed with this letter. Your examination will reveal that the Act contains three separate sections; Title I, Brady Handgun Violence Protection Act (hereafter, "Brady"), commonly referred to as the Brady Bill, is effective February 28, 1994; Title II, Multiple Firearm Purchases to State and Local Police, was effective November 30, 1993; and Title III, Federal Firearms License Reform Act of 1993, was also effective November 30, 1993.

OVERVIEW

By way of background, the Act amended the Gun Control Act of 1968 (GCA). Consequently, ATF is the Federal agency responsible for implementing the Act, except for those functions expressly charged to the U.S. Attorney General. You should be aware that all of the Brady provisions we will be covering in this letter are interim provisions. The permanent provisions of Brady, establishing a national instant criminal background system, are initially the responsibility of the Department of Justice (DOJ). We will provide a more detailed view of the Attorney General's functions later in this letter.

Since 1968, the GCA has required that all manufacturers, importers, dealers, and pawnbrokers in firearms have to be licensed by ATF. Additionally, under the GCA, Federal firearms licensees (FFL) can generally sell firearms to residents of their own State, must abide by State and local laws in making their sales, and must keep detailed records of all firearms transactions. Required records and firearms inventories are subject to ATF inspections. In addition, FFLs are prohibited from selling firearms to anyone they know or have reasonable cause to believe:

- is under indictment for or convicted of a felony
- is a fugitive from justice
- is an unlawful user of or addicted to controlled substances
- has been adjudicated a mental defective or committed to a mental institution
- is an illegal alien
- has a dishonorable discharge or
- has renounced his citizenship

Until Brady, the only Federal requirement aimed at preventing a felon or other prohibited person from purchasing a firearm was that purchasers complete a Federal form, ATF F 4473, on which they would certify to their name, residence, and that they do not fall within one of the above categories of persons prohibited from receiving a firearm.

Brady has added an additional means of screening out prohibited purchasers by imposing a 5 business day waiting period during which time the dealer is required to notify the CLEO of the purchaser's residence of the proposed sale of a handgun. You should also be aware that Brady's 5-day waiting period applies to unlicensed individuals who are attempting to obtain a handgun(s).

ATF is closely coordinating our implementation of Brady with the DOJ. Under Brady, the DOJ is responsible for the development of a national instant criminal background check system that will replace the 5-day waiting period system within 5 years. DOJ is also responsible for designating the national system of records that the CLEO should check when making a determination about the purchaser's eligibility to

acquire a handgun. The U.S. Attorney General has designated the National Crime Information Center (NCIC), including a wanted person check and the Interstate Identification Index. For your convenience, we have enclosed a draft copy of ATF F 5300.35 (Interim) that ATF will use for the Brady statement. If you will examine the instructions part of the form, you will see a reference to the NCIC in item 2 under the "Instructions to Chief Law Enforcement Officers" caption.

The contents of the buyer's statement of intent to obtain a handgun is specifically limited by Brady. The only identifying information we can require the buyer to provide to the FFL is the buyer's name, address, and date of birth. Obviously, it is often not possible to conduct a reasonably accurate criminal background check with only this information. While we cannot insist on more information, we are asking the buyers, on ATF F 5300.35 (see enclosure), to provide their social security number, place of birth, and other descriptive information on an optional basis. In asking for this information, we explain that it is in the buyer's self-interest to provide the additional information to "help avoid the possibility of being misidentified as a felon or other prohibited person."

Due to time constraints we faced in getting a form designed, approved, printed, and distributed prior to February 28, we were not able to fully consult with State and local law enforcement officials in our initial form design. However, we believe that it is essential that the form is designed in such a way as to meet the CLEO's needs. Consequently, the initial form is being introduced as a temporary form, with a limited printing. Before we finalize the form, we want the comments and recommendations of the State and local officials who will be using it.

TITLE I - BRADY

The greatest immediate task before us is to implement the waiting period aspect of Brady by February 28, 1994. Prior to that date, ATF will issue temporary regulations telling dealers how to comply with the new law, and ATF will also distribute the Brady statement form, ATF F 5300.35. In the interim, we will be working with you to ensure State and local law enforcement officials understand the law by ensuring that you know your responsibilities, liabilities, and options.

As you begin to thoroughly examine the contents of Brady, you should keep in mind its primary intent is to provide law enforcement an opportunity to screen out unlawful purchasers. Our goal is to see that Brady is as effective as possible at keeping handguns out of the wrong hands.

We believe that a typical example of a handgun sale, as envisioned under Brady, would be:

An individual goes to an FFL and fills out an ATF F 5300.35 (Statement of Intent To Obtain A Handgun) and certifies that he/she is not a prohibited person. The FFL is required to complete the form and verify the identity of the person by examining a valid government-issued identification document that contains the individual's name, address, date of birth, and photograph. Within 1 day, the FFL contacts the individual's CLEO and provides the name, address, and date of birth to the CLEO. Also, within 1 day, the FFL forwards a copy of ATF F 5300.35 to the CLEO. The FFL must then wait 5 business days to provide the CLEO the opportunity to respond. Upon being notified, and within the 5 days, the CLEO makes a "reasonable effort" to determine whether the individual is a prohibited person under the law.

The CLEO makes a determination based upon information available to him/her. The CLEO finds nothing that would give him/her "reason to believe" that the individual is a prohibited person and, although not required to do so, the CLEO contacts the FFL and tells the FFL it is okay to sell the handgun.

MAJOR ISSUES

Under Brady, there are several major issues that we face as we attempt to implement its requirements, such as:

- What States have existing laws that would qualify as alternatives to the 5-day waiting period?
- Who are the CLEOs for purposes of the criminal record checking requirements?
- What form of notice must the FFL make to the CLEO?

- What is a "reasonable effort?"

ATF's nearly 25 years of previous experience with the Federal firearms laws under the GCA provides us with a solid foundation to correctly interpret many of these issues, and, coupled with the input and assistance from the law enforcement community, we are confident that these and other issues will soon be resolved.

ALTERNATIVES TO BRADY

One major aspect of Brady is that there are a series of alternatives to the notice and 5-day waiting period requirements. Some of these alternatives will essentially make those Brady requirements inapplicable in many States. ATF's Office of Chief Counsel has completed a study of all States to determine which States currently have laws that would qualify as alternatives to the 5-day waiting period requirements. For your convenience, we have enclosed a list of our preliminary findings.

The five alternatives to the 5-day waiting period generally are:

1. Threat to life - Allows the transferee (buyer) to present the FFL a written statement from the buyer's CLEO stating that the buyer needs a handgun because the buyer or his/her household member has received a threat on his/her life. The written statement must be dated within the 10-day period of the buyer's most recent attempt to obtain a handgun. An example of this transaction would typically be a situation where the buyer receives a threat against his/her life and goes to an FFL expecting to immediately obtain a handgun for personal protection. (This would be the beginning of the above 10-day period.) After being told about the 5-day waiting period by the FFL, the buyer contacts his/her CLEO and requests the CLEO to issue such letter. If the CLEO agrees with the buyer's request, the buyer returns to the FFL, presents the written statement, and purchases the handgun. You should be advised that Brady does not compel the CLEO to issue such letter.

ATF does not anticipate very many of these type of transactions occurring. However, because of the potential impact of this type of transaction, you should bear this alternative in mind when deciding who the designated CLEOs may be in your State.

2. Purchase permits - A buyer goes to an FFL and presents a State permit to obtain a handgun that was issued not more than 5 years earlier. The permit must be from the State where the transfer of the handgun is to take place. The permit must also have been issued only after an authorized government official has verified that available information does not indicate that the buyer's possession of a handgun would violate the law.

ATF believes that this alternative provision will apply in the alternative States listed on the enclosed list of States. We should point out that this section of Brady does not specify what information must be checked by the authorized government official in verifying the buyer's status to possess a handgun. ATF believes that a State meets the requirements of this section of Brady if the State law requires, that prior to the issuance of the permit, an authorized government official has verified that the "available information" does not indicate that possession by the buyer (transferee) would violate the law.

3. Instant check systems - A buyer goes to an FFL to purchase a handgun in a State that has an instant check system that requires the FFL to verify (usually while the buyer waits) the buyer's eligibility to possess a handgun by contacting an authorized government official prior to completing the transaction. Such systems are generally designed to work through computer terminals or "900 number" telephone-links from the FFL to a central point within the State where the buyer's background check is made.

ATF believes that this alternate provision of Brady will apply in the alternative States with instant check systems that are listed on the enclosed list of States. As in the case of purchaser permits, this section of Brady does not specify what information the authorized government official must check prior to notifying the FFL of the buyer's status to possess a handgun. It is ATF's position that States meet the requirements of this section of Brady if the law of the State requires that, prior to the transfer of a handgun, an authorized government official has verified that the "available information" does not indicate that possession by the buyer (transferee) would violate the law.

4. Secretary approval - Some handguns are subject to transfer approval under section 5812 of the Internal Revenue Code of 1986. For example, smooth bore pistols or revolvers. These firearms are required to be registered with ATF, and transfers of these firearms require the approval of ATF. Strict background checks are made on any individual who desires to receive approval to possess this type of firearm. Only a relatively small number of FFLs are qualified to handle firearms transactions of this kind. Additionally, a transfer tax is levied and paid before any transfer to an individual is approved by ATF.
5. Impractical transactions - There may be some areas of the Nation where the FFL is located in a place that is extremely remote in relation to the CLEO and the ratio of CLEOs in the State to number of square miles of land area does not exceed .0025. This would also need to be an area where there are no telecommunications systems. If an FFL's business location meets these requirements, he/she can request that ATF certify that the FFL need not meet the requirement to notify the CLEO of the buyer's intent to obtain a handgun because it is impractical.

Before ATF will issue any certification to an FFL stating that because his/her business location is "extremely remote" it would be "impractical" for him/her to comply with the notification of the CLEO, we will require additional data. ATF regulations will require that the FFL provide sufficient written data to support all of the criteria that would make his/her location qualify.

The following captions, CLEO, FORM OF NOTICE TO CLEO, and REASONABLE EFFORT, will cover information that will be critical to law enforcement officials in those States that will be subject to the 5-day waiting period requirements of Brady.

CLEO

On February 28, 1994, in States and for sales that are not alternatives to Brady, FFLs will begin contacting the CLEO for the jurisdiction where the buyer lives in order to provide the CLEO with certain information identifying a potential buyer. The law defines the term "chief law enforcement officer" to mean, "the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual." While the law

itself is broad enough, in some cases, to give the FFL more than one official to contact, we believe the law will clearly permit law enforcement officials to agree that, within a given jurisdiction, one agency will serve the role as CLEO. It is essential that State and local law enforcement officials agree, within a given jurisdiction, that one agency will serve the role of chief law enforcement officer, for purposes of which agency should receive the notice of handgun sales. Letters have been sent to all State Attorney Generals advising them of this key issue.

In the coming weeks, ATF representatives from the Office of Law Enforcement, Compliance Operations, and Assistant Chief Counsel will be meeting with law enforcement officials of each State for the purpose of explaining the provisions of Brady and its effect on your jurisdiction. Initially, these meetings will be targeted for those States that are subject to the 5-day waiting period requirements of Brady, as shown on the enclosed list of States.

We urge you to work with your counterparts on the State and local level to decide who will be the CLEO for your area. Your discussions should also include consideration of the designation of the CLEO for the purposes of the "threat to life" alternative that was previously referenced and the "multiple sales reports" that are referred to later in this letter. Once you have reached a determination, ATF will be able to inform the FFLs when they begin calling us on February 28. ATF's regulations will make it clear to FFLs that they will be required to abide by instructions from State and local officials as to which agency to contact.

FORM OF NOTICE TO CLEO

Brady requires that within 1 day of the buyer's completion of the ATF F 5300.35, the FFL must "provide notice" to the CLEO of the contents of the form. If that is done orally, the FFL must also within 1 day, transmit a copy of the ATF F 5300.35 to the CLEO. The law clearly contemplates that notice of the contents of the ATF F 5300.35 will often be separate from the form being sent through the mail. Nonetheless, if the ATF F 5300.35 is faxed to the CLEO for example, both notice and transmittal of ATF F 5300.35 occur simultaneously. In any event, ATF's position is that the 5-day waiting period runs from the time the CLEO receives actual notice of the contents of the ATF F 5300.35, not from the time ATF F 5300.35 is

received by the CLEO.

While Brady permits oral notice of the contents of ATF F 5300.35, ATF does not view this as an obligation that CLEOs must set up a system to accept this information over the telephone. Just as we will require FFLs, by regulation, to comply with your designation as to which agency will serve as the CLEO, we will also require FFLs, by regulation, to abide by your instructions as to the manner in which you will accept actual notice of a buyer's attempt to obtain a handgun.

REASONABLE EFFORT

Brady requires the CLEO 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, including research in whatever State and local recordkeeping systems are available and in a national system to be designated by the Attorney General." Receipt or possession of firearms would violate the Federal law if the buyer falls in any of the categories in item 6 of ATF F 5300.35, i.e. felons, fugitives, etc. State and local laws may expand on these categories and include, for example, violent misdemeanors or habitual drunkards.

The obvious question that Brady raises is what will constitute a "reasonable effort," both in terms of an initial criminal record search and the degree of followup on searches with incomplete findings. Before we answer this question, we need to provide you with a little more background information.

In terms of the initial search, the law clearly anticipates some minimal effort to check commonly available records. It is not realistic to expect the CLEO to have available, or check, every conceivable record system that may contain information relating to categories of prohibited persons. The vast majority of persons who are prohibited from possessing a handgun are prohibited by virtue of some criminal background. Accordingly, a reasonable effort should be made to determine whether the buyer has a criminal record that would make the sale unlawful. Criminal record systems can reveal that the buyer is a fugitive, is under indictment, or has been convicted of a felony. The criminal record systems may also indicate that the buyer is possibly an unlawful user of controlled substances or has had mental health problems. In some States, centralized mental health records may be available. Since Federal prohibitions include persons

adjudicated mentally defective or who have been committed to a mental institution, these records could also be searched if accessible.

With potentially thousands of law enforcement agencies functioning as CLEOs, it is difficult to prescribe precisely what must be done in every instance. The level of research may justifiably vary among law enforcement agencies. In rural, sparsely populated counties where many handgun purchasers are personally known to the CLEO, little or no research may be necessary in many cases. In densely populated urban areas, every potential buyer might be run through the available computer records to determine whether any disqualifying information is on file. Each law enforcement agency serving as the CLEO will have to set its own standards based on its own circumstances, *i.e.*, the availability of resources, access to records, and taking into account the law enforcement priorities of the jurisdiction. The law is designed so that the law enforcement authority who is doing the check, is the one who is most likely to have to deal with the consequences of the buyer obtaining a handgun. Therefore, the CLEO of the buyer's residence has a vested interest in conducting an appropriate check and ultimately is in the best position to determine what is reasonable.

Brady does not require you to report back to the FFL with your findings on the buyer's status. However, unless the FFL hears from you, he/she can complete the sale after 5 business days have elapsed from the time the FFL gave you actual notice of the contents of the buyer's statement, as contained on ATF F 5300.35. If, during the 5 days, you obtain information that would indicate that the buyer is prohibited under Federal, State, or local law from receiving or possessing a handgun, you can choose from a number of responsible options. First, you may decide to simply notify the FFL that the transaction would be illegal, in which case the FFL would be prohibited from completing the sale. If the ineligible buyer is a fugitive, or someone you already have under investigation, you may set up a surveillance and arrest the buyer when he/she returns to pick up the handgun. You may choose to turn the matter over to another law enforcement agency that has an interest in the buyer. These options, and variations of these options, are virtually limitless and will ultimately be determined by your particular circumstances.

Now, getting back to the question of what constitutes a

"reasonable effort." To answer this question, it is necessary to examine various key elements of the GCA and the Brady amendments. As noted earlier, under the GCA, the FFL need not have definitive information that the buyer is a prohibited person. He/she is prohibited from making a sale if he/she has **"reasonable cause to believe"** that the buyer is a prohibited person. An example of this would be if you told an FFL not to sell a firearm to a person whom you knew had recently been convicted of a felony or had recently been indicted for a felony offense. Since the enactment of the GCA in 1968, this very situation has occurred many thousands of times. Brady now makes it unlawful for the FFL to sell a handgun unless 5 days have lapsed and the FFL has not received information from the CLEO that receipt or possession of the handgun by the buyer would violate the law. Brady also requires the CLEO to destroy the buyers statement (ATF F 5300.35) and any record generated from the statement within 20 days after it was made, unless the CLEO determines that a transaction would violate Federal, State, or local law. Finally, Brady provides that the CLEO shall not be liable for damages for preventing a sale or transfer of a handgun to a buyer who may lawfully receive or possess a handgun.

Since it is unlawful for an FFL to transfer a handgun if he has **"reasonable cause to believe"** the buyer is prohibited, ATF believes that this is the standard that should govern the CLEO's notification to FFLs. In other words, where you locate information that would lead you to believe that the buyer might be prohibited from acquiring a handgun, you would be justified in reporting to the FFL that you have **"reasonable cause to believe"** that the buyer is a prohibited person. However, you should make every reasonable effort to determine a disposition of a criminal charge which would be a felony. If the buyer wants to contest his/her status, you can be in the position of shifting the burden of tracking down absolute proof to the buyer. If the buyer can provide you with criminal disposition records or other documents that establish that he/she is not prohibited from receiving or possessing a handgun, you could then notify the FFL that you have withdrawn your objection to the sale.

Note: You are not required to advise the FFL of the circumstances upon which your advice was based. All you need to advise the FFL is that you have reason to believe that the buyer's possession of a handgun would/would not violate the law.

**TITLE II - REPORTS OF MULTIPLE HANDGUNS SALES
TO STATE AND LOCAL POLICE**

This section of the Act (see enclosure) amends section 923(g)(3) of the GCA to read as follows:

- (A) "Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place."
- (B) "Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph."

You should note that "the department of State police or State law enforcement agency of the State or local law enforcement agency" referred to in this section of the Act, is somewhat different than what is contained under the definition of a CLEO in Brady. You should also be advised that this section of the Act will apply to all States, not just those States that do not have acceptable alternatives to the 5-day waiting period. However, as in Brady, ATF's regulations will make it clear to FFLs that they will be required to abide by

instructions from State and local officials as to where the multiple sales reports are to be sent.

In practical terms, these amendments will result in your department being notified, through receipt of an ATF F 3310.4, anytime an FFL sells two or more handguns to any unlicensed person during any 5 consecutive business days. This new law does not require you to conduct any inquiry into the buyer's background to ascertain whether his/her receipt or possession of a firearm would be in violation of the law, nor does it contain any provision that would prohibit you from conducting such an inquiry.

ATF will be notifying all FFLs of the new requirements for multiple firearms sales reporting to State or local law enforcement agencies. We will also instruct them to use the current ATF F 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, which is identified as Copy 2-ATF Group/POD, until the amended form is printed and becomes available for their use. For your convenience, we have enclosed a draft copy of the revised ATF F 3310.4.

You may soon be receiving copies of the current ATF F 3310.4 from FFLs in your jurisdiction. You should be advised that this new statute prohibits State and local law enforcement agencies from disclosing the form or the contents thereof to any person or entity and that they shall destroy such form and any record of the contents thereof no more than 20 days from the date such form is received. The only exceptions to this requirement would be in those cases involving a purchaser who is prohibited from receiving a firearm under 18 U.S.C. §§ 922(g) and (n), i.e. convicted felon, fugitive, illegal drug user, mental defective, illegal alien, dishonorably discharged, renounced citizenship, and those under indictment for a felony offense.

Currently, we are not aware of what procedures the U.S. Attorney General will institute to address the 6-month disclosure certifications that are referenced under 18 U.S.C. § 923(g)(3)(B).

TITLE III - FEDERAL FIREARMS LICENSE REFORM ACT OF 1993

COMMON AND CONTRACT CARRIERS

The amendments to the GCA in this section of the Act, covering common and contract carriers, were intended to impact incidents of thefts of firearms from interstate

shipments, and you should be familiar with their content.

First, section 922(e), which is the Federal law that generally requires any person to provide written notice to a common or contract carrier anytime a package or container in which there is any firearm or ammunition is to be shipped, was amended as follows:

"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 that such package, luggage, or other container contains a firearm."

