

**NLWJC - Kagan**

**DPC - Box 009 - Folder 010**

**Crime - Brady Law Legislation**

*crime - ammo clips**and**crime - Brady law - legislative*

## Defending the Brady Law and Ban on Assault Weapons August 12, 1998

Today, with Mayor Richard Riordan of Los Angeles and California Lt. Governor Gray Davis, President Clinton will issue a bipartisan call for Congress to strengthen -- and not undermine -- the tough laws that have worked to keep guns out of the hands of criminals. The President will: (1) announce the publication of a proposed regulation to fully implement the Brady Law; (2) strongly support legislation to ban the transfer of large capacity military magazines; and (3) oppose Congressional efforts to expand the carrying of concealed weapons across state lines..

### Defending the Brady Law

- **Final implementation of the Brady Law.** Despite the gun lobby's attempts to derail implementation of the Brady Law's National Instant Criminal Background Check System (NICS), the Administration will publish a proposed regulation to implement the NICS on November 30, 1998. Among other things, this regulation will allow the FBI to charge gun dealers the same fee it charges day care providers and others for similar background checks -- guaranteeing that the FBI will have the resources it needs to operate the NICS.
- **Making Permanent the Brady Law's Requirements.** Although the NICS will make many more records of ineligible gun purchasers available in mere seconds, it will also replace a network of 5,400 state and local law enforcement officials that have stopped an estimated 242,000 prohibited purchasers from buying a handgun. To make sure all Americans have the benefit of the best background check system possible, the President supports legislation to make permanent the Brady Law's requirements by: (1) requiring a minimum 3-day waiting period for all handgun purchases; (2) adding up to an additional 2 days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) continuing to require gun dealers to notify designated law enforcement officials of all proposed handgun purchases. Congress should pass such legislation before it adjourns, so all Americans can benefit from the best background check system possible.

### Banning Assault Weapons and Military Magazines

- **Closing the Clips Loophole.** The Assault Weapons Ban that passed as part of the 1994 Crime Act prohibited the future importation, manufacture and sale of magazines accepting more than 10 rounds of ammunition. Nearly 4 years later, however, it is estimated that hundreds of thousands of pre-Ban clips continue to be bought and sold. The intent of the Assault Weapons Ban was to end the easy access to these large capacity military magazines (LCMMs).

Today, President Clinton will support legislation, introduced by Senator Feinstein, to ban -- once and for all -- the transfer of these military magazines that are used with assault-type weapons.

- **LCMM Rifles and Clips Recently Banned from Importation.** This past April, the Treasury Department concluded that more than 50 kinds of modified assault weapons -- including variants of the AK 47, Uzi, FN-FAL, HK 91 and 93, and SIG SG550 -- were generally not importable because they accept LCMMs. Consistent with its obligation to restrict the importation of firearms unless they are determined to be "particularly suitable for or readily adaptable to sporting purposes," the Treasury Department concluded that LCMM rifles and clips -- did not meet the sporting purposes test and were generally not importable.

### Fighting Gun Lobby Efforts to Undermine State and Federal Laws

- **Carrying Concealed Weapons Across State Lines.** Last Wednesday, the House Judiciary Committee quietly passed a bill that -- under the guise of allowing police officers to carry their firearms across state lines -- could allow millions of persons with state permits to carry a concealed weapons to do so throughout most parts of the country. Currently, 43 of the 50 states issue permits for concealed weapons and could be impacted by this legislation. While there may be good reasons to allow law enforcement officers to carry their service weapons across state lines, allowing millions of others traveling out-of-state to carry concealed and loaded weapons can only serve to undermine state and federal gun laws -- and will be strongly opposed by the President.

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**NB: Rahm wanted to see what a bullet on these crime funds, which can be released next Wednesday, would like. We have generally downplayed this as the R's block grant -- and Bruce didn't seem to think it was on message -- but here it is.**

### Releasing Crime Control Funds for California

- **Local Law Enforcement Block Grant.** President Clinton will also announce the release of \$78.8 million in crime fighting funds for California -- including \$18.1 million for the City of Los Angeles and \$3.7 million for the County of Los Angeles. Generally, these funds can be used to: hire and train additional police officers; procure equipment and technology for law enforcement use; enhance security in and around schools; establish drug courts; adjudicate violent offenders, including violent juveniles; establish task forces of federal and local enforcement; and promote cooperative crime prevention between

THE WHITE HOUSE  
WASHINGTON

August 5, 1998

**BRADY LAW EVENT**

**DATE:** August 6, 1998  
**LOCATION:** Rose Garden  
**BRIEFING TIME:** 10:00 am  
**EVENT TIME:** 10:30 am  
**FROM:** Bruce Reed

**I. PURPOSE**

To demonstrate your commitment to defend and strengthen the Brady Law by: (1) challenging Congress to make permanent the Brady waiting period of up to five days before the purchase of a handgun; and (2) opposing recent Congressional efforts to undermine final implementation of the Brady Law.

**II. BACKGROUND**

The Brady Law gives local law enforcement up to five days to block the sale of a handgun to an ineligible purchaser, but this provision sunsets when the National Instant Criminal Background Check System (NICS) takes effect on November 30, 1998. While NICS will allow access to a fuller set of records than is now available -- and stop even more ineligible purchasers from buying firearms -- a permanent waiting period will enhance local law enforcement's ability to be the last, best line of defense against illegal handgun purchases.

At this event you will:

**Challenge Congress to make permanent the Brady waiting period for handgun sales.**

You will challenge Congress to extend the Brady waiting period for handguns before it expires on November 30th. You will announce your support for legislation introduced by Representative Schumer and Senator Durbin and applying to all states to which the Brady Law now applies that will: (1) require a minimum 3-day waiting period for all handgun purchases; (2) add up to an additional two days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) require gun dealers to notify local law enforcement officials of all proposed handgun purchases, as they must now but under current law need not once the NICS goes into effect.

**Commit to fight Congressional efforts to undermine Brady.**

You will also announce the Administration's strong opposition to an anti-Brady amendment that Senator Smith (NH) attached to the Senate Commerce-Justice-State appropriations bill. If passed, this amendment would significantly undermine implementation of the NICS by: (1) prohibiting the FBI from charging gun dealers a user fee, as it does for similar background checks requested by school districts, day care providers, and many others; (2) mandating the immediate destruction of records required to audit and ensure the integrity of the NICS; and (3) creating a federal cause of action for parties aggrieved under these provisions. Most important, without the resources generated by a user fee, the FBI either will have to forego processing millions of background checks, or will have to transfer resources from other crime fighting efforts.

