



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

THE BRADY LAW

The Brady Law is the cornerstone of law enforcement's efforts to stop people who plainly should not have access to handguns from obtaining them.

The law provides for a 5 day waiting period on a federal firearms licensee's transfer of a handgun to a prospective purchaser, during which a criminal records check is made.

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

The law prevents handgun purchases by eight types of persons: (1) persons under felony indictment; (2) convicted felons; (3) fugitives from justice; (4) persons adjudicated mentally defective persons or committed to a mental institution; (5) illegal aliens; (6) persons dishonorably discharged; (7) persons who have renounced their U.S. citizenship; (8) persons under a restraining order related to domestic harassment.

(Transfers of handguns to juveniles, except under limited circumstances of parental supervision, are prohibited under the Youth Handgun Safety Act, part of the Violent Crime Control Act of 1994. Federal firearms licensees are prohibited from selling handguns to a person under 21.)

The Brady Law has stopped *more than 60,000 felons, fugitives and other prohibited purchasers* from buying handguns over the counter during the last two years.

This statement was made by Secretary Rubin and Attorney General Reno on the second anniversary of the implementation of the Brady Law, February 28, 1996. It includes all eight categories of prohibited purchasers.

ATF estimated the total number of handgun purchasers in Brady states by using the number of queries to the FBI database that is used by law enforcement when doing background checks connected with firearms transactions (Interstate Identification Index, III). There were 27 states covered by Brady in February 1994, and 25 Brady states as of December 1995.

3/1/94 through 12/31/94: an estimated 1,489,852 Brady State purchase attempts
1/1/95 through 12/31/95: an estimated 1,656,755 Brady State purchase attempts



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ATF in conjunction with other law enforcement agencies has developed estimates of the national denial rate: 2.5% for 1994, and 1.5% for 1995.

3/1/94 - 12/31/94: $2.5\% \times 1,489,852 = 37,246$ estimated purchase denials

1/1/95 - 12/31/95: $1.5\% \times 1,656,755 = 24,851$ estimated purchase denials

TOTAL estimated purchase denials since Brady implementation: 62,097

The Brady law stops felons from buying handguns. The Brady Bill has already stopped 44,000 convicted felons from buying guns.

President Clinton referred to this figure in the State of the Union address.

To estimate the number of Brady denials based on a felony conviction, ATF extrapolated from the results of the One Year Progress Report: Brady Handgun Violence Prevention Act, prepared by ATF and the Department of the Treasury. The survey provided the results of a survey of 30 law enforcement jurisdictions from around the country, and found that of the total number of purchase denials, 71.3% were denials based on a felony conviction. That rate was applied to the total estimated purchase denials since Brady implementation to estimate the number of felons prevented by Brady checks from buying a handgun from a federal firearms licensee.

$71.3\% \times 62,097 = 44,274$ felons denied legal access to handguns by Brady checks

The denial rate estimates developed by ATF represent the consensus of State officials involved in implementing Brady around the country.

They are within range of or conservative relative to denials rates found in a variety of surveys:

- March 1994, ATF, 16 jurisdictions/9 states: *5.3% denial rate.*
- February 1995, ATF, 30 jurisdictions/27 states: *3.5% denial rate.*
- February 1995, CBS News, nationwide: *2% denial rate.*
- February 1995, International Association of Chiefs of Police (IACP) and Handgun Control, Inc., 115 jurisdictions/27 states: *3.34% denial rate.*
- January 1996, Handgun Control, Inc., 22 jurisdictions/15 states: *3.17% denial rate.*
- January 1996, GAO, 20 jurisdictions/12 states, *4.3% denial rate.*



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NOTE: *None of these surveys are considered statistically valid; thus none of the aggregate denial rates are accepted as a definitive national denial rate.*

The ATF national denial rate estimate is consistent with data contained in a survey of state officials to be released in spring 1996 by the Department of Justice's Bureau of Justice Statistics (BJS). The Survey of State Procedures Related to Firearms Sales was designed to describe the process and procedures in reviewing firearms purchase applications followed in each of the states. However, some states volunteered information concerning numbers of applications and denial rates.

-- April (?) 1996, BJS, 7 states: *1.4% average denial rate.*

State level actual rejection rate data is presently available for only 7 Brady states: Alaska, Arkansas, Montana, Nevada, Ohio, Oklahoma, Wyoming. (See attached chart.)

The states that provided this data did so voluntarily in connection with the Department of Justice's Bureau of Justice Statistics' (BJS) Survey of State Procedures Related to Firearms Sales, to be released in April (?) 1996; the information provided by the states has not been verified or analyzed by the Bureau of Justice Statistics.

ATF has prepared estimates of the number of handgun purchase denials by state, applying the estimated national rejection rates for 1994 (2.5%) and 1995 (1.5%) to the number of firearms transaction inquiries to the FBI Interstate Information Index database from each state. *But the state by state denial rate estimates, based on an estimated national denial rate applied to the number of firearms transaction queries from each state, are not attached and it is recommended that they not be used.* While ATF's 2.5% and 1.5% estimates thus far appear to be substantially accurate, as applied to the national number of attempted handgun purchases, they may be significantly inaccurate when applied to an individual state. If empirical data becomes available for that state, there could be a significant discrepancy between the estimated and actual denial rates (either higher or lower) which could then be used to attack the integrity of the initial estimates (especially in the state in question). For instance, in some cases, the denial rates are higher (Oklahoma, 2.7%) and in some cases lower (Montana, .8%) than the national denial rate estimate. *As stated above, the average denial rate derived from the states that provided empirical data is 1.4%, very close to ATF's 1995 national denial rate estimate of 1.5%.*



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Additional national Brady denial rate information will become available, but probably not before early 1997.

The Department of Justice's Bureau of Justice Statistics (BJS) has commissioned a survey of firearms check statistics that covers 500 Brady jurisdictions in all the states. The selection of jurisdictions is intended to provide a statistically valid sample. Data on 1996 is expected to become available in early 1997. The Treasury Department is examining whether some additional implementation information may be available before then.

The Brady Law is preventing violent felons from purchasing handguns -- violent criminals do try to buy handguns from gun stores.

In October 1995, a convicted murderer tried to buy three handguns in Dekalb County, Georgia. Before the Brady Act, he had purchased at least eight other guns without being challenged. (ATF)

In April 1994, a person under indictment for felony cocaine charges, who had a previous conviction in Kansas for a "terroristic threat" offense was stopped from purchasing a handgun by a Brady check in Lexington, Kentucky. (ATF)

The Brady Law is preventing illegal gun traffickers from buying handguns to supply crime guns to the streets of our cities.

In April 1995, a convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania. Prior to Brady, he had purchased at least seven other guns without challenge and traded them to support his crack cocaine addiction.

In Boston, Massachusetts, a suspect arrested and indicted on gun trafficking charges informed ATF that the Brady Law prompted him to cease his illegal conduct. The suspect had flooded Boston with illegally sold handguns originally purchased in the Atlanta area between December 1993 and February 1994.

The Brady Law is preventing persons under restraining orders for domestic harassment and stalking from purchasing handguns.

In February 1996, for example, a Brady check helped the Wichita County Sheriff stop a handgun sale to a man who had battered and threatened to kill his ex-wife and children. He was under a restraining order.



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In March 1994, the Brady Law prevented an accused stalker in Prairie Village, Kansas from purchasing a handgun. The prospective purchaser, who was under a restraining order, had also represented his state of residence as Missouri, not Kansas, on the Brady form.

The main purpose of the Brady Act is to prevent certain categories of persons from obtaining firearms from licensed dealers. But the Brady Law is also resulting in prosecution and incarceration of dangerous criminals that are apprehended as a result of Brady checks.

The Brady law does not require state chief law enforcement officers carrying out the Brady law to report purchase denials to state or federal law enforcement authorities. Federal prosecutions occur when state law enforcement officials with access to Brady check information voluntarily refer that information to appropriate federal law enforcement authorities. *State and local officials are being encouraged by ATF to refer possible violations involving dangerous criminals to ATF.*

In August 1995, a Brady check in Great Falls, Montana helped ATF and local authorities arrest a convicted 5-time felon wanted in two states after he attempted to buy two handguns. He now faces federal charges including falsifying the Brady check form.

A convicted murderer apprehended by ATF and local authorities in October 1995 as he tried to buy three handguns in Dekalb County, Georgia, has since been convicted of violating federal firearms laws and awaits a prison sentence of up to ten years.

A convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania, apprehended by ATF and local authorities in April 1995 as a result of a Brady check is now serving two years in prison on various charges.

We know that there have been many cases in which Brady checks have revealed outstanding warrants for serious felonies. In these instances, the defendant may be apprehended and prosecuted on the outstanding charge, but the fact that the individual was found through a Brady check may not be reflected in the case file or the prosecutor's database.

By denying criminals handguns from licensed dealers, the Brady Law makes it harder for criminals to get handguns, and some will be stopped because of that.

Restrictions on buying from federal firearms licensees raise prices in the unregulated secondary market -- all sales by unlicensed individuals, including private sales, gun

Number of Denials of Handgun Purchases Based on Brady Checks
Study by the Center to Prevent Handgun Violence

Q. The Center to Prevent Handgun Violence (the Center) has issued a report saying that an estimated **102,822 prohibited purchasers**, including **72,325 felons** -- or 85 felons a day, have been stopped from taking possession of a handgun since the Brady law's inception on February 28, 1994. Secretary Rubin and Attorney General Reno stated in February that the Brady law has stopped "**more than 60,000 felons, fugitive and other prohibited purchasers** from buying handguns over the counter during the past two years," and the President stated in the State of the Union that **44,000 convicted felons had been prevented from purchasing handguns**. Who is right?

A. We welcome the Center to Prevent Handgun Violence study. The Center has added another set of estimates to the several that have been conducted over the past couple of years, by the government and private organizations. Each of the studies uses slightly different methodologies, but they are all within range of each other.

While the Center's results are different than the Treasury Department's report based on an ATF survey, they are not necessarily inconsistent, for several reasons:

- the Center is estimating the number of denials over a **longer time period** (2/28/94 - 6/30/96) than the ATF survey (2/28/94 - 2/28/96).
- the Center is evaluating the impact of the Brady law on **32 states, rather than approximately 26 states**, as was done by ATF survey. The Center includes all the original Brady states, whereas ATF excluded for each year states that had come into compliance with Brady through alternative means that year.
- the Center is basing its estimates of Brady state denial rates on a **survey of different Brady jurisdictions** than those surveyed by ATF.
- ATF based its estimates of denials on what the Center calls "**exceedingly conservative**" denial rates, 2.5% for the first year, and 1.5% for the second year, anticipating that knowledge of the law would result in decreased attempted purchases, as it had in non-Brady states. The Center found that this anticipated drop in denial rates has not yet materialized. In the jurisdictions it surveyed, there was a slight drop in 1995, but there was an increase in the denial rate in the first sixth months of 1996. The Center states that more research needs to be conducted, and we agree. This research, as the Center points out, is underway by the Department of Justice's Bureau of Justice Statistics.

The Center to Prevent Handgun Violence's study confirms what the Treasury report demonstrated: the Brady law is doing what it is supposed to do -- stopping criminals by the tens of thousands from easy access to handguns.



U.S. Department of Justice

Office of Community Oriented Policing Services (COPS)

Communications Division
1100 Vermont Ave., N.W., 9th Floor
Washington, D.C. 20530
202-616-1728

For Immediate Release
Wednesday, July 10, 1996

Contact: 202-616-1728

MORE THAN 200 COMMUNITIES GET FUNDS TO ADD COPS **Brings Total Funded to More than 44,000 as Part of Effort to Add 100,000 Police**

WASHINGTON, D.C. -- The U.S. Department of Justice's Office of Community Oriented Policing Services (COPS) announced today that 231 law enforcement agencies in 47 states and U.S. territories will receive grants to hire more than 1,300 additional police officers and sheriffs' deputies.

The grants of more than \$97.5 million are part of the Clinton Administration's effort to add 100,000 police officers and sheriffs' deputies to the nation's streets -- an increase of almost 20 percent to the country's police ranks. The award notifications are being sent to jurisdictions in Arkansas, Arizona, California, Connecticut, District of Columbia, Delaware, Florida, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Mississippi, Montana and North Carolina. Jurisdictions in North Dakota, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, Wisconsin, West Virginia and Wyoming also received grants.

COPS Director Joseph E. Brann said, "As we pledged to do just over a year ago, COPS is awarding funds to allow departments to add thousands of new beat officers to the nation's streets. The President promised to put an additional 100,000 officers on the streets by the year 2000, and, as of today, we are more than 44 percent of the way there."

The grants are being awarded under the COPS Universal Hiring Program. The hiring program provides funding for 75 percent of the total salary and benefits of each officer hired for three years, up to a maximum of \$75,000 per officer. The remainder is to be paid by state or local funds.

Nationwide, funds have been committed to date to put more than 44,000 additional police officers and sheriffs' deputies on the streets.

FOR INTERNAL USE ONLY

COPS Program Status
July 22, 1996

Funding for more than 44,000 officers and sheriffs' deputies has been announced by the Administration since the COPS program began less than two years ago.

Once awards are announced, local policing agencies must undertake a careful process to ensure that they have the best men and women in uniform serving their communities. Law enforcement agencies have very stringent qualifications (as they should). It may take many months to advertise, recruit, screen and test the very best applicants. Candidates then must go through law enforcement academy and in-service training. The Administration opposes cutting corners or sacrificing quality control with respect to this process. The sum total of time for a new sworn officer to be on the street from the time a grant is announced can take over a year, simply as a result of the local agencies' hiring and training standards.

The estimated number of those men and women who have qualified, have gone through the extensive academy training or been redeployed to the streets is now over 19,000*, with that number increasing every week. These officers are policing our neighborhoods, schools, parks and shopping areas.

Each and every week, we are informed of some of the many training academy graduations taking place around the country. Just in the past few weeks, new officers funded by the Administration graduated in communities such as Los Angeles, Minneapolis, Long Beach, and Prince George's County, Maryland.