The effect of this amendment is that common or contract carriers are now prohibited from requiring or causing the placing of any information on the outside of any package, luggage, or container that would identify the contents as containing a firearm(s). This labeling prohibition also includes the transportation or shipment of any firearm(s) aboard any common or contract carrier by any passenger who delivers the firearm(s) into the custody of the pilot, captain, conductor, or operator for the duration of the trip. However, you should be aware that the Act does not apply to the transportation or shipment of ammunition.

Second, section 922(f), which is the Federal law that generally prohibits common or contract carriers from knowingly transporting or delivering in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would violate the Federal firearms laws, was amended as follows:

"It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of the receipt from the recipient of the package or other container in which there is a firearm."

Although the Act's amendment to section 922(f) requires little clarification, you should note that common and contract carriers are not required to obtain written notification of receipt from the recipient for deliveries of ammunition. Furthermore, we do not believe that the amendment to section 922(f) applies to the return of a firearm by a carrier to a passenger who

placed his/her firearm in the carrier's custody for the duration of the trip.

THEFT OF FIREARMS FROM FFLS AND FFL LICENSE FEES

The amendments to the GCA in this section of the Act, theft of firearms from FFLs, and increases in FFLs license fees, do not require much detailed explanation; however, you should be familiar with their content. We would invite your examination for the purpose of further discussion during informational meetings you may attend with ATF representatives in the coming weeks.

CONCLUSION

As you undertake the task of determining the impact of this new law on your jurisdiction, we want you to know that ATF representatives will be available to assist you at each turn. For example:

- ATF will provide "model laws" from other States that are being used to offset the administrative costs that will be associated with administering Brady.
- ATF's Counsel will be available to assist those States that might be seeking to enact State firearms legislation that would qualify as an alternative to the 5-day waiting period of Brady.
- In cooperation with the Law Enforcement Television Network (LETN), ATF is making telecasts on the new law for the benefit of State and local law enforcement officials. These will be scheduled for broadcast on LETN during the coming weeks.
- ATF's Office of Compliance Operations will begin sending the CLEOs current lists of all FFLs in the CLEO's jurisdiction. They will also begin providing law enforcement officials information on FFL applicants in their jurisdictions.

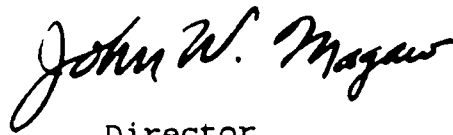
For your convenience, we have enclosed a list of questions and answers that should be of additional assistance to you. If you have any questions, comments or concerns on this new law, please contact your local ATF office. If they do not have an immediate answer for you, they will find the answer and get back to you.

You may also write to us at the following address:

Mr. Terry L. Cates
Chief, Firearms and Explosives Division
Office of Compliance Operations
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue NW.
Washington, DC 20226

You may be assured that ATF will continue to be responsive to your needs.

Sincerely yours,

A handwritten signature in black ink, reading "John W. Magaw". The signature is written in a cursive style with a large, stylized "J" and "M".

Director

Enclosures

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SAMPLE FORM

Form available from:
ATF Distribution Center, 7943 Angus Court
Springfield, VA 22153

Form Approved: OMB No. 1512-0006 (8/31/96)

1. TRANSFEREE'S NAME (Buyer) (Last, first, middle)		3. DATE OF BIRTH	
2. RESIDENCE ADDRESS (Number, street, city, state, ZIP code)		4. PLACE OF BIRTH	
		5. RACE	6. SEX
7. TYPE OF IDENTIFICATION		8. NUMBER ON IDENTIFICATION	
9. TOTAL SOLD IN FIVE DAYS			
TYPE (pistol or revolver)	SERIAL NUMBER	MANUFACTURER	CALIBER/QUANTITY
10. NAME & ADDRESS OF LICENSEE MAKING REPORT		11. DATE TRANSFERRED	
12. FFL NUMBER		COPY 3 - STATE OR LOCAL LE AGENCY	

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DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
**REPORT OF MULTIPLE SALE OR OTHER
DISPOSITION OF PISTOLS AND REVOLVERS**

INSTRUCTIONS

1. This form is to be used by licensees to report all transactions in which an unlicensed person has acquired two or more pistols and/or revolvers at one time or during five consecutive business days.
2. A separate form is to be submitted for each such person.
3. The report is to be submitted to the ATF Law Enforcement Field Division Office for your area no later than the close of business on the day that the multiple sale or other disposition occurs. See the reverse side of this form for the address of the Law Enforcement Field Division Office for your area.
4. Complete items 1 through 11. Remove and retain copy 4 for your official records. Forward copy 3 to the official designated by the State or local authorities to receive the form, or, in the absence of such designation, to the department of State police or State law enforcement agency or local law enforcement agency in the jurisdiction where the handgun transfers occurred.
5. Additional forms may be obtained through the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153, (703) 455-7801.

ATF F 3310.4 (1-94) PREVIOUS EDITIONS ARE OBSOLETE

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Divider Title: _____

**United States
Department of the Treasury**



**BUREAU OF
ALCOHOL, TOBACCO AND FIREARMS**

IMPORTANT NOTICE

**TO COMMON AND CONTRACT
CARRIERS DELIVERING FIREARMS**

All 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 the package contains a firearm.

All common or contract carriers who deliver firearms in interstate or foreign commerce must obtain written acknowledgment of receipt from the recipient of any package containing a firearm.



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226
18 January 1994

DIRECTOR

OPEN LETTER TO ALL COMMON AND CONTRACT CARRIERS

The purpose of this letter is to advise common and contract carriers of the impact that the recent passage of Public Law 103-159, "Brady Handgun Violence Prevention Act", will have on their business operations.

On November 30, 1993, the President signed Public Law 103-159, 107 Stat. 1536 (hereafter, the "Act") which included the Federal Firearms License Reform Act of 1993. Although the Act also includes other amendments to the Gun Control Act of 1968 (GCA), which the Bureau of Alcohol, Tobacco and Firearms (ATF) enforces, we will confine our comments to those amendments that specifically address common and contract carriers. These amendments became effective on November 30, 1993.

First, 18 U.S.C. 922(e), is the section of the GCA that generally requires any person to provide written notice to a common or contract carrier anytime a package or container in which there is any firearm or ammunition to be shipped. This section was amended by the Act by adding a restriction on how the common carrier will mark the package during shipment. The new provision of the law provides:

"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 that such package, luggage, or other container contains a firearm."

Apparently the drafters of this amendment were concerned that outside labels or tags specifying that the packages contain firearms simply invite thefts. This labeling prohibition applies both to packages being shipped and to situations where a passenger delivers the firearm(s) into the custody of the pilot, captain, conductor or operator for the duration of the trip. This provision does not prevent a common carrier from employing internal codes or markings that allow the carrier to identify the contents. The Act does not apply to the transportation or shipment of ammunition.

Secondly, 18 U.S.C. 922(f), is the section of the GCA that generally prohibits common or contract carriers from knowingly transporting or delivering in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof

OPEN LETTER TO ALL
COMMON AND CONTRACT CARRIERS

would violate the Federal firearms laws. This provision was amended to impose a new requirement on common carriers to obtain written receipts when delivering firearms. The amended provision provides:

"It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of the receipt from the recipient of the package or other container in which there is a firearm."

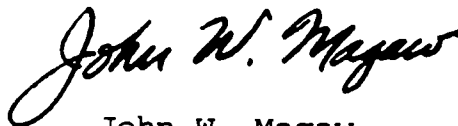
In the past there have been situations where firearms have been drop shipped and left unattended, and where unauthorized persons have appeared to accept deliveries. This new requirement is simply aimed at maintaining an adequate paper trail of the firearms. The provision does not apply to deliveries of ammunition. Furthermore, section 922(f) would not require the receipt for the return of a firearm by a carrier to a passenger who places his or her firearms in the carrier's custody for the duration of the trip.

ATF is preparing regulations for the implementation of the Act. The proposed regulations will cover the Act's changes to the GCA including those affecting common and contract carriers. You will have the opportunity to comment on these regulations during the public comment period. The regulations will be published in the Federal Register in the near future.

Please find enclosed an "Important Notice" addressed to all common and contract carriers that summarizes the content of this letter. We strongly encourage you to distribute this notice to the appropriate personnel throughout your organization.

Should you have any questions or require additional information regarding this letter, please contact your local ATF office. For your convenience, we have enclosed a list of ATF offices.

Sincerely yours,



John W. Magaw
Director

Enclosures

Clinton Presidential Records Digital Records Marker

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8

Divider Title: _____

PUBLIC LAW 103-159—NOV. 30, 1993

**HANDGUN CONTROL, MULTIPLE FIREARM
PURCHASES, AND FEDERAL FIREARMS
LICENSE REFORM**

Public Law 103-159
103d Congress

An Act

30, 1993
L 1025]

To provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BRADY HANDGUN CONTROL

SEC. 101. SHORT TITLE.

This title may be cited as the "Brady Handgun Violence Prevention Act".

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SEC. 102. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(a)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement 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, transmitted a copy of the statement

to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor 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 Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, 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;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess or acquire a handgun; and

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

"(ii) 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 the law;

"(D) 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 section 923, 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;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

"(i) 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;

"(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether

receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that the transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) Any transferor of a handgun who, after such transfer, 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 after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

"(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record

containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

"(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

"(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

"(8) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public."

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(2) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) 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."

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a)(1), is amended by adding at the end the following:

"(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

Effective

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

"(B)(i) the system provides the licensee with a unique identification number; or

"(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

"(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in

section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

"(2) If receipt of a firearm would not violate section 922 (g) or (n) or State law, the system shall—

"(A) assign a unique identification number to the transfer; and
 "(B) provide the licensee with the number; and

"(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

"(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A)(i) such other person has presented to the licensee a permit that—

"(I) allows such other person to possess or acquire a firearm; and

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

"(ii) 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 firearm by such other person would be in violation of law;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

"(i) 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;

"(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

"(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

"(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

"(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm."

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both."

SEC. 103. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) ESTABLISHMENT OF SYSTEM.—Not later than 60 months after the date of the enactment of this Act, the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of

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the existence and purpose of the system and the means to be used to contact the system.

(e) **ADMINISTRATIVE PROVISIONS.**—

(1) **AUTHORITY TO OBTAIN OFFICIAL INFORMATION.**—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) **OTHER AUTHORITY.**—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) **WRITTEN REASONS PROVIDED ON REQUEST.**—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) **CORRECTION OF ERRONEOUS SYSTEM INFORMATION.**—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) **REGULATIONS.**—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) **PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.**—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) **DEFINITIONS.**—As used in this section:

(1) **LICENSEE.**—The term "licensee" means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) **OTHER TERMS.**—The terms "firearm", "handgun", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated, which may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, such sums as are necessary to enable the Attorney General to carry out this section.

SEC. 104. REMEDY FOR ERRONEOUS DENIAL OF FIREARM.

(a) **IN GENERAL.**—Chapter 44 of title 18, United States Code, is amended by inserting after section 925 the following new section:

"§ 925A. Remedy for erroneous denial of firearm

"Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

"(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

"(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs."

(b) **TECHNICAL AMENDMENT.**—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925 the following new item:

"925A. Remedy for erroneous denial of firearm."

SEC. 105. RULE OF CONSTRUCTION.

This Act and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.

SEC. 106. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) **USE OF FORMULA GRANTS.**—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records

required by the Attorney General under section 103 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act."

(b) **ADDITIONAL FUNDING.**—

(1) **GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.**—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for grants under paragraph (1), which may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, a total of \$200,000,000 for fiscal year 1994 and all fiscal years thereafter.

TITLE II—MULTIPLE FIREARM PURCHASES TO STATE AND LOCAL POLICE

SEC. 301. REPORTING REQUIREMENT.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) in the second sentence by inserting after "thereon," the following: "and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place,";

(2) by inserting "(A)" after "(3)"; and

(3) by adding at the end thereof the following:

"(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph."

TITLE III—FEDERAL FIREARMS LICENSE REFORM

Federal
Firearms
License Reform
Act of 1993.

18 USC 921 note

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Firearms License Reform Act of 1993".

SEC. 302. PREVENTION OF THEFT OF FIREARMS.

(a) **COMMON CARRIERS.**—Section 922(e) of title 18, United States Code, is amended by adding at the end the following: "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 that such package, luggage, or other container contains a firearm."

(b) **RECEIPT REQUIREMENT.**—Section 922(f) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for any common or contract carrier to 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."

(c) **UNLAWFUL ACTS.**—Section 922 of title 18, United States Code, as amended by section 102, is amended by adding at the end the following new subsection:

"(u) It shall be unlawful for a person to 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."

(d) **PENALTIES.**—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person who knowingly violates section 922(u) shall be fined not more than \$10,000, imprisoned not more than 10 years, or both.

"(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection."

SEC. 303. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by adding "or" at the end;

(2) in subparagraph (B) by striking "a pawnbroker dealing in firearms other than" and inserting "not a dealer in";

(3) in subparagraph (B) by striking "\$25 per year; or" and inserting "\$200 for 3 years, except that the fee for renewal of a valid license shall be \$90 for 3 years."; and
(4) by striking subparagraph (C).

Approved November 30, 1993.

LEGISLATIVE HISTORY—H.R. 1026 (S. 414):

HOUSE REPORTS: Nos. 108-344 (Comm. on the Judiciary) and 108-412 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 139 (1993):

Nov. 10, considered and passed House.

Nov. 19, 20, considered and passed Senate, amended, in lieu of S. 414.

Nov. 23, House agreed to conference report.

Nov. 24, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

Nov. 30, Presidential remarks.

Clinton Presidential Records Digital Records Marker

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Divider Title: _____



DIRECTOR

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

BRADY HANDGUN VIOLENCE PROTECTION ACT
QUESTIONS AND ANSWERS
January 21, 1994

1. Q. Who must comply with the 5-day waiting period requirement imposed by the Brady Act?
 - A. Federally licensed firearms importers, manufacturers, and dealers must comply with the requirement prior to the sale, transfer, or delivery of a handgun to a nonlicensed individual.
2. Q. How does the Brady Act affect a Federal firearms licensee?
 - A. The waiting period provisions of the law make it unlawful for any Federal firearms licensee to sell a handgun to a nonlicensee unless the licensee:
 - (1) obtains a statement from the purchaser (Brady form) containing the purchaser's name, address, and date of birth appearing on a valid photo identification, and a statement that the purchaser is not a felon, under indictment, or otherwise prohibited from receiving or possessing the firearm under the law;
 - (2) verifies the identity of the transferee by examining an identification document presented;
 - (3) within 1 day after the purchaser furnishes the statement, contacts (by telephone or otherwise) the chief law enforcement officer (CLEO) of the place of the residence of the purchaser and advises such officer of the contents of the statement;
 - (4) within 1 day after the purchaser furnishes the statement, provides to the chief law enforcement officer of the place of residence of the purchaser a copy of the statement and the officer makes a reasonable effort to determine whether the purchaser is prohibited from possessing the particular handgun(s) sought to be purchased; and
 - (5) the licensee waits 5 business days from the date the licensee furnished notice of the contents of the statement before transferring the handgun to the purchaser (during which period the licensee has not received information from the chief Law enforcement officer that possession of the handgun by the purchaser

would be in violation of the law) OR the licensee receives notice from the chief law enforcement officer of the place of the residence of the purchaser that possession of the handgun by the purchaser does not violate the law.

3. Q. Does the 5-day waiting period requirement apply to sales of handguns to Law Enforcement?

A. No. These sales are exempt. However, the dealer should obtain from the purchaser a certification from the purchaser's commanding officer stating that the handgun is being acquired for official use.

4. Q. What is the effective date of the Brady Act?

A. The waiting period provisions of the law are effective on February 28, 1994 and cease on November 30, 1998. However, the provisions dealing with the increase in license fees, multiple sales reports, transport of firearms by common carriers, and thefts of firearms from a Federal firearms licensee are permanent and were effective on November 30, 1993.

5. Q. Are there any exceptions to the 5-day waiting period requirement?

A. Licensees need not comply with the waiting period requirements in 4 situations. These include handgun 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 or whose records have been checked and in either case 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.

6. Q. Must a dealer wait 5 days before transferring the handgun to the buyer?

A. No, if the dealer has received notice from the chief law enforcement officer within the 5 business days that the officer has no information indicating that the buyer's receipt or possession of the handgun would violate the law.

7. Q. When does the 5-day waiting period begin to run?

A. At the time the licensee provides notice to the CLEO.

8. Q. Does the Brady Act apply to licensed collectors?
- A. No, except if they purchase other than a curio or relic handgun. In that event they would have to provide the licensed dealer with a Brady form.
9. Q. Why can't the Brady form contain additional identifying information such as P.O.B., gender, SS#, etc.?
- A. Because it is restricted to only 5 areas that are specifically referenced under the new law. ATF is offering the buyer the option to place other information on the Brady form.
10. Q. How much checking does the CLEO have to do?
- A. The CLEO must conduct a check that involves a reasonable effort to determine whether Federal, State, or local law would prohibit receipt by the transferee. For example, checking NCIC, wanted persons, and triple III.
11. Q. Does the CLEO have to respond to the licensee?
- A. No, the law does not specifically require a response either way. However, if the CLEO fails to respond on prohibited buyers, the officer would not be preventing the sale from occurring.
12. Q. What is a "handgun" for purposes of the Brady Act?
- A. 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.
13. Q. Is the dealer required by the Brady Act to obtain and retain a copy of the Brady form?
- A. Yes.
14. Q. Does the CLEO have to maintain any records?
- A. No. Within 20 days after the date the Brady form was signed and dated by the purchaser, the CLEO must destroy all records except those that involved prohibited buyers.

15. Q. Does a licensed collector selling a curio or relic handgun have to obtain a Brady form?
- A. No. Collectors' sales of handguns are not subject to the waiting period requirement. However, a licensed collector would be subject to the requirements of the Brady law if purchasing other than a curio or relic handgun from a licensed dealer.
16. Q. What is the penalty for a buyer's falsification of the Brady form?
- A. A felony offense under 18 U.S.C. 922(a)(6), 924(a)(1)(A).
17. Q. What is the penalty for the failure of a FFL to obtain the Brady form?
- A. Whoever knowingly violates these provisions shall be subject to a fine of not more than \$100,000, imprisonment for not more than one year, or both.
18. Q. Were there any provisions under the Brady Act other than the 5-day waiting period?
- A. Yes. The Act contains provisions dealing with multiple sales reports, transport of firearms by common carriers, thefts of firearms from Federal firearms licensees, and an increase in the license fee for dealers in firearms.
19. Q. What is the change regarding the multiple sales report?
- A. In addition to furnishing multiple sales reports 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."
20. Q. Can the CLEO or other law enforcement official maintain a file of Reports of Multiple Sales received from a licensee?
- A. No. The law prohibits keeping records more than 20 days after the date the form is received by the CLEO. Exceptions would be for those forms involving prohibited persons.

21. Q. Will current Federal firearms dealers (including pawnbrokers) have to pay an additional fee to maintain their license?
- A. Upon the next renewal of their license they will be required to pay a \$90 fee for a 3-year period.
22. Q. Does the new law on common and contract carriers require that intrastate carriers obtain written acknowledgement of delivery of firearms?
- A. Yes, if the carrier delivers firearms which are being shipped interstate.
23. Q. What is the penalty for theft of a firearm from the person or premises of a licensed dealer?
- A. As provided by 18 U.S.C. 924(i)(1) - \$250,000 fine, 10 years imprisonment, or both.

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10

Divider Title: _____

BRADY LAW IMPLEMENTATION

Compendium of letters sent to Federal firearm licenses in states subject to the Federal five day waiting period procedures.