**III. PARTICIPANTS**

**Briefing Participants:**

Secretary Rubin  
Attorney General Reno  
Rahm Emanuel  
Bruce Reed  
Jose Cerda

**Participants:**

The Vice President  
Secretary Rubin  
Attorney General Reno  
Police Officer Jerry Flynn, National Vice President for the International Brotherhood of  
Police Officers, Lowell, Massachusetts.  
Sarah and Jim Brady

**IV. PRESS PLAN**

Open Press.

**V. SEQUENCE OF EVENTS**

- YOU will be announced onto the stage accompanied by Secretary Rubin, Attorney General Reno, Police Officer Jerry Flynn, Sarah and Jim Brady.
- Secretary Rubin will make welcoming remarks.
- Attorney General Reno will make remarks.
- Officer Jerry Flynn will make remarks and introduce the Vice President.
- The Vice President will make remarks and introduce Sarah Brady.
- Sarah Brady will make remarks and introduce YOU.
- YOU will make remarks.
- YOU will then ask Jim Brady to make informal remarks.
- Jim Brady will make a brief statement.
- YOU will thank Jim Brady for his remarks and then depart.

**VI. REMARKS**

Remarks provided by Jeff Shesol in Speechwriting.

**President Clinton: Defending and Strengthening the Brady Law**  
**August 6, 1998**

At a Rose Garden event today, President Clinton will: (1) challenge Congress to make permanent the Brady waiting period of up to five days before the purchase of a handgun; and (2) oppose Congressional efforts to undermine final implementation of the Brady Law.

***Making Permanent the Brady Waiting Period for Handgun Sales***

- Preserving a critical law enforcement tool. The Brady Law establishes a five-day waiting period before a handgun can be sold, but this provision sunsets when the National Instant Criminal Background Check System (NICS) takes effect on November 30, 1998. While NICS will allow access to a fuller set of records than is now available -- and stop even more ineligible purchasers from buying firearms -- a permanent waiting period will enhance local law enforcement's ability to be the last, best line of defense against illegal handgun purchases. This waiting period will allow law enforcement officers to check additional, non-computerized records, and will provide cooling-off time for handgun purchases.
- Calling on Congress to beat the deadline. President Clinton will challenge Congress to extend the Brady waiting period for handguns before it expires on November 30th. He will support legislation introduced by Representative Schumer and Senator Durbin and applying to all states to which the Brady Law now applies that will: (1) require a minimum 3-day waiting period for all handgun purchases; (2) add up to an additional two days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) require gun dealers to notify local law enforcement officials of all proposed handgun purchases, as they must now but under current law need not once the NICS goes into effect.

***Defending the Brady Law***

- Proof positive that Brady works. Since taking effect in 1994, the Brady Law has prevented an estimated 242,000 felons, fugitives, mentally unstable persons, and other prohibited purchasers from buying handguns. In 1997 alone, 69,000 handgun purchases were blocked as a result of Brady background checks.
- Expanding Brady's reach. Under the Brady Law, the National Instant Criminal Background Check System (NICS) will take effect on November 30, 1998. NICS will allow access to a fuller set of records than is now available, and law enforcement officials will use it to conduct checks of all prospective gun purchases -- not just handgun purchasers. After nearly 5 years of working with law enforcement to develop the NICS, the Justice and Treasury Departments plan to propose a regulation to finalize its implementation next week.
- Fighting efforts to undermine Brady. A recent amendment to the Senate Commerce-Justice-State appropriations bill would undermine implementation of the NICS. Among other things, the amendment would prohibit the FBI from charging gun dealers a fee for background checks, even though the FBI currently charges school districts, day care

providers, and many others for similar background checks. Without the resources generated by such a user fee, the FBI either will have to forego processing millions of background checks, or will have to transfer resources from other crime fighting efforts. The Administration strongly opposes this anti-Brady amendment.

**Brady Event  
Questions and Answers  
August 6, 1998**

**Waiting Period on Handgun Sales**

**Q. Can you elaborate on why the President supports making permanent the Brady waiting period prior to the sale of a handgun?**

A. Under the Brady Law, the National Instant Criminal Background Check System (NICS) will take effect on November 30, 1998. NICS will allow access to a fuller set of records than is now available, and law enforcement officials will use it to conduct checks of all prospective gun purchases -- not just handgun purchasers. We are pleased with the significant progress this Administration has made over the last 5 years to assist states in improving the accessibility of their criminal records once the NICS takes effect. These improved records will go a long way in helping to stop even more ineligible purchasers from buying firearms.

Once the NICS takes effect, the 5-day waiting period for handgun sales established in the Brady Law will sunset. And while NICS will allow access to a fuller set of records, a permanent waiting period will allow law enforcement officers to check additional, non-computerized records, as well as provide a cooling-off time for handgun purchases. We believe that local law enforcement officials know best who in their community can or can't legally own a gun, and that they are uniquely positioned to provide the last, best check before a handgun purchase goes through.

**Q. Can you give us more detail on the Schumer/Durbin waiting period legislation?**

A. Representative Schumer and Senator Durbin introduced legislation applying to all states to which the Brady Law now applies that will:

- (1) Require a minimum 3-day waiting period for all handgun purchases. Under current law, Brady's automatic waiting period will expire when the "instant check" system goes into effect. Schumer/Durbin legislation establishes a minimum wait time, even if all NICS background check is completed well beforehand. The minimum wait period will give local law enforcement additional time to review other local records that may not be found in the NICS, helping to ensure that prohibited gun sales are not completed. It also will provide a cooling-off period for handgun purchasers.
- (2) Add up to an additional two days to the waiting period if law enforcement officers need more time to clarify arrest records. Current law provides that when NICS takes effect, law enforcement officials will have three days to determine whether

an arrest, revealed by the “instant check” system, resulted in a conviction that disqualifies the prospective purchaser from owning a gun. The Schumer-Durbin bill will add another two days to this period, making sure law enforcement has enough time to get the information they need to make a final decision.