The program to fund an additional 100,000 law enforcement officers is on track with 44 percent of the Administration's goal reached. This has resulted in towns, cities, and counties across the nation putting additional officers and deputies on the streets almost every day.

*The COPS Office bases this estimate on (1) the actual number of officers reported hired by policing agencies in the 6-month progress reports received in March 1996, and (2) an estimated number of officers hired based on the amount of funds drawn down by policing agencies on their grant awards.

July 22, 1996 (5:17pm)

DEPARTMENT OF THE TREASURY

TREASURY



NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
February 28, 1996

Contact: Darren McKinney
(202)622-2960

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

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

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

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

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

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

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

Brady Act Success

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

RR-902

(more)



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

Another Brady check in October 1995 helped ATF agents apprehend a convicted murderer as he tried to buy three handguns in Dekalb County, Georgia. Before the Brady Act, he had purchased at least eight other guns without being challenged. He has since been convicted of violating federal firearms laws and awaits a prison sentence of up to ten years.

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

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

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

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

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

How It Works

Federal law prohibits possession of a handgun by a variety of persons: convicted felons, fugitives from justice, persons under indictment, persons subject to restraining orders for alleged domestic violence, illegal drug users, persons who have been adjudicated "mentally defective" or committed to mental institutions, persons who have renounced their U.S. citizenship, persons dishonorably discharged from the military, illegal aliens and, generally, persons under 18 years of age.

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

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.

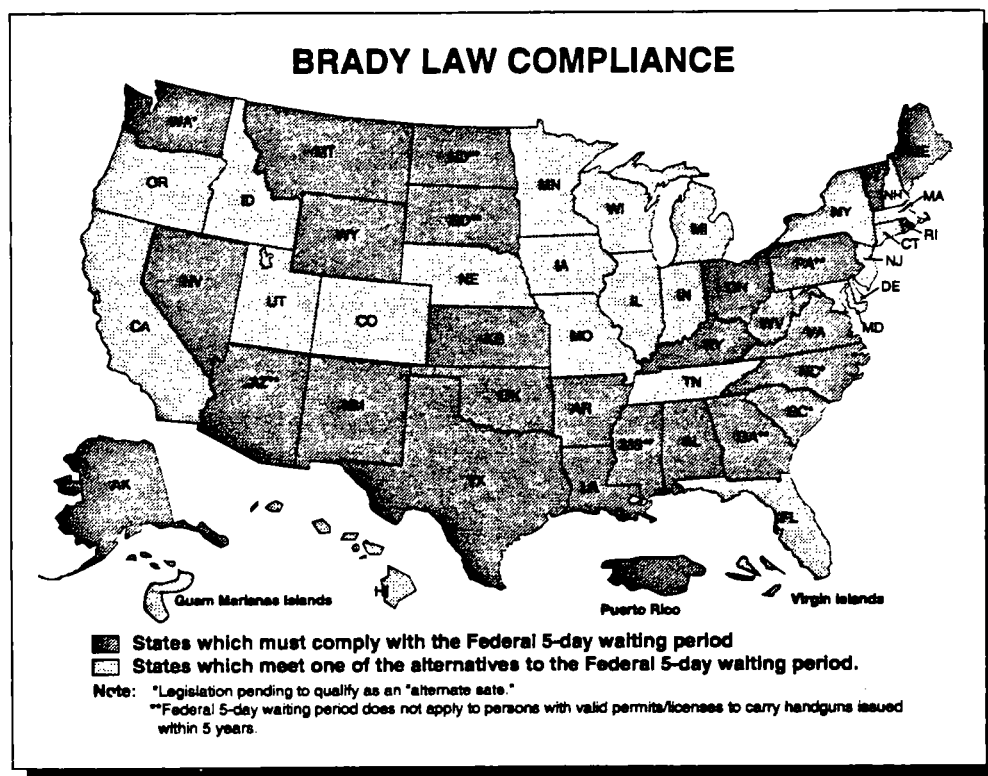
The gun dealer must transmit the Brady Form to the Chief Law Enforcement Officer of his or her particular jurisdiction within 24 hours. The Chief Law Enforcement Officer then makes a reasonable effort to ascertain within five business days whether receipt or

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, 28 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?		
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.)			d. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?		
			e. Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?		
			f. Have you been discharged from the Armed Forces under dishonorable conditions?		
			g. Are you illegally in the United States?		
			h. Are you a person who, having been a citizen of the United States, has renounced his/her citizenship?		

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

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

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

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

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

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

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

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

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

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

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

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

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

HANDGUN CONTROL

ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.

FAX COVER SHEET

DATE:

8/21

TOTAL PAGES (including this cover sheet):

11

SENT TO (FAX number):

456-7028

PLEASE DELIVER TO:

Dennis Burke

ORGANIZATION:

Handgun Control, Inc.
Federal Legislation Department

⇒ Bob Walker
Director of
Legislation

⇒ Betsy Wheeler
Legislative
Representative

⇒ Marie Carbone
Legislative
Coordinator

FAX NUMBER: 202/371-9615

NOTES/COMMENTS:

100,000
BRADY REPORT

If you have any difficulty receiving this transmission, please call 202/898-0792.

DENYING HANDGUNS TO PROHIBITED PURCHASERS: QUANTIFYING THE IMPACT OF THE BRADY LAW

EXECUTIVE SUMMARY

The Brady Handgun Violence Prevention Act (PL 103-159) requires a 5-day waiting period and background check before completion of the sale of a handgun by individuals holding a federal firearms license to a non-licensee in any state that does not require, by statute, a background check before the sale is finalized. When the Brady Law was implemented on February 28, 1994, 32 states were not in compliance.

This study quantifies the impact of the Brady Law in those states by estimating the number of retail handgun purchase attempts which have been stopped because the background check revealed the prospective purchaser to be ineligible by law to acquire a handgun. Unlike earlier surveys, this study analyzes data from all 32 of the original Brady states and estimates the impact of the law from March 1, 1994 through June 30, 1996. In estimating the aggregate number of denials for all 32 states, the study uses results from 9 Brady states with statewide reporting systems.

Analysis of the data reveals that the percentage of all handgun transactions which identified a criminal or otherwise prohibited purchaser has remained fairly constant (at approximately 3 percent) over time, and that an estimated 102,822 prohibited purchasers (including 72,325 felons -- or *85 felons per day*) have been stopped from taking possession of a handgun since the law's inception on February 28, 1994. These results provide strong evidence that the Brady Law is working to prevent easy access to handguns by criminals and other proscribed purchasers.

DENYING HANDGUNS TO PROHIBITED PURCHASERS: QUANTIFYING THE IMPACT OF THE BRADY LAW

INTRODUCTION

On February 28, 1994, the Brady Handgun Violence Prevention Act (PL 103-159) -- Brady, or the Brady Law -- took effect. The law imposes a 5-day waiting period on the sale of a handgun by individuals who hold a federal firearms license (FFL) to a non-licensee in any state that does not require, by statute, a background check before the sale of a handgun can be completed.¹

The law requires the licensee (dealer) to notify the designated Chief Law Enforcement Officer (CLEO) for the purchaser's residence upon the proposed sale of a handgun. The CLEO is required to make a reasonable effort to ascertain within 5 business days whether the buyer's receipt or possession of a handgun would be in violation of law. Transfer of the gun is allowed to go forward in fewer than five days if the CLEO has completed the background check and determined that the purchaser is not prohibited by law from obtaining a handgun.

States are exempt from Brady Law requirements (Brady-alternative states) if they enact and implement legislation mandating a background check as a condition of the purchase of a handgun (e.g., an "instant check" system or a requirement that individuals obtain a time bounded state "permit to purchase" before buying a handgun).² Brady does not specify what background information must be checked before notifying the FFL that a handgun sale may proceed. At the time Brady took effect, 32 states had not passed legislation requiring a background check for the purchase of a handgun and, therefore, had to comply with the federal waiting period.³

Brady was designed to prevent convicted felons or other prohibited purchasers (e.g., individuals adjudicated mentally defective or subject to a restraining order) to acquire handguns as part of an over-the-counter transaction from a retail gun dealer. The law has been criticized because it does not cut off to prohibited purchasers all avenues to handguns.⁴ The criticism misses the point of Brady. The law was designed to cut prohibited purchasers from the easiest, most direct route to the broadest selection of handguns -- that is, the retail market. Though Brady does not make it impossible for a prohibited purchaser to obtain a handgun -- an individual can, for example, attempt to steal a gun or recruit a straw purchaser to make the buy -- the law does make the transaction more costly, more difficult and more dangerous.

¹ Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. *Brady Law Implementation: State by State Summary*. Final Report. February 1994. (Section 2).

² Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. *Brady Law Implementation: State by State Summary*. Final Report. February 1994. (Section 7).

³ The 32 original Brady states are AL, AK, AZ, AR, CO, GA, ID, KS, KY, LA, ME, MN, MS, MT, NE, NH, NM, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WY. In five states (Georgia, Mississippi, North Dakota, Pennsylvania and South Dakota) the federal five-day waiting period did not apply to transfers of handguns to persons holding valid permits/licenses to carry handguns issued within five years of the proposed purchase.

⁴ See generally Jacobs J and Potter K. Keeping guns out of the "wrong" hands. *Journal of Criminal Law and Criminology*. Fall 1995; 86(1): 93-120.

The purpose of this study is to measure the impact of the Brady Law by estimating the number of individuals denied an over-the-counter purchase of a handgun due to a federal or state disability in the 32 states which implemented a background check as a result of the passage of Brady.

Previous attempts to measure the impact of Brady have excluded from the analysis each of the 32 original Brady states which, subsequent to implementation of the law, passed legislation that exempts them from Brady law requirements.⁵ This practice results in an underestimate of Brady's effectiveness because these states would not be conducting background checks had Brady not become law.

It should be noted that the number of times criminals or other prohibited purchasers are stopped from purchasing a handgun is an important, but somewhat limited, measure of the effectiveness of the Brady Law. While many criminals are stopped from acquiring a handgun because of the background check, the background check itself deters many others from even attempting to purchase a firearm.

METHODS

For the purpose of this study, the impact of the Brady Law was measured by the number of handgun purchases which were stopped because a background check uncovered information that disqualified a prospective purchaser from taking possession of a handgun. The percentage of denials due to a felony disposition is also estimated. The overall number of denials is calculated for all 32 original Brady states.

The number of transfers denied was calculated by applying a denial rate⁶ for handgun purchases to the number of background checks conducted by Brady state CLEOs. Because the number of background checks conducted and the number of purchases denied were not available from all CLEOs or maintained by all states, the number of denials was estimated from available data.

State level statistics on implementation of the Brady Law were available from nine of the original Brady states. Data from the nine states were used to estimate the percentage of all retail transfers that were stopped because a state or federal disability was uncovered by a background check. The nine states from which the data were collected are: Arizona, Arkansas, Colorado, Idaho, Kentucky, Nevada, South Carolina, Utah and West Virginia. Through the end of June 1996, these states were responsible for approximately 27% percent of all handgun background checks initiated in the original Brady states.⁷

⁵ Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms *One-Year Progress Report: Brady Handgun Violence Prevention Act*. February 28, 1995.

⁶ The denial rate is defined as the percentage of prospective retail handgun sales which are not allowed to be completed by a CLEO.

⁷ The nine states initiated 910,716 handgun background checks from March 1994-April 1996 (Table 1). The 32 states initiated 3,347,148 handgun background checks from March 1994-June 1996 (Table 2).

Brady statistics were also collected from states that did not designate a single, centralized CLEO to be responsible for conducting all firearm background checks (106 CLEOs in 18 states responsible for 202,892 background checks in 1994; 13 CLEOs in six states responsible for 69,651 background checks in 1995) and compared to the data from the nine states on which the estimated denial rates were based. Incorporating data from these CLEOs into the analysis would raise the overall denial rate and the estimate of the number of handgun purchases denied.⁸ While not used in this study, the higher denial rate reported by local agencies may suggest that background checks initiated at the local level are more thorough than those conducted at the state level -- and, consequently, identify a greater percentage of prohibited purchasers attempting to buy a handgun.

This report calculates the Brady denial rates in these 9 states for three specific time periods (March 1, 1994-December 31, 1994; January 1, 1995-December 31, 1995; and, January 1, 1996-April 30, 1996) and applies them to the number of background checks conducted in all 32 states. The FBI, through Interstate Identification Index (III), maintains a record of the number of criminal history background checks made in connection with a prospective handgun purchase. The number of Brady background checks are assumed to be equal to the number of firearms inquiries made through the III index minus the number of III queries conducted for issuance of a concealed carry permit or the purchase of a long gun.

FBI reporting on firearm-related inquiries does not distinguish between a background check conducted in connection with a prospective handgun purchase and an application for a concealed carry permit. However, by comparing state data on the number of Brady background checks initiated with the total number of III checks initiated in these states, it is possible to estimate the percentage of III checks generally associated with handgun purchases. (None of the states from which data were collected conducted background checks on long guns.)⁹

CLEOs were asked to quantify how many handgun purchases were prohibited because of a felony disposition and how many were prohibited for reasons other than a felony. This information was available on a limited basis, but the results were comparable to statistics compiled by the Department of the Treasury. This data was used to estimate the percentage of all denials due to a felony disposition and then applied to the total number of handgun purchase denials in order to estimate the number of felony denials.

⁸ Incorporating the additional data would have raised the denial rate from 3.24 percent to 3.34 percent in 1994, and from 2.89 percent to 3.17 percent in 1995.

⁹ Of the 32 original Brady states, only Pennsylvania, which began the practice this year, conducts a background check in connection with the purchase of a long gun.