DIRECTOR

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

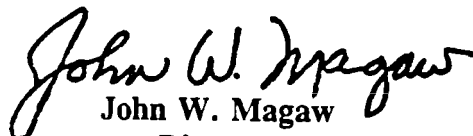
February 16, 1994

OPEN LETTER TO ALL ALABAMA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Alabama is the County Sheriff.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the County Sheriff where your business is located, the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to the County Sheriff, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

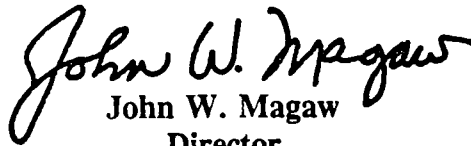
February 16, 1994

OPEN LETTER TO ALL ALASKA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in areas having a Police Department or the Alaska State Troopers in areas without a Chief of Police. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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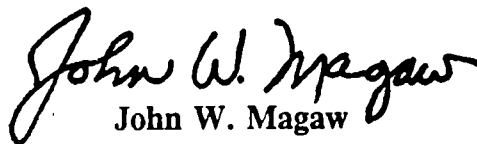
February 17, 1994

OPEN LETTER TO ALL ARIZONA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to State or local authorities where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition 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 Phoenix area, the forms should be sent to the Chief of Police, Phoenix Police Department. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition. Reports to ATF should be sent to the Bureau of ATF, Phoenix Field Division, 3003 North Central Avenue, Suite 1010, Phoenix, Arizona 85012.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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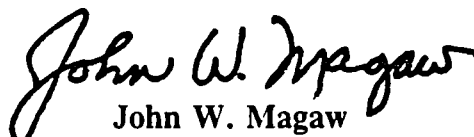
February 16, 1994

OPEN LETTER TO ALL ARKANSAS FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Arkansas is the Arkansas State Police.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the Arkansas State Police the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to the State, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Arkansas State Police. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

DIRECTOR

February 16, 1994

OPEN LETTER TO ALL COLORADO FEDERAL FIREARMS LICENSEES:

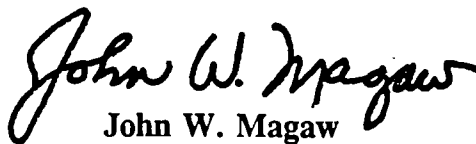
I. Implementation of the Brady law: In a previous open letter, you were advised that Federal firearms licensees in Colorado would be subject to the Brady law which, effective on February 28, 1994, imposes a 5-day waiting period on licensees' sales of handguns to nonlicensees. Under the Brady law, the waiting period requirements are applicable unless State law imposes a requirement that handgun purchasers must undergo a background check.

We are informed that legislation is pending in the Colorado legislature entitled the "Instant Criminal Background Check Systems Act" which would establish a system subjecting handgun purchasers to a background check. Therefore, if this law is enacted and effective on February 28, 1994, handgun sales made in compliance with the State background check system will not be subject to the Federal 5-day waiting period. Regulations will, however, require licensees to maintain records showing that sales were made in compliance with the State system. If this legislation is not enacted and in effect on February 28, 1994, licensees' handgun sales to nonlicensees will be subject to the Federal 5-day waiting period.

Enclosed is material from the Colorado Department of Public Safety regarding the implementation of the Instant Criminal Background Check System Act.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the Colorado Bureau of Investigation ATT: Handguns, 690 Kipling Street, Suite 3000, Denver, Colorado 80215, the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to the State, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Colorado Bureau of Investigation. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director

Enclosure



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

February 16, 1994

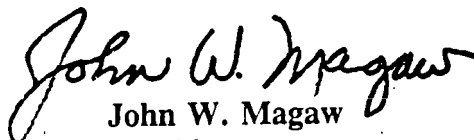
OPEN LETTER TO ALL GEORGIA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Georgia is the County Sheriff except as indicated on the back of this letter.

You should note that the Federal waiting period requirements, including the requirement to complete Form 5300.35, do not apply to your transfers of handguns to persons having a Georgia license to carry any pistol or revolver issued within 5 years of the proposed purchase.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the County Sheriff except as indicated on the back of this letter. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 18, 1994

OPEN LETTER TO ALL IDAHO FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Idaho is the Idaho Department of Law Enforcement, Bureau of Criminal Identification, 6064 Corporal Lane, Boise, Idaho 83704-9300, telephone number 1-800-873-2534.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 17, 1994

OPEN LETTER TO ALL KANSAS FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the County Sheriff where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Kansas Bureau of Investigation, 1620 SW Tyler, Topeka, Kansas 66612-1837 to the attention of Mike Boyer. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 18, 1994

OPEN LETTER TO ALL KENTUCKY FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. **For purposes of these requirements, contact the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas to determine who will be the Chief Law Enforcement Officer.**

II. Reporting multiple sales of handguns.

The new law also requires you to report to ATF and to the State Police the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. **You should contact the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas to determine who should receive the report of multiple handgun sales. In reporting to the appropriate authority, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.**

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw
Director



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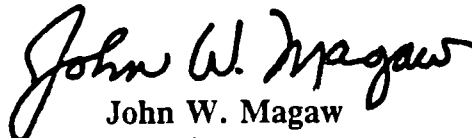
February 16, 1994

OPEN LETTER TO ALL LOUISIANA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Sheriff except in Orleans Parish where the Chief Law Enforcement Officer is the Superintendent of Police for New Orleans. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 16, 1994

OPEN LETTER TO ALL MAINE FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in areas having a municipal police department and the State Police in all other areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw
Director



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

DIRECTOR

February 16, 1994

OPEN LETTER TO ALL MINNESOTA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Municipal Police Chief. However, where there is no local police agency, the form should be sent to the County Sheriff. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

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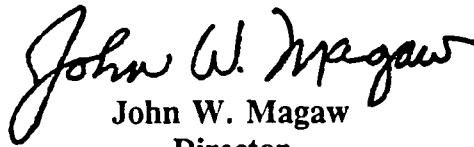
February 16, 1994

OPEN LETTER TO ALL MISSISSIPPI FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Mississippi is the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 16, 1994

OPEN LETTER TO ALL MONTANA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, contact the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas to determine who will be the Chief Law Enforcement Officer.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to State or local authorities where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. You should contact the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas to determine who should receive the report of multiple handgun sales. In reporting to the appropriate authority, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

DIRECTOR

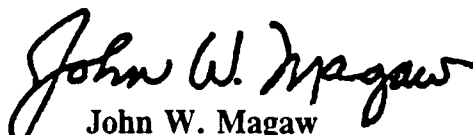
February 16, 1994

OPEN LETTER TO ALL NEVADA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Nevada is the Department of Motor Vehicles and Public Safety, Nevada Highway Patrol, Records and Identification Services, 555 Wright Way, Carson City, Nevada 89711, 1-800-474-7865. The local telephone number is 702-687-6200.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Nevada Highway Patrol at the above address. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

DIRECTOR

February 16, 1994

OPEN LETTER TO ALL NEW HAMPSHIRE FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in New Hampshire is the Chief of Police or the County Sheriff in areas not covered by a Chief of Police.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police or the County Sheriff in areas not covered by a Chief of Police. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 16, 1994

OPEN LETTER TO ALL NEW MEXICO FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in New Mexico is the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in incorporated areas and the County Sheriff in unincorporated areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226
February 17, 1994

DIRECTOR

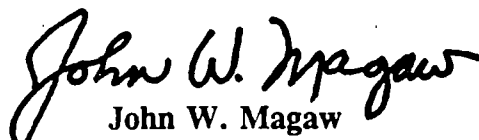
OPEN LETTER TO ALL NORTH CAROLINA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in North Carolina is the County Sheriff.

However, we are informed that legislation is pending in the North Carolina legislature which would establish a permit system subjecting handgun purchasers to a prior background check. Therefore, if this law is enacted and effective on February 28, 1994, handgun sales made to permit holders under the new system will not be subject to the Federal 5-day waiting period. We emphasize that the permit must have been issued on or after the effective date of the legislation. If this legislation is not enacted and in effect on February 28, 1994, licensees' handgun sales to nonlicensees will be subject to the Federal 5-day waiting period.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the County Sheriff where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In meeting this reporting requirement, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the County Sheriff. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 16, 1994

OPEN LETTER TO ALL NORTH DAKOTA FEDERAL FIREARMS LICENSEES:

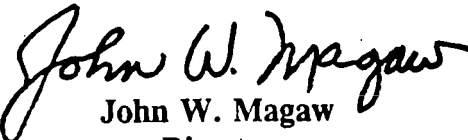
I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in North Dakota is the County Sheriff.

You should contact the County Sheriff of the proposed purchasers' place of residence for information regarding the form of notice required by the Sheriff and/or fees you may be charged for purchaser background checks.

You should note that the Federal waiting period requirements, including the requirement to complete Form 5300.35, do not apply to your transfers of handguns to persons having North Dakota permits to carry concealed handguns issued within 5 years of the proposed purchase.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the County Sheriff. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 18, 1994

OPEN LETTER TO ALL OHIO FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

Enclosed is material from the Ohio Bureau of Criminal Identification and Investigation regarding implementation of the purchaser background check.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the Superintendent of the Bureau of Criminal Identification and Investigation; the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Superintendent of the Bureau of Criminal Identification and Investigation. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw
Director

Enclosure



**Attorney General
Lee Fisher**

February, 1994

Dear Federal Firearms Dealer:

In November of 1993, President Bill Clinton signed into law the Brady Handgun Violence Prevention Act, commonly known as the Brady Bill. This piece of legislation requires the transferor, Federal Firearms Licensee (FFL) to initiate a criminal background check on a transferee (Customer) prior to the sale or transfer of any handgun. This criminal background check will be completed by the Bureau of Criminal Identification & Investigation (BCI&I), a section of the Ohio State Attorney General's Office.

The mechanism to accomplish this requirement is as follows: you, as the FFL, shall complete and have signed by the customer a ATF P 5300 "Statement of Intent to Obtain a Handgun(s)". Then the FFL will telephone call the BCI&I using 1-900-484-GUNS. There will be a \$15 charge per call with only one criminal background check being conducted per call for this service accessed to your telephone bill. This number will ring to the BCI&I in the Identification Division where a computerized criminal history check will be conducted on the customer.

1. The operator will receive from the FFL all necessary and available information on the customer. The BCI&I will conduct the background check.
2. If information is obtained which causes the BCI&I to have reasonable belief the sale or transfer of a firearm(s) would cause a violation of law, the BCI&I will communicate to the FFL that the customer is ineligible to receive a handgun within five (5) days.
3. If eligibility cannot be determined or the BCI&I does not communicate an ineligibility to the FFL in five (5) state business days from the time the FFL gives notice to the BCI&I, the FFL has the authority to transfer the firearm to the customer.

To better assure a smooth operation, we recommend that you have available all mandatory and optional information readily at hand to speed the process. The hours of operation will be 8:00 A.M. to 4:45 P.M. Monday through Friday (state and federal holidays exempted).

We are looking forward to providing this service to you with the least amount of disruption or impact on your business. If you have any questions please do not hesitate to call, at 1-614-466-8204.

Respectfully yours,

John R. Lenhart

John R. Lenhart
Superintendent
Ohio Bureau of Criminal
Identification & Investigation

GCB:th

Veredict, Inc.

Ohio Bureau of Criminal Identification & Investigation
P.O. Box 365 / London, Ohio 43140

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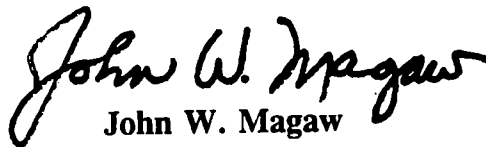
February 16, 1994

OPEN LETTER TO ALL OKLAHOMA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the County Sheriff in unincorporated areas or to the Chief of Police in incorporated cities and towns. However, if the incorporated city or town has no police authority, the form should be sent to the County Sheriff covering the area. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

DIRECTOR

February 18, 1994

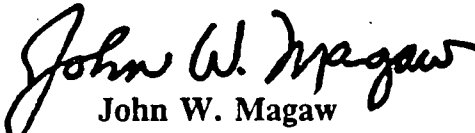
OPEN LETTER TO ALL PENNSYLVANIA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, 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.

You should note that the Federal waiting period requirements, including the requirement to complete Form 5300.35, do not apply to your transfers of handguns to persons having a Pennsylvania license to carry a handgun issued within 5 years of the proposed purchase.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the County Sheriff except in Philadelphia County where the report should be sent to the Commissioner of the Philadelphia Police Department. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

DIRECTOR

February 17, 1994

OPEN LETTER TO ALL PUERTO RICO FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Puerto Rico is the Police Superintendent, c/o Jose Marrero, Firearms Bureau Chief, GPO Box 70166, San Juan, Puerto Rico 00936.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to Puerto Rican authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Superintendent at the above address. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw
Director



DIRECTOR

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

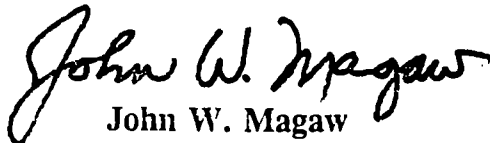
February 16, 1994

OPEN LETTER TO ALL RHODE ISLAND FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a licensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Rhode Island is the Chief of Police.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to State officials the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistol and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Rhode Island State Police Detective Division. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



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

DIRECTOR

February 16, 1994

OPEN LETTER TO ALL SOUTH CAROLINA FEDERAL FIREARMS LICENSEES:

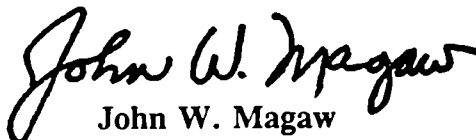
I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in South Carolina is the South Carolina Law Enforcement Division (SLED), telephone number 803-737-9000. South Carolina is implementing a system which will respond to the notice given by you under the Brady Law. The South Carolina Law Enforcement Division will mail the procedures regarding this system to all Federal firearm licensees who currently hold a South Carolina pistol dealers license.

Federally licensed dealers who sell handguns in South Carolina are required under South Carolina Law to obtain a pistol dealers license. For further information concerning this State license requirement, contact:

S.C. Law Enforcement Division, Regulatory Services
Post Office Box 21398
Columbia, South Carolina 29221-1398

II. Reporting multiple sales of handguns. The new law requires Federal firearms licensees to report to ATF and to State Law Enforcement Officials the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. However, South Carolina law prohibits the sale of more than 1 handgun during any 30-day period to a nonlicensee. Therefore, if you comply with this State law, you would have no need to file reports of multiple handgun sales.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 17, 1994

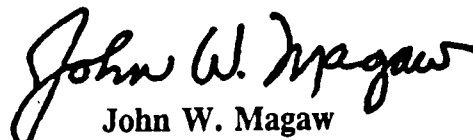
OPEN LETTER TO ALL SOUTH DAKOTA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in South Dakota is the County Sheriff. You should contact the County Sheriff of the proposed purchasers' place of residence for information regarding any fees you may be charged for purchasers background checks.

You should note that the Federal waiting period requirements, including the requirement to complete Form 5300.35, do not apply to your transfers of handguns to persons having South Dakota permits to carry concealed handguns issued within 5 years of the proposed purchase.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the County Sheriff. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 18, 1994

OPEN LETTER TO ALL TENNESSEE FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Tennessee can be either the County Sheriff, or the Chief of Police in incorporated areas.

For information on Tennessee firearms laws (Tennessee Code Annotated Section 39-17-1316), see the back of this letter.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in municipalities or the County Sheriff in other areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.

John W. Magaw
Director

Information on Tennessee firearms laws (Tennessee Code Annotated Section 39-17-

1316). Under Tennessee law, the Chief Law Enforcement Officer (CLEO) is defined as the sheriff of the county where the sale is to be made or in some cases the Chief of Police if the sale is within a municipality and a 15-day waiting period is imposed. You must continue to comply with Tennessee law, as well as comply with the requirements of the new Federal law. This means that in those cases where a purchaser resides in another county, you would comply with Federal law by notifying the CLEO where the purchaser resides of the contents of form 5300.35 and sending that official a copy of the form, and you would continue to comply with State law by forwarding the required State information to the CLEO where the purchase is taking place.



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

DIRECTOR

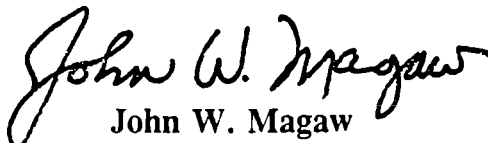
February 16, 1994

OPEN LETTER TO ALL TEXAS FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Texas is the Chief of Police in incorporated cities and towns and the County Sheriff in unincorporated areas.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in incorporated cities and towns or the County Sheriff in unincorporated areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8200.


John W. Magaw
Director



DIRECTOR

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

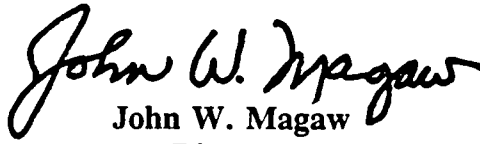
February 16, 1994

OPEN LETTER TO ALL UTAH FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Utah is the Utah Department of Public Safety, Bureau of Criminal Identification, 4501 South 2700 West, Salt Lake City, Utah 84119, 801-965-4867 (GUNS) or Fax - 801-965-4749.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Utah Department of Public Safety at the above address. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

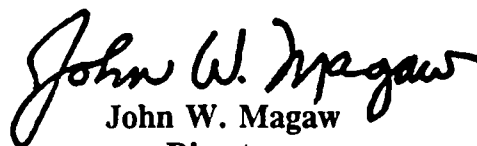
February 17, 1994

OPEN LETTER TO ALL VERMONT FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Vermont is the Chief of Police, the County Sheriff, or the State Police as indicated on the back of this letter.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police, the County Sheriff, or the State Police as indicated on the back of this letter. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director

In the following counties, the Sheriff will be the Chief Law Enforcement Officer:

**Caledonia
Chittenden
Essex
Franklin
Grand Isle
Orange
Orleans
Windham**

In Addison County, the Chief Law Enforcement Officer will be Troop C of the State Police except that the Chief Law Enforcement Officer will be the Chief of Police in the towns of Bristol, Middlebury, and Vergennes.

In Lamoille County the Chief Law Enforcement Officer will be the Sheriff except that the Chief Law Enforcement Officer will be the Chief of Police in the town of Morristown.

In Remington County, the Chief Law Enforcement Officer will be the State Police except that the Chief Law Enforcement Officer will be the Chief of Police in the towns of Bennington, Manchester and Winhall.

In Rutland County, the Chief Law Enforcement Officer will be the State Police except that the Chief Law Enforcement Officer will be the Chief of Police in the towns of Brandon and Rutland.

In Washington County, the Chief Law Enforcement Officer will be the County Sheriff except that the Chief Law Enforcement Officer will be the Chief of Police in the town of Montpelier.

In Windsor County, the Chief Law Enforcement Officer will be the State Police except that the Chief Law Enforcement Officer will be the Chief of Police in the towns of Hartford and Springfield.



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

DIRECTOR

February 16, 1994

OPEN LETTER TO ALL WASHINGTON FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Washington is the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police in incorporated areas or the County Sheriff in unincorporated areas. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

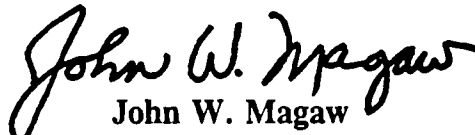
February 17, 1994

OPEN LETTER TO ALL WEST VIRGINIA FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in West Virginia is the West Virginia State Police.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the State Police. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director



DIRECTOR

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

February 16, 1994

OPEN LETTER TO ALL WYOMING FEDERAL FIREARMS LICENSEES:

I. Implementation of the Federal 5-day waiting period under Brady Law. As previously advised, effective February 28, 1994, the Brady Law requires that prior to your transfer of a handgun to a nonlicensee, you must notify the Chief Law Enforcement Officer where the prospective purchaser resides of the contents of ATF Form 5300.35, Statement Of Intent To Obtain A Handgun(s), and transmit a copy of the form to such officer. The notice must be given and a copy of the statement must be transmitted within 1 day after the purchaser completes the form. For purposes of these requirements, the Chief Law Enforcement Officer in Wyoming is the Chief of Police or the County Sheriff as indicated on the back of this letter.