- (3) Require gun dealers to notify the local law enforcement official in the purchaser’s place of residence prior to selling the gun. Under current law, after November 30, 1998, guns dealers will no longer have to forward the names and addresses of prospective gun purchasers to designated local law enforcement officials -- only to the FBI or a NICS point of contact. The Schumer-Durbin bill requires gun dealers to keep notifying designated local law enforcement officials of handgun purchases.

**Q. Why are certain states exempt from Brady? What states are these?**

- A. States may be exempted from the Brady Law if they have a qualifying alternative permit system or a state “instant check” system -- both of which require background checks. Currently, 27 states are exempt from Brady’s requirements -- including 9 that were originally subject to the Brady Law, but which later enacted Brady-qualifying state systems.

The states exempt from Brady are: California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oregon, Tennessee, Utah, Virginia, Washington, and Wisconsin.

**Q. Didn’t the Supreme Court overturn Brady’s requirements? Doesn’t this decision affect your ability to impose a new waiting period?**

- A. Last year’s Supreme Court decision left the majority of the Brady Handgun Control Act - including the waiting period provision -- intact. The Supreme Court ruled that the Federal government cannot require local police departments to conduct background checks, but left intact the 5-day waiting period. In addition, nothing in the decision prohibits law enforcement from voluntarily enforcing the Brady Law checks. As we expected, after the Supreme Court’s decision, the vast majority -- over 90% -- of the nation’s law enforcement agencies continued to conduct background checks on handgun purchasers. They did this because it is a common sense and good law enforcement -- not because it was required. The Schumer-Durbin legislation is consistent with the Court’s decision and does not require state and local law enforcement to do background checks.

**Q. Isn’t there a difference between the current waiting period and what you’re proposing today? Why this change?**

A. Currently, Brady allows up to 5 days to conduct a background check in states without permit systems. This provision will expire when NICS is implemented, leaving only a provision that enables law enforcement to hold up a handgun purchase for three days when a background check reveals a prior arrest. Under the Brady extension legislation proposed by Senator Durbin and Rep. Schumer, there will be an automatic 3-day waiting period, and law enforcement officers can take another two days if they need to clarify an arrest record. This minimum 3-day and expanded 5-day waiting period ensures that law enforcement will have the time it needs to check all available records, which also provides a cooling-off time for handgun purchases.

**Q. How many and which states currently have their own waiting periods?**

A. According to a 1996 Justice Department survey, 11 states have waiting periods pursuant to their own laws. These waiting periods vary in duration and may apply to different types of firearms. The states with waiting periods are: Alabama, California, Hawaii, Indiana, Iowa, Kentucky, New Jersey, Pennsylvania, Rhode Island, South Dakota, and Washington.

#### **Anti-Brady Senate Amendment**

**Q. What are the Congressional efforts to “gut” Brady that the President referred to in his remarks?**

A. A recent amendment to the Senate Commerce-Justice-State appropriations bill would undermine implementation of the NICS. The Administration strongly opposes this anti-Brady amendment. Specifically, the Senate amendment does the following three things:

- 1) Prohibits the FBI from charging gun dealers a fee for background checks even though the FBI currently charges school districts, day care providers, and many others for similar background checks. States and local law enforcement agencies generally charge dealers for the costs of background checks they complete. Without these resources, the FBI will either have to forego processing millions of background checks, or transfer resources and personnel from other crime fighting efforts.
- 2) Requires FBI to immediately destroy certain records obtained from clean background checks, substantially undercutting the reliability of the background check process by making it impossible to catch fraudulent submissions. The FBI does intend to destroy such records, but after a reasonable period that allows them to audit their records to protect against fraud.
- 3) Establishes a federal right to sue if records are not immediately destroyed. Creating a federal cause of action with punitive damages for any person aggrieved

by the provisions of this amendment is -- pure and simple -- just another attempt to undermine the operation of the NICS.

**PRESIDENT CLINTON:  
EXPANDING THE BRADY LAW**

August 6, 1998

*"The real measure of our progress, of course, is more than the decline in crime. It is whether families feel secure in their homes and their neighborhoods; whether a child feels safe in the classroom and the schoolyard; whether the American people, in big cities or small towns, feel the full measure of their freedom. That, at heart, is what the Brady Law has helped accomplish, and that is the vision to which we must all remain true if we are to build a safer, stronger America for the 21st century."*

President Bill Clinton  
August 6, 1998

Today, at a Rose Garden event, President Clinton will challenge Congress to make permanent the Brady Law's waiting period of up to 5 days before the purchase of a handgun and announce his opposition to Congressional efforts to undermine final implementation of the Brady Law.

**MAKING THE BRADY WAITING PERIOD PERMANENT FOR HANDGUN SALES.** One of the essential features of the Brady Law is the waiting period of up to five days before a handgun can be purchased and taken home. President Clinton firmly believes in:

- **Preserving the Brady Law As A Law Enforcement Tool.** The Brady Law gives local law enforcement 5 days to block the sale of a handgun to an ineligible purchaser, but this provision will be replaced when the National Instant Criminal Background Check System (NICS) takes effect on November 30, 1998. While NICS will allow access to even more important records --and stop even more ineligible purchasers from buying firearms --a permanent waiting period will preserve local law enforcement's ability to be the last, best line of defense against illegal handgun purchases.

**CALLING ON CONGRESS TO BEAT THE DEADLINE.** President Clinton is challenging Congress to extend the Brady waiting period for handguns before it expires on November 30th. He supports legislation introduced by Representative Schumer and Senator Durbin that, in states without permit or background check systems, will: (1) require a minimum 3-day waiting period for all handgun purchases; (2) add up to an additional two days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) require gun dealers to notify local law enforcement officials of all proposed handgun purchases, as they must now do, but under current law need not once the NICS goes into effect.