RESULTS

Handgun Purchase Denial Rate

In 1994, FFLs were denied permission to complete the retail sale of a handgun for 3.24% of all transactions which were initiated (11,948/369,332) in states which maintained statistics on all proposed handgun transactions (Table 1). The denial rate fell by 11 percent the following year to 2.89 percent; rising to 3.13 percent during the first four months of 1996. Denial based on a felony disposition accounted for 70.34 percent (4653/6615) of all denials in which the reason could be ascertained.¹⁰

TABLE 1: Handgun Purchase Denial Rate, By Year, for the Nine Original Brady States That Maintain Centralized, State-wide Statistics

STATE	1994 March - December		1995 January - December		1996 January - April	
	All Checks	Denials	All Checks	Denials	All Checks	Denials
Arizona	37,703	869	88,668	2,229	28,147	809
Arkansas	25,429	370	28,298	537	10,369	207
Colorado	60,870	4,265	52,894	3,373	17,718	1,243
Kentucky	68,077	2,001	59,500	1,129	27,997	470
Idaho	29,694	1,078	28,633	883	9,201	250
Nevada	33,370	429	28,767	499	10,452	139
South Carolina	55,171	2,199	53,157	2,106	19,420	1,100
Utah	31,370	544	33,314	560	12,709	183
West Virginia	27,648	193	25,288	187	6,852	70
TOTAL	369,332	11,948	398,519	11,503	142,865	4,471
DENIAL RATE (%)		3.24		2.89		3.13

1 Background checks conducted pursuant to attempt to purchase a handgun.

¹⁰ The reason a handgun purchase was stopped could be ascertained on a state-wide basis in Arkansas, Colorado, Kentucky and Utah, and on a local level from one CLEO in New Mexico (Albuquerque), three in Texas (Amarillo, Corpus Cristi, and San Antonio), one in Oklahoma (Oklahoma City) and one in Montana (Yellowstone County).

III Queries

The III Index was queried by CLEOs 459,188 times between March 1, 1994 and December 1994 in the nine original Brady states which maintain Brady statistics on a state-wide level.¹¹ Approximately 74 percent (337,962) of the queries in 1994 were made in connection with the proposed purchase of a handgun. Similarly, in 1995, the portion of queries made in connection with a handgun purchase was approximately 74 percent. During the first four months of 1996, approximately 73 percent (142,865) of the queries were made in connection with the proposed purchase of a handgun. Given the assumption that the nine states are representative of all Brady states, the number of law enforcement queries to III triggered by a prospective handgun purchase is estimated at: 1,241,170 in 1994; 1,379,023 in 1995; and 726,955 through the first six months of 1996 (Table 2).

TABLE 2: Estimate of Total III Queries for Handgun Purchases in the 32 Original Brady States

YEAR	III QUERIES	% OF ALL III QUERIES FOR HANDGUN PURCHASES	TOTAL QUERIES FOR HANDGUN PURCHASES
1994 March - December	1,686,372	0.7360	1,241,170
1995 January - December	1,863,796	0.7399	1,379,023
1996 January - June	994,738	0.7308	726,955

¹¹ Utah is excluded in 1994 calculations because data collection was incomplete.

Total Denials

From March 1, 1994 through June 30, 1996, individuals have initiated an estimated 3,347,148 retail transactions involving the purchase of one or more handguns. Of these transactions, 102,822 (including 72,325 felons, or 85 felons per day) have been stopped because a state or federal disability was uncovered as part of a criminal background check which disqualified prospective purchasers from taking possession of the handguns they were attempting to buy (Table 3).

TABLE 3: Total Number of Handgun Purchasers Denied in the 32 Original Brady States

YEAR	HANDGUN CHECKS THROUGH III INDEX	DENIAL RATE	TOTAL HANDGUN PURCHASERS DENIED
1994 March - December	1,241,170	0.0324	40,214
1995 January - December	1,379,023	0.0289	39,854
1996 January - June	726,955	0.0313	22,754
TOTAL DENIALS			102,822

COMMENT

States are not required to maintain records of the number of firearm background checks conducted -- whether approved or denied -- and they may establish a centralized system with a single CLEO or a decentralized system with any number of CLEOs. A few states or CLEOs which do maintain records categorize denials according to the reason a prospective purchase was denied (e.g., a felony conviction, drug offense or restraining order); though most do not.

Earlier this year, the Treasury Department and the Bureau of Alcohol, Tobacco, and Firearms (ATF) estimated that 37,246 handgun purchases were denied in 1994 (including 26,556 for felony convictions) as a result of Brady background checks. The department's estimate for 1995 is 24,851 denials (including 17,718 felons). For several reasons (e.g., data from some of the original Brady states is not included in the analysis and the estimates are based on arbitrarily selected denial rates), these figures understate the true impact of Brady.

The Treasury Department did not estimate the total number of handgun purchase denials in all original Brady states. The department excluded from its analysis any state which, by the end of each calendar year, had become a Brady-alternative state. In 1994, five original Brady states

(CO, ID, MN, NH, TN) had passed legislation exempting them from the law's requirements -- though not from the obligation to conduct a background check before allowing a handgun transfer to be completed. In 1995, North Carolina and Georgia were also excluded from Treasury's estimate even though their Brady status did not change until the last month of the year.

To calculate an estimate of the total number of handgun purchases denied, the Treasury Department assumed that 2.5 percent of firearm queries to III made in Brady states in 1994 would result in disabling hits. The department based the first year denial rate on "actual experience of states that had recently implemented firearms background screening programs."¹²

In fact, the estimated 2.5 percent denial rate is exceedingly conservative. ATF itself had conducted a non-random survey of 30 law enforcement agencies from 26 Brady states which were responsible for approximately one of every four firearm background checks conducted in all Brady states in 1994. The survey provided strong evidence that the actual denial rate in 1994 was 40 percent higher than the 2.5 percent rate the Treasury/ATF applied in evaluating the law. In its survey results, ATF found that "3.5 percent of persons who applied to purchase handguns 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."

The results of the ATF survey were corroborated by research conducted by the International Association of Chiefs of Police (IACP) in conjunction with Handgun Control, Inc. (HCI). Together, the two organizations conducted a survey of 115 law enforcement agencies (including eight state agencies) at the one-year anniversary of the Brady Law.¹³ Based on the data collected, IACP and HCI concluded that 3.34 percent of prospective handgun purchases were denied as a result of Brady background checks. Like the ATF survey, data for the IACP/HCI survey were not gathered from a random selection of CLEOs. However, respondent agencies did account for roughly one-third of all firearm inquiries made to III in the first 12 months Brady was in effect.

In calculating the total number of handgun purchases denied in 1995, the Treasury Department assumed that the aggregate denial rate fell to 1.5 percent. In looking at the experience of states which had adopted a background check on handgun purchases prior to the Brady Law, the Department observed that denial rates fell to 1 to 2 percent after the programs "had been in place for some time." With respect to the Brady Law, this proved again to be an overly conservative assumption. Data from the nine states with state-wide reporting systems indicate only a slight drop in the second year of the Brady Law -- from 3.24 to 2.89 percent -- and a slight increase, to 3.13 percent, in the first six months of this year. In time, as more and more criminals are deterred from even attempting to buy a gun at a gun store, the aggregated denial rate may fall sharply. But, it has not happened yet.

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The purpose of this study was to determine how many over-the-counter handgun sales to prohibited purchasers were stopped due to implementation of the Brady Law. The methodology eliminates problems from previous attempts to evaluate Brady. The data suggest that through the first two and a half years that Brady has been in effect, the percent of individuals who are prohibited from acquiring a firearm and who are identified by the criminal record background check has remained relatively consistent at approximately 3 percent.

More research needs to be conducted to determine if the denial rate will fall over time, and to what extent. Research should also be conducted to determine the full extent to which locally initiated checks produce higher denial rates. The data appear to show that background checks which do not rely on a single centralized record-keeping system -- which may include an instant check -- identify a greater percentage of prohibited purchasers.

More research, in fact, is underway. The Bureau of Justice Statistics (BJS) commissioned the Regional Justice Information Service (REJIS) to "provide an overview of how the firearm check procedures work in various states to help in measuring the impact of the 'Brady Act.'" The on-going evaluation of Brady by REJIS has been referred to as the FIST¹⁴ study. Data utilized in the evaluation is provided to REJIS on a voluntary basis. REJIS issued a preliminary report in February 1996 based on data from only seven states. It is clear from the report that any interpretation of its findings will have to be qualified.¹⁵ Similar to the work by the Treasury Department and ATF, handgun purchases in any of the states, which subsequent to enactment of the law became Brady-alternative states, are not attributed to the law -- even if they occurred prior to the change in Brady status. Also, because reporting is so sporadic, estimates of the Brady denial rate are likely to be dominated by one or two very large states.

CONCLUSION

At the time the Brady Handgun Violence Prevention Act was implemented, 32 states did not require that a criminal background check be conducted as a condition for the retail sale of a handgun. Although there is no systematic national reporting of Brady denials, this study provides strong evidence that the Brady Law is working to prevent easy access to handguns by criminals and other prohibited purchasers. From the law's inception, in March 1994, through the end of June 1996, an estimated 102,822 prohibited individuals (including 72,325 felons --

¹⁴ The FIST acronym actually applies to each part of a three-part survey including the: Firearms Inquiry Statistical Tally, Firearms Inquiry Statistical Technique and Firearms Inquiry Survey Tracking.

¹⁵ A careful reading of the preliminary report issued by REJIS also reveals additional challenges which are inherent in evaluating the importance of conducting criminal background checks as a means of preventing prohibited purchasers from easily acquiring a handgun. Some local jurisdictions in Brady states require that an individual obtain a "permit to purchase" from local law enforcement before being allowed to buy a handgun. The process of obtaining the permit generally involves a background check similar to what is required by Brady. Where both the "permit to purchase" procedure and the Brady Law are in effect, individuals who would otherwise be stopped from purchasing a firearm because of the Brady Law are prescreened by the permit process.

or 85 felons *per day*) were stopped from buying a handgun from a retail dealer because of the Brady Law.

U.S. Department of Justice • Office of Justice Programs

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DENYING HANDGUNS TO PROHIBITED PURCHASERS: QUANTIFYING THE IMPACT OF THE BRADY LAW

EXECUTIVE SUMMARY

The Brady Handgun Violence Prevention Act (PL 103-159) requires a 5-day waiting period and background check before completion of the sale of a handgun by individuals holding a federal firearms license to a non-licensee in any state that does not require, by statute, a background check before the sale is finalized. When the Brady Law was implemented on February 28, 1994, 32 states were not in compliance.

This study quantifies the impact of the Brady Law in those states by estimating the number of retail handgun purchase attempts which have been stopped because the background check revealed the prospective purchaser to be ineligible by law to acquire a handgun. Unlike earlier surveys, this study analyzes data from all 32 of the original Brady states and estimates the impact of the law from March 1, 1994 through June 30, 1996. In estimating the aggregate number of denials for all 32 states, the study uses results from 9 Brady states with statewide reporting systems.

Analysis of the data reveals that the percentage of all handgun transactions which identified a criminal or otherwise prohibited purchaser has remained fairly constant (at approximately 3 percent) over time, and that an estimated 102,822 prohibited purchasers (including 72,325 felons — or 85 felons per day) have been stopped from taking possession of a handgun since the law's inception on February 28, 1994. These results provide strong evidence that the Brady Law is working to prevent easy access to handguns by criminals and other proscribed purchasers.

DENYING HANDGUNS TO PROHIBITED PURCHASERS: QUANTIFYING THE IMPACT OF THE BRADY LAW

INTRODUCTION

On February 28, 1994, the Brady Handgun Violence Prevention Act (PL 103-159) -- Brady, or the Brady Law -- took effect. The law imposes a 5-day waiting period on the sale of a handgun by individuals who hold a federal firearms license (FFL) to a non-licensee in any state that does not require, by statute, a background check before the sale of a handgun can be completed.¹

The law requires the licensee (dealer) to notify the designated Chief Law Enforcement Officer (CLEO) for the purchaser's residence upon the proposed sale of a handgun. The CLEO is required to make a reasonable effort to ascertain within 5 business days whether the buyer's receipt or possession of a handgun would be in violation of law. Transfer of the gun is allowed to go forward in fewer than five days if the CLEO has completed the background check and determined that the purchaser is not prohibited by law from obtaining a handgun.

States are exempt from Brady Law requirements (Brady-alternative states) if they enact and implement legislation mandating a background check as a condition of the purchase of a handgun (e.g., an "instant check" system or a requirement that individuals obtain a time bounded state "permit to purchase" before buying a handgun).² Brady does not specify what background information must be checked before notifying the FFL that a handgun sale may proceed. At the time Brady took effect, 32 states had not passed legislation requiring a background check for the purchase of a handgun and, therefore, had to comply with the federal waiting period.³

Brady was designed to prevent convicted felons or other prohibited purchasers (e.g., individuals adjudicated mentally defective or subject to a restraining order) to acquire handguns as part of an over-the-counter transaction from a retail gun dealer. The law has been criticized because it does not cut off to prohibited purchasers all avenues to handguns.⁴ The criticism misses the point of Brady. The law was designed to cut prohibited purchasers from the easiest, most direct route to the broadest selection of handguns -- that is, the retail market. Though Brady does not make it impossible for a prohibited purchaser to obtain a handgun -- an individual can, for example, attempt to steal a gun or recruit a straw purchaser to make the buy -- the law does make the transaction more costly, more difficult and more dangerous.

¹ Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. *Brady Law Implementation: State by State Summary*. Final Report. February 1994. (Section 2).

² Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. *Brady Law Implementation: State by State Summary*. Final Report. February 1994. (Section 7).

³ The 32 original Brady states are AL, AK, AZ, AR, CO, GA, ID, KS, KY, LA, ME, MN, MS, MT, NE, NH, NM, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WY. In five states (Georgia, Mississippi, North Dakota, Pennsylvania and South Dakota) the federal five-day waiting period did not apply to transfers of handguns to persons holding valid permits/licenses to carry handguns issued within five years of the proposed purchase.

⁴ See generally Jacobs I and Potter K. Keeping guns out of the "wrong" hands. *Journal of Criminal Law and Criminology*. Fall 1995; 86(1): 93-120.