II. Reporting multiple sales of handguns. The new law also requires you to report to ATF and to the State Police or local law enforcement agency where your business is located the disposition of 2 or more handguns within 5 consecutive business days to a nonlicensee. These reports are to be made on ATF Form 3310.4, Report of Multiple Sale or Disposition of Pistols and Revolvers, and sent no later than the close of business on the day the multiple sale or other disposition occurs. In reporting to State or local authorities, send copy 2 of the 11/92 edition of the form or copy 3 of the 1/94 edition to the Chief of Police or the County Sheriff as indicated on the back of this letter. The report to ATF must be sent on copy 1 of the 11/92 edition or copies 1 and 2 of the 1/94 edition.

For further information, contact your local ATF office or the Firearms and Explosives Division at (202) 927-8300.


John W. Magaw
Director

***Albany County* - County Records and Communications.**

***Big Horn County* - Sheriff's Department.**

***Campbell County* - (Except City of Gillette) Sheriff's Dept.**

Gillette - Chief of Police of Gillette.

***Carbon County* - (Except Cities of Encampment, Saratoga and Rawlins) Sheriff's Dept.**

Chief's of Police in Encampment, Saratoga and Rawlins.

***Converse County* - (Except City of Glenrock) Chief of Police of Douglas.**

Glenrock - Chief of Police Glenrock.

***Crook County* - Sheriff's Dept.**

***Fremont County* - (Except the City of Riverton) County Sheriff's Dept.**

Riverton - Chief of Police Riverton.

***Goshen County* - Chief of Police of Torrington.**

***Hot Springs County* - County Sheriff's Dept.**

***Johnson County* - Sheriff's Dept.**

***Laramie County* - (Except the City of Cheyenne) County Sheriff's Dept.**

Cheyenne - Chief of Police Cheyenne.

***Lincoln County* - Sheriff's Dept.**

***Natrona County* - Chief of Police of Casper.**

***Nicbrara County* - Sheriff's Dept.**

***Park County* - (Except the City of Powell) Cody Law Enforcement Center.**

Powell - Chief of Police Powell

***Platte County* - Sheriff's Dept.**

***Sheridan County* - Chief of Police - Sheridan.**

***Sublette County* - Sheriff's Dept.**

***Sweetwater County* - (Except the cities of Green River and Rock Springs) County Sheriff's Dept.**

Green River - Chief of Police Green River.

Rock Springs - Chief of Police Rock Springs.

***Teton County* - Sheriff's Dept.**

***Uinta County* - Sheriff's Dept.**

***Washakie County* - Chief of Police of Worland.**

***Weston County* - Chief of Police of Newcastle.**

***Yellowstone National Park* - Law Enforcement Office.**

Talking Points
Brady Law Anniversary
February 28, 1995

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

1. A recently-completed Bureau of Alcohol, Tobacco and Firearms' ("ATF") survey of 30 law enforcement authorities, a precursor to a broader Department of Justice/Bureau of Justice Statistics' study, reveals that from March 1994 through January 1995, **more than 15,500 persons** in the surveyed jurisdictions who applied to purchase handguns had their applications denied. The officials polled constitute a cross section of the national law enforcement scene. Drawn from every region of the country, they represent communities large and small, rural and urban.

- The "bad guys" blocked by Brady from obtaining handguns included:
 - 4,365 convicted felons;
 - 945 fugitives;
 - 97 persons under indictment;
 - 649 illegal drug users;
 - two juveniles; and
 - 63 persons under restraining order for alleged stalking, harassment or other forms of domestic threats or intimidation.
- The more than 15,500 Brady applications denied represent **only 3.5 percent** of the total number of applications submitted in the surveyed jurisdictions (more than 440,000). Further, ATF has confirmed through discussions with the firearms industry that the overall volume of handgun sales remained relatively constant during that time. **This suggests that the Brady Law is doing what it was designed to do -- keeping handguns out of the reach of that small percentage of persons who use handguns criminally, while not unduly infringing on the rights of legitimate handgun owners.**
- Anecdotal evidence gleaned during the recent ATF survey, and an earlier survey tracking the first 100 days of the Brady Law's activation, provide even more proof of Brady's impact. The Brady Law has prevented thousands of convicted and potential offenders -- including murderers, rapists, drug dealers and suspected stalkers -- from purchasing handguns.
 - In March 1994, the Brady Law prevented an accused stalker in Prairie

Village, Kansas, from purchasing a handgun. The attempted handgun purchase was stopped by the Prairie Village Police Department when a Brady background check revealed that the prospective purchaser, who was the subject of a restraining order for allegedly stalking his wife and threatening to kill her, was a resident of Missouri, not Kansas, as he had represented in his Brady form.

-- In April 1994, a suspected drug dealer was arrested in San Antonio, Texas after a Brady background check performed by the Uvalde County Sheriff's Office indicated that the alleged dealer was the subject of outstanding warrants for possession of cocaine with intent to distribute, possession of heroin with intent to distribute and failure to appear in court.

-- In November 1994, the Brady Law was instrumental in securing the apprehension of two gang members, both convicted felons, who traveled from California to Nevada to purchase handguns. An investigation conducted by ATF's Reno, Nevada field office, with the assistance of the Nevada Division of Investigation, revealed that the suspects sought to purchase arms using false identification.

2. National estimates of the number of prohibited persons who were prevented by Brady from purchasing a handgun in Brady states -- based on information supplied by the FBI's criminal history database, the Interstate Identification Index ("Triple I") -- **was approximately 41,000** for the period from March 1, 1994 through January 31, 1995.
3. ATF has learned that CBS News' public polling unit has completed its own survey of law enforcement authorities charged with administering the Brady Law. The CBS study purportedly estimates that more than 44,000, or approximately two percent, of the applications to purchase handguns submitted during the one-year period following the Brady Law's effective date were denied.
4. ATF reports that the combined effect of the Brady Law provision which increased the start-up costs to become a federally-licensed firearms dealer (from \$30 to \$200 for a new three-year license) and President Clinton's gun dealer reform initiatives, has caused the number of licensed gun dealers to plummet by more than 50,000 in the last year and a half.
 - Josh Sugarmann, the Executive Director of the Violence Policy Center, which recently released a study on the decline in gun dealers, was quoted in the Washington Post as saying that "[i]n the long term, [the decline in the number of gun dealers] will reduce gun violence and illegal gun trafficking."

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO & FIREARMS

***One-Year
Progress
Report:***

Brady Handgun
Violence Prevention Act

February 28, 1995





DEPARTMENT OF THE TREASURY
WASHINGTON

UNDER SECRETARY

February 28, 1995

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

Dear Mr. Secretary:

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

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

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

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

Sincerely,

Ronald K. Noble
Under Secretary
(Enforcement)

One Year Progress Report: Brady Handgun Violence Prevention Act

I. OVERVIEW

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

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

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

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

Brady Successes

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

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

II. THE BRADY LAW

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

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

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

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

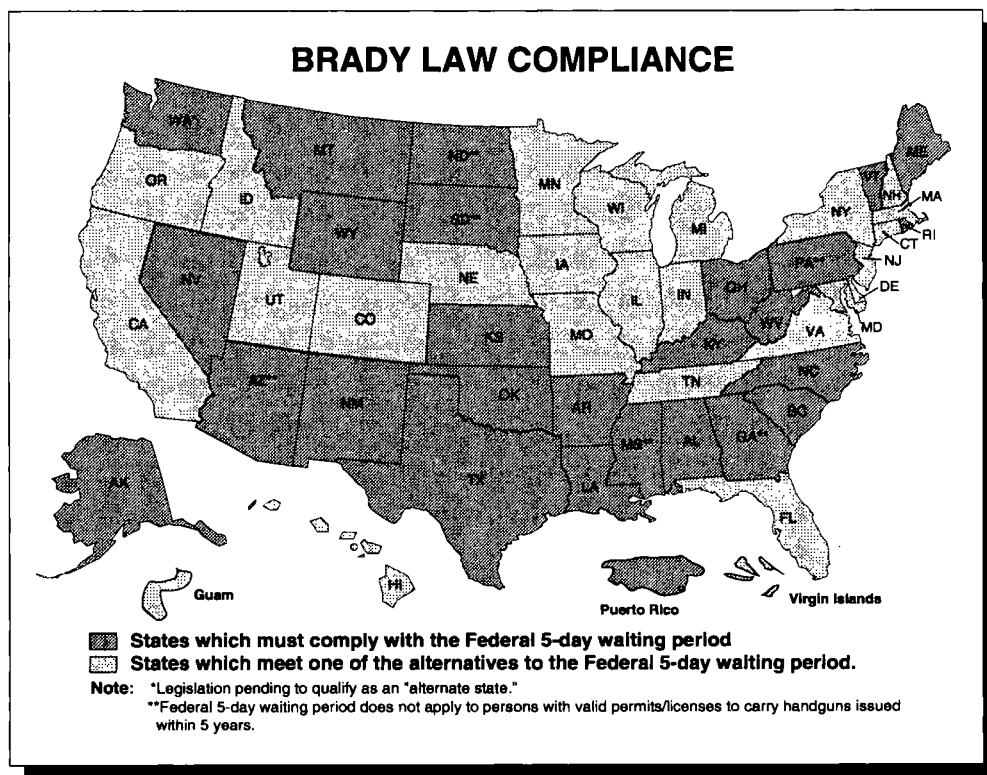
The gun dealer must transmit the Brady Form to the Chief Law Enforcement Officer of his or her particular jurisdiction within 24 hours. The Chief Law Enforcement Officer then makes a reasonable effort to ascertain within five business days whether receipt or

Brady Successes

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

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

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



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

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

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

III. ATF BRADY LAW ANNIVERSARY SURVEY

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

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

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

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

continued

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

continued

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

IV. THE BRADY LAW 100-DAY SURVEY

On July 27, 1994, the Treasury Department released the results of an earlier ATF study assessing the impact of the Brady Law during the first 100 days of its implementation. In this study, ATF surveyed 70 of the largest federally licensed firearms dealers in nine cities: Abilene, Texas; Atlanta, Georgia; Cleveland, Ohio; Houston, Texas; Louisville, Kentucky; Pittsburgh, Pennsylvania; Providence, Rhode Island; Seattle, Washington; and Shreveport, Louisiana. ATF also polled 16 law enforcement authorities in the same locations.

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

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

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

Brady Successes

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

Table 2
100 Day Survey Results

Gun Dealer 100 Day Survey				
Survey City	Number of Gun Dealers Interviewed	Number of Applications Initiated	Number of Applications Denied	Denial Rate (%)
Houston, TX	5	2,104	345	16.4
Louisville, KY	10	1,670	100	6.0
Seattle, WA	8	2,135	9	.4
Pittsburgh, PA	10	2,204	39	1.8
Providence, RI	5	113	13	11.5
Abilene, TX	8	437	6	1.4
Atlanta, GA	10	1,385	33	2.4
Shreveport, LA	9	1,377	65	4.7
Cleveland, OH	<u>5</u>	<u>302</u>	<u>14</u>	<u>4.6</u>
Total	70	11,727	624	5.3

Law Enforcement Officers 100 Day Survey				
Survey City	Number of Law Enforcement Officers Interviewed	Number of Applications Initiated	Number of Applications Denied	Denial Rate (%)
Houston, TX	3	12,832	1,220	9.5
Louisville, KY	1	17,440	624	3.6
Seattle, WA	1	2,200	36	1.6
Pittsburgh, PA	1	8,600	533	6.2
Providence, RI	1	348	5	1.4
Abilene, TX	1	501	12	2.4
Atlanta, GA	5	7,054	365	5.2
Shreveport, LA	2	1,835	100	5.4
Cleveland, OH	<u>1</u>	<u>13,622</u>	<u>113</u>	<u>.8</u>
Total	16	64,432	3008	4.7

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

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

Brady Successes

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

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

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

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

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

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

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

* Statistics available beginning of May 1994

** No statistics are available

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

(B) Brady state

VI. CONCLUSION

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

Appendix

Sample Brady Form

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

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

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

1. TRANSFEREE'S (BUYER'S) NAME (Last, (and maiden, if applicable), first, middle)	2. DATE OF BIRTH (Month, day, year)
3. RESIDENCE ADDRESS (No., street, county, city, State, and ZIP code)	

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

SOCIAL SECURITY NUMBER	HEIGHT	WEIGHT	SEX
PLACE OF BIRTH			

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

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

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

TRANSFEREE'S (BUYER'S) SIGNATURE	DATE
----------------------------------	------

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

6. TRADE/CORPORATE NAME, ADDRESS, AND TELEPHONE NUMBER OF TRANSFEROR (SELLER)	FEDERAL FIREARMS LICENSE NUMBER
---	---------------------------------

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

TYPE OF IDENTIFICATION ☐ DRIVER'S LICENSE ☐ OTHER (Specify) _____	NUMBER ON IDENTIFICATION
--	--------------------------

8. CONTENTS OF THE STATEMENT IN SECTION A OF THIS FORM WERE RECEIVED BY _____ OF _____ ON _____ BY _____
 (Chief Law Enforcement Officer) (Law Enforcement Agency) (Date)
 (Check the appropriate answer.)

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

9. A COPY OF THE STATEMENT IN SECTION A OF THIS FORM WAS TRANSMITTED TO THE CHIEF LAW ENFORCEMENT OFFICER ON _____ BY _____
 (Date) (Check the appropriate answer.)

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

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

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

11. TRANSFEROR'S (SELLER'S) SIGNATURE	TRANSFEROR'S TITLE	DATE
---------------------------------------	--------------------	------



Office of Policy Development
United States Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Date: 11-22-93

TO:

Jose Carole

FAX: 456-7028

VOICE: _____

FROM:

Grace Mastelli

VOICE: (202) 514-4606

FAX: (202) 514-8639

Total Pages (excluding this cover): 11

Additional Message:

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categories to define precisely. The definitional problem stems from the present tense -- "is" -- of the verb. The Gun Control Act does not specify how recently the unlawful use must have taken place -- is it within the past 24 hours? the past week? the past month? We have not found any court decisions to help clarify this issue. While the BATF is also not aware of any court case addressing this issue, they did indicate that to prosecute someone for this disability there would need to be "current evidence of use." Possible examples of evidence the BATF cited include needle marks, current enrollment in a drug treatment center, or a urine test.

In the absence of any court interpretation, we have adopted the definition used by the National Institute on Drug Abuse (NIDA), which defines a current user as anyone who has used drugs within the past month. Obviously, this broad interpretation of the category means that the number of persons in the disability category (i.e., the target population) could be quite large. While one could argue for a stricter interpretation (e.g., drug use within the past week), any definition of a current user or addict does not alleviate the key problem of how to identify those persons who belong in this category, especially since a person's status relative to the disability can change on short notice. Indeed, the same individual could be ineligible to purchase a firearm one week, eligible the next, and so on. This implies that any database of persons belonging to this disability category would not be very valid, unless it were continually updated by adding new users and deleting "non-current users." Such a database would be exceedingly costly to establish and maintain.

Category 4: "... who has been adjudicated as a mental defective or who has been committed to a mental institution..."

The wording of this particular part of the Gun Control Act raises two issues. First, the statute refers to any person who "has been", rather than any person "who is". The statute therefore covers, for example, any person who has ever been committed to a mental institution, and not just those currently in an institution. An implication of this fact is that the number of persons in this category would be more difficult to estimate than if the statute only covered those currently in mental institutions. More importantly, some potential data repositories may only have automated records of current patients, or, at best, a few years worth of automated records, depending on when the facility began automating its records.

A second issue is the vagueness regarding who actually belongs in the category. As each State has its own laws regarding who can commit persons to mental institutions and

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what procedures must be followed, it is easy to see that in many cases it could be difficult to determine who is and who is not covered by the Gun Control Act.

As stated above, the Gun Control Act covers persons adjudicated as a mental defective or committed to a mental institution. In their interpretation, the BATF has qualified this statute: only persons adjudicated as a mental defective or committed to a mental institution by a court, authority, commission, or board are ineligible to purchase firearms. In particular, the BATF has indicated that "commitments" by other parties -- such as friends, family members, the family doctor -- and "self-commit" (i.e., voluntary admissions) are not covered by the Gun Control Act. The vast majority of adjudications and commitments covered by the Gun Control Act, as noted in Section 4.2, result from civil commitment proceedings. Also included are criminal-related adjudications and commitments, including persons found incompetent to stand trial, not guilty by reason of insanity, and guilty but mentally ill.

There are court cases concerning this section of the Gun Control Act that support the above stated BATF interpretation. For example, in Redford v. United States Department of the Treasury (691 F. 2d 471 (10th Cir. 1982)), the court found that persons found not guilty of a criminal charge by reason of insanity have been "adjudicated as a mental defective," and hence are ineligible to purchase firearms. In United States v. Hanael (474 F. 2d 1120 (8th Cir. 1973)), the court held that persons being evaluated for the purpose of determining whether they are mentally defective are not covered by this statute. Indeed, a sizable population in mental institutions are there for evaluation purposes, not because they have been formally declared "mentally defective." In civil commitment or criminal competency proceedings, for example, the court's final decision is based in part on the recommendations of mental health professionals who evaluate the person. During this evaluation period, the person is often in a mental institution. Unless the court, acting on the evaluation results, commits such a person to an institution, he/she is eligible to purchase a firearm. Falling in this same category are so-called emergency detentions initiated by family members, friends, and others who are statutorily permitted to do so. In United States v. Giardina (861 F. 2d 1334 (5th Cir. 1988)), the court found that the defendant's detention for emergency treatment and observation did not constitute a commitment.

It should be noted that the court in United States v. Hanael also ruled that the term "mental defective" refers to a person with impaired intellectual capability, rather than to a

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person suffering from mental illness. Finally, we should note that no court that we are aware of has specifically addressed the issue of whether "self-commits" (i.e., voluntary admissions) are covered by the Gun Control Act. As indicated above, the BATF indicated that voluntarily admitted persons are not ineligible to purchase firearms. This interpretation is important because roughly three quarters of persons in mental institutions today are "voluntary" patients, as noted in Section 4.2.

Category 5: "... who, being an alien, is illegally or unlawfully in the United States ..."

The definition of an illegal alien is straightforward. Usually, these persons are classified based on how they entered the U.S., either (1) illegally or (2) legally, in which case the alien's legal status changed and some provision of his/her visa was violated. What is a problem is that a person's status relative to the disability category can and does change, as is also the case with the unlawful users of controlled substances category. For example, a person can legally enter the U.S. on a valid visa and then overstay his/her visitation time. At some later time, that person might regain his/her legal alien status by obtaining a visa extension or by being granted permanent residence status. A person entering the U.S. clandestinely can change his/her legal status by marrying a U.S. citizen. The fact that a legal alien can become an illegal alien, and vice versa, at almost a moment's notice and that the Gun Control Act specifies that only a person who "is" illegally or unlawfully in the U.S. is prohibited from purchasing firearms impacts the validity of any database used to identify illegal aliens. It may be that the only information on a person's alien status timely enough to deny a firearm sale is information obtained locally at the point-of-sale through, for example, documents supplied by the applicant.

Category 6: "... who has been discharged from the Armed Forces under dishonorable conditions ..."

All persons discharged from the Armed Forces are given a discharge status, which is either honorable, dishonorable, less than honorable, or uncharacterized. Originally, the Gun Control Act prohibited "any person who has been discharged under other than honorable conditions" from purchasing firearms. Congress soon after amended this section to cover only discharges under dishonorable conditions. It should be noted that the constitutionality of this statute was upheld in United States v. Day (476 F. 2d 662 [6th Cir. 1973]).

4 Mental Defective

Section 922(g)(4) of title 18, United States Code, states that it shall be unlawful for any person "who has been adjudicated as a mental defective or who has been committed to a mental institution" to purchase a firearm. The purpose of this section is to describe the data sources that could be used to identify persons in this disability category, to estimate the sizes of the four data-related populations (i.e., target population, known population, automated population, and remotely-accessible population), and to assess possible verification methods for this disability category.

4.1 Current Data Sources

Like the unlawful users of controlled substances category, the scope of the mental defective data survey has been broad. There are literally hundreds of courts, authorities, commissions, and boards with mental health jurisdiction that could either declare a person mentally defective or commit a person to a mental institution. In addition, there are a variety of mental health facilities in the U.S., including State-run mental institutions and private psychiatric facilities. Many veterans hospitals and general hospitals also offer psychiatric services. Because of tight time constraints, we have had to limit our data survey. A detailed look at the various mental health organizations and related agencies has led us to focus on two types of data sources. First, as Brakel et al. (1985) point out, the vast majority of commitments (of the variety that render a person ineligible to purchase a firearm) to mental institutions are made by courts, as opposed to authorities, commissions, and boards with mental health jurisdiction. Second, we have noted that those states which currently verify a potential firearm purchaser's mental health status obtain their information from the State mental health department. For these reasons, our data survey has focused on the courts and the State mental health departments.