**DEFENDING THE BRADY LAW.** Since its inception, the Brady Law has been an invaluable tool in preventing handguns from getting into the hands of people who should not have them. Since taking effect in 1994, the Brady Law has prevented an estimated 242,000 felons, fugitives, and other prohibited purchasers from buying handguns. In 1997 alone, 69,000 prohibited handgun purchases were blocked as a result of Brady background checks. The President will continue his efforts to:

- **Expand the Brady Law's Reach.** Under the Brady Law, the NICS will take effect on November 30, 1998, and will require the FBI and designated state law enforcement officials to conduct computerized checks of all prospective gun purchasers --not just handguns --and make even more important records available to law enforcement. After nearly 5 years of working with law enforcement to develop the NICS, the Justice Department plans to propose a regulation to finalize its implementation next week;
- **Fight Efforts To Undermine Brady.** A recent amendment to the Senate Commerce-Justice-State appropriations bill would undermine implementation of the NICS. Among other things, the amendment would prohibit the FBI from charging gun dealers a fee for background checks, even though the FBI currently charges school districts, day care providers, and many others for similar background checks. Without the resources generated by such a user fee, the FBI will either have to forego processing millions of background checks, or will have to transfer resources from other crime fighting efforts. The Administration strongly opposes this anti-Brady amendment.

(and)

The Real Story Regarding Current Brady Attacks

Crime - Brady - NCS.

They're Trying to Kill the Brady Law

- Despite its proven effectiveness, the gun lobby has launched a full scale effort to sabotage the Brady Law when the FBI takes responsibility for Brady background checks in November of this year. Two changes have been proposed which, if adopted, would effectively kill the Brady Law.

Not Permitting The FBI To Charge A Fee Would Help Kill The Brady Law

- While they lack the votes to directly repeal the Brady Law, the gun lobby has convinced some members of Congress to deny the FBI the money it needs to conduct background checks on gun buyers.
- Starting in November, the Brady Law will require the FBI to take over from state and local law enforcement agencies the processing of around 7 million requests for gun purchaser background checks annually. This new responsibility will require the FBI to deploy over 800 people conducting tens of thousands of gun purchaser background checks each day of the year at an annual cost of around \$100 million. Without the funds to cover these costs, the FBI will be unable to conduct the checks which keep guns out of the hand of felons, fugitives and other dangerous persons.
- School districts, day care centers, charities and other organizations that seek background checks on prospective teachers, child care workers, school bus drivers and other employees all pay the FBI a fee to cover the costs of those checks. Background check fees have been the primary funding source for Brady background checks conducted by state and local law enforcement officials over the last four years. Now, just four months before the FBI takes over responsibility for Brady background checks, the gun lobby wants to change the rules to give gun purchasers a special exemption from background check fees. A special exemption for background checks fee for gun purchasers would deny the FBI the money necessary to conduct gun purchaser background checks.
- Some have suggested that the Congress could provide the FBI the funds necessary to cover its costs in this area, *but no funds have been identified to meet this need.* In addition, because of the way the Brady law works, if its costs are covered by a direct appropriation rather than a fee, the FBI will have to handle background checks which would otherwise have been done by the states, and its personnel and other costs will increase accordingly. *There is no indication that the Congress is really going to cover the FBI's operating costs with a direct appropriation, so if the fee is killed, Brady background checks have effectively been killed.*

Why?

## Not Permitting The FBI To Keep Certain Records Would Help Kill The Brady Law

- ☐ The gun lobby also wants to sabotage the effectiveness of the computer system which will handle Brady background checks by making it impossible to prevent fraudulent submissions to the system from being caught.
- ☐ The gun lobby wants to force the FBI to immediately destroy records of these background checks which come back clean. Such a requirement would substantially undercut the reliability of the background check process. If the FBI is forced to immediately destroy records of the name the gun dealer sends in for a check, there will be no way for the FBI to audit its records to determine if false names are being submitted by a gun dealer. Furthermore, there will be no way to check whether gun dealers are running background checks for legitimate or illegitimate reasons.
- ☐ Forcing the FBI to destroy records necessary to the effective operation of the background check system (and necessary to preserving the privacy of those in the system) is merely another thinly veiled attempt to gut the Brady Law.

how does  
this work?

Crime-Brady Law - Legislation  
and  
" " - NICS



Jose Cerda III

07/28/98 04:09:23 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP, Christa Robinson/OPD/EOP

Subject: Brady Announcement

MC:

Bruce asked me to forward this to Rahm. It's an outline of our suggested Brady event:

Proposed Brady Event -- Next week, the President could make the following 3-part announcement to strengthen the Brady law, which has stopped an estimated 242,000 prohibited persons from purchasing handguns:

(1) Announce final Brady Rule. The Administration could publish the proposed final rule implementing the National Insta-Check System (NICS). Under NICS, the FBI will implement a national computerized system of background checks and extend background checks to the purchase of all firearms (not just handguns). The rule would go into effect at the end of November.

(2) Call for an extension of Brady's 5-day waiting period. The President could call for a permanent extension of the Brady law's waiting period, which is set to expire when NICS is implemented in November. A national 5-day waiting period would continue to allow local law enforcement to review gun purchases before they are finalized -- further ensuring that prohibited persons do not buy firearms.

(3) Oppose Congressional efforts to undermine Brady. Senator Smith (R-NH) has offered an amendment to the Commerce-Justice-State (CJS) appropriations bill that would seriously undermine the Brady law. Smith's amendment would: prohibit the FBI from collecting a fee to pay for Brady background checks; require the immediate destruction of all background check records; and allow aggrieved persons to sue the government over these provisions. The President could threaten to veto the CJS bill over these provisions.

Brady Law Follow Up Meeting  
Agenda  
August 1, 1997

I. Voluntary Background Checks -- Treasury

- A. Overall survey of CLEOs
- B. Arkansas
- C. Ohio

II. Insta-Check System -- Justice

III. Options:

- A. Continue to work with CLEOs on voluntary checks
- B. Clarify state and local authority, immunity, fees - DOJ guidance?
- C. Schumer/DOJ legislation - to another CLEO it are voluntary  
DOJ - if no one, no rule
- D. Condition grants - fee provision - permission
- E. Authorize more NCHIP (National Criminal History Improvement Program) funding and require background checks

↳ paying for introduction

↳ as a cond. of their B

IV. Law enforcement groups

Do you mean make the funding conditional on providing a point of contact?

Yes.