The purpose of this study is to measure the impact of the Brady Law by estimating the number of individuals denied an over-the-counter purchase of a handgun due to a federal or state disability in the 32 states which implemented a background check as a result of the passage of Brady.

Previous attempts to measure the impact of Brady have excluded from the analysis each of the 32 original Brady states which, subsequent to implementation of the law, passed legislation that exempts them from Brady law requirements.⁵ This practice results in an underestimate of Brady's effectiveness because these states would not be conducting background checks had Brady not become law.

It should be noted that the number of times criminals or other prohibited purchasers are stopped from purchasing a handgun is an important, but somewhat limited, measure of the effectiveness of the Brady Law. While many criminals are stopped from acquiring a handgun because of the background check, the background check itself deters many others from even attempting to purchase a firearm.

METHODS

For the purpose of this study, the impact of the Brady Law was measured by the number of handgun purchases which were stopped because a background check uncovered information that disqualified a prospective purchaser from taking possession of a handgun. The percentage of denials due to a felony disposition is also estimated. The overall number of denials is calculated for all 32 original Brady states.

The number of transfers denied was calculated by applying a denial rate⁶ for handgun purchases to the number of background checks conducted by Brady state CLEOs. Because the number of background checks conducted and the number of purchases denied were not available from all CLEOs or maintained by all states, the number of denials was estimated from available data.

State level statistics on implementation of the Brady Law were available from nine of the original Brady states. Data from the nine states were used to estimate the percentage of all retail transfers that were stopped because a state or federal disability was uncovered by a background check. The nine states from which the data were collected are: Arizona, Arkansas, Colorado, Idaho, Kentucky, Nevada, South Carolina, Utah and West Virginia. Through the end of June 1996, these states were responsible for approximately 27% percent of all handgun background checks initiated in the original Brady states.⁷

⁵ Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms One-Year Progress Report: Brady Handgun Violence Prevention Act. February 28, 1995.

⁶ The denial rate is defined as the percentage of prospective retail handgun sales which are not allowed to be completed by a CLEO.

⁷ The nine states initiated 910,716 handgun background checks from March 1994-April 1996 (Table 1). The 32 states initiated 3,347,148 handgun background checks from March 1994-June 1996 (Table 2).

Brady statistics were also collected from states that did not designate a single, centralized CLEO to be responsible for conducting all firearm background checks (106 CLEOs in 18 states responsible for 202,892 background checks in 1994; 13 CLEOs in six states responsible for 69,651 background checks in 1995) and compared to the data from the nine states on which the estimated denial rates were based. Incorporating data from these CLEOs into the analysis would raise the overall denial rate and the estimate of the number of handgun purchases denied.⁸ While not used in this study, the higher denial rate reported by local agencies may suggest that background checks initiated at the local level are more thorough than those conducted at the state level — and, consequently, identify a greater percentage of prohibited purchasers attempting to buy a handgun.

This report calculates the Brady denial rates in these 9 states for three specific time periods (March 1, 1994-December 31, 1994; January 1, 1995-December 31, 1995; and, January 1, 1996-April 30, 1996) and applies them to the number of background checks conducted in all 32 states. The FBI, through Interstate Identification Index (III), maintains a record of the number of criminal history background checks made in connection with a prospective handgun purchase. The number of Brady background checks are assumed to be equal to the number of firearms inquiries made through the III index minus the number of III queries conducted for issuance of a concealed carry permit or the purchase of a long gun.

FBI reporting on firearm-related inquiries does not distinguish between a background check conducted in connection with a prospective handgun purchase and an application for a concealed carry permit. However, by comparing state data on the number of Brady background checks initiated with the total number of III checks initiated in these states, it is possible to estimate the percentage of III checks generally associated with handgun purchases. (None of the states from which data were collected conducted background checks on long guns.)⁹

CLEOs were asked to quantify how many handgun purchases were prohibited because of a felony disposition and how many were prohibited for reasons other than a felony. This information was available on a limited basis, but the results were comparable to statistics compiled by the Department of the Treasury. This data was used to estimate the percentage of all denials due to a felony disposition and then applied to the total number of handgun purchase denials in order to estimate the number of felony denials.

⁸ Incorporating the additional data would have raised the denial rate from 3.24 percent to 3.34 percent in 1994, and from 2.89 percent to 3.17 percent in 1995.

⁹ Of the 32 original Brady states, only Pennsylvania, which began the practice this year, conducts a background check in connection with the purchase of a long gun.

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RESULTS

Handgun Purchase Denial Rate

In 1994, FFLs were denied permission to complete the retail sale of a handgun for 3.24% of all transactions which were initiated (11,948/369,332) in states which maintained statistics on all proposed handgun transactions (Table 1). The denial rate fell by 11 percent the following year to 2.89 percent, rising to 3.13 percent during the first four months of 1996. Denial based on a felony disposition accounted for 70.34 percent (4653/6615) of all denials in which the reason could be ascertained.¹⁰

TABLE 1: Handgun Purchase Denial Rate, By Year, for the Nine Original Brady States That Maintain Centralized, State-wide Statistics

STATE	1994 March - December		1995 January - December		1996 January - April	
	All Checks	Denials	All Checks	Denials	All Checks	Denials
Arizona	37,703	857	38,658	2,229	28,147	809
Arkansas	25,429	370	28,298	537	10,369	207
Colorado	60,870	4,265	52,894	3,373	17,718	1,243
Kentucky	68,077	2,001	59,500	1,129	27,997	470
Idaho	29,694	1,078	28,633	883	9,201	250
Nevada	33,370	429	28,767	499	10,452	139
South Carolina	55,171	2,199	53,157	2,106	19,420	1,100
Utah	31,370	544	33,314	560	12,709	183
West Virginia	27,648	193	25,288	187	6,852	70
TOTAL	369,332	11,948	398,519	11,503	142,865	4,471
DENIAL RATE (%)		3.24		2.89		3.13

1 Background checks conducted pursuant to attempt to purchase a handgun.

¹⁰ The reason a handgun purchase was stopped could be ascertained on a state-wide basis in Arkansas, Colorado, Kentucky and Utah, and on a local level from one CLEO in New Mexico (Albuquerque), three in Texas (Amarillo, Corpus Cristi, and San Antonio), one in Oklahoma (Oklahoma City) and one in Montana (Yellowstone County).

III Queries

The III Index was queried by CLEOs 459,188 times between March 1, 1994 and December 1994 in the nine original Brady states which maintain Brady statistics on a state-wide level.¹¹ Approximately 74 percent (337,962) of the queries in 1994 were made in connection with the proposed purchase of a handgun. Similarly, in 1995, the portion of queries made in connection with a handgun purchase was approximately 74 percent. During the first four months of 1996, approximately 73 percent (142,865) of the queries were made in connection with the proposed purchase of a handgun. Given the assumption that the nine states are representative of all Brady states, the number of law enforcement queries to III triggered by a prospective handgun purchase is estimated at: 1,241,170 in 1994; 1,379,023 in 1995; and 726,955 through the first six months of 1996 (Table 2).

TABLE 2:

Estimate of Total III Queries for Handgun
Purchases in the 32 Original Brady States

YEAR	III QUERIES	% OF ALL III QUERIES FOR HANDGUN PURCHASES	TOTAL QUERIES FOR HANDGUN PURCHASES
1994 March - December	1,686,372	0.7360	1,241,170
1995 January - December	1,863,796	0.7399	1,379,023
1996 January - June	994,738	0.7308	726,955

¹¹ Utah is excluded in 1994 calculations because data collection was incomplete.

Total Denials

From March 1, 1994 through June 30, 1996, individuals have initiated an estimated 3,347,148 retail transactions involving the purchase of one or more handguns. Of these transactions, 102,822 (including 72,325 felons, or 85 felons per day) have been stopped because a state or federal disability was uncovered as part of a criminal background check which disqualified prospective purchasers from taking possession of the handguns they were attempting to buy (Table 3).

TABLE 3: Total Number of Handgun Purchases Denied in the 32 Original Brady States

YEAR	HANDGUN CHECKS THROUGH III INDEX	DENIAL RATE	TOTAL HANDGUN PURCHASERS DENIED
1994 March - December	1,241,170	0.0324	40,214
1995 January - December	1,379,023	0.0289	39,854
1996 January - June	726,955	0.0313	22,754
TOTAL DENIALS			102,822

COMMENT

States are not required to maintain records of the number of firearm background checks conducted — whether approved or denied — and they may establish a centralized system with a single CLEO or a decentralized system with any number of CLEOs. A few states or CLEOs which do maintain records categorize denials according to the reason a prospective purchase was denied (e.g., a felony conviction, drug offense or restraining order); though most do not.

Earlier this year, the Treasury Department and the Bureau of Alcohol, Tobacco, and Firearms (ATF) estimated that 37,246 handgun purchases were denied in 1994 (including 26,556 for felony convictions) as a result of Brady background checks. The department's estimate for 1995 is 24,851 denials (including 17,718 felons). For several reasons (e.g., data from some of the original Brady states is not included in the analysis and the estimates are based on arbitrarily selected denial rates), these figures understate the true impact of Brady.

The Treasury Department did not estimate the total number of handgun purchase denials in all original Brady states. The department excluded from its analysis any state which, by the end of each calendar year, had become a Brady-alternative state. In 1994, five original Brady states

(CO, ID, MN, NH, TN) had passed legislation exempting them from the law's requirements — though not from the obligation to conduct a background check before allowing a handgun transfer to be completed. In 1995, North Carolina and Georgia were also excluded from Treasury's estimate even though their Brady status did not change until the last month of the year.

To calculate an estimate of the total number of handgun purchases denied, the Treasury Department assumed that 2.5 percent of firearm queries to III made in Brady states in 1994 would result in disabling hits. The department based the first year denial rate on "actual experience of states that had recently implemented firearms background screening programs."¹²

In fact, the estimated 2.5 percent denial rate is exceedingly conservative. ATF itself had conducted a non-random survey of 30 law enforcement agencies from 26 Brady states which were responsible for approximately one of every four firearm background checks conducted in all Brady states in 1994. The survey provided strong evidence that the actual denial rate in 1994 was 40 percent higher than the 2.5 percent rate the Treasury/ATF applied in evaluating the law. In its survey results, ATF found that "3.5 percent of persons who applied to purchase handguns 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."

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More research, in fact, is underway. The Bureau of Justice Statistics (BJS) commissioned the Regional Justice Information Service (REJIS) to "provide an overview of how the firearm check procedures work in various states to help in measuring the impact of the 'Brady Act.'" The on-going evaluation of Brady by REJIS has been referred to as the FIST¹⁴ study. Data utilized in the evaluation is provided to REJIS on a voluntary basis. REJIS issued a preliminary report in February 1996 based on data from only seven states. It is clear from the report that any interpretation of its findings will have to be qualified.¹⁵ Similar to the work by the Treasury Department and ATF, handgun purchases in any of the states, which subsequent to enactment of the law became Brady-alternative states, are not attributed to the law — even if they occurred prior to the change in Brady status. Also, because reporting is so sporadic, estimates of the Brady denial rate are likely to be dominated by one or two very large states.

CONCLUSION

At the time the Brady Handgun Violence Prevention Act was implemented, 32 states did not require that a criminal background check be conducted as a condition for the retail sale of a handgun. Although there is no systematic national reporting of Brady denials, this study provides strong evidence that the Brady Law is working to prevent easy access to handguns by criminals and other prohibited purchasers. From the law's inception, in March 1994, through the end of June 1996, an estimated 102,822 prohibited individuals (including 72,325 felons —

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or 85 felons per day) were stopped from buying a handgun from a retail dealer because of the Brady Law.

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

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

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

During the period 3/1/94 through 12/31/94 there were approximately 1,489,852 queries made in Brady states¹. The average number of positive responses for the period was 10% or a total of 148,710 "hits" that indicated a potential denial of access to handguns. Historical data available to the Bureau of Alcohol, Tobacco and Firearms at that time indicated that 2.5% of the total queries² would result in disabling hits, or a total of 37,246 denied purchases.

Based on information provided to the FBI by State and local agencies, during the period 1/1/95 through 12/31/95, there were approximately 1,656,755 firearms queries made in Brady states. The average number of positive responses for the period was 16% or a total of 263,480 "hits" that indicated a potential denial of access to handguns. The various states with firearms purchaser screening programs now indicate that 1-2% of total queries² will result in disabling hits, or a total of 24,851 individuals denied access to handguns. (This figure uses the conservative estimate of 1.5%).

Data has not been captured to detail each of the various types of disabilities. However, based on the February 28, 1995, study One-Year Progress Report: Brady Handgun Violence Prevention Act, prepared by the Department of Treasury, we can make certain estimates. In that study of 30 reporting law enforcement jurisdictions, it was determined that 6,121 persons were barred from obtaining handguns due to Federal disabilities. Of that number, 4,365 (or 71.3%) were convicted felons.

Using this data, we can state that:

- From March 1, 1994 to December 31, 1994, 26,556 felons were denied access to handguns by Brady. 10,473 persons were denied for other Federal disabilities.
- From January 1, 1995 to December 31, 1995, 17,718 felons were denied access to handguns by Brady. 6,988 persons were denied for other Federal disabilities.
- This is a total of 44,274 felons denied access to handguns by Brady checks since March 1, 1994. 17,461 persons were denied for other Federal disabilities.

-2-

¹At the time of the study captioned above, there were 27 states covered by the Brady law. Other states had qualified as alternate states. As of 12/31/95 there were 25 Brady states. North Carolina and Georgia became Brady-alternate states in December, 1995. (Information regarding firearms queries provided by FBI).

²The 2.5% rate was based on hits that ultimately resulted in Federal firearms disabilities. This figure is based on actual experience of states that had recently implemented firearms background screening programs. After those programs had been in place for a period of time, states experience a 1-2% denial rate.