Courts

Could court records be part of a national firearm eligibility verification system? One problem is that although the current trend in court organization is toward "unified" court systems, courts have traditionally been decentralized and

autonomous. In fact, courts with jurisdiction over mental health-related cases in eight states (i.e., Alabama, Connecticut, Georgia, Michigan, North Dakota, South Carolina, Tennessee, and Texas) are still locally funded and operated. This tradition has obviously impacted the way the court maintain their records, particularly the development of State-wide record systems. Not surprisingly, efforts to automate court records vary from State to State.

Another obstacle to using court records for verifying whether or not an applicant is eligible to purchase a firearm is the existence of confidentiality laws. In general, court records are open to the public, except for those records specified by statutes as confidential. Again, each State has different statutes on which records are confidential, but, in general, juvenile records, pre-sentence investigation reports, incompetency proceedings, and mental commitment proceedings are sealed. In fact, the National Center for State Courts' (1986) proposed guidelines for involuntary commitment suggest that "[c]ourt records of involuntary civil commitment proceedings should be closed. They should be opened only by permission of the respondent, his or her counsel, by court order to the attorney for the State, or by court order for purposes of research and program evaluation authorized by the court".

In our survey of State verification practices, we have found few instances when the courts were utilized in checking the mental health status of a prospective firearm purchaser. A small number of licensing authorities indicated they occasionally telephone the local court clerk's office, if they have reason to believe a person may be ineligible to purchase a firearm because of a mental defect. On a larger scale, two states deserve mention. In Oregon, the State Attorney General's office would like to use the State-wide court information system to facilitate the mental health checks, once their new gun law takes effect on January 1, 1990 (see Section 2.3). According to officials in that office, however, it was not clear that this could be accomplished, primarily because of the state's confidentiality law on mental health-related court records. In California, the State laws require that courts immediately notify the Department of Justice, the agency that issues handgun permits, whenever a person has been (1) adjudicated by the court to be a danger to others as a result of a mental disorder or mental illness; (2) adjudicated to be a mentally disordered sex offender; (3) found not guilty by reason of insanity; (4) found to be mentally incompetent to stand trial; or (5) placed under conservatorship. These statutes also require the courts to notify the Department of Justice when the persons are no longer mental defectives. Further, the statutes

state that such records "shall be kept confidential, separate, and apart from all other records maintained by the [Department of Justice], and shall be used only to determine eligibility to purchase or possess a firearm." While it would be extremely difficult to implement nationwide, having courts (as well as other authorities, commissions, and boards with mental health jurisdiction) share commitment orders with an integrated firearm eligibility system is clearly one possible verification method for this disability category. Moreover, if full cooperation were obtained from all the participating agencies over a period of time, the integrated system could contain the vast majority of persons in this disability category.

Aside from California, however, states verifying mental health information utilize the State mental health departments, even though they recognize that these databases do not include persons committed to non-State hospitals. In some cases, like in Massachusetts, there is no choice because the relevant court records are sealed. But, in general, the typical attitude is "let's do the best we can with the resources we have", meaning that only the single largest repository (i.e., the State mental health department) is checked. For this reason, we have focused primarily on the State-level mental health agencies as a possible data source.

State Mental Health Departments

Hospitals run by the State mental health department house a variety of types of patients. For the purposes of identifying persons ineligible to purchase firearms, it is unfortunate that, as noted in Section 4.2, the vast majority of persons in these hospitals are not covered by the Gun Control Act. Based on the discussion in Section 2.1 regarding the interpretation of this disability category, those not covered include persons who voluntarily admit themselves to the hospitals, as well as persons who are admitted for emergency detention or for observation and evaluation purposes. From an administrative perspective, the voluntary patients can be distinguished from the involuntary patients: each State has statutory procedures for voluntary and involuntary admissions and the State-level mental health department databases which we have surveyed usually record whether a patient is voluntary or involuntary.

Persons in State mental health hospitals who are covered by the Gun Control Act are those committed through civil or criminal commitment proceedings. During these proceedings, the court orders an evaluation of the defendant. Each State has its own procedures for carrying out these evaluations. In many states, the defendant is committed to a

mental institution for a brief period of time so that the evaluation can be conducted at that location. In other states, the evaluation is performed on an outpatient basis. If the evaluators determine that the defendant is incompetent and the court concurs with this determination, the court typically commits the defendant to a mental institution for a designated period of time. Given the widespread publicity of criminal commitment cases, it is perhaps surprising that criminal commitments are such a small fraction of all admissions to mental institutions. Several studies (e.g., Brakel et al., [1985]) have shown that persons found incompetent to stand trial constitute the vast majority of these cases. Less common than persons found incompetent to stand trial are persons found not guilty by reason of insanity. Again, each State has its own particular statutes governing the disposition of these cases. In general, the states either treat the defendant as if he/she were found not guilty and release the defendant, or evaluate the defendant for the purposes of determining whether he/she is a candidate for civil commitment, or automatically commit the defendant to an institution for the criminally insane.

How useful are the State mental health department databases for identifying persons in this disability category? While the databases and the computer systems vary from State to State, some general observations can be made. Not surprisingly, private psychiatric hospitals and other non-State run hospitals do not furnish the names of persons admitted, much less committed, to their hospitals to the State-level mental health department. Indeed, our survey of State mental health departments show that the only persons in their databases are persons admitted to the State-run mental hospitals. To expand these State databases to include non-State hospital admissions would require enabling legislation and, in the case of Pennsylvania, for example, "a very large increase in State funds appropriated for the design, development, and implementation of hardware/software to collect the necessary data from about 100 general hospitals and 20 private psychiatric hospitals".

A second key observation is that in ten of the thirty states we surveyed, the State mental health department database does not contain patient names. Just as in the unlawful users of controlled substances category (in which names of persons undergoing drug treatment are only kept at the local treatment center and not at the State-level substance abuse agency, as noted in Section 3.1), in Colorado, Connecticut, Kansas, Nebraska, Massachusetts, Louisiana, Wisconsin, Maine, New Jersey, and South Carolina the patient names are kept only at the hospital where the patient is housed. A unique patient reference number, along with other patient characteristics, is

forwarded to the mental health department. One reason for not having the names at the State-level mental health department is the particular state's mental health confidentiality statute. Another reason, which was cited by our contacts in the above mentioned ten states, is that the names are not needed at the State level. Moreover, as one director said, "If we don't have the names, then we can't give them out", thus reflecting an attitude taken by some states that this type of information should not be provided for any reason.

However, it should be noted that even in those states that maintain the patient names, as well as other key identifiers, in the State mental health database, the data should be viewed as highly suspect. Mental health agencies, as well as nearly all of the other agencies discussed in this report, are not oriented towards ensuring or verifying the accuracy of patient identifiers. In this regard, these agencies are fundamentally different from law enforcement agencies, which commit substantial resources toward verifying an arrestee's true identity by matching his/her fingerprints to those taken from previous arrestees. Needless to say, there are no fingerprints associated with records at the State mental health databases, with the exception of patients who are criminal commitments.

Another critical observation regarding the State mental health databases (as well as mental health records maintained by courts) is the confidentiality of these records. In fact, it is an important maxim of mental health treatment that confidentiality is assured. Courts have held that therapists owe a common law duty to patients not to easily make records of treatment available (*Commonwealth v. Kehr*, 385 Mass. 284, 479 N.E. 2d 674 [1985]). Breaching of the confidential relationship can subject a therapist to a civil lawsuit for breach of privacy and perhaps to disciplinary action by a State regulatory board. Therefore, in the absence of a statutory directive to furnish information, a therapist generally is not free to provide mental health information to other authorities.

In order to obtain accurate information, the licensing authority must have legislative authorization both to seek mental health histories from the prospective purchaser and to check with public and private mental health authorities. The Indiana State Police, for example, cannot obtain information from the State mental health department for the purposes of determining firearm eligibility; instead, they rely on unsolicited information from the purchaser's family and friends. Without such a statutory requirement, State mental health officials typically stated, "we would never give out this information". In addition, they cited ethical reasons, similar to those given by State substance abuse directors for not

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divulging information about persons undergoing drug treatment.

Given that every State has mental health record confidentiality laws [Brakel et al, 1985], those states that currently allow release of mental health information for the purposes of determining firearm eligibility have explicit exceptions to their State confidentiality laws. Even in these few states, however, the mental health department databases are not, strictly speaking, remotely-accessible. In these states, the licensing authority must request, typically in writing, the information from the mental health department, whose personnel then perform the background check. In no State does the licensing authority have on-line access to the patient database. One reason for this is that very few persons in the patient databases are deemed ineligible to purchase firearms.

4.2 Current Population Estimates

Like the unlawful users of controlled substances category, estimating the data-related populations of the mental defective category presents special problems. First, the statute covers any person who "has ever" been adjudicated as a mental defective or committed to a mental institution. This implies that we must account for persons who, for example, were committed to a mental institution but have since been discharged. Another problem, noted in Section 4.1, is that there are a wide variety of mental health facilities in the U.S.

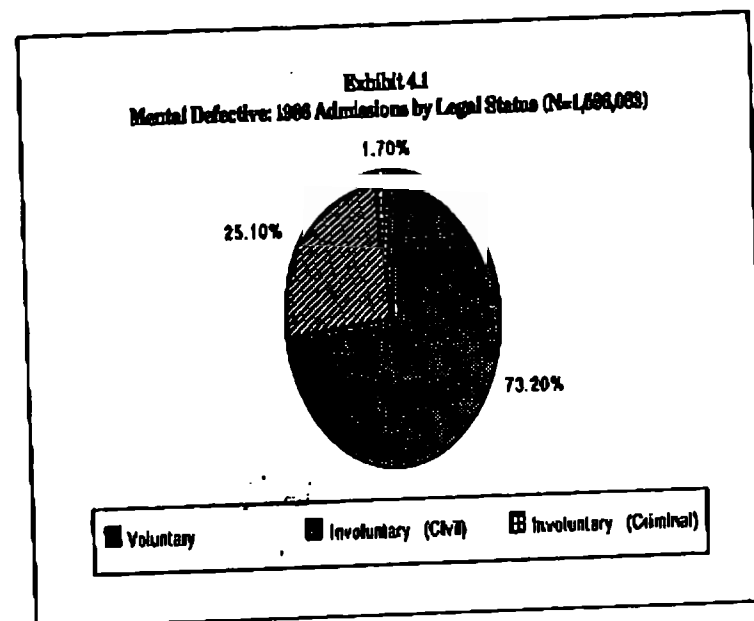
Target Population

Our approach in estimating the target population is to first estimate the fraction of persons currently in mental institutions that are in the category and then to extrapolate backwards to capture persons committed at an earlier point in time but who are no longer in mental institutions. This is obviously based on a number of assumptions, which are described later in this section. A key assumption is that all persons belonging to this disability category were committed on an inpatient basis to hospitals and not to outpatient facilities or simply to the custody of an individual. Actually, according to many State mental health administrators, this assumption is quite valid.

To estimate the number of persons currently in mental institutions who are ineligible to purchase firearms, we utilized the most recent survey data collected by the National Institute of Mental Health (NIMH). The Institute periodically

4 Mental Defective

surveys admissions to State and county hospitals, private psychiatric hospitals, non-Federal general hospitals, veterans hospitals, and multi-service mental health centers. Their unpublished 1986 figures showed 1,596,063 inpatient admissions to these various facilities (NIMH, 1989). However, the NIMH data are admission-based, rather than patient-based, as is the case with the drug treatment databases described in Section 3.1. Obviously, any estimate of the target population must convert the admission-based numbers to patient-based numbers by assuming some "recidivism" rate. Moreover, the Gun Control Act does not cover all persons associated with the 1,596,063 admissions, as noted earlier in Section 4.1. Indeed, persons not covered include those who voluntarily admitted themselves, which, as shown in Exhibit 4.1, constitute the vast majority (i.e., 73.2 percent) of the 1986 admissions.



The second largest group of admissions in the 1986 data set are what the NIMH classifies as involuntary civil commitments, which, as shown in Exhibit 4.1, constitute 25.1 percent (i.e., 401,315) of the 1986 admissions. However, not all

of these involuntary civil admissions resulted from a commitment by a court, authority, commission, or board. Many resulted from emergency detentions and evaluations or observation orders, which, as noted earlier, are not covered by the Gun Control Act. Unfortunately, the NIMH involuntary civil admissions are not broken down by "type of admission" (e.g., court commitment, emergency detention, evaluation or observation order). The data are, however, broken down by "referral source" (i.e., which organization referred the person to the mental institution). Possible referral sources in the NIMH data set are family, police/court, outpatient program, private psychiatrist/physician, State/county hospital, other inpatient facility, and other ambulatory facility. For the purposes of estimating the target population of this disability category, we assume that only the "police/court" referrals are in this disability category. This group constitutes 30.6 percent of the 401,316 involuntary civil commitments in the NIMH data set, thus adding another 122,416 to the target population. Actually, the 30.6 percent figure is consistent with data obtained from some State mental health departments, whose hospitals typically house a large fraction of patients whose mental condition is being evaluated.

The final group of admissions covered by the Gun Control Act are the criminal commitments, which account for only 1.7 percent (i.e., 27,042) of the 1,596,063 admissions (see Exhibit 4.1). Thus, summarizing this analysis of the 1986 NIMH data, only persons associated with the 122,416 court-ordered civil commitments and the 27,042 criminal commitments are ineligible to purchase firearms. Together, they constitute 9.0 percent of all admissions in the 1986 NIMH data set.

To derive the entire mental defective target population, we need to estimate how many persons admitted to mental institutions in previous years are ineligible to purchase firearms. To answer this question, we have developed a simple model that considers (1) the number of annual admissions to mental institutions; (2) the fraction of admissions that are covered by the Gun Control Act; and (3) the recidivism rate (i.e., the number of admittees in a given year who had been admitted in a previous year). The number of admissions at State and county hospitals has increased from less than 200,000 in 1956 to over 350,000 in 1980 [Brakel et al., 1986]. (Interestingly, the population at these hospitals has decreased during the same time period, indicating a trend away from long-term institutionalization.) Coincidentally, the fraction of all institutionalized patients housed at State and county hospitals has dropped considerably. Thirty years ago, State and county hospitals housed the vast majority of

institutionalized patients; in 1986, only 20.4 percent were in State and county hospitals [NIMH, 1989]. (This low percentage impacts the known population of this disability category, as discussed below.) Another key assumption of our model is that the percentage of admissions covered by the Gun Control Act has steadily decreased to the 9.0 percent figure associated with the 1986 statistics. This assumption is based on the fact that the percentage of involuntary admissions to State and county hospitals has decreased from 90 percent in 1949 to 50 percent in 1972 and then subsequently increased to 67 percent in 1986 [Brakel et al., 1986]. The percentage of involuntary admissions at non-State and county hospitals has traditionally always been roughly 85 percent. Finally, we have assumed, based on discussions with State mental health personnel, a recidivism rate of 50 percent and have run the model for admissions over the past 25 years, which, according to State mental health personnel, should capture the names of the vast majority of living persons who have ever been institutionalized. Based on the above stated assumptions, we estimate that the target population for the mental defective disability category is currently at 2.7 million persons.

Known Population

Unlike the unlawful users of controlled substances and the illegal alien disability categories, all persons in the mental defective disability category are known, in the sense that they were all processed by a court (or some other mental health-related authority, commission, or board). Hence, as noted in Section 4.1, if all these institutions shared commitment orders with an integrated firearm eligibility system, such a verification method would have the potential of having an extremely high coverage ratio. Thus, in principle the known population is also 2.7 million persons.

A verification method utilizing only the State mental health databases, however, would have less coverage. As noted earlier, only 20.4 percent of the admissions in the 1986 NIMH survey were to State and county hospitals. Fortunately, a disproportionate number of court-ordered civil and criminal commitments were to State and county hospitals. In fact, in 1986 46.6 percent of 122,416 civil court commitments and 84.3 percent of 21,825 criminal commitments that are covered by the Gun Control Act were to State or county hospitals, respectively [NIMH, 1989]. Together, 51.4 percent of the 1986 target population are at these hospitals. Interestingly, when asked what determines to which type of hospital an involuntary civil commitment is sent, State mental health officials frequently indicate that it is the person's financial resources, so that

persons with little or no financial resources are sent to State hospitals.

If 51.4 percent of the 1986 target population is in the known population, what can be assumed about this percentage over the past 25 years? As noted above, the percentage of institutionalized patients housed at State and county hospitals has decreased over the past 25 years, suggesting that in previous years a higher percentage, relative to the 51.4 percent figure in 1986, of all patients covered by the Gun Control Act would be "known" to the State mental health department. Including this assumption into our model, we estimate the known population of the mental defect disability category to be 1.8 million, which is equal to roughly 67 percent of the target population.

Automated Population

To accurately estimate the automated population of the mental defective disability category, we would need the fraction of all patient records that are automated by each State. In the absence of these figures, we can, however, make a few general observations which may constitute the basis for an estimate of the automated population.

That 10 of the 30 states surveyed did not have names in their patient databases (see Section 4.1) suggests a first order approximation that no more than two thirds of the known population is in the automated population. In fact, the percentage is even lower because many states have had automated databases for less than 25 years. Most states in our survey have automated records as far back as the mid-1970s. California, with automated records since 1968, has the oldest system of automated records among the states we surveyed. Factoring an estimate of the percentage of records automated by year into our model resulted in an estimated size of the automated population of 0.8 million persons for this disability category. This represents roughly 30 percent of the target population and 44 percent of the known population.

Remotely-Accessible Population

For verification methods utilizing only State mental health databases, the remotely-accessible population is equal to the automated population (i.e., 0.8 million). On the other hand, as noted earlier, the remotely-accessible population of persons in this disability category could approach the category's target population, if all the courts, authorities, commissions, and boards shared commitment orders with an integrated firearm eligibility system.

4.3 Possible Eligibility Verification Methods

The preceding description of mental health databases highlights several facts. First, there is, obviously, no national repository for persons in this disability category. Second, existing data repositories are widely dispersed among hundreds of mental health service providers and courts and other authorities, commissions, and boards with jurisdiction over mental health-related proceedings. Third, access to mental health records are restricted by State confidentiality laws.

Nevertheless, the discussion in Section 4.2 suggests three possible eligibility verification methods. The first method, which is the approach utilized in those states currently verifying an applicant's mental health status, entails the licensing authority (i.e., typically, the local police) making a written request to the State mental health department. In the second method, the State mental health department's database is interfaced with the State law enforcement computer system. Finally, the third method would have courts, authorities, commissions, and boards with mental health jurisdiction share the commitment order with an integrated firearm eligibility system. The advantages and disadvantages of each method are discussed below and summarized in Exhibit 4.2.