## White House Brady Mtg. Agenda

(August 1, 1997)

### 1) Status of Voluntary Checks

- a) Arkansas
- b) Ohio
- c) Rhode Island
- d) Halbrook Letter
- e) Other
- f) List of CLEO's

### 2) Status of legislative options

- a) Police group views
- b) Need for legislation

### 3) Status of NICS

- a) Hardware/software infrastructure
- b) Federal record completeness
- c) State record completeness
- d) Recruiting of state POC's (& issues of authority and willingness)

! ? (point of contact)

BRADY LEGISLATION

☞ AUTHORIZATION TO CONDUCT CHECKS, INTERIM AND PERMANENT, UNLESS PROHIBITED BY STATE LAW

☞ AUTHORIZATION TO CHARGE FEES, INTERIM AND PERMANENT, UNLESS PROHIBITED BY STATE LAW

☞ NO LIABILITY FOR CONDUCTING CHECKS, INTERIM AND PERMANENT

☞ BACK-UP CLEO TO CLEO OF RESIDENCE OF BUYER (CLEO OF LOCATION OF SELLER, ANY OTHER CLEO IN THE STATE)

\*\*\*\*\*

☞ AUTHORIZATION OF ADDITIONAL \$ \_\_\_\_ HUNDRED MILLION FOR IMPROVEMENT OF CRIMINAL HISTORY, SEXUAL PREDATOR, NATIONAL CHILD PROTECTION ACT, AND OTHER RECORDS IMPROVEMENTS EFFORTS OF THE STATES

I. How the NICS Will Work

- A. Reliance on existing, primarily state, data bases
- B. Description of operation
  - 1. Point of contact
  - 2. Databases

II. Criminal History Records

- A. III participation
- B. Final dispositions of arrest records
  - 1. Arrest records complete
  - 2. Effect of incomplete conviction records

III. Points of Contact

- A. When needed -- permit states
- B. Advantages of state points of contact

8-1-97

Brady Mtg

I. Treasury report

Schumer - 92% of all

No major metro areas have dropped out

Scattered counties not doing check - for resource reasons

Other problems

A) Ark - you haven't decided yet - reviewing AG opinion +  
 Thinking not only have out -  
 required to do it.

B) Ohio - <sup>OH</sup> AG met w/ AG + ATF director -

OH AG proposed that they know ATF in that we change Brady  
 from Rains issues of concern. Not a lot of hope here.

At moment - about 1/3 of checks in OH not getting done.

OH AG proposing new plan next week?

Have to decide whether to come up w/ special OH Brady form -

But even here may not clear up problem.

- reach out to Vermont?

- get all sheriffs etc to write to AG.

- ATF ~~recognize~~ recognize sheriffs + chiefs as CLEO?

(not clear what support would get from sheriffs)

c) Rhode Island seems to be going fine. Pat Kennedy seeking  
 special statute to pass state Brady law! Op for mischief.

d) Halbrosh letter - <sup>DOJ</sup> near to final response - pull heavily from  
 OH letter - law enforcement have abil to do this.

→ Might want to release this - make a point of it.

II. Legislation & other

Need law enforcement support - has to be modest

But modest plans have down sides - look implicit / even

These authors / Schuman + Kohl don't seem to need.

Fris - don't go left route

Treas - basically agree

2 concerns abt left - } fee authorization very embarr.  
} back up CEO syst may not wh.  
admin concerns.

### III. Instacheck -

a. How system works - new connection ~~and~~ scheme  
st Jabalani - Then existing new

Syst relies on them history records

2 things -

i. Helps to have states to all participants - not hi, some-32  
already are - rest will join

ii Arrest records are complete; but conviction records  
are not

Final Disposition  
33% of conviction records are there - computerized  
+ shorable

But many have mult arrest records - as long as 1  
conviction - it doesn't mkr that others aren't there.

And locals can determine whether there's a conviction  
in a couple of days.

c. Non-crim hist records - situation is much worse -

e.g. drug users / substance abuse.

d. Point of contact

Will states provide? Current will propose to do checks  
gives optimism. But - 5 states have said they won't  
already - e.g. Texas.

→

Credibility NETIPs & on this (providing pt of contact)?

Do we have authority on this?

Crime - Brady law - legislative fix <sup>001</sup>



U.S. Department of Justice  
Office of Intergovernmental Affairs

Office of the Director

Washington, D.C. 20530

July 14, 1997

TO: Elena Kagan  
456-2878

FROM: Nicholas M. Gess, Director  
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SUBJECT: BRADY FIX

# PAGES: 2 (including cover sheet)

REMARKS: Elena -- Attached is concept of Brady fix legislation as cleared by OLC. Wanted you to have copy ASAP. Nick

- #1 Brady check to be conducted by CLEO of prospective purchaser's residence if that CLEO willing to do the check.
- #2 Brady check to be conducted by CLEO of FFL's residence if #1 not willing to do it but #2 is willing.
- If neither #1 nor #2, then any CLEO in the state can do Brady check.
- No handgun sold unless a CLEO willing to and, in fact, does Brady check. ]
- The Attorney General has the authority to promulgate such regulations as she in her sole discretion deems appropriate relating to voluntary cooperative efforts between the federal government and state, county and local law enforcement authorities, for the purposes of conducting background checks.
- CLEO may charge a reasonable fee for conducting Brady checks to the extent not prohibited by state law.
- CLEO is held harmless for conducting Brady checks, except intentional misconduct.

7/14/97-1645  
Cleared by DOJ/OLC

Troopers dropping gun check

<http://www.ardemga.../today/wchek2.html>

Crime - Brady law - legislative fix

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## Troopers dropping gun check

*EK -  
weekly?*

**ERIN GIBSON**  
Arkansas Democrat-Gazette

Despite a plea from President Clinton, Arkansas State Police will stop conducting background checks on prospective handgun buyers today, state police director Col. John Bailey said.

"Based on conversations with the state police legal staff and attorney general's representative, we have no recourse but to stop the background checks and comply with this change in the Brady law as interpreted by the Supreme Court," Bailey said in a statement released Tuesday.

The background checks were required under the federal Brady law until Friday, when the U.S. Supreme Court ruled that the federal government could not force state and local law enforcement agencies to conduct the checks.

While 27 states have passed their own version of the Brady law — which includes both the background check and a five-day waiting period for a handgun buyers — Arkansas never did. Under the federal statute, Arkansas State Police began conducting background checks in February 1994.

But Arkansas officials re-evaluated the state's background check program after the court's ruling on a Brady law challenge filed by sheriffs from Arizona and Montana.