-3-

ADDENDUM

During the period 3/1/94 to 12/31/94, there were a total of 3,627,727 firearms transaction queries made of the 'III' Criminal Database. This includes ALL states - both Brady and non-Brady. Using the 2.5% rate of handgun purchasers who would ultimately be disqualified from receiving a firearm under Federal law (the percentage appropriate to that period of time), we can project:

- 90,963 persons would be denied access to a handgun as a result of the background checks during that period.
- 64,664 persons so denied are projected to be convicted felons (using percentage data from the One-Year Progress Report on the percentage of felons denied).

During the period 1/1/95 to 12/31/95, there were 4,040,867 queries made of the 'III' Criminal Database. This again included all states - both Brady and non-Brady. Using the 1-2% rate of handgun purchasers who would ultimately be disqualified from receiving a firearm under Federal law (the percentage most accurate after firearms purchaser background screening programs have been operating for a length of time), we can project:

- 60,613 persons would be denied access to a handgun as a result of the background checks during that period.
- 43,217 persons so denied are projected to be convicted felons (using percentage data from the One-Year Progress Report on the percentage of felons denied).

During the period of March 1, 1994 through December 31, 1995, a projected total of 107,881 felons were denied access to handguns as a result of criminal background checks conducted by ALL states on potential handgun purchasers.

Q: In the debate, Senator Dole said that a national instant check system would work better than the Brady Bill to stop illegal gun sales and charged that the Justice Department had only spent \$3 million out of a possible \$200 million to create an instant check system. Why so little effort?

A: Those numbers are wrong and moving too quickly to an instant check system would be very dangerous.

First, creating the instant check system is part of the Brady Bill. The Brady Law, for the first time, requires all handguns buyers to have a background check done -- either under existing state law background check provisions or under the provisions of the Brady Law itself -- before a handgun can be purchased.

Second, a reliable national instant check system will exist when the all fifty states criminal history databases, hooked together by the FBI, have entered all of their criminal history records on computers. We have worked hard with the states to improve their criminal history databases as quickly as possible, and have spent \$124.6 million out of the \$126.5 million appropriated for the development of the national instant check system. And we are as anxious as anyone for the states to have complete, reliable, computerized criminal history records so they can be used not only for gun purchase background checks, but to assist prosecutors in making charging decisions, judges in making sentencing decisions, and for dozens of similar reasons.

Finally, despite the progress which has been made, and the \$124 million dollars already spent, the states are still a long ways away from having complete criminal history record databases. Right now, law enforcement officials are able to make up for the incomplete computer records systems now in existence because they have up to five days to check all available sources of records, whether or not they are computerized. Without those five days, under an instant check system, substantial numbers of murders and other violent criminals whose criminal history records have not yet been entered in state computer databases would not be stopped when they tried to buy a gun.

Q: What about Mr. Dole's claim that the instant check system is "a better idea" than the assault weapons ban?

A: That question mixes apples and oranges. The assault weapon ban prohibits anyone from owning dangerous assault weapons -- background is irrelevant. The instant check system will work to reduce delays in determining whether a certain individual is prohibited from having any gun because of their background. One law is about banning certain dangerous guns, the other is about keeping dangerous people from having legal guns. The two really have nothing to do with each other and can not sensibly be compared.

Notes:

1) NCHIP (the National Criminal History Improvement Program) was created to improve criminal history records as part of the Brady Law's requirement that we move to a national instant check system within five years of implementation of the Brady law.

2) For six years, states have been required to spend 5% of their Byrne money for criminal history improvement efforts (somewhere around \$100-\$120 -- don't have exact number right now). In addition, prior to NCHIP there was a \$27 million one time diversion of Byrne discretionary money to be used for a criminal history record improvement in addition to the Byrne 5% money.

3) Under NCHIP, the following funds have been authorized for FY'94 and succeeding years:

Brady Law	- \$200 million
Nat'l Child Protection Act	- 20 million
Viol. Agnst. Women Act	- 6 million
<u>(part of the Crime Bill)</u>	
 Total Authorized	 - \$226 million

4) Under NCHIP, the following funds have been appropriated for FY'95 and FY'96 (in addition to these appropriations, last week \$50 million was appropriated for FY'97 -- none of that money has been spent in the last week.):

Brady/NCPA	- \$125.0 million
<u>VAWA</u>	<u>- 1.5 million</u>

Total Approp. - \$126.5 million

5) Under NCHIP the following funds have been awarded/obligated for FY'95 and FY'96:

Direct to states	- \$112,430,480
To FBI for infrastructure	- 6,000,000
To OJP for admin.	- 1,265,000
For Training/TA/Eval/etc.	- 4,860,656
<u>For audit</u>	<u>- 1,047</u>

Total awarded/obligated - \$124,557,183

Total appropriated but unawarded/obligated - \$1,942,817
(BJS indicates most of this is for TA)

Total authorized but not yet appropriated - \$49.5 million

6) Don't have data right now on state drawdowns from awards.



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

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10/9/96

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BRADY / NCHIP STUFF

P.S. - Is the GUN PLEDGE PROCLAMATION HAPPENING? 7

DRAFT BRADY LAW RESPONSE

The Brady law denies handguns to felons, fugitives, and stalkers. The President recently extended the law to cover those convicted of any crime of domestic violence-- making sure that guns stay out of the hands of wife beaters and child abusers. And the law is working: more than 60,000 criminals have been denied handguns thanks to the Brady law. Each month, the Brady law is preventing nearly 2,500 criminals from buying handguns.

Moreover, the Brady law has helped local police identify and arrest murderers, drug dealers and other criminals, sometimes on other serious charges. In Texas, the Brady law led to the arrest of a suspected drug dealer who had outstanding warrants for possession of cocaine and heroin with the intent to distribute. In Georgia, information provided under the Brady law led to the arrest of Edward Johnson for possession of a firearm. Johnson was a convicted felon who had been sentenced to death for the murder of a store clerk in Fulton County but his sentence had been commuted when the state's death penalty was declared unconstitutional.

The Justice Department has already given states \$112 million to improve their criminal history records, paving the way for a national Instant Criminal Background Check System by November of 1998. Moving to instant background checks before states are ready will enable dangerous rapists and murderers to sneak through the background check system and get guns they should not otherwise have.

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**Number of Denials of Handgun Purchases Based on Brady Checks
Study by the Center to Prevent Handgun Violence**

Q. The Center to Prevent Handgun Violence (the Center) has issued a report saying that an estimated **102,822 prohibited purchasers**, including **72,325 felons** -- or 85 felons a day, have been stopped from taking possession of a handgun since the Brady law's inception on February 28, 1994. Secretary Rubin and Attorney General Reno stated in February that the Brady law has stopped **"more than 60,000 felons, fugitive and other prohibited purchasers"** from buying handguns over the counter during the past two years," and the President stated in the State of the Union that **44,000 convicted felons had been prevented from purchasing handguns**. Who is right?

A. We welcome the Center to Prevent Handgun Violence study. The Center has added another set of estimates to the several that have been conducted over the past couple of years, by the government and private organizations. Each of the studies uses slightly different methodologies, but they are all within range of each other.

While the Center's results are different than the Treasury Department's report based on an ATF survey, they are not necessarily inconsistent, for several reasons:

-- the Center is estimating the number of denials over a longer time period (2/28/94 - 6/30/96) than the ATF survey (2/28/94 - 2/28/96).

-- the Center is evaluating the impact of the Brady law on **32 states**, rather than **approximately 26 states**, as was done by ATF survey. The Center includes all the original Brady states, whereas ATF excluded for each year states that had come into compliance with Brady through alternative means that year.

-- the Center is basing its estimates of Brady state denial rates on a survey of **different Brady jurisdictions** than those surveyed by ATF.

-- ATF based its estimates of denials on what the Center calls **"exceedingly conservative"** denial rates, 2.5% for the first year, and 1.5% for the second year, anticipating that knowledge of the law would result in decreased attempted purchases, as it had in non-Brady states. The Center found that this anticipated drop in denial rates has not yet materialized. In the jurisdictions it surveyed, there was a slight drop in 1995, but there was an increase in the denial rate in the first sixth months of 1996. The Center states that more research needs to be conducted, and we agree. This research, as the Center points out, is underway by the Department of Justice's Bureau of Justice Statistics.

The Center to Prevent Handgun Violence's study confirms what the Treasury report demonstrated: the Brady law is doing what it is supposed to do -- stopping criminals by the tens of thousands from easy access to handguns.

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Treasury/ATF Brady Denial Statistics

The Brady Law has stopped *more than 60,000 felons, fugitives and other prohibited purchasers* from buying handguns over the counter during the last two years.

This statement was made by Secretary Rubin and Attorney General Reno on the second anniversary of the implementation of the Brady Law, February 28, 1996. It includes all eight categories of prohibited purchasers.

ATF estimated the total number of handgun purchasers in Brady states by using the number of queries to the FBI database that is used by law enforcement when doing background checks connected with firearms transactions (Interstate Identification Index, III). There were 27 states covered by Brady in February 1994, and 25 Brady states as of December 1995.

3/1/94 through 12/31/94: an estimated 1,489,852 Brady State purchase attempts
1/1/95 through 12/31/95: an estimated 1,656,755 Brady State purchase attempts

ATF in conjunction with other law enforcement agencies has developed estimates of the national denial rate: 2.5% for 1994, and 1.5% for 1995.

3/1/94 - 12/31/94: $2.5\% \times 1,489,852 = 37,246$ estimated purchase denials
1/1/95 - 12/31/95: $1.5\% \times 1,656,755 = 24,851$ estimated purchase denials

TOTAL estimated purchase denials since Brady implementation: 62,097

The Brady law stops felons from buying handguns. The Brady Bill has already stopped 44,000 convicted felons from buying guns.

President Clinton referred to this figure in the State of the Union address.

To estimate the number of Brady denials based on a felony conviction, ATF extrapolated from the results of the One Year Progress Report: Brady Handgun Violence Prevention Act, prepared by ATF and the Department of the Treasury. The survey provided the results of a survey of 30 law enforcement jurisdictions from around the country, and found that of the total number of purchase denials, 71.3% were denials based on a felony conviction. That rate was applied to the total estimated purchase denials since Brady implementation to estimate the number of felons prevented by Brady checks from buying a handgun from a federal firearms licensee.

$71.3\% \times 62,097 = 44,274$ felons denied legal access to handguns by Brady checks

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The denial rate estimates developed by ATF represent the consensus of State officials involved in implementing Brady around the country.

They are within range of or conservative relative to denials rates found in a variety of surveys:

- March 1994, ATF, 16 jurisdictions/9 states: *5.3% denial rate.*
- February 1995, ATF, 30 jurisdictions/27 states: *3.5% denial rate.*
- February 1995, CBS News, nationwide: *2% denial rate.*
- February 1995, International Association of Chiefs of Police (IACP) and Handgun Control, Inc., 115 jurisdictions/27states: *3.34% denial rate.*
- January 1996, Handgun Control, Inc., 22 jurisdictions/15 states: *3.17% denial rate.*
- January 1996, GAO, 20 jurisdictions/12 states, *4.3% denial rate.*

NOTE: *None of these surveys are considered statistically valid; thus none of the aggregate denial rates are accepted as a definitive national denial rate.*

The ATF national denial rate estimate is consistent with data contained in a survey of state officials to be released in spring 1996 by the Department of Justice's Bureau of Justice Statistics (BJS). The Survey of State Procedures Related to Firearms Sales was designed to describe the process and procedures in reviewing firearms purchase applications followed in each of the states. However, some states volunteered information concerning numbers of applications and denial rates.

- April (?) 1996, BJS, 7 states: *1.4% average denial rate.*

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Response to James Bovard

"Clinton's Gun Hoax"

WSJ 9/17/96

Mr. Bovard's assertions, in italics, are addressed below.

The President had used two different numbers to describe how many felons and other prohibited purchasers have been denied handguns -- 60,000 vs. 100,000

60,000 is the number of felons and other prohibited persons estimated by Secretary Rubin and Attorney General Reno as of February 28, 1996 to have been stopped from buying handguns over the counter by the Brady law.

100,000 is the number of felons and other prohibited persons estimated by the Center to Prevent Handgun Violence to have been stopped from buying handguns over the counter as of June 30, 1996. Sarah Brady announced this number at the Democratic Convention on July 25.

The studies underlying each number use slightly different methodologies, but they are not necessarily inconsistent. The Center's figure is for a four month longer period; it covers more States; it is based on a survey of different Brady jurisdictions; and uses a credible but less conservative denial rate than that on which the Administration's estimate is based. **Both estimates confirm that the Brady law is doing what it is supposed to do -- stopping criminals by the tens of thousands from easy access to handguns.**

Whichever of the two estimates of number of denials is used, a January 1996 GAO report shows they lack credibility, because it says many denials were for administrative reasons

The GAO did not challenge the President's estimate of the number of denials. The GAO sample is not representative -- there were only 15 "judgmentally selected" jurisdictions surveyed; 5 of them from Texas, and 3 Texas jurisdictions accounted for *all* the administrative denials in the survey, because of "gun dealers sending handgun purchase applications to the wrong agency." **As the GAO itself stated, no conclusions about denials nationwide can be drawn from its survey (GAO Report at p.7, note 6).**

The Brady law places a huge administrative load on the states, state enforcement is a "charade" because it only requires a "reasonable effort" to check criminal histories, and law enforcement knows "it is a joke," quoting the National Assn. of Chiefs of Police executive director

Mr. Bovard wants it both ways -- he complains that the law only requires a "reasonable" effort to conduct a background check, and is therefore a "charade," but also states that law enforcement officials are "overly zealous" and err on the side of caution in exercising their discretion to deny purchases. **As the number of denials shows, the vast majority**

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of state officials believe that Brady is a valuable law enforcement tool and, are using it to ensure that felons and other prohibited purchasers do not buy guns in gun stores in their jurisdictions. **Indeed, every national law enforcement organization supported and fought for the Brady bill to become law.** Mr. Bovard focuses on one Arizona sheriff who challenged the law, but the National Sheriffs' Association just this June again voted to support the Brady law in a unanimous confirmation of its earlier favorable resolution.