Cost

The start-up and operating costs of the two verification methods involving the State mental health departments should be somewhat more than that of having courts, authorities, commissions, and boards share the commitment order with an integrated firearm eligibility system, assuming such a system exists. The costs of having the local police make written requests for information to appropriate State mental health departments depend largely on how many departments are contacted. Obviously, the department in the firearm purchaser's State of residence would be contacted. On the other hand, contacting mental health departments in all fifty states, while making for a truly "national system", would be prohibitively expensive and most likely unnecessary, particularly if it can be determined in what states the applicant has resided in the past ten years or so. In any case, the departments would clearly need to hire additional employees to process the requests for information. For example, at one time California considered having each applicant's mental

Exhibit 4.2
Mental Defective: Possible Eligibility Verification Methods

<u>Verification Method</u>	<u>Compatible With:</u>	<u>Advantages</u>	<u>Disadvantages</u>
Local police make written request to appropriate State mental departments	Pre-Sale Post-Sale	• Process: timely implementation in a few states (which are currently already using such a verification method)	• Cost: moderate start-up and operating costs; legal impediments in most States • Data: poor completeness, since 1/3 of State databases lack patient names • Process: not timely verification; poor identification accuracy • Coverage: coverage ratio - 30%, since missing data from non-State facilities
Interface State mental health databases with State law enforcement computer system	Pre-Sale Point-of-Sale Post-Sale	• Process: timely verification, if point-of-sale option is implemented	• Cost: moderate start-up and operating costs; legal impediments in all States • Data: poor completeness, since 1/3 of State databases lack patient names • Process: not timely implementation; poor identification accuracy • Coverage: coverage ratio- 20%, since missing data from non-State facilities
Have courts, authorities, commissions, and boards share commitment order with integrated firearm eligibility system	Pre-Sale Point-of-Sale Post-Sale	• Cost: low marginal start-up and operating costs, assuming existence of eligibility system • Data: potentially excellent accuracy, completeness, and validity • Process: timely verification if point-of-sale option is implemented	• Cost: legal impediments in all States • Process: not timely implementation, since must obtain cooperation of several hundred courts, authorities, commissions, and boards; poor identification accuracy • Coverage: coverage ratio- 100%, assuming full cooperation

health history verified by the Department of Mental Health during the required waiting period, but quickly abandoned the idea because a study conducted to determine the number of additional staff necessary to process the requests estimated that an additional 20 persons would be needed. The start-up and operating costs of interfacing the State mental health database with the State law enforcement computer system, while obviously entailing lower labor costs than the written request verification method, would require substantially more computer-related costs, particularly to fund the necessary upgrades of each state's mental health and law enforcement systems.

The start-up costs of having courts, authorities, commissions, and boards share commitment orders with an integrated firearm eligibility system, assuming such a system already exists, should be less compared to the other two verification methods discussed in this section. This would depend, of course, on how the commitment orders were processed and made available to the integrated system.

All three verification methods have substantial, legal costs, as each method requires release of confidential materials and records. In order to obtain accurate information, the public authority must have legislative authorization both to seek mental health histories from the applicant and to check with public and private mental health authorities. As was noted in Section 4.1, all states have statutes which protect the confidentiality of mental health records.

Data

The quality of the data, including its accuracy, completeness, and validity, varies from State to State. Most notably, one third of the states we surveyed do not have patient names on the State mental health databases. Although this fact does not preclude implementing the first two verification methods (the Massachusetts State mental health database, for example, does not have patient names, yet the State mental health department still processes requests from local licensing authorities, as noted in Section 2.2), the timeliness of the verification checks would obviously be poor. The majority of the other states indicated that they can identify persons by their name, date of birth, sex, and Social Security number, if available. As far as accuracy of this data is concerned, as was pointed out in Section 4.1, mental health departments are not overly concerned with verifying the accuracy of patient identifiers, as a law enforcement agency would be.

The data accuracy, completeness and validity in the third verification method -- of having courts, authorities, commissions, and boards share commitment orders with an integrated firearm eligibility system -- are, of course, superior to that of the first two verification methods, primarily because the data are obtained directly from the organization that commits the persons or finds the person mentally defective. The problems stemming from the State mental health departments database structure (e.g., keeping the patient names at the hospital level) and how State systems handle the data provided by the courts, authorities, commissions, and boards are avoided in such an approach.

Process

As noted in Exhibit 4.2, two of the three verification methods (i.e., interfacing the State mental health department database with the State law enforcement computer system and having courts, authorities, commissions, and boards share commitment orders with an integrated firearm eligibility system) are compatible with the point-of-sale option and therefore could provide timely verification. On the other hand, these same two verification methods could not be implemented in a timely manner. For example, to interface the State mental health department database with the State law enforcement computer system, each State would have to invest a substantial amount of resources into creating the electronic link between the two systems. Many of the computer systems we surveyed are the older transaction processing, assembly code-based machines. Adding another type of transaction (i.e., processing a query from the State law enforcement computer system) to such a system entails a major reprogramming and upgrading effort. Getting the states to commit to the necessary manpower for such a project, to monitor the progress, and to ensure a standard performance level would all be extremely difficult. Also, having courts, authorities, commissions, and boards share commitment orders with an integrated firearm eligibility system could also not be implemented in a timely manner, because cooperation of the hundreds of such institutions would be necessary.

As noted above, the written request verification method, while not providing timely verification, could probably be implemented sooner than the other two verification methods. For instance, six states already have implemented such a system. Further, this verification method would not require extensive and time consuming reprogramming of existing computer systems. The most time consuming factor, aside from overcoming the above stated legal impediments, would be

4 Mental Defective

hiring and training the personnel needed to process the requests for information.

Finally, it is important to note that all three verification methods have poor identification accuracy. With the possible exception of criminal commitments, which as noted in Section 4.2 constitute a small fraction of persons in this disability category, there are no fingerprints in the court or State mental health databases. There would be no way to positively identify persons in this disability category.

Coverage

Another disadvantage of the two verification methods that utilize the State mental health databases is that a significant fraction of persons in this disability category are not listed in the State mental health databases, such persons are committed to a private, veterans, or other non-State mental hospital. Indeed, as argued in Section 4.2, the coverage ratio of this verification method (i.e., the remotely-accessible population divided by the target population) is only 30 percent.

As indicated above, an advantage of obtaining data from the courts, authorities, commissions, and boards with mental health jurisdiction, rather than from the State mental health department, is that persons committed to non-State hospitals are covered. Assuming all of the various data sources cooperate and share commitment orders and adjudication findings with an integrated firearm eligibility system for a number of years, this verification method could, in theory, identify all of the persons in this disability category (i.e., the coverage ratio could be 100 percent).



DEPARTMENT OF THE TREASURY

WASHINGTON

**Background Paper
Brady Implementation -- Early Results**

- * The Brady Handgun Violence Prevention Act is the most significant gun law curtailing *criminal access* to handguns since the 1968 Gun Control Act. Each year nearly 7.5 million firearms are sold at retail in the U.S., about half of them handguns. *Until Brady those guns were sold primarily on an honor system, wherein the purchasers assured the sellers they were legally entitled to buy the firearms.*
- * Treasury's regulations for implementing the 5-day waiting period and background check for the purchase of handguns were printed in the Federal Register on February 14, two weeks before the deadline, to ensure that all affected parties had adequate opportunity to understand their new responsibilities. There is a 90-day comment period before regulations are finalized.
- * Several informational mass mailings were sent to the 284,000 current Federal Firearms Licensees and to thousands of state and local law enforcement offices around the country. The Bureau of Alcohol, Tobacco and Firearms 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.
- * Although there has been some resistance to Brady by certain law enforcement officials, the majority of the reports received by Treasury have been very positive. On the first day, a number of Brady checks resulted in "hits" -- police uncovering attempts to illegally buy handguns (see attached list).
- * As anticipated, there are several law suits against the U.S. government alleging that the Brady Act is unconstitutional. In particular, the suits claim that the Act violates:

5th amendment -- by requiring a "reasonable effort" record search which is vague and imposes criminal penalties contrary to the right to due process;

10th amendment -- by requiring a local law enforcement officer to expend resources to administer a Federal program; and

13th amendment -- by imposing involuntary servitude by ordering law enforcement to devote labor and effort to administer a program without compensation.

The position shared by Treasury and Justice is that the Brady Act is a tool that local law enforcement requested in order to better control crime in their localities.

Although their support was strong, it was not unanimous. Because we consider the ability to conduct a background check of a prospective handgun purchaser to be a tool for law enforcement, we have not threatened sanctions against any law enforcement office. In terms of the unfunded mandate charge, Brady does not prohibit law enforcement from assessing a user fee for the background check. ATF has circulated to the affected state and local law enforcement agencies model fee mechanisms, which were in use in states that already had background check systems in place.

* 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 (convicted felon, under indictment, drug addict, etc.).
- The seller must transmit the form to the Chief Law Enforcement Officer within 24 hours. (Each state designates which law enforcement organization will serve this role.)
- Law enforcement is required to make a reasonable effort to determine whether the prospective purchaser is legally prohibited from purchasing a firearm.
- If law enforcement determines that the buyer is prohibited, they can STOP the sale.
- If law enforcement determines, before the 5-day waiting period has expired, that the buyer is not prohibited, they can inform the dealer that the sale can go forward before the waiting period is over.
- If law enforcement has not informed the dealer within 5 business days that the sale must be stopped, the sale may be completed.

* Because some states already had adequate background check systems in place, only 34 states and territories are required to comply with the new Brady law. The states and territories exempt from Brady:

California	Indiana	New Jersey
Connecticut	Iowa	New York
Delaware	Maryland	Oregon
Florida	Massachusetts	Wisconsin
Guam	Michigan	Virginia
Hawaii	Missouri	Virgin Islands
Illinois	Nebraska	

Four states have legislation pending in their state legislatures which would exempt them from Brady: Colorado, North Carolina, Utah, and Washington State.

- * The 5-day waiting period will end in 5 years, when a new automated "Instant Check" system, to be developed by the Department of Justice, is instituted. This system will be used for the purchase of all firearms, not just handguns, beginning in 1999.

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ATF PUBLIC AFFAIRS

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BRADY LAW RESULTS -- FIRST DAY

CLAYTON, GEORGIA -- A convicted felon went to a pawnshop to redeem his firearm and disclosed on the Brady form that he owned several firearms

LOUISVILLE, KY -- The CLEO reported to ATF that of 123 background investigation requests filed, Brady checks had revealed 9 prohibited persons.

FLORENCE, KY -- One (1) felon attempting to redeem a pawned firearm was disclosed.

LAS VEGAS -- Four (4) felons were uncovered by Brady checks.

RENO, NEVADA -- A total of 266 background checks were run, resulting in the discovery of 6 felons attempting to redeem guns from pawn shops. Nearly 1/3 of the total checks revealed evidence of arrest records that required further inquiry.

OHIO -- The Attorney General's office reported conducting 150 Brady checks with 11 "hits" that require further investigation.

PEARL RIVER COUNTY, MS -- The Sheriff's office reported that one (1) felon was uncovered due to Brady checks.

DALLAS, TEXAS -- Of the 34 Brady checks conducted by the CLEO, 3 resulted in "hits".

COLORADO -- The CLEOs in Colorado conducted 125 Brady checks. Of these, eight (8) resulted in "hits". Two of the hits identified felons wanted on outstanding warrants. Arrests were made of those individuals by local police.

TALKING POINTS ON PAWNBROKERS PROVISIONExplanation

- The amendment repeals an ATF regulation that ruled that retrieving one's own gun from a pawn shop should be treated like a new purchase of a gun, instead of being treated like picking up one's own gun after having it repaired.
- The amendment simply says that, given that there is no sale, purchase, or transfer of a pawned gun, the Brady Law does not apply to such a transaction.
- The amendment does not impact on purchases of guns from pawn shops; such purchases will still be covered by the Brady Law.

Talking Points

- Chairman Brooks is willing to support the Crime Bill -- and let us have our ban on assault weapons, without any compromise -- if he prevails on the pawn shops issue.
- Under this scenario, Treasury will get its federal firearms licensing reforms as part of the Crime Bill.
- This isn't a question of "trading:" Brooks can probably line-up the votes to beat us anyway. He just does not want a big dispute over this, and if we are helpful in lining up Schumer on this, Brooks will not use his power to deny us the Crime Bill or the assault weapon ban.
- Schumer will only support Brooks on this if ATF gives him cover. Thus, we need to get Schumer some sort of letter that allows him to go along with Brooks, and get this done.
- Couldn't you all write a letter that says: "In the context of a comprehensive crime bill that does so much to make our streets safer, bans assault weapons, and tightens federal firearms licensing, we have no objection to a legislative change that clarifies Congress' view that bailments should not be treated like purchases under the Brady Law."
- You can accept this as Congress clarifying its intent in passing Brady -- bailments are a hard case as to whether they should or should not be covered, if Congress wants to make it clear that they are not, you did not object.



Bureau of Justice Statistics

National Criminal History Improvement Program

Program Announcement

NCHIP



National Criminal History Improvement Program

Program Announcement

November 1994, NCJ-151173

U.S. Department of Justice
Bureau of Justice Statistics

Jan M. Chaiken, Ph.D.
Director

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Foreword

This program announcement demonstrates the Justice Department's continuing commitment to building an accurate and useful national system of criminal records. The Federal Bureau of Investigation began this effort in 1924, with the establishment of its Identification Division which stores fingerprint-based information about both Federal offenders and arrests and dispositions under State laws. The FBI's latest developments related to this system include the Interstate Identification Index, which routes electronic search inquiries from criminal justice agencies nationwide to the appropriate State or Federal database containing the criminal history record.

Later, in 1972, the Bureau of Justice Statistics' predecessor agency began to help States manage and use their criminal history records. By providing grant awards and technical assistance to States under the Criminal History Improvement Program and by sponsoring task forces, research studies, and evaluations, BJS has stimulated the ongoing nationwide effort that is increasing the extent of computerization and completeness of criminal history records. Then, beginning in 1991, the Bureau of Justice Assistance has also been involved in improving criminal history records through its administration of grants to States for criminal justice record systems which are part of the Byrne formula grant program.

The importance of improving criminal history records cannot be overstated. While fingerprint-based "rap" sheets have long been vital for criminal investigations, in recent years criminal history records have been playing increasing roles in identifying serious offenders under various State and federal statutes, for making bail and pretrial release decisions, for sentencing determinations, and for correctional supervision and release decisions. The volume of non-criminal uses has been growing rapidly; these include background checks for licensing, pre-employment screening, and security clearances.

Availability of accurate and complete criminal records is especially critical to the task of identifying persons who are ineligible to purchase firearms. The National Criminal History Improvement Program announced in this booklet will not only strengthen the nation's capabilities to identify felons who attempt to purchase firearms but will also begin the process of building a national system (the National Instant Criminal Background Check system) which will also permit identifying persons other than felons who are ineligible to purchase firearms. At the same time, recent legislation expands the role of criminal history records in protecting children, the elderly, and the disabled from abuse, and the NCHIP program will also help advance these efforts.

Jan M. Chaiken, Ph.D.
Director, Bureau of Justice Statistics

Program Announcement

National Criminal History Improvement Program (NCHIP)

Summary

The Bureau of Justice Statistics (BJS) is publishing this notice to announce the initiation of the National Criminal History Improvement Program (NCHIP) in Fiscal Year 1995. The grant program implements the grant provisions of the Brady Handgun Violence Prevention Act and the National Child Protection Act of 1993, and those provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and Violent Crime Control and Law Enforcement Act of 1994 which pertain to the establishment, maintenance, or use of criminal history records and criminal record systems.

This program announcement describes procedures applicable to awards to be made under the NCHIP program during FY 1995. A program announcement applicable to funding appropriated for years after FY 1995 will reflect comments received during the intervening time. Updated guidelines governing use of Byrne Formula funds pursuant to the 5% set-aside established under Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, will be issued shortly by the Bureau of Justice Assistance (BJA), in consultation with BJS. The Byrne Guidelines should be considered together with this program announcement in developing a state's program to meet the goals of the Brady Act and the Child Protection Act.

Program goals

The goal of the NCHIP grant program is to improve the nation's public safety by:

- facilitating the accurate and timely identification of persons who are ineligible to purchase a firearm;
- ensuring that persons with responsibility for child care, elder care, or care of the disabled do not have disqualifying criminal records; and
- enhancing the quality, completeness and accessibility of the nation's criminal history record systems.

More specifically, NCHIP is designed to assist states:

- to meet timetables for criminal history record completeness and participation in the FBI's Interstate Identification Index (III) established for each state by the Attorney General;
- to improve the level of criminal history record automation, accuracy, completeness and flagging;
- to expand and enhance participation in the FBI's Interstate Identification Index (III) and the National Instant Criminal Background Check System (NICS);
- to develop model procedures for accessing records of persons other than felons (including persons subject to civil restraining orders arising out of domestic or child abuse) who are ineligible to purchase firearms;

- to identify (through interface with the National Incident-Based Reporting System (NIBRS) where necessary) records of crimes involving use of a handgun and/or abuse of children, elderly or disabled persons; and

- to ensure that states develop the capability to monitor and assess state progress in meeting legislative and programmatic goals.

To ensure that all NCHIP-funded efforts support the development of the national criminal record system, the program will be closely coordinated with the FBI, the Bureau of Justice Assistance (BJA) and the Bureau of Alcohol, Tobacco and Firearms (BATF).

Funding under the NCHIP program is available to both those states which are subject to the 5-day waiting period ("Brady states") and those states which are operating under an alternative system pursuant to approval of BATF ("non-Brady states").

Legislative background

The NCHIP program is authorized under Section 106 (b) of the Brady Act, which provides that:

The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used (A) for the creation of a computerized criminal history record system or improvement of an existing system; (B) to improve accessibility to the national instant criminal background system; and (C) upon establishment of the national system, to assist

the State in the transmittal of criminal records to the national system.

The provisions of 18 USC 922 (g) and (n), as amended by the Violent Crime Control Act of 1994, prohibit the sale of firearms to an individual who —

- (1) is under indictment for, or has been convicted in any court, of a crime punishable by imprisonment for a term exceeding one year;
- (2) is a fugitive from justice;
- (3) is an unlawful user of, or addicted to, any controlled substance;
- (4) has been adjudicated as a mental defective or been committed to a mental institution;
- (5) is an alien who is illegally or unlawfully in the United States;
- (6) was discharged from the Armed Forces under dishonorable conditions;
- (7) has renounced his United States citizenship; or
- (8) is subject to a civil restraining order arising out of domestic or child abuse.

The latter category was added as part of the Violent Crime Control Act of 1994.

The Brady Handgun Violence Prevention Act, enacted in November 1993 and effective in February 1994, requires that licensed firearm dealers request a presale check on all potential handgun purchasers by the chief law enforcement officer in the purchaser's residence community to determine, based on available records, if the individual is legally prohibited from purchase of the firearm under the provisions of 18 USC 922 or state law. The sale may not be completed for 5 days unless the dealer receives an approval before that time. The 5 day waiting period requirement terminates by 1998, at which time presale inquiries for all firearms will be made only to the National Instant Criminal Background Check System (NICS). Section 103 of the Brady Act provides that NICS will supply information on "whether receipt of a firearm . . . would violate

(18 USC 922) or state law." As noted above, Section 106 (b) of the Brady Act establishes a grant program to assist states in upgrading criminal record systems and in improving access to, and, interface with, the NICS system.

In addition, Section 106 (a) of the Brady Act amended Section 509 (d) of the Omnibus Crime Control and Safe Streets Act to specifically provide that funds from the 5% set-aside under the Byrne Formula grant program may be spent for "the improvement of State record systems and the sharing . . . of records . . . for the purposes of implementing . . . (the Brady Act)."

The National Child Protection Act of 1993, as amended by the Violent Crime Control Act, requires that records of abuse against children be transmitted to the FBI's national record system. The Act also encourages states to adopt legislation requiring background checks on individuals prior to assuming responsibility for care of children, the elderly, or the disabled. Section 4 of the Act establishes a grant program to assist states in upgrading records to meet the requirements of the Act. Under the definition set forth in Section 5 (3) of the Act, "child abuse crimes" include crimes under any law of the state and are not limited to felonies.

Both the Brady and Child Protection Acts required that the Attorney General survey the status of state criminal history records and develop timetables for states to achieve complete and automated records. The survey was conducted during March 1994, and Governors were advised of timetables by the Attorney General in letters of May and June 1994. The letters indicated that compliance with timetable goals assumed availability of grant funds under each Act.

The NCHIP program implements the requirements of the grant programs established under both the Brady and Child Protection Acts.

In addition to the amendments noted above, Section 40602 of the Violent Crime Control Act authorized a program to assist states in entering data on stalking and domestic violence into local, state, and national databases. Although funding was deferred, the Act emphasizes the importance of ensuring that data on convictions for these crimes are included in databases being developed with Federal funds.

Appropriation

Section 106 (b) of the Brady Act authorized \$200 million for the grant program; the Child Protection Act authorized \$20 million. An appropriation of \$100 million was made to implement Section 106 (b) of the Brady Act for FY 1995, to be available until expended. Of this amount, \$6 million is being made available to the FBI for NICS, \$1 million is available for Federal agency administration, and \$5 million will, consistent with the legislative history, be used to provide technical assistance to states, program coordination, and to undertake a program evaluation. The remaining \$88 million will be made available directly to the states. Of this amount, not less than \$5 million will be allocated to implement the requirement that preference be given to states with the lowest levels of dispositions in automated records. In light of the overlap between Brady and Child Protection Act goals, funds from this appropriation may be used to meet related goals of the Child Protection Act.