"It was a matter of sitting down and looking at the laws as they pertain to the state of Arkansas," state police spokesman Bill Sadler said Tuesday.

In a series of meetings that began Monday, Bailey, Sgt. Darrell Stayton (an attorney in the state police director's office) and representatives of the state attorney general's office discussed laws on whether the state should continue performing the checks.

Gov. Mike Huckabee was not involved in the decision to halt the checks in Arkansas, said Grant Tennille, a spokesman for the governor's office.

"In light of the court's decision, this office believes that the state police have made the right call, and we stand behind their decision," Tennille said.

Bailey's decision to stop the background checks clashed with requests from the president and several national police organizations to voluntarily continue them but excited some gun advocates in the state.

John Wallis, president of the Arkansas Pistol and Rifle Association, said Tuesday that he expected the state to discontinue the background checks after the Supreme Court decision but said he was still "extremely pleased."

"You can't force it if there's no state law," Wallis said.

Wallis said his organization and about 6,500 other members of gun clubs around Arkansas hoped the state Legislature would refuse any attempt to reinstate the background checks by rejecting any Brady-type bills during the next legislative session.

The absence of any state law left state police with no legal authority to continue conducting the Brady background checks after the Supreme Court decision, Sadler said. Before today, Arkansas conducted about 2,000 checks each month and charged potential gun buyers \$15 for each check, he said.

In the court's majority opinion released Friday, Justice Antonin Scalia wrote that the federal requirement for states to do the background check is "fundamentally incompatible with our constitutional system of dual sovereignty."

However, the court left the Brady law's five-day waiting period intact and ruled that states could continue to voluntarily conduct the checks until a national instant background-check

Troopers dropping gun check

<http://www.ardemga.../today/wchek2.html>

system is completed in November 1998.

Upon hearing the Supreme Court's decision, Clinton requested that law enforcement officials nationwide continue voluntary background checks. The president said he felt confident that "state and local law enforcement officials who asked us to pass the law will continue to do the background checks."

Bailey said state law requires police to continue background checks for those applying for a concealed weapons permit.

Federal law bans nine categories of people from buying handguns: those convicted or indicted on felony charges, those with mental illness, those dishonorably discharged from the military, fugitives from justice, those convicted of domestic abuse or under domestic violence restraining orders, illegal drug users, those who have renounced U.S. citizenship and illegal aliens.

When making the decision, state police did not consider the demand for the background checks or the percentage of people who apply for background checks but fail, Sadler said. Those statistics were not immediately available to police, he said.

The possible loss in revenue from halting background checks also was never discussed, Sadler said. State police raise an estimated \$380,000 annually from the background checks and completed 21,524 checks from August 1996 through May 1997.

Darren Taylor, owner of Midsouth Guns and Ammo, said only 10 of his customers have been turned down since the Brady law background checks began. Of those, nine were turned down by mistake and later allowed to buy the weapon, he said.

"I can't think of a single customer who would not be ecstatic about it," he said. "The people who come into the stores and buy the guns aren't the criminals anyway."

But national police organization officials, including International Association of Chiefs of Police President Darrell Sanders, said the background checks are an important tool to keep guns out of the hands of criminals.

In a statement released last Friday, Sanders said police "have known for decades that requiring handgun purchasers to undergo background checks and waiting periods is good policing and good crime prevention."

Sanders, chief of police in Frankfort, Ill., added, "I know that police chiefs around the country will continue to conduct these checks in large numbers, wherever and whenever they can."

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This article was published on Wednesday, July 2, 1997

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Attorney General  
Betty D. Montgomery

**FOR IMMEDIATE RELEASE**

June 27, 1997

CONTACT: Mark R. Weaver  
Deputy Attorney General  
at 614/466-3841

To: Joe Sudbany

## Statement from Ohio Attorney General Betty D. Montgomery

Over the last two years, the United States Supreme Court has continued a trend of striking down examples of the federal government over-reaching into traditional areas of state authority. Today, the Supreme Court struck down a portion of the federal Brady law that required local governments to conduct background checks on people who wish to purchase a handgun.

This decision leaves the Brady handgun check still in place, but effectively ends Ohio's involvement as the means to carry out that background check. That responsibility will now be taken back by the federal government. The federal government continues to work toward the 1998 nationwide Brady check system, when the purchase of all guns will require a background check.

As a result, today will be the last day that the Ohio Bureau of Criminal Identification and Investigation will accept Brady check calls from gun dealers. All checks received through today will be completed.

Over the last two years, the Ohio General Assembly has taken many steps to toughen penalties for gun-related crimes and as a former prosecutor, I will continue to support those measures.

###

6-25-01 01:26A

JUN-30-87 14:41 From: OH. ATTORNEY GENERAL'S OFFICE

6147529083

T-158 P. 01/02 Job-027



Attorney General  
Betty D. Montgomery

## NEWS STATEMENT

from Ohio Attorney General Betty D. Montgomery

For More Information, Contact Deputy Attorney General Marc R. Weaver at (614) 466-3143

### TOPIC: THE U.S. SUPREME COURT'S ACTION IN STRIKING PORTIONS OF THE BRADY ACT

June 30, 1997

*Diggs Sublay*

Prior to last week's U.S. Supreme Court's decision about the Brady Act, there were two different categories of states that conducted background checks on handgun purchasers. More than half of all states already had background checks in place - by order of their respective state legislatures. The remaining states (including Ohio) were states whose legislatures had not mandated a background check for handgun purchases.

When the Brady Act became effective in 1994, it intended that (in Ohio) county sheriffs would carry out the required background checks. Through an agreement between then-Attorney General Lee Fisher and sheriffs, it was decided that Ohio's Bureau of Criminal Identification and Investigation (BCI) would do the actual work. Without the mandate of the Brady Act, BCI would not have the authority to conduct these background checks and provide otherwise-confidential information to gun dealers.

Last Friday, the Supreme Court removed the portions of the Brady Act that ordered local law enforcement officials to conduct these checks. The court preserved the waiting period and confirmed that the federal government could conduct a background check during the waiting period. Because the Ohio state legislature has never authorized BCI or any sheriff to conduct a handgun purchase background check, at the moment the Supreme Court ruling was handed down, our state lost the legal authority to conduct these checks.