(Note: The "National Association of Chiefs of Police" is a dubious group, purporting to represent chiefs, but every major city chief belongs to the IACP. The National Association has never substantiated their claimed membership, and has been sued on numerous occasions for fundraising irregularities. If this group conducted the "national survey" referred to in the article, it has no credibility.)

There are virtually no prosecutions under the Brady law, so the Justice Department is not serious about violent crime

The purpose of the Brady law is to stop felons, fugitives, and other prohibited purchasers from buying guns in gun stores. As the estimates of handgun purchase denials shows, the law does stop handgun purchases by felons from gun stores. In many cases Brady checks have revealed outstanding warrants for serious felonies. In these instances the defendant may be apprehended and prosecuted on the outstanding charge, and the fact that the individual was found through a Brady check may not be reflected in the case file or in our database.

The Brady law stops purchases from specific stores, but it does not stop criminals from buying guns on the black market

The Brady law was intended to eliminate easy access by criminals and other prohibited persons to handguns. It is working, and, as state and federal criminal record systems improve, can be expected to work even better in the future. Some dangerous people will be deterred from buying a handgun if they cannot get one in a store. But criminals will always try to get guns in the black market. Brady checks are only one aspect of law enforcement's efforts to stop criminals from obtaining handguns. ATF and prosecutors are targeting illegal handgun producers, corrupt firearms dealers, traffickers, and straw purchasers who supply the black market.

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

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

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

During the period 3/1/94 through 12/31/94 there were approximately 1,489,852 queries made in Brady states¹. The average number of positive responses for the period was 10% or a total of 148,710 "hits" that indicated a potential denial of access to handguns. Historical data available to the Bureau of Alcohol, Tobacco and Firearms at that time indicated that 2.5% of the total queries² would result in disabling hits, or a total of 37,246 denied purchases.

Based on information provided to the FBI by State and local agencies, during the period 1/1/95 through 12/31/95, there were approximately 1,656,755 firearms queries made in Brady states. The average number of positive responses for the period was 16% or a total of 263,480 "hits" that indicated a potential denial of access to handguns. The various states with firearms purchaser screening programs now indicate that 1-2% of total queries² will result in disabling hits, or a total of 24,851 individuals denied access to handguns. (This figure uses the conservative estimate of 1.5%).

Data has not been captured to detail each of the various types of disabilities. However, based on the February 28, 1995, study One-Year Progress Report: Brady Handgun Violence Prevention Act, prepared by the Department of Treasury, we can make certain estimates. In that study of 30 reporting law enforcement jurisdictions, it was determined that 6,121 persons were barred from obtaining handguns due to Federal disabilities. Of that number, 4,365 (or 71.3%) were convicted felons.

Using this data, we can state that:

- From March 1, 1994 to December 31, 1994, 26,556 felons were denied access to handguns by Brady. 10,473 persons were denied for other Federal disabilities.
- From January 1, 1995 to December 31, 1995, 17,718 felons were denied access to handguns by Brady. 6,988 persons were denied for other Federal disabilities.
- This is a total of 44,274 felons denied access to handguns by Brady checks since March 1, 1994. 17,461 persons were denied for other Federal disabilities.

-2-

¹At the time of the study captioned above, there were 27 states covered by the Brady law. Other states had qualified as alternate states. As of 12/31/95 there were 25 Brady states. North Carolina and Georgia became Brady-alternate states in December, 1995. (Information regarding firearms queries provided by FBI).

²The 2.5% rate was based on hits that ultimately resulted in Federal firearms disabilities. This figure is based on actual experience of states that had recently implemented firearms background screening programs. After those programs had been in place for a period of time, states experience a 1-2% denial rate.

-3-

ADDENDUM

During the period 3/1/94 to 12/31/94, there were a total of 3,627,727 firearms transaction queries made of the 'III' Criminal Database. This includes ALL states - both Brady and non-Brady. Using the 2.5% rate of handgun purchasers who would ultimately be disqualified from receiving a firearm under Federal law (the percentage appropriate to that period of time), we can project:

- 90,963 persons would be denied access to a handgun as a result of the background checks during that period.
- 64,664 persons so denied are projected to be convicted felons (using percentage data from the One-Year Progress Report on the percentage of felons denied).

During the period 1/1/95 to 12/31/95, there were 4,040,867 queries made of the 'III' Criminal Database. This again included all states - both Brady and non-Brady. Using the 1-2% rate of handgun purchasers who would ultimately be disqualified from receiving a firearm under Federal law (the percentage most accurate after firearms purchaser background screening programs have been operating for a length of time), we can project:

- 60,613 persons would be denied access to a handgun as a result of the background checks during that period.
- 43,217 persons so denied are projected to be convicted felons (using percentage data from the One-Year Progress Report on the percentage of felons denied).

During the period of March 1, 1994 through December 31, 1995, a projected total of 107,881 felons were denied access to handguns as a result of criminal background checks conducted by ALL states on potential handgun purchasers.

Brady Law - The First 100 Days
ATF report dated 7-27-94

5.3 denial rate. 11,727 Brady transactions during the period; 624 purchasers denied.

Survey of 16 chief law enf officers in the nine states in the period 28 Feb to 6 June 94:

- > 64,432 record checks.
- > 3,008 transactions denied.
- > 4.7% denial rate.

Overall, the denial rate was about 5% for handgun transactions surveyed.

Survey areas: Abilene TX, Atlanta GA, Cleveland OH, Houston TX, Louisville KY, Pittsburgh PA, Providence RI, Seattle WA, Shreveport LA.

73% of CLEOs did not charge for record checks. Others charged fee of \$10 to \$15.

NCIC firearms transaction records checks for period 3-1 thru 5-31-94: There were 1,146,644 queries, of which 73,945 or 6.4% required followup. Many but not all followups resulted in denial of handgun purchases. Results consistent with data from dealers and CLEOs.

If the 5% denial rate from the 100-day survey is applied to the approximately 3.5 mil handguns sold annually through retail outlets in the US, then 175,000 handguns per year will be prevented from falling into the hands of prohibited persons. (ADLE Thomson, House Judiciary Subcom on Crime, 9-20-94)

BJS

Bureau of Justice Statistics, U.S. Department of Justice
Firearms Inquiry Statistics rejection data as of January, 1996

State	Applications processed	Applications rejected	Reject rate
Alabama			
Alaska	23,858	582	2.4%
Arizona			
Arkansas	40,019	686	1.7%
California	472,213	6,396	1.4%
Colorado	118,020	7,625	6.5%
Connecticut			
Delaware	6,697	347	6.1%
Florida	653,865	18,495	3.3%
Georgia			
Hawaii			
Idaho	57,266	1,716	3.0%
Illinois	23,858	562	2.4%
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maine			
Maryland	32,605	360	1.1%
Massachusetts			
Michigan	201,797	1,696	0.8%
Minnesota			
Mississippi			
Missouri			
Montana	22,040	167	0.8%
Nebraska			
Nevada	59,727	1,325	2.2%
New Hampshire	5,794	39	0.7%
New Jersey			
New Mexico			
New York			
North Carolina			
North Dakota			
Ohio	119,564	651	0.5%
Oklahoma	10,860	289	2.7%
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah	43,133	750	1.7%
Vermont			
Virginia	421,524	3,351	0.8%
Washington			
West Virginia			
Wisconsin			
Wyoming	17,587	350	2.0%
US total	2,250,045	46,505	2.1%
Brady states			1.4%
Brady alternative states			2.2%

Source: Survey of State Procedures Related to Firearms Sales
Regional Justice Information Service, NCJ-160703

Bold denotes Brady Alternative State

Total includes counts from 3 states insufficient to calculate individual rate.

FALSE STATEMENTS ON BRADY FORMS

- In the Northern District of Texas, Edward Renor Seaton was charged in a one count indictment with a violation of 18 U.S.C. § 922(a)(6), False Statement in Connection with Acquisition of a Firearm from a Licensed Dealer. On March 3, 1994, Seaton completed and signed a Brady Form in Fort Worth. Seaton failed to disclose that he was on deferred adjudication probation for drug and firearms offenses in Texas state courts. Although Seaton never received a firearm, he pleaded guilty after a jury was unable to reach a verdict in a mistrial on his guilt or innocence. He was sentenced to the time he had served in jail pending his trial and sentencing (Memo: 8/29/95 Northern Dist. Texas).
 - The United States Attorney for the Northern District of Mississippi, reported that their office has had two cases involving false statements in the purchase of a handgun. In both cases, the violators obtained the firearms, but the false statements provided additional counts for Brady Bill violations (Memo: 8/30/95 Northern Dist. Miss.).
 - In the District of Kansas, Michael F. Moorhead, 46 year-old, was sentenced to five years and ten months in federal prison, without parole, for drug trafficking and attempting to purchase a handgun while under federal indictment for drug trafficking. Moorhead was sentenced to five years and nine months in federal prison, without parole, for possession with intent to distribute 951 marijuana plants and an additional month for making a false statement on his Brady form while attempting to obtain a firearm while under indictment (Memo: 8/20/95 District of Kansas).
 - On May 16, 1995, in the Middle District of Alabama, a federal grand jury returned a two count indictment against Anthony Wayne Williams. Count One charged Williams with using false identification to purchase two semi-automatic handguns from a pawn shop in February of 1995. At the time Williams purchased the firearms he had been indicted for possession of heroin in San Bernadino County, California. The California indictment is still pending. Count Two of the federal indictment charged Williams with the acquisition of a firearm while being a fugitive from justice (18 U.S.C. § 922 (g)(2)). Pursuant to a plea agreement, Williams pled guilty to Count One and Count Two was dismissed. The dismissal of Count Two will have no impact on the sentence Williams faces (Memo: 8/27/95 Middle Dist. of Alabama).
- 1-45

- On February 24, 1994, a federal grand jury returned a 28 count superseding indictment against James Lee Trammell, Jr. and 14 codefendants. Count One charges Trammell and all of the codefendants with conspiracy to distribute and possess with intent to distribute cocaine and cocaine base. Count Two through Twenty-Seven charge Trammell and/or his codefendants with various substantive federal drug and firearms violations. Specifically, while purchasing a handgun, Trammell stated on a Brady Form that he was not under indictment when in truth, he knew he was under indictment in Chambers County, Alabama, for conspiracy to sell cocaine. Trammell, along with thirteen of his codefendants, was convicted either by jury verdict or on guilty plea. Because Trammell had two prior drug felony convictions involving narcotics, the U.S. sought and obtained an enhanced sentence of life imprisonment. The appeal is pending (Memo: 8/27/95 Middle Dist. of Alabama).
- In Georgia, Edward Johnson, 48 year-old, was arrested by three ATF agents as he walked out of Georgia gun store. He was charged with possession of firearms by a convicted felon and with providing false information to a licensed gun dealer. Johnson had been sentenced to die in 1971 for killing a store clerk during a robbery in Fulton County. His sentence was commuted to life however, when the U.S. Supreme Court declared the state's death penalty unconstitutional. He was paroled in 1985 or 1986. The arrest was the result of local police notifying the ATF that Johnson had applied to purchase guns (10/7/95 Atlanta J. & Const. D14).
- In Knoxville, Mark Flynn was indicted in federal court for making false statements regarding his criminal background on ATF Firearms forms. The three-count indictment included charges of false statements made on Brady forms. Flynn was already under indictment for threatening a Blount County General Sessions Court Judge when he made the false statements (8/19/94 Knoxville News-Sentinel A12).
- In East Baton Rouge, sheriff's deputies drew up several arrest warrants for people who lied on Brady Forms (4/10/94 Baton Rouge Advoc. 1A).

OTHER BRADY LAW VIOLATIONS

- On June 13, 1994, in Lexington, Kentucky (Eastern District), Russell Stonestreet, 19 year-old, and Broderick Edwards Gay Jr., 18 year-old, and a juvenile were arrested and charged with burglary of a federally licensed gun dealer. Approximately 30 firearms were stolen, but later recovered. On December 2, 1994, Guy and Stonestreet were sentenced in federal court based upon their pleas of guilt. Guy was sentenced to 24 months of imprisonment to be followed by three years of supervised release. Stonestreet was sentenced to 18 months of imprisonment to be followed by three years of supervised release. Both defendants were ordered to make restitutions to the gun shop. The Western District of Kentucky also has several cases (Brady Law related) pending but is waiting until August to press for indictments, according to AUSA Duane Schwartz (7/9/94 Courier-J. 10A and Memo: 8/29/95 Eastern Dist. Kentucky).
- In the Eastern District of Wisconsin, Chia Her, Yee Vue, and Pao Moua were indicted on Brady law violations for stealing 17 handguns from a federally licensed gun dealer (Memo: 3/8/95 Eastern District of Wisconsin).
- On June 20, 1994, Richard Weaks, 24 year-old, was arrested by Boston police while carry a Mac-11 semi-automatic assault weapon. He is the first person prosecuted in the state under the Brady gun control law (8/11/95 Patriot Ledger 04).
- In the Southern District of Texas, there have been two prosecutions which involve a convicted felon taking possession of a firearm. David Terrell purchased a .357 magnum revolver and six assorted rifles and shotguns. He lied about his state convictions for burglary and theft, and received two-year federal prison sentence. Benancio Delos Santos, a member of the notorious Texas Syndicate prison gang, purchased a .25 cal. semi-automatic pistol. He received a 15 year federal prison sentence for concealing his two convictions for robbery by assault, the four convictions for burglary and theft and his three narcotics convictions. All nine prior felon convictions were state cases (Memo: 8/30/95 Southern District of Texas).
- In Austin, police alerted ATF officials about 52 Brady Law violations. ATF declined to pursue criminal charges against the alleged violators (8/10/94 Austin Am.-Statesman B2).