Program strategy

General

To achieve the goals of the NCHIP program, at least one grant will be made to each state with funds appropriated under the Brady Act. Technical assistance will also be provided under BJS grant awards to assist states in identifying areas of weakness, auditing record status, long term planning, and developing and implementing technical and administrative programs.

Funds under the Byrne Formula 5% set-aside program will also be available to support the improvement of record systems and to meet the goals of the Brady Act.

The NCHIP program includes three components:

- Core activities,
- Permitted activities in selected states ("extended core activities"), and
- Least-advanced "priority" state activities.

Core activities

Basic system development

Core activities focus on establishing and enhancing computerized criminal history (CCH) records and on improving access to and interface between such systems and the national instant criminal background check (NICS) system. The Brady Act does not define the term criminal history record. As defined in 28 CFR part 20, and used in the BJS Criminal History Record Improvement (CHRI) program, however, the term is defined as: "information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any dispositions

arising therefrom, sentencing, correctional supervision, and release. . . ."

Specifically, core activities relating to basic system development include efforts to

- improve the quality of criminal history records (with emphasis on automation and disposition capture),
- increase participation in the FBI's Interstate Identification Index (III), and
- upgrade the accessibility of records for pre-sale and preemployment checks (primarily through record flagging).

In addition to the above activities relating to basic system development, core activities include the following:

Non-felony records

Consistent with the Child Protection Act which defines a "child abuse crime" within the context of "a crime committed under any law of a state," NCHIP core activities include efforts to increase system access to non-felony records, particularly in areas relating to child or domestic abuse or crimes against the elderly or disabled.

Interface with NIBRS

In order to permit states to identify persons with records involving child, elderly, or disabled abuse, NCHIP core activities include efforts to establish an interface between criminal history record systems and any state data system which is compatible with NIBRS.

Information on stalking and domestic violence

Consistent with Section 40602 of the Violent Crime Control Act, core activities include development of procedures to ensure that information on convictions relating to stalking and domestic abuse are included in, and accessible through, the criminal history database.

Research, evaluation, monitoring and audit

In order to maximize the utility of information collected as part of the NCHIP program, core activities include continuing efforts to evaluate, audit, or monitor progress in meeting legislative or program goals through statistical or other related means, and specific research studies relating to use of handguns.

To ensure program continuity and emphasize criminal history record improvement in support of the NICS, the major portion of funds to be expended for core activities should be retained by the agency with responsibility for CCH records (if that is the agency designated to administer the program) or transferred directly to the agency with such responsibility. The application should indicate clearly the level of funds which will be made available to this agency for this purpose. The application should also indicate the level of funds which will be made directly available to the courts where the courts are the appropriate source for data on dispositions or other record data.

Permitted activities in selected states ("extended core activities")

In addition to funding core improvements to criminal history records, BJS will provide a limited amount of NCHIP funds (not to exceed \$5 million in total) to selected states to assist in the identification of persons other than felons who are prohibited from purchasing firearms under 18 USC 922 (g) and (n), as amended. The purpose of this effort will be to support the long-term goal of the permanent system established under Section 102(b) of the Brady Act by enhancing the effectiveness of the NICS.

In addition to previously identified non-computerized criminal history (CCH) categories, the Violent Crime Control Act amended the Brady Act to prohibit firearm

purchase by persons subject to a civil restraining order arising out of domestic or child abuse. Such orders, although not technically criminal, are enforced by the criminal justice system, which depends on the availability of data on such persons for implementation.

Under the NCHIP "extended core" program, funds can be used to evaluate the feasibility of accessing such records and to develop protocols for interfacing with non-CCH systems for purposes of background checks.

BJS will identify those states which are eligible to apply for funds to conduct such activities based on level of CCH development, participation in III, extent of automation and technical development, current efforts to interface with other categories of prohibited firearm purchasers (either within the state or interstate), and experience under the BJS CHRI program. States determined to be eligible will be notified by the end of January 1995. Funds will be in addition to funds provided for core activities, which will be required to be the major focus of the state's NCHIP program.

Selected states which wish to apply for funding under this category should include a separate component in their grant application describing such activities and proposing a budget to cover the proposed efforts. This request may be submitted as a supplement or amendment to the basic application.

States applying for funds under this section should understand that the goal of these efforts is to demonstrate the feasibility of multi-database interface for background check purposes and that the projects are intended to provide guidance to, and serve as models for, future implementation by other jurisdictions. In particular, it is envisioned that the programs developed with NCHIP funds

will serve as models for these efforts and that additional states will subsequently use Byrne 5% set-aside funds to develop system access to non-CCH data. For this reason, applications for funds under this section should include a description of proposed efforts to evaluate the success of activities undertaken and to prepare materials describing the project for exchange with other states. States should also realize that BJS will be documenting these efforts and that the applicant will be expected to provide input as requested by BJS for these materials.

In light of the importance of these demonstration programs to the overall BJS NCHIP program, BJS will provide additional technical assistance to the selected states to ensure that, together, the activities being funded will advance the development of the NICS at both the state and Federal level.

Least-advanced priority state activities ("priority state activities")

Section 106(b) of the Brady Act requires that BJS give "preference to States that, as of the date of enactment . . . have the lowest currency of case dispositions in computerized criminal history files" To implement this requirement, at least \$5 million will be allocated to states in this category. Designated states will also be eligible for priority technical assistance at no cost. The determination of states qualifying under this special provision will be made after release of the 1993 Survey of State CHRI Systems. States will be notified by December 31, 1994. States designated under this category may only use NCHIP funds to support the basic system development components of the core funding activity.

Application and award process

Eligibility requirements

Designation of agency to administer NCHIP program

To participate in NCHIP, each state must designate an agency to submit an application and to administer the program. The agency should be the agency with primary responsibility for implementing the major activity to be funded with NCHIP funds or a parent agency with programmatic oversight over, and legislative authority to transfer funds to, such agency. Since the NCHIP program focuses on improvement of criminal records and interface with the NICS, BJS anticipates that, in a large number of cases, the NCHIP agency will have responsibility for maintenance of criminal records and liaison with the FBI and/or other record sources including NIBRS, if existing. As noted below, NCHIP procedures envision that strong state coordination will exist between the NCHIP and Byrne 5% set-aside programs to avoid overlap and maximize funding effectiveness. It is not necessary that the NCHIP agency be the same as the agency with administrative authority over Byrne 5% set-aside funds. The application should indicate the basis for the selection of the NCHIP agency, justified in terms of the organizational posture of the selected agency and its role in meeting the goals of the Brady and Child Protection Acts.

Only one application will be accepted from each state for any period of funding. It is the responsibility of the Governor to select the applicant agency. A state may, however, choose to submit its application as part of a multi-state consortium or other entity. In such case, the application should include a statement of commitment from each state and be signed by an individual designated by the Governor of each participating state. The ap-

plication should also indicate specific responsibilities, and include a separate budget for, each state. States may receive successive awards over time, assuming availability of funds.

Program narrative

In addition to the requirements set forth in *Appendix A*, the NCHIP application should include the following four parts:

Part I. Background

This part should include a discussion of current and previous efforts relating to criminal history record improvement funded under the BJS CHRI program, the BJA Byrne 5% set-aside or with state funds over the past 3 years. The discussion should specify the amount of funds received under the BJS and Byrne programs and the funds remaining at the time of application. The section should also describe accomplishments with previous funding and the relationship to proposed NCHIP activities. A copy of the State plan and the most current update on the use of Byrne 5% set-aside funds, as submitted to BJA, should be appended, along with a copy of any other long term state plans for criminal history record improvement.

Part II. Identification of needs

This part should discuss audit or other evaluative efforts undertaken to identify the key areas of weakness in the state's criminal record system and in its ability to identify ineligible firearm purchasers or persons ineligible to hold positions involving children, the elderly, or the disabled. Specific reference should be made to relevant studies and to the findings of any internal or external independent audits which have been completed in the past 5 years.

Part III. NCHIP effort

This part should describe the activities to be undertaken with NCHIP funds over the coming 36 month period. Specifically, each application should indicate the core activities to be undertaken to improve its criminal history system, to initiate or enhance participation in III, to support the state's interface with the NICS, and to meet the timetable established by the Attorney General. The section should also discuss proposed efforts, if any, to identify particular offender types (either through interface with NIBRS or other means); and, to ensure that criminal records pertaining to stalking or domestic abuse are included in criminal record databases. Discussions of proposed efforts to upgrade record completeness should indicate whether, and how, the courts or other record providers have been involved in preparation of the application and how funds will be made available to such entities.

Part III of the application should also describe the efforts to be supported to monitor state compliance with legislative or programmatic goals through ongoing audits or other means such as statistical analysis, comparison between CCH records and NIBRS or UCR data. Studies relating to handgun use or sales approval, if proposed, should be described in this section. The application should include evidence that, where appropriate, the state Statistical Analysis Center was consulted in connection with the development of such projects.

BJS is currently supporting the Firearm Inquiry Statistical ("FIST") program to develop national level data on Brady implementation. BJS will advise states by the end of December 1994 of the scope of this project. In support of the basic elements of this project, however, the application should describe

procedures to collect data on the number of Brady inquiries, "hits," and captures (including the total number of queries against databases other than the criminal history record). The application should also indicate procedures for collection of data on the number of background checks on persons seeking positions involving children, the elderly, or the disabled and the number of records with action in the past 5 years which are complete and automated. States receiving NCHIP funds will be required to participate in the FIST effort and to submit other information for evaluation programs instituted under the NCHIP program.

Permitted activities in selected states ("extended core activities"): States selected to apply for "extended core" funds, may apply for additional funds to develop, and/or implement procedures to access information on persons other than felons/fugitives who are Federally prohibited from purchasing a firearm. In addition to describing proposed activities, interested states should justify their request for such funding in terms of current CCH development and participation in III, and describe state procedures, if any, for interface between the criminal record system and other relevant databases. (See "allowable costs" for covered expenses in this area.)

In order to permit assessment of state progress in meeting grant goals, *Part III* of all applications should set forth measurable benchmarks or goals for each proposed activity.

Part IV. Relationship to Byrne 5% set-aside program

This Part should describe activity to be undertaken with Byrne 5% set-aside funds during FY 1995 and 1996. A key part of this submission is a description of the relationship between these activities and the activities to be

supported under the NCHIP program. Where the state has previously submitted a 1995 update to BJA, a copy of the submission should be included in this Part to meet this requirement. Alternatively, a copy of the material developed for this Part, may be submitted to BJA as the state's 1995 update, consistent with any other requirements as set forth in the Byrne 5% set-aside Guidelines to be issued. In the latter case, the state should have this section prepared by the agency with responsibility for administering the Byrne funds, rather than the agency designated to administer the NCHIP program. The relationship between the Byrne 5% set-aside and the NCHIP program is discussed more fully below.

Coordination between NCHIP and the Byrne 5% set-aside program

The Bureau of Justice Statistics and the Bureau of Justice Assistance have jointly agreed that close and continuing coordination between the NCHIP and Byrne 5% set-aside program is critical to meeting the goals of the Brady Act and the National Child Protection Act of 1993. Such coordinated efforts are also necessary to ensure the development of an effective interstate criminal history record system to meet the needs of law enforcement, the criminal justice community and the increasing number of non-criminal justice users of criminal history record information. To achieve this goal, BJS and BJA will, consistent with the legislative requirements, work together to prepare Guidelines governing use of the Byrne 5% set-aside funds. The Guidelines are expected to be finalized by the end of December 1994.

BJS expects that program plans for projects to be funded under NCHIP and the Byrne 5% set-aside will be coordinated by the state agencies responsible for these programs. Where costs of a proposed activity exceed

NCHIP available funds or are unallowable under NCHIP, the state might, for example, use Byrne funds to fill remaining needs. This joint effort, we believe, will maximize the effectiveness of both of these programs.

Award period

The application should cover a 3-year period with specific information provided primarily for the first year. The budget should provide details for first-year expenses and should contain data in required categories for years two and three if applicable (see *Appendix A, Application content*). The application should identify those agencies to receive direct funding and indicate the fiscal arrangements to accomplish fund transfer.

Application submission and due dates

The goal of the NCHIP program is to ensure that all states receive funding support. Absent special circumstances, applications should be received by July 1, 1995, to be eligible for FY 1995 funding. Applications may be submitted at any time after publication of this announcement and will be reviewed as received. Based on applications received by January 31, 1995, up to \$25 million of funds available for core activities will be awarded by April 15, 1995. This does not include additional awards which may be made from set-asides for "priority" states or states undertaking "extended core" activities. Initial awards may be for partial funding for some states. Partially funded applications will be reconsidered for additional funding at a later date. Since approval of funding under the NCHIP program will be based on proposed activities and the overall availability of appropriations, states submitting applications after the January 31 deadline will not be disadvantaged in overall level of award.

If a state which is eligible to apply for "priority state" funding or funding for "extended core activities" has already submitted its application for core activity, the application for additional funds can be submitted as an amendment or a supplement to the original application.

Allocation of funds

To implement the "preference" requirement of the Brady Act, not less than \$5 million will be allocated to provide supplemental funding for the least-advanced "priority" states; \$5 million will be set aside to cover the cost of "extended core" activities in the states receiving an award to undertake such projects. \$5 million will also be used to cover costs of technical assistance, evaluation and coordination. The remainder of available funds will be allocated to cover the cost of core activities.

States may receive funding from the core allocation as well as either the fund for "priority" states or the fund established for "extended core" activity. Including both core funding and supplemental awards from the set-asides, the least advanced "priority" states will receive an aggregate of at least \$10 million.

Review criteria

States should understand that full funding may not be possible for all proposed activities. Allocation of funds will be based on the amount requested and the following factors:

- (1) the legislatively mandated "preference to states which . . . have the lowest percent currency of dispositions in computerized criminal history files" as of 1993;

(2) the extent to which the proposed activities will enable the state to meet the timetables established for the state by the Attorney General;

(3) the extent to which improvements in the state system, by virtue of record numbers, levels of technical development, or operating procedures, will have a major impact on availability of records throughout the national system;

(4) the proposed use or enhancement of innovative procedures which may be of value to other jurisdictions;

(5) the technical feasibility of the proposal and the extent to which the proposal appears reasonable in light of the state's current level of system development and statutory framework;

(6) prior activity of the state with funds under the Byrne and CHRI programs;

(7) state commitment to the national record system as evidenced by membership in III, and participation in the FBI's National Fingerprint File (NFF), Felon Identification in Firearms Sales (FIFS) programs, etc., and the current status of development of its CCH;

(8) reasonableness of the budget;

(9) evidence of state progress in meeting record improvement and background check goals as measured in terms of audits, and data collection relating to presale firearm checks and background checks on persons seeking positions involving children, the aged and the disabled;

(10) nature of the proposed expenditures;

(11) the extent to which the plan reflects constructive interface between relevant components of the state organization and/or multi state systems; and

(12) the reasonableness of the relationship between the proposed activities and the current status of the state system, in terms of technical development, legislation, current fiscal demands, and future operating costs.

The program does not require either "hard" (cash) or "soft" (in-kind) match. Indications of state support, however, may be interpreted as expressions of commitment by the state to the program.

All applicants must agree to participate in evaluations sponsored by the federal government. Applicants must also agree to provide data relating to Brady Act activity to the Firearm Inquiry Statistics (FIST) program in the format designated by the FIST program.

Allowable costs

To the extent possible, awards will be made to cover all allowable costs. States receiving funds from the allocation for "priority" states, however, will be required to limit expenditures to purposes directly related to establishment of the basic elements of the criminal history record system and steps necessary to permit participation in III. Among the remaining states, use of funds for non-CCH purposes will be approved only to the extent that the state is making progress toward the improvement of the criminal history record system and interface with the III.

Allowable expenses are detailed below. All expenses are allowable only to the extent that they directly relate to programs described in the application's program narrative.

Core activities

(1) Participation in the Interstate Identification Index (III): This is a key goal, and costs should be related to achieving full participation. Covered costs include, but are not limited to, costs associated with automation of the database (see limitations in (4) below), synchronization of records between state and FBI, and development of necessary software and hardware enabling electronic access on an intrastate or interstate basis.

(2) Database enhancement: Improving the quality, completeness and accuracy of criminal history records is a key goal of the NCHIP effort. Allowable costs include the costs associated with implementing improved record capture procedures, establishing more effective accuracy controls, and ensuring that records of all criminal events that start with an arrest or indictment are included in the database. In addition to felony records, limited funds may be used to capture data on serious misdemeanors, and to ensure that data on persons convicted of stalking and/or domestic abuse are included in the database. Use of funds for capture of data on misdemeanors and persons convicted of stalking will only be approved where the state has, or is actively undertaking efforts to upgrade, the basic elements of the criminal history record system.

(3) Improved disposition capture: Automated interface between the criminal history repository and the courts, prosecutors, and/or corrections agencies is encouraged. Funds provided to courts or prosecutors for these purposes are allowable only to the extent that the function to be supported is related to the capture of disposition or other data relating to the offender record (for example, full costs associated with establishment of court MIS

systems are not allowable under the NCHIP program).

(4) Record automation: These are allowable costs only with respect to records where the subject has been arrested, indicted, convicted, or released from confinement within 5 years of the date of automation. As appropriate, allowable costs also include costs associated with system design in states with non-automated systems or in states proposing to enhance system operation to include access to non-CCH databases.

(5) Flagging of records: This is an important activity. Allowable costs include costs of flagging, or algorithms used for flagging, felony records and records of persons with convictions for crimes involving children, the elderly and/or the disabled. Costs may include the cost of technical record flagging as well as the costs associated with identification of records to be flagged (see (7) below regarding interface with NIBRS).

(6) AFIS/livescan: Automated Fingerprint Identification System (AFIS)/livescan equipment for local law enforcement agencies is allowable to improve the level of arrest and disposition reporting, but only where —

- (1) the state repository system is automated, participating or looking toward participation in III, and has in place the technical capability to accept AFIS transmissions, and
- (2) sufficient traffic can be demonstrated to justify the cost, possibly through the use of regional systems.

AFIS/livescan in squad cars is not allowable since field inquiries are not a factor in checks under either the Brady Act or the Child Protection Act. Additionally, since data are not generally input to the system by the field unit, AFIS in the squad car would not support record improvement or completeness.

AFIS/livescan for use in courts is allowable to support record completeness. The same conditions regarding repository capability and levels of traffic are also applicable to costs in this category.

Costs associated with AFIS/livescan communication from the repository to the FBI national system (IAFIS) are allowable but only where the state can demonstrate adequate levels of record completeness (both arrest and disposition) and current membership in III.

States should understand that Byrne 5% set-aside funds are available for AFIS/livescan, and that, accordingly, use of NCHIP funds for AFIS or livescan will only be allowable when justified as appropriate given the overall status of the state system, its participation in the national system and its planned use of Byrne 5% set-aside funds. This is particularly relevant as respects state proposals to use NCHIP funds to cover costs of local livescan equipment.

(7) Interface with NIBRS: Funds may be used to interface with any state data system which is compatible with NIBRS for purposes of identifying persons convicted of crimes against children, the elderly, or the disabled, and/or identification of records involving firearm crimes for operational or research purposes. NCHIP funds are not available, however, to develop the NIBRS database.

(8) Research, evaluation, monitoring and audits: Costs associated with research or evaluation efforts are allowable to the extent that they are directly associated with a project approved in the application. Costs associated with monitoring state compliance with legislative or programmatic goals, through ongoing or periodic audits or other procedures, are allowable and encouraged. The purchase of equipment such as modems and the necessary communications and data software for

storing and transmitting evaluative data between states and to BJS or other designated federal agencies is an allowable expense.

(9) Conversion of juvenile records to the adult system: The Attorney General has recently amended Federal Regulations to allow the FBI to accept juvenile records if submitted by the state or local arresting agency. Expenditures to interface juvenile and adult records are allowable if consistent with relevant state law and undertaken to further the goals of the NCHIP program.