A few zealous gun control advocates have pointed to Ohio Revised Code Section 109.54 as creating the authority to do background checks on individuals without their permission. The statute actually only allows BCI to "aid and assist" a sheriff or police officer "in the investigation or solution of any crime by the control of any criminal activity." Handgun background checks have already been categorized by the U.S. Justice Department as a non-law enforcement check. Even if that weren't the case, a simple background check does not indicate any probable cause to believe that a crime or criminal activity has occurred. Therefore, checks done without authority could expose the state to significant legal liability. As a result, BCI was instructed to stop the checks the day the Supreme Court made its decision.

In 1996, 60,037 people went to licensed gun dealers to purchase handguns. Of that figure, 327 - less than one half of one percent - were denied handguns because of a disqualifying factor. Although I'm pleased that those 327 people didn't receive a handgun from a licensed gun dealer, we have no guarantee that each of these people didn't proceed to a pawn shop, a gun show, flea market, or the black market to purchase a handgun the very same day. Nearly a million dollars was spent in 1996 on this program, yet while we were able to keep 327 people from getting a handgun at point A - each of them was able to purchase a rifle or handgun the very same day at point B.

To our knowledge, under the Brady Act, not a single one of the 327 people who falsified the form and tried to purchase a handgun illegally have been prosecuted by the U.S. Justice Department.

All of this is an interim concern. That's because, in 1998, the Brady Act calls for local governments to end the waiting period and background checks for handguns in favor of a nationwide "instant check" program for handguns and long guns. Those instant background checks will be done at the point of purchase and will be conducted by federal employees.

(MORE)

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25-01 01:26A

JUN-30-97 16:41 From:OH ATTORNEY GENERAL'S OFFICE

6147525083

T-188 P.02/02 Job-027

PAGE TWO

Friday afternoon, officials from my office spoke with the U.S. Justice Department to explore options. Over the past weekend, several attorneys on my staff conducted research and discussed possibilities. On Saturday, I spoke personally with U.S. Attorney General Janet Reno and explained Ohio's concerns. President Clinton and Attorney General Reno hoped that Ohio and other states would continue to do background checks voluntarily. I explained that our state's voluntary inclusion in the federal program is a decision only the legislature can make. As an executive agency with limited authority, the Ohio Attorney General's Office carries out laws - we are not able to make up laws.

Unless a law properly directs us, we simply can't conduct background checks on private citizens and then provide that confidential and otherwise-protected information to another person. No one should expect Ohio's chief legal officer to take it upon herself to pre-empt the state legislature and invade individual privacy. Absent a criminal investigation prompted by probable cause, an individual would have to give his or her consent before such a background check could be done.

As a former prosecutor, I want to take all legal and reasonable steps to keep guns out of the hands of criminals. To that end we have taken the following steps:

- ① Beginning in the next few days, we will provide every licensed gun dealer in Ohio with a waiver form that each potential handgun purchaser will be asked to sign. That waiver will ask the buyer to voluntarily allow BCI to conduct a background check and forward any disqualifying information to the gun dealer during the waiting period. We expect that the majority of handgun purchasers will agree to this waiver. Obtaining individual permission resolves the problem of our lack of legal authority to conduct a check.
- ② If a potential handgun purchaser refuses to sign a form that allows BCI to conduct a background check, BCI will forward all the pertinent information to the federal Bureau of Alcohol, Tobacco, and Firearms with that person's name and individual information. The federal government may then conduct the necessary background check during the waiting period. The Supreme Court has already said that this is an appropriate federal activity -- even without an individual's permission.
- ③ To encourage handgun purchasers to voluntarily allow BCI to conduct the necessary background check, Ohio will complete the check in two days -- a "Quick-Check" system. In 1998 the federal government will start an Instant Check system which will occur immediately at each point of purchase. Recent updates in our system and technology have allowed this to be possible. Legally this is possible because the Brady Act waiting period requirement is "up to five days" if there are no disqualifying offenses, a handgun purchaser will be able to receive his or her gun after 48 hours -- less than half the time the federal check will likely take.
- ④ We are also drafting legislation which would make it a felony offense for someone who has already been convicted of certain felonies to attempt to acquire a handgun. This will allow local law enforcement to prosecute those people who seek to violate the Brady Act by seeking to obtain weapons when they are not legally able to own them.

# Gun-buyer checks become voluntary

## Montgomery decides to restart program

By Alan Johnson  
Dispatch Staff Writer Reporter

Background checks for Ohio handgun buyers will resume on a voluntary basis. Attorney General Betty Montgomery decided yesterday, four days after halting the program following a U.S. Supreme Court ruling.

"We expect that the majority of handgun purchasers will agree to this waiver," Montgomery said. "Obtaining individual permission resolves the problem of our lack of legal authority to conduct a check."

State "quick-check" voluntary background checks are expected to take two days, Montgomery said. If the gun buyer refuses, the check will be done by the federal Bureau of Alcohol, Tobacco and Firearms and

will take five days, she said.

Paperwork is expected to go out today to 3,500 gun dealers across the states.

Montgomery reversed her position on the Brady law checks after a weekend of research by her staff and a call from U.S. Attorney General Janet Reno.

But Kent Markus, counselor to Reno, said Montgomery's revised procedure has not been agreed to by federal officials "and may be deeply flawed." Markus said no arrangement had been worked out with ATF officials to do the checks.

The U.S. Supreme Court, by a 5-4 decision Friday, invalidated a critical section of the Brady law,

Please see **GUN CHECK** Page 2A

### GUN CHECK from 1A

ruling the federal government cannot require states to do criminal background checks on would-be handgun purchasers as dictated by the 1994 federal law.

Montgomery immediately shut down the 8-year-old state program operated by the Bureau of Criminal Identification and Investigation in London, Ohio. She said that in view of the court's ruling, the state lacked authority to do the checks.

From Feb. 28, 1994, through June 9, the bureau conducted 206,905 background checks on would-be gun purchasers, rejecting 1,206 — about 0.5 percent. Her office said criminals bypass the system and get guns elsewhere.

After Friday's decision, Montgomery's staff talked with Justice Department staffers. Reno called Montgomery Saturday at home, and Montgomery's staff researched the issue over the weekend.

Ohio was among a handful of states that had decided not to perform Brady checks.

About half the states have their own Brady laws, and most of the others decided to continue on their own, which the Supreme Court said they could do.