ARRESTS FOR OUTSTANDING WARRANTS

- In April 1994, the Brady Law led to the arrest of a suspected drug dealer in Texas with outstanding warrants for possession of cocaine and heroin with the intent to distribute (Remarks by Pres. Clinton on 2/28/95; 2/28/95 Federal News Serv. Wash. Package).
- In November 1994, the Brady Law helped to arrest two gang members, both convicted felons, who traveled from California to Nevada to purchase weapons (Remark by Pres. Clinton 2/28/95).
- In Tucson, John Shiffer, 21 year-old, was arrested after a background check turned up a felony warrant in N.M. on charges of issuing bad checks (6/23/94 Tucson Citizen 3C).
- In a report airing on the CBS Evening New (3/30/94), ATF stated that more than 50 fugitives were arrested as a result of background checks.
- Cornell Wade Sr., 30 year-old, was arrested in Midwest City Oklahoma after a background check revealed that he had jumped parole in Louisiana (3/18/94 Daily Oklahoman O2).
- In Iberville Louisiana, a man was arrested after a background check revealed two outstanding warrants for illegal discharge of a firearm (4/10/94 Baton Rouge Advoc. 1A).
- On March 4, 1994, a 46 year-old Oregon man, was arrested in Nevada after a background check revealed outstanding warrants on bad check and traffic charges (3/6/94 Las Vegas Rev.-J. 7B).
- In Phoenix, a man was arrested after a background check revealed an outstanding felony fraud warrant (3/10/94 Ariz. Republic/Phoenix Gazette B1).
- In Caddo, New Orleans, a convicted felon was arrested for illegally owning a gun after a Brady background check revealed his criminal history. Another 67 criminals wanted in Caddo were arrested after Brady background checks (7/12/95 New Orleans Times-Picayune).

- In St. Louis, a South Carolina man wanted for sexual assault was arrested in the gun store after a Brady background check (4/3/94 St. Louis Post-Dispatch OSE).
- In Clayton County, Georgia, Brady checks on the law's first day lead to the arrest of a convicted felon and pinpointed 30 people wanted on other criminal charges. According to the Chief Deputy, Larry Bartlett, 16 felons have been prosecuted for illegally owning handguns (2/28/95 Atlanta J. & Const. C1).

DRAFTBRADY BILL CASES**GAO REPORT ON IMPLEMENTATION OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT**

- In the Eastern District of Louisiana, a defendant pled guilty and was sentenced to 18 months in prison and, upon release 3 years of released supervision on Brady law violations (18 U.S.C. § 922(a)(6) and 922(n)). The defendant failed to state his/her prior conviction for possession of cocaine on the Brady form.
- In the Middle District of Louisiana, a defendant pled guilty and was sentenced to 12 months custody on Brady law violations (18 U.S.C. § 922(a)(6)). The defendant failed to state his/her prior conviction of possession of a controlled substance on the Brady form.
- In the District of Rhode Island, a defendant was found guilty at trial and was sentenced to 2 years in prison and 3 years of supervised release on two counts of falsifying the Brady handgun purchase application form (18 U.S.C. § 922(a)(6)). The defendant failed to state his/her prior conviction for delivery of cocaine on the Brady form.
- In the Southern District of West Virginia, a defendant pled guilty and was sentenced to 2 years probation for Brady law violations (U.S.C. § 922(a)(6), section 2). The defendant assisted New York residents in obtaining false West Virginia identification.
- In the Southern District of West Virginia, a defendant pled guilty and was sentenced to 6 months home confinement and 3 years probation on Brady law violations (U.S.C. § 922(a)(6), section 2). The defendant a resident of New York state falsely certified West Virginia residence.
- In the Southern District of West Virginia, a defendant pled guilty and was sentenced to 2 years probation for Brady law violations (18 U.S.C. § 922(a)(6), section 2). The defendant a resident of New York state falsely certified West Virginia residence.
- In the Southern District of West Virginia, a defendant pled guilty and was sentenced to 2 years probation for Brady law violations (U.S.C. § 922(a)(6), section 2). The defendant a resident of New York state falsely certified West Virginia residence.

ARRESTS AS A RESULT OF BRADY BACKGROUND CHECK

- According to a CBS News survey of 19 states, 551 people were arrested on various charges after Brady background checks revealed they were prohibited from purchasing a handgun (3/12/95 Hous. Chron. 1).
- According to a statement by Sec. Rubin "they [local police] are the ones doing the checks [Brady Law background check] and they are the ones being tipped off that prohibited persons in their jurisdictions want a gun." (2/28/95 Federal News Serv. Wash. Package).

CGR - - - :60 "Too much"

There's a value we all care about --
one we teach our children and
practice ourselves:

Telling the truth.

Unfortunately, Bob Dole has resorted
to untruths. Desperate. Behind.
He's attacking President Clinton on
late term abortions.

Fact. President Clinton supports a
complete ban on late term abortions
-- except when the mother's life is
in danger or faces severe health
risk, such as the inability to have
another child.

And why is Bob Dole distorting the
facts? Because he wants your vote;
but before you give it to him...look
closely.

Fact. Bob Dole opposes the v-chip
to help us block out violent TV
programs our children shouldn't see;

Fact. Bob Dole has voted for \$900
billion in higher taxes -- so many
taxes fellow Republicans call him
tax collector for the welfare state.

Fact. Bob Dole voted to slash
school anti drug programs.

Fact. Bob Dole voted to slash
Medicare \$270 billion -- abandoning
our duty to the elderly.

So don't let Bob Dole fool us; he
just doesn't share our values.

Squier Knapp Ochs Communications

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PRESIDENTIAL CORRESPONDENCE TO PHYSICIANS

Dear Doctor:

At the White House Conference on Youth, Drug Use and Violence held in Greenbelt, Maryland in March of this year several hundred experts, concerned citizens and youth met to address these dual challenges facing our young. I have designated Barry McCaffrey, Director of the Office of National Drug Control Policy to lead our nation in facing this priority.

Recent surveys indicate that teens whose parents are involved with their children, take responsibility for the child's attitudes toward drugs, and discuss the dangers of drug use, are least likely to use drugs. Each of us has an opportunity as parents, community leaders and concerned adults to reinforce a clear no drug message with our youth.

As part of a public / private partnership in cooperation with the leaders of the pharmaceutical industry, I announced an initiative to provide additional information to physicians about drug prevention at the White House Conference on Youth, Drug Use and Violence. Materials have been produced to assist parents and caregivers in delivering a drug prevention message.

Physicians are respected leaders. Your standing and role in your community and your influence on the health of parents and children is enormous. With your cooperation and that of the pharmaceutical community, families can learn more about drug prevention activities and information.

Fifteen pharmaceutical corporations committed their personnel resources to distribute the enclosed literature to you - Reality Check and Physician's Guide.

Hopefully you will find these documents useful in your practice and that the information is beneficial to your patients, their families and children .

Enclosed is a consumer service card that gives the 800 NUMBER for you to order additional literature.



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The main purpose of the Brady Act is to prevent certain categories of persons from obtaining firearms from licensed dealers. But the Brady Law is also resulting in prosecution and incarceration of dangerous criminals that are apprehended as a result of Brady checks.

By denying criminals handguns from licensed dealers, the Brady Law makes it harder for criminals to get handguns, and some will be stopped because of that.

Brady checks are one aspect of law enforcement's efforts to stop criminals from obtaining handguns. The Brady Act stops access to handguns by felons and other prohibited persons through lawful commercial channels. ATF and prosecutors are building on the impact of the Brady Act by stepping up enforcement efforts against suppliers in the black market in firearms: illegal gun dealers, illegal gun traffickers, and straw purchasers who buy for felons, juveniles, and other dangerous persons.

Law enforcement leaders support the Brady Law.

The more thorough the criminal records checks are that state chief law enforcement officers are able to make, the more effective the Brady Law becomes. To strengthen the criminal records information to which states have access, the Department of Justice is providing \$100,000,000 in grants to states for improvements in criminal records systems.

The Brady Law is constitutional.

There have been reports of substantial numbers of people being denied purchase of handguns due to unpaid parking tickets, however the practice does not appear to be a widespread phenomenon. We do not believe that federal laws can be interpreted to provide a basis for such denials.



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THE BRADY LAW

The Brady Law is the cornerstone of law enforcement's efforts to stop people who plainly should not have access to handguns from obtaining them.

The law provides for a 5 day waiting period on a federal firearms licensee's transfer of a handgun to a prospective purchaser, during which a criminal records check is made.

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

The law prevents handgun purchases by eight types of persons: (1) persons under felony indictment; (2) convicted felons; (3) fugitives from justice; (4) persons adjudicated mentally defective persons or committed to a mental institution; (5) illegal aliens; (6) persons dishonorably discharged; (7) persons who have renounced their U.S. citizenship; (8) persons under a restraining order related to domestic harassment.

(Transfers of handguns to juveniles, except under limited circumstances of parental supervision, are prohibited under the Youth Handgun Safety Act, part of the Violent Crime Control Act of 1994. Federal firearms licensees are prohibited from selling handguns to a person under 21.)

The Brady Law has stopped *more than 60,000 felons, fugitives and other prohibited purchasers* from buying handguns over the counter during the last two years.

This statement was made by Secretary Rubin and Attorney General Reno on the second anniversary of the implementation of the Brady Law, February 28, 1996. It includes all eight categories of prohibited purchasers.

ATF estimated the total number of handgun purchasers in Brady states by using the number of queries to the FBI database that is used by law enforcement when doing background checks connected with firearms transactions (Interstate Identification Index, III). There were 27 states covered by Brady in February 1994, and 25 Brady states as of December 1995.

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ATF in conjunction with other law enforcement agencies has developed estimates of the national denial rate: 2.5% for 1994, and 1.5% for 1995.

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TOTAL estimated purchase denials since Brady implementation: 62,097

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President Clinton referred to this figure in the State of the Union address.

To estimate the number of Brady denials based on a felony conviction, ATF extrapolated from the results of the One Year Progress Report: Brady Handgun Violence Prevention Act, prepared by ATF and the Department of the Treasury. The survey provided the results of a survey of 30 law enforcement jurisdictions from around the country, and found that of the total number of purchase denials, 71.3% were denials based on a felony conviction. That rate was applied to the total estimated purchase denials since Brady implementation to estimate the number of felons prevented by Brady checks from buying a handgun from a federal firearms licensee.

$71.3\% \times 62,097 = 44,274$ felons denied legal access to handguns by Brady checks

The denial rate estimates developed by ATF represent the consensus of State officials involved in implementing Brady around the country.

They are within range of or conservative relative to denials rates found in a variety of surveys:

- March 1994, ATF, 16 jurisdictions/9 states: *5.3% denial rate.*
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- February 1995, CBS News, nationwide: *2% denial rate.*
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- January 1996, Handgun Control, Inc., 22 jurisdictions/15 states: *3.17% denial rate.*
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NOTE: None of these surveys are considered statistically valid; thus none of the aggregate denial rates are accepted as a definitive national denial rate.

The ATF national denial rate estimate is consistent with data contained in a survey of state officials to be released in spring 1996 by the Department of Justice's Bureau of Justice Statistics (BJS). The Survey of State Procedures Related to Firearms Sales was designed to describe the process and procedures in reviewing firearms purchase applications followed in each of the states. However, some states volunteered information concerning numbers of applications and denial rates.

-- April (?) 1996, BJS, 7 states: *1.4% average denial rate.*

State level actual rejection rate data is presently available for only 7 Brady states: Alaska, Arkansas, Montana, Nevada, Ohio, Oklahoma, Wyoming. (See attached chart.)

The states that provided this data did so voluntarily in connection with the Department of Justice's Bureau of Justice Statistics' (BJS) Survey of State Procedures Related to Firearms Sales, to be released in April (?) 1996; the information provided by the states has not been verified or analyzed by the Bureau of Justice Statistics.

ATF has prepared estimates of the number of handgun purchase denials by state, applying the estimated national rejection rates for 1994 (2.5%) and 1995 (1.5%) to the number of firearms transaction inquiries to the FBI Interstate Information Index database from each state. *But the state by state denial rate estimates, based on an estimated national denial rate applied to the number of firearms transaction queries from each state, are not attached and it is recommended that they not be used.* While ATF's 2.5% and 1.5% estimates thus far appear to be substantially accurate, as applied to the national number of attempted handgun purchases, they may be significantly inaccurate when applied to an individual state. If empirical data becomes available for that state, there could be a significant discrepancy between the estimated and actual denial rates (either higher or lower) which could then be used to attack the integrity of the initial estimates (especially in the state in question). For instance, in some cases, the denial rates are higher (Oklahoma, 2.7%) and in some cases lower (Montana, .8%) than the national denial rate estimate. *As stated above, the average denial rate derived from the states that provided empirical data is 1.4%, very close to ATF's 1995 national denial rate estimate of 1.5%.*



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Additional national Brady denial rate information will become available, but probably not before early 1997.

The Department of Justice's Bureau of Justice Statistics (BJS) has commissioned a survey of firearms check statistics that covers 500 Brady jurisdictions in all the states. The selection of jurisdictions is intended to provide a statistically valid sample. Data on 1996 is expected to become available in early 1997. The Treasury Department is examining whether some additional implementation information may be available before then.

The Brady Law is preventing violent felons from purchasing handguns -- violent criminals do try to buy handguns from gun stores.

In October 1995, a convicted murderer tried to buy three handguns in Dekalb County, Georgia. Before the Brady Act, he had purchased at least eight other guns without being challenged. (ATF)

In April 1994, a person under indictment for felony cocaine charges, who had a previous conviction in Kansas for a "terroristic threat" offense was stopped from purchasing a handgun by a Brady check in Lexington, Kentucky. (ATF)

The Brady Law is preventing illegal gun traffickers from buying handguns to supply crime guns to the streets of our cities.

In April 1995, a convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania. Prior to Brady, he had purchased at least seven other guns without challenge and traded them to support his crack cocaine addiction.

In Boston, Massachusetts, a suspect arrested and indicted on gun trafficking charges informed ATF that the Brady Law prompted him to cease his illegal conduct. The suspect had flooded Boston with illegally sold handguns originally purchased in the Atlanta area between December 1993 and February 1994.