(10) Missing dispositions backlog reduction: These costs are allowable to improve the level of disposition reporting but only where limited to records with arrests within the past 5 years. States must also propose a strategy to prevent future backlogs from developing.

(11) Equipment upgrades: Upgrade costs are allowable where related to improving availability of data and where appropriate given the level of data completeness, participation in III, etc. Replacement costs will be considered but states are encouraged to contribute some portion of the total costs.

(12) Training, participation in seminars and meetings: Limited funds may be used to cover costs of training and participation in state, regional, or national seminars or conferences (including travel, where necessary).

(13) Expenditures related to presale handgun background checks: Funds are allowable to cover costs incurred by a governmental agency for equipment or development of capability required to conduct presale background checks. This "governmental agency" limitation may be waived in a very limited number of cases where the state has implemented a functioning background check system and can demonstrate that the vast

preponderance of inquiries are made by a limited number of dealers, that technical and procedural safeguards have been established to protect the privacy of potential purchasers, and that the equipment to be provided to dealers would be of use for operation under the permanent system. Waivers will only be considered in states which are participants in III and which have achieved high levels of automation and record completeness. NCHIP funds may not be used to cover costs of conducting presale background checks.

"Extended core" expenditures

Interface with non-CCH databases: Costs associated with developing access to, and interface between, databases on persons other than felons who are ineligible to purchase a firearm are allowed. Such costs include, but are not limited to, costs of investigating the existence and completeness of other databases, identifying problems in accessing and interfacing with such databases, and developing and implementing protocols for accessing these categories of data, and, where appropriate, incorporating such data into criminal history record data systems. Costs of documenting these projects and presenting results thereof are also allowable. Costs in this category are allowable only for those selected states that receive a grant to conduct "extended core" activities.

Appendix A
Application and administrative
requirements

Application and administrative requirements

Application content

All applicants must submit:

- Standard Form 424, Application for Federal Assistance Standard Form 424A, Budget Information
- OJP Form 4000/3 (Rev. 1-93), Program Narrative and Assurances
- OJP Form 4061/6 Certifications
- OJP Form 7120/1 (Rev. 1-93), Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds).

Copies of these forms are provided in Appendix B.

Applicants are requested to submit an original and two copies of the application and certifications to the following address:

**Application Coordinator
Bureau of Justice Statistics
633 Indiana Avenue, NW
Washington, DC 20531
Phone: (202) 616-3500**

Standard Form 424 (SF-424). The SF-424, a one page sheet with 18 items, serves as a cover sheet for the entire application. This form is required for every application for Federal assistance. **No application can be accepted without a completed, signed original SF-424.** Directions to complete each item are included on the back of the form.

Standard Form 424A (SF-424A). All applications must include SF- 424A, Budget Information for all years of project activity. Applicants should ensure that all appropriate columns

and rows balance. Directions to complete this form are found on page 3 of SF-424A.

Detailed budget. Applicants must provide a detailed justification for all costs during year one and for any additional project years, as appropriate, including the basis for computation of these costs. For example, the detailed budget would include the salaries of staff involved in the project and the portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs related to the project; equipment to be purchased with the award funds; and supplies required to complete the project.

Budget narrative. The budget narrative closely follows the content of the detailed budget. The narrative should relate the items budgeted to project activities and allowable cost categories and should provide a justification and explanation for the budgeted items including the criteria and data used to arrive at the estimates for each budget category. Please note applications that include noncompetitive contracts for the provision of specific services must contain a sole source justification for any procurement in excess of \$25,000.

The budget narrative should indicate amounts to be made available to agencies identified in the program strategy (e.g., the agency with responsibility for CCH, the courts, local agencies).

Program narrative. All applications must include a program narrative which fully describes the expected design and implementation of the proposed program. In developing the narrative, refer to the program design (permitted core and noncore activities) as described in the program announcement. OJP Form 4000/3 (Rev. 1-93) provides

additional detailed instructions for preparing the program narrative.

The narrative should include a timeline of activities indicating, for each proposed activity, the projected duration of the activity, expected completion date, and any products expected.

The application should include an explanation of the placement of the applicant agency within the State organization structure; a description of the roles and responsibilities of key organizational and/or functional components involved in project activities; and a list of key personnel responsible for managing and implementing the major elements of the program.

Assurances. OJP Form 4000/3 (Rev 1-93) must be included in the application submission. If submitting this form separate from the SF-424, the applicant must sign and date the form to certify compliance with the Federal statutes, regulations, and requirements as cited.

Certification regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace.

Applicants should refer to the regulations cited in OJP Form, 4061/6 to determine the certification to which they are required to attest. A copy of OJP Form 4061/6 is provided in the Appendix B. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the U.S.

Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

Financial and administrative requirements

Discretionary grants are governed by the provisions of OMB Circulars applicable to financial assistance. The circulars, with additional information and guidance, are contained in the "Financial and Administrative Guide for Grants," Office of Justice Programs, Guideline Manual, M7100, available from the Office of Justice Programs. This guideline manual, provided upon request, is intended to assist grantees in the administration of funds and includes information on allowable costs, methods of payment, Federal rights of access to records, audit requirements, accounting systems, and financial records.

Complete and accurate information is required relative to the application, expenditure of funds, and program performance. The consequences of failure to comply with program guidelines and requirements will be determined at the discretion of the Department.

Civil rights obligations

All applicants for Federal financial assistance must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives such Federal funds. Section 809(c), Omnibus Crime Control & Safe Streets Act of 1968, 42 U.S.C. 3789d, provides that:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or denied employment in connection with any program or activity funded in

whole or in part with funds made available under this title.

Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans With Disabilities Act prohibit discrimination on the basis of disability.

The applicant agency must discuss how it will ensure nondiscriminatory practices as they relate to:

- (1) Delivery of services or benefits — to ensure that individuals will not be denied access to services or benefits under the program or activity on the basis of race, color, religion, national origin, gender, age, or disability;
- (2) Employment practices — to ensure that its personnel in the program or activity are selected for employment without regard to race, color, religion, national origin, gender, age, or disability; and
- (3) Program participation — to ensure members of any planning, steering or advisory board, which is an integral part of the program or activity, are not excluded from participation on the basis of race, color, religion, national origin, gender, age or disability; and to encourage the selection of such members who are reflective of the diversity in the community to be served.

Audit requirement

In October 1984, Congress passed the Single Audit Act of 1984. On April 12, 1985, the Office of Management and Budget issued Circular A-128, "Audits of State and Local Governments" which establishes regulations to implement the Act. OMB Circular A-128, "Audits of State and Local Governments," outlines the requirements for organizational audits which apply to BJS grantees.

Disclosure of Federal participation

Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment), enacted in October 1988, requires that, "when issuing statements, press releases for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program."

Intergovernmental review of Federal programs

Federal Executive Order 12372, "Intergovernmental Review of Federal Programs," allows States to establish a process for reviewing Federal programs in the State, to choose which programs they wish to review, to conduct such reviews, and to make their views known to the funding Federal agency through a State "single point of contact."

If the State has established a "single point of contact," and if the State has selected this program to be included in its review process, the applicant must send a copy of its letter or application to the State "single point of contact" at the same time that it is submitted to BJS. The letter or application submitted to BJS must indicate that this has been done. The State must complete its review within 60 days. The review period will begin on the date that the letter or application is officially received by BJS. If BJS does not receive comments from the State's "single point of contact" by the end of the review period, this will be interpreted as a "no comment" response.

If the State has not established a "single point of contact," or if it has not selected the BJS statistics development or criminal history improvement programs in its review process, this must be stated in the letter or application.

Appendix B
Application forms

Previous Editions Not Usable

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0248-0044

SECTION A — BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B — BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$	\$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

SPECIAL INSTRUCTIONS

Applicants must provide on a separate sheet a budget narrative which will detail by budget category, the Federal and non-Federal (in-kind and cash) share. The grantee cash contribution should be identified as to its source, i.e., funds appropriated by a State or local government or donation from a private source. The narrative should relate the items budgeted to project activities and should provide a justification and explanation for the budgeted items including the criteria and data used to arrive at the estimates for each budget category.

INSTRUCTIONS

PROGRAM NARRATIVE

Prepare the program narrative statement in accordance with the following instructions for all new grant programs. Requests for continuation or refunding and changes on an approved project should respond to item 5b only. Requests for supplemental assistance should respond to question 5c only.

1. OBJECTIVES AND NEED FOR THIS ASSISTANCE.

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

2. RESULTS OR BENEFITS EXPECTED.

Identify results and benefits to be derived. For example, when applying for a grant to establish a neighborhood health center provide a description of who will occupy the facility, how the facility will be used, and how the facility will benefit the general public.

3. APPROACH.

- a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each grant program, function or activity, provided in the budget. Cite factors which might accelerate or decelerate the work and your reason for taking this approach as opposed to others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.
- b. Provide for each grant program, function or activity, quantitative monthly or quarterly projections of the accomplishments to be achieved in such terms as the number of jobs created; the number of people served; and the number of patients treated. When accomplishments cannot be quantified by activity or function, list them in chronological order to

show the schedule of accomplishments and their target dates.

- c. Identify the kinds of data to be collected and maintained and discuss the criteria to be used to evaluate the results and successes of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in item 2 are being achieved.
- d. List organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

4. GEOGRAPHIC LOCATION.

Give a precise location of the project or area to be served by the proposed project. Maps or other graphic aids may be attached.

5. IF APPLICABLE, PROVIDE THE FOLLOWING INFORMATION:

- a. For research or demonstration assistance requests, present a biographical sketch of the program director with the following information: name, address, phone number, background, and other qualifying experience for the project. Also, list the name, training and background for other key personnel engaged in the project.
- b. Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request. If there have been significant changes in the project objectives, location approach, or time delays, explain and justify. For other requests for changes or amendments, explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget items have changed more than the prescribed limits contained in the Uniform Administrative Requirements for Grants and Cooperative Agreements - 28 CFR, part 66, Common Rule (or Attachment J to OMB Circular A-110, as applicable), explain and justify the change and its effect on the project.
- c. For supplemental assistance requests, explain the reason for the request and justify the need for additional funding.

Public reporting burden for this collection of information is estimated to average 26 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to the Comptroller, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531; and to the Public Use Reports Project, 1121-0140, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

ASSURANCES

The Applicant hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars No. A-21, A-110, A-122, A-128, A-87; E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements - 28 CFR, Part 66, Common Rule, that govern the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information may be required.
2. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.
3. It will comply with provisions of Federal law which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or in part by Federal grants. (5 USC 1501, et seq.)
4. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act if applicable.
5. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
6. It will give the sponsoring agency or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
7. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.
8. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
9. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
10. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
11. It will comply, and assure the compliance of all its subgrantees and contractors, with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations.
12. It will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.
13. It will comply, and all its contractors will comply, with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.
14. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.
15. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for \$500,000 or more.
16. It will comply with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67: Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

ACCOUNTING SYSTEM AND FINANCIAL CAPABILITY QUESTIONNAIRE

SECTION A: PURPOSE

The financial responsibility of grantees must be such that the grantee can properly discharge the public trust which accompanies the authority to expend public funds. Adequate accounting systems should meet the following criteria as outlined in the OJP guideline manual entitled, "Financial and Administrative Guide for Grants."

- (1) Accounting records should provide information needed to adequately identify the receipt of funds under each grant awarded and the expenditure of funds for each grant, for each action program covered by a State's grants and for each subgrant awarded by the State.
- (2) Entries in accounting records should refer to subsidiary records and/or documentation which support the entry and which can be readily located.
- (3) The accounting system should provide accurate and current financial reporting information.
- (4) The accounting system should be integrated with an adequate system of internal controls to safeguard the funds and assets covered, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed management policies.

SECTION B: GENERAL

1. Name of Organization:

2. Type of Organization: For-Profit ☐ Not-for-Profit ☐
Other ☐ Explain: _____

3. If your firm publishes a general information pamphlet setting forth the history, purpose and organizational structure of your business, please provide this office with a copy; otherwise, complete the following items:

a. When was the organization founded/incorporated? (month, day, year)

b. Principal Officers

Titles

c. Employer Identification Number:

d. Number of Employees

Full Time: Part Time:

4. Is the firm affiliated with any other firm? ☐ Yes ☐ No
If "yes", provide details:

5. Total Sales/Revenues in most recent accounting period. (12 months) \$

SECTION C: ACCOUNTING SYSTEM

1. Has any Government Agency rendered an official written opinion concerning the adequacy of the accounting system for the collection, identification and allocation of costs under Federal contracts/grants? ☐ YES ☐ NO

a. If yes, provide name and address of Agency performing review:

b. Attach a copy of the latest review and any subsequent correspondence, clearance documents, etc.

Note: If review occurred within the past three years, omit questions 2-9 of this Section and Section D.

2. Which of the following best describes the accounting system? ☐ Manual ☐ Automated ☐ Combination

3. Does the organization use a double-entry system in accounting for program funds? ☐ Yes ☐ No ☐ Not Sure

4. Does the accounting system identify the receipt and expenditures of program funds separately for each contract/grant? ☐ Yes ☐ No ☐ Not Sure

5. Does the accounting system provide for the recording of expenditures for each grant/contract by the component project and budget cost categories shown in the approved budget? ☐ Yes ☐ No ☐ Not Sure

6. Are time distribution records maintained for an employee when his/her effort can be specifically identified to a particular cost objective? ☐ Yes ☐ No ☐ Not Sure

7. If the organization proposes an overhead rate, does the accounting system provide for the segregation of direct and indirect expenses? ☐ Yes ☐ No ☐ Not Sure

8. Does the accounting/financial system include budgetary controls to preclude incurring obligations in excess of:

a. Total funds available for a grant?

☐ Yes ☐ No ☐ Not Sure

b. Total funds available for a budget cost category (e.g. Personnel, Travel, etc.)?

☐ Yes ☐ No ☐ Not Sure

9. Is the firm generally familiar with the existing regulations and guidelines containing the cost principles and procedures for the determination and allowance of costs in connection with Federal contracts/grants?

☐ Yes ☐ No ☐ Not Sure

SECTION D: FUND CONTROL

1. Is a separate bank account maintained for grant/contract funds? ☐ Yes ☐ No ☐ Not Sure
2. If Federal grant/contract funds are commingled with organization funds, can the Federal grant funds and related costs and expenses be readily identified? ☐ Yes ☐ No ☐ Not Sure
3. Are the officials of the firm bonded? ☐ Yes ☐ No ☐ Not Sure

SECTION E: FINANCIAL STATEMENTS

1. Did an independent certified public accountant (CPA) ever examine the financial statements? ☐ Yes ☐ No
2. If an independent CPA review was performed please provide this office with a copy of their latest report and any management letters issued. ☐ Enclosed ☐ N/A
3. If an independent CPA was engaged to perform a review and no report was issued, please provide details and an explanation below:
4. If an independent CPA has never examined your financial statements, please develop and provide this office with a copy of the following financial statements:
- a. A detailed "Balance Sheet" for the most current and previous year; and
 - b. A detailed "Income Statement" for the most current and previous year.

SECTION F: ADDITIONAL INFORMATION

1. Use this space for any additional information (indicate section and item numbers if a continuation)

SECTION G: APPLICANT CERTIFICATION

I certify that the above information is complete and correct to the best of my knowledge.

1. Signature and Date

b. Firm Name, Address, and Telephone Number

a. Title

c. Application Identifier Number

SECTION H: CPA CERTIFICATION

The purpose of the CPA certification is to assure the Federal agency that the recipient can establish fiscal controls and accounting procedures which assure that Federal and State/local funds available for the conduct of the grant programs and projects are disbursed and accounted for properly.

1. Signature and Date

b. Firm Name, Address, and Telephone Number

a. Title

PUBLIC REPORTING BURDEN FOR THIS COLLECTION OF INFORMATION IS ESTIMATED TO AVERAGE 4 HOURS PER RESPONSE, INCLUDING THE TIME FOR REVIEWING INSTRUCTIONS, SEARCHING EXISTING DATA SOURCES, GATHERING AND MAINTAINING THE DATA NEEDED, AND COMPLETING AND REVIEWING THE COLLECTION OF INFORMATION. SEND COMMENTS REGARDING THIS BURDEN ESTIMATE OR ANY OTHER ASPECTS OF THIS COLLECTION OF INFORMATION, INCLUDING SUGGESTIONS FOR REDUCING THIS BURDEN, TO THE OFFICE OF THE COMPTROLLER, OFFICE OF JUSTICE PROGRAMS, U. S. DEPARTMENT OF JUSTICE, WASHINGTON, D. C. 20531; AND TO THE PUBLIC USE REPORTS PROJECT, 1121-0021, OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D. C. 20503.

Date: 12/06/94 Time: 18:36

Hearing Spotlights Shortcomings of Criminal Data Computer Network

WASHINGTON (AP) When Allen Nicklasson and Dennis Skillicorn, wanted for murders in Missouri and Arizona, were found in San Diego, they gave police false names. Police arrested Nicklasson after finding a similar Social Security number in a national crime computer and, on a hunch, checking his fingerprints, but they let Skillicorn go.

That case was raised Tuesday at a Senate Governmental Affairs Committee hearing on the shortcomings of the nation's database of information on some 32 million people arrested and-or convicted of a criminal offense.

Sen. Byron Dorgan, D-N.D., who called the hearing, said the nation lacks the will to gather the data and keep it up-to-date with arrest records and disposition of the cases.

"The failure to do so costs lives," said Dorgan. He called readily available information on felons "the centerpiece, it seems to me, of allowing law enforcement to work."

The crime bill enacted in September included \$100 million to update computerized files on felons to make instant background checks on handgun buyers possible in 1998, as called for by the Brady law passed last year.

The target of Dorgan's criticism Tuesday was the Interstate Identification Index, known as the Triple I.

Participation by states in the database run by the FBI is voluntary, and only 29 states now fully comply. Dorgan said it has only 20 percent of the felony records complete with case disposition.

His criticism of the program drew agreement from the father of slain 12-year-old Polly Klaas, and from John Walsh, whose son's kidnapping and death 13 years ago turned him into a fulltime crusader for law and order and led him to become host of television's "America's Most Wanted" program.

"Woefully incomplete is putting it mildly," Walsh said of the felony files, agreeing with Dorgan that it was "putting law enforcement at a disadvantage."

But Steven Pomerantz, an assistant director of the FBI, said the situation wasn't nearly as dire as it may sound.

Most arresting agencies from all states, including those not officially participating in the Triple I program, forward basic arrest information and fingerprint cards to the FBI, Pomerantz said. He estimated that the FBI is getting such information on about 80 percent of cases nationwide, including from states not fully complying.

For states in full compliance, the FBI collects the basic information and directs queries for more details to the computers of states that handled the cases. For the 21 states where the records are not yet in computers connected to the FBI system, Pomerantz said, the FBI updates the files itself with information from the states, and provides the details to the agency seeking information.

Patrick Doyle of the Florida Department of Law Enforcement, who chairs the National Crime Information Center's advisory policy board, said, "I think Triple I is important. I don't think it's urgent."

For one thing, he said, aliases are a huge problem. Triple I looks up information based on the information obtained by police about the person in question. If the person gives a false ID, nothing shows up.

What's far more important, said Doyle, is positive identification through fast fingerprint checks.

By next December, Pomerantz said, the NCIC 2000 system will be operable, enabling officers to send fingerprints from a police car, over the radio to the FBI.

The system will not try to scan through the entire 32-million-entry Triple I, a job that now takes two months, officials said.

Instead, it will compare the prints to those in the FBI's ``hot files'' listing such things as wanted felons, missing persons and stolen property. The ``hot file'' as of Nov. 1 contained the names of 388,436 wanted people. The scan should take only minutes, Pomerantz said.

In addition, he said, at a cost of \$500 million the FBI is developing an Integrated Automated Fingerprint Identification System, which is to become operable in 1998.

The system ``will have the capability of receiving fingerprints in an electronic format from a law enforcement agency, processing the fingerprints against a database for more than 30 million criminal history records ... and providing either a record or a no-record response back to the arresting agency while the offender is still in custody, in about two hours,' ' Pomerantz said.

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