The Brady Law is preventing persons under restraining orders for domestic harassment and stalking from purchasing handguns.

In February 1996, for example, a Brady check helped the Wichita County Sheriff stop a handgun sale to a man who had battered and threatened to kill his ex-wife and children. He was under a restraining order.



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In March 1994, the Brady Law prevented an accused stalker in Prairie Village, Kansas from purchasing a handgun. The prospective purchaser, who was under a restraining order, had also represented his state of residence as Missouri, not Kansas, on the Brady form. ✓

The main purpose of the Brady Act is to prevent certain categories of persons from obtaining firearms from licensed dealers. But the Brady Law is also resulting in prosecution and incarceration of dangerous criminals that are apprehended as a result of Brady checks.

The Brady law does not require state chief law enforcement officers carrying out the Brady law to report purchase denials to state or federal law enforcement authorities. Federal prosecutions occur when state law enforcement officials with access to Brady check information voluntarily refer that information to appropriate federal law enforcement authorities. *State and local officials are being encouraged by ATF to refer possible violations involving dangerous criminals to ATF.*

In August 1995, a Brady check in Great Falls, Montana helped ATF and local authorities arrest a convicted 5-time felon wanted in two states after he attempted to buy two handguns. He now faces federal charges including falsifying the Brady check form.

A convicted murderer apprehended by ATF and local authorities in October 1995 as he tried to buy three handguns in Dekalb County, Georgia, has since been convicted of violating federal firearms laws and awaits a prison sentence of up to ten years.

A convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania, apprehended by ATF and local authorities in April 1995 as a result of a Brady check is now serving two years in prison on various charges.

We know that there have been many cases in which Brady checks have revealed outstanding warrants for serious felonies. In these instances, the defendant may be apprehended and prosecuted on the outstanding charge, but the fact that the individual was found through a Brady check may not be reflected in the case file or the prosecutor's database.

By denying criminals handguns from licensed dealers, the Brady Law makes it harder for criminals to get handguns, and some will be stopped because of that.

Restrictions on buying from federal firearms licensees raise prices in the unregulated secondary market -- all sales by unlicensed individuals, including private sales, gun



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shows, and the illicit gun markets. This price effect will not entirely prevent criminals and juveniles from obtaining guns, but can be expected to deter some sales to dangerous people.

Brady checks are one aspect of law enforcement's efforts to stop criminals from obtaining handguns. The Brady Act stops access to handguns by felons and other prohibited persons through lawful commercial channels. ATF and prosecutors are building on the impact of the Brady Act by stepping up enforcement efforts against suppliers in the black market in firearms: illegal gun dealers, illegal gun traffickers, and straw purchasers who buy for felons, juveniles, and other dangerous persons.

Illegal gun sellers:

On February 6, 1996, the license of a North Dakota Federal firearms licensee was revoked for willful violations of the Gun Control Act, including transferring handguns after receiving notice from the chief law enforcement officer that the firearms should not be transferred because of Brady Law prohibitions.

On April 8, 1996, a federal grand jury convicted Chalmette Jewelry, Inc., and two individuals for violations of federal firearms laws, including sales of firearms to convicted felons, persons under indictment, and persons under the age of 21. The two individuals face up to 75 years' imprisonment and \$2,000,000 in fines each. (ATF special agents also perfected criminal cases against 28 of these prohibited individuals and straw purchasers.) Chalmette Jewelry, Inc. averaged over 6,000 firearms sales per year, and was the largest firearms dealer in New Orleans, Louisiana.

Illegal gun traffickers:

On March 2, 1995, two individuals in Ohio pled guilty to several violations of federal firearms laws. They and others had conspired to and trafficked over 500 firearms to Michigan, New York, Boston, and New Jersey. The case began with 26 guns recovered in Detroit in connection with crimes of violence or narcotics violations; ATF traced these guns back to the traffickers.

On March 6, 1996, the tenth of twelve defendants was sentenced to 46 months in custody for participation in a conspiracy to illegally traffick firearms from Phoenix, Arizona, to California. The defendants illegally trafficked approximately 500 firearms before ATF special agents successfully intercepted 102 firearms destined for Los Angeles. California authorities have recovered an additional 100 of the trafficked firearms. The majority of these firearms were recovered in gang related investigations, including homicide, armed robbery, drive-by shootings, narcotics and weapons related offenses.



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Straw purchasers:

On January 4, 1996, ATF special agents arrested an individual for illegally straw purchasing a 9 mm pistol from a federal firearms licensee in Danville, Virginia. The firearm was straw purchased for a juvenile. Approximately 2 hours after the firearm was purchased, the juvenile and others (not the straw purchaser) robbed a grocery store in Danville, Virginia; the store manager was murdered with the straw purchased pistol. The juvenile was prosecuted in State court as an adult and received life imprisonment. The straw purchaser is being prosecuted in federal court.

Law enforcement leaders support the Brady Law.

Statements made on the second anniversary of Brady Act implementation:

"It is clear on this second anniversary of the Brady Act that the waiting period has prevented thousands of criminals from obtaining firearms and has saved lives," said, Gilbert G. Gallegos, National President of the Fraternal Order of Police (FOP).

"Members of the FOP continue to be impressed with the cooperation between the ATF and local law enforcement in implementing the Brady Act."

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

The more thorough the criminal records checks are that state chief law enforcement officers are able to make, the more effective the Brady Law becomes. To strengthen the criminal records information to which states have access, the Department of Justice is providing \$100,000,000 in grants to states for improvements in criminal records systems.

There are four grant programs that support Brady, 1) NCHIP (National Criminal History Improvement Program), 2) ASAP (Advanced State Award Program), 3) FIST (The Firearm Inquiry Statistics program), and 4) The Edward Byrne Formula grant program. ASAP and FIST are supported under NCHIP funds.

NCHIP

The National Criminal History Improvement Program (NCHIP) implements the grant provisions of both the Brady Act and the National Child



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Protection Act of 1993. NCHIP provides direct grants and no-cost technical assistance to states to assist them in improving their record systems and in developing linkages with the national system. The authorization for the NCHIP program is \$220 million.

To date, \$75 million has been made available to assist states under the NCHIP program. These funds have been made available as direct grants to states to improve criminal history records and participate in the national system. Every state has received an award, and, consistent with the legislation, "priority" awards were made to the five "least advanced" states (Maine, Mississippi, New Mexico, Vermont, and West Virginia). Additional funding will be made available in 1996 as appropriated.

The majority of funds are being used to cover costs of state and local personnel and to purchase necessary equipment. Less than 1% of funds will be used for travel or meetings.

Over half the states are using NCHIP funds to purchase or upgrade Automated Fingerprint Identification (AFIS) systems and livescan devices. This will permit more accurate identification of offender records and linkage through the national system. NCHIP funds in almost half the states are being used for database enhancement with an emphasis on capturing full case dispositions.

The NCHIP program has also provided onsite technical assistance to states and sponsored conferences to assist the states in developing record improvement programs.

ASAP

The Advanced State Award Program (ASAP) provides funding to states that are already participating in the national criminal history record database known as the Interstate Identification Index (III).

ASAP will make \$5 million available to support state efforts to access data on persons who fall under prohibited categories, other than felony convictions, and are therefore ineligible to purchase firearms. This includes, for example, persons subject to court orders prohibiting domestic violence, persons with a history of mental commitment and drug abusers. *18 states applied by the January 31 deadline and awards will announced in April 1996.*



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FIST

The Firearm Inquiry Statistics (FIST) program is assisting states to manage firearm inquiry records and will develop national data on firearm inquiries.

FIST is a voluntary program involving an extensive sample of state and local agencies (all state record agencies and 500 local agencies). The program includes both Brady and Brady Alternative states. Consistent with federal law, no identifying information will be transferred to the Bureau of Justice Statistics (BJS).

BJS has developed and provided software to participating agencies at no cost. The software will help manage Brady inquiry data and simplify submission of data to BJS. Preliminary statistical data may become available by Summer 1996. Anecdotal evidence indicates that the vast majority of denials are based on prior felony convictions. The next largest categories of denials are persons under a court restraining order and fugitives from justice. When complete, the data will indicate the number of denials that are appealed and/or reversed.

Edward Byrne Memorial Grant program

Funds to support state efforts to improve criminal records are also available under the Edward Byrne Formula grant program. That program requires that 5% of funds be expended for improvement of criminal justice records. The BJS NCHIP program is being coordinated with the BJA-administered Byrne program to minimize duplication of state effort.

The Brady Law is constitutional.

The Department of Justice has continued to defend the Brady Law against constitutional challenges in the district and circuit courts. In 1995, the Ninth Circuit, the first court of appeals to rule on the issue, upheld the constitutionality of the Brady Act. The Second Circuit also recently upheld the Act in its entirety. Only the Fifth Circuit, which left intact many of the provisions of the Brady Act, including the 5-day waiting period, has struck down the provisions of the Act requiring action by state chief law enforcement officers. An additional appeal is pending in the Tenth Circuit.



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There have been reports of substantial numbers of people being denied purchase of handguns due to unpaid parking tickets, however the practice does not appear to be a widespread phenomenon. We do not believe that federal laws can be interpreted to provide a basis for such denials.

In the event that officers err, Congress provided the means in the Brady Act for purchasers to get erroneous denials corrected -- either appeal to the chief law enforcement officer, or file a lawsuit. The Treasury and Justice Departments are also working together to provide definitions of the prohibited categories established by the Gun Control Act of 1968. *ATF is in the process of re-stating to the law enforcement community the statutorily enumerated grounds for handgun purchase denials.*

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Additional national Brady denial rate information will become available, but probably not before early 1997.

The Department of Justice's Bureau of Justice Statistics (BJS) has commissioned a survey of firearms check statistics that covers 500 Brady jurisdictions in all the states. The selection of jurisdictions is intended to provide a statistically valid sample. Data on 1996 is expected to become available in early 1997. The Treasury Department is examining whether some additional implementation information may be available before then.

The Brady Law is preventing violent felons from purchasing handguns -- violent criminals do try to buy handguns from gun stores.

In October 1995, a convicted murderer tried to buy three handguns in Dekalb County, Georgia. Before the Brady Act, he had purchased at least eight other guns without being challenged. (ATF)

In April 1994, a person under indictment for felony cocaine charges, who had a previous conviction in Kansas for a "terroristic threat" offense was stopped from purchasing a handgun by a Brady check in Lexington, Kentucky. (ATF)

The Brady Law is preventing illegal gun traffickers from buying handguns to supply crime guns to the streets of our cities.

In April 1995, a convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania. Prior to Brady, he had purchased at least seven other guns without challenge and traded them to support his crack cocaine addiction.

In Boston, Massachusetts, a suspect arrested and indicted on gun trafficking charges informed ATF that the Brady Law prompted him to cease his illegal conduct. The suspect had flooded Boston with illegally sold handguns originally purchased in the Atlanta area between December 1993 and February 1994.

The Brady Law is preventing persons under restraining orders for domestic harassment and stalking from purchasing handguns.

In February 1996, for example, a Brady check helped the Wichita County Sheriff stop a handgun sale to a man who had battered and threatened to kill his ex-wife and children. He was under a restraining order.



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In March 1994, the Brady Law prevented an accused stalker in Prairie Village, Kansas from purchasing a handgun. The prospective purchaser, who was under a restraining order, had also represented his state of residence as Missouri, not Kansas, on the Brady form.

The main purpose of the Brady Act is to prevent certain categories of persons from obtaining firearms from licensed dealers. But the Brady Law is also resulting in prosecution and incarceration of dangerous criminals that are apprehended as a result of Brady checks.

The Brady law does not require state chief law enforcement officers carrying out the Brady law to report purchase denials to state or federal law enforcement authorities. Federal prosecutions occur when state law enforcement officials with access to Brady check information voluntarily refer that information to appropriate federal law enforcement authorities. *State and local officials are being encouraged by ATF to refer possible violations involving dangerous criminals to ATF.*

In August 1995, a Brady check in Great Falls, Montana helped ATF and local authorities arrest a convicted 5-time felon wanted in two states after he attempted to buy two handguns. He now faces federal charges including falsifying the Brady check form.

A convicted murderer apprehended by ATF and local authorities in October 1995 as he tried to buy three handguns in Dekalb County, Georgia, has since been convicted of violating federal firearms laws and awaits a prison sentence of up to ten years.

A convicted heroin dealer and fugitive trying to buy a gun in Blair County, Pennsylvania, apprehended by ATF and local authorities in April 1995 as a result of a Brady check is now serving two years in prison on various charges.

We know that there have been many cases in which Brady checks have revealed outstanding warrants for serious felonies. In these instances, the defendant may be apprehended and prosecuted on the outstanding charge, but the fact that the individual was found through a Brady check may not be reflected in the case file or the prosecutor's database.

By denying criminals handguns from licensed dealers, the Brady Law makes it harder for criminals to get handguns, and some will be stopped because of that.

Restrictions on buying from federal firearms licensees raise prices in the unregulated secondary market -- all sales by unlicensed individuals, including private sales, gun



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Brady checks are one aspect of law enforcement's efforts to stop criminals from obtaining handguns. The Brady Act stops access to handguns by felons and other prohibited persons through lawful commercial channels. ATF and prosecutors are building on the impact of the Brady Act by stepping up enforcement efforts against suppliers in the black market in firearms: illegal gun dealers, illegal gun traffickers, and straw purchasers who buy for felons, juveniles, and other dangerous persons.

Law enforcement leaders support the Brady Law.

The more thorough the criminal records checks are that state chief law enforcement officers are able to make, the more effective the Brady Law becomes. To strengthen the criminal records information to which states have access, the Department of Justice is providing \$100,000,000 in grants to states for improvements in criminal records systems.

The Brady Law is constitutional.

There have been reports of substantial numbers of people being denied purchase of handguns due to unpaid parking tickets, however the practice does not appear to be a widespread phenomenon. We do not believe that federal laws can be interpreted to provide a basis for such denials.