The federal government plans

to take over background checks by year-end 1998.

Montgomery said her office is preparing legislation that would make it a felony for someone convicted of certain crimes to attempt to buy a handgun.

That would allow local prosecution of Brady law violators, which is not done at the federal level, Montgomery said.

None of the 327 people denied a handgun in Ohio in 1996 was prosecuted under the federal law, Montgomery said.

Montgomery's change of heart drew immediate fire from a Democrat who plans to run against her in 1998.

Richard Cordray, former state solicitor general under former Attorney General Lee Fisher, criticized Montgomery's "knee-jerk, shut-the-system-down" decision.

"It's hard to understand how Ohio's chief law enforcement officer would not be interested in keeping guns out of the hands of convicted felons," Cordray said.

Mark R. Weaver, deputy attorney general, dismissed those criticisms.

"We found a way to do the right thing, but to do it legally," he said.

The Columbus Dispatch  
Tuesday  
JULY 1, 1997 ■

# Ohio rethinks gun-law stance

• Attorney general retreats a bit, says state will research firearm buyers who approve, won't those who object

BY MARGARET NEWKIRK  
*Beacon Journal Columbus Bureau*

**COLUMBUS:** Just days after announcing that the state would end background checks for handgun buyers in the wake of a U.S. Supreme Court decision, Ohio Attorney General Betty Montgomery backed off somewhat yesterday.

Her office will continue to do checks - but only for gun buyers who agree to them.

Buyers who don't agree, Montgomery said, will have their Brady law information forms turned over to the federal Bureau of Alcohol, Tobacco and Firearms, which "may then conduct the necessary

background checks during the waiting period."

The statement drew outrage from gun control advocates, derision from Democrats and laughter from the Ohio spokesman for the Bureau of Alcohol, Tobacco and Firearms, who said it was the first he'd heard of it.

ATF spokesman Pat Berarducci said he could not comment on Montgomery's plan until he speaks to the bureau's chief legal counsel to "determine whether this is legal."

On Friday, the high court ruled  
See GUNS, Page A10

## GUNS

• Ohio has been unique in centralizing checks

Continued from Page A1

4-3 that the federal government cannot compel state and local agencies to conduct background checks - prompting Montgomery to say the state's Bureau of Criminal Identification and Investigation would immediately stop accepting background check requests from gun dealers.

Deputy Attorney General Mark R. Weaver said Montgomery believed the state would be legally exposed if it ran checks on private citizens without a law specifically allowing them.

The decision attracted instant criticism from across the country. Montgomery was the only law enforcement official in the nation who immediately shut down the background check program.

"We expected maybe some small-town sheriff in Texas to do away with the checks," said Joe Sudbay, legislative director of Handgun Control Inc. in Washington. "We certainly didn't expect it from the whole state of Ohio. And we especially didn't expect it from an attorney general who purports

to be so tough on crime."

Montgomery's about-face followed a letter from U.S. Attorney General Janet Reno that urged law enforcement officials to continue background checks.

"We expect and hope that the vast majority of law enforcement agencies in America will continue to run these checks voluntarily," the Reno letter said. "We recognize that some chief law enforcement officers may still use the court's decision as an excuse not to conduct Brady background checks.

"It is just common sense that we all keep doing whatever we can to keep guns from criminals," Reno wrote.

Ohio's attorney general's office has been conducting background checks under the federal Brady handgun control law since 1994. Since then, the bureau has run checks on 206,868 handgun buyers, denying permits to 1,206 of them.

In her statement yesterday, Montgomery said she was pleased that disqualified people did not receive guns "from a licensed gun dealer."

But, she said, "We have no guarantee that those people didn't proceed to a pawnshop, a gun show, a flea market or the black market to purchase a handgun the very same day."

The Ohio attorney general's role in running the checks is unique among those states that

fell under the Brady Bill.

In most states, city police departments and county sheriffs are responsible for running the background checks. Ohio's system, with checking centralized under Montgomery's office, was set up at the request of former Ohio Attorney General Lee Fisher.

Bob Walker, the president of Handgun Control Inc., said the changes announced yesterday did little to alleviate his organization's worries about Montgomery's action, and said her proposal to turn nonvolunteers over to the Alcohol, Tobacco and Firearms bureau was both illegal and unworkable.

Both the state Democratic Party and Richard Cordray, Montgomery's only Democratic opponent in next year's attorney general's race so far, said Montgomery does have authority to continue background checks under current state law.

Cordray, who was solicitor general under Fisher, said state law allows the attorney general to assist local law enforcement agencies in investigating possible criminal conduct.

Weaver, the deputy attorney general, said the revised policy doesn't represent a flip-flop.

"She didn't change her mind," Weaver said. "We are still of the position that Ohio does not have the authority to require background checks."

*The Beacon Journal*  
Tuesday, July 1, 1997

## Ohio to continue checking on gun buyers 'voluntarily'

By **JOE HALLETT**  
PLAIN DEALER BUREAU

**COLUMBUS** — Stripped of its legal authority to conduct criminal background checks on gun buyers, Ohio this week will begin asking handgun buyers to voluntarily permit the state to conduct such checks.

Information on potential handgun buyers who refuse to sign an Ohio waiver will be forwarded to the federal Bureau of Alcohol, To-

bacco, and Firearms, which still has authority to conduct criminal background checks without a gun buyer's consent.

Ohio Attorney General Betsy D. Montgomery, who outlined the new Ohio waiver system yesterday, said it should provide the necessary safeguards to keep guns out of the hands of criminals.

On Friday, the U.S. Supreme Court wiped out a section of the Brady law, ruling that the federal government could not force state and local police agencies to conduct criminal background checks on handgun buyers. The court, however, left intact the federal government's authority to conduct background checks.

In Ohio last year, 60,037 people attempted to buy handguns and 327 were denied after state-conducted background checks turned up records of felonies or other disqualifying information, according to Deputy Attorney General Mark R. Weaver.

After the Brady law became effective in 1994, the Ohio Bureau of Criminal Identification and Investigation, working with county sheriffs, provided criminal background checks on handgun buyers during a five-day cooling-off period mandated by the law.

Montgomery, who oversees the BCI, had said in the wake of the Supreme Court decision that the state's gun-check system would be shut down immediately. But after speaking with U.S. Attorney General Janet Reno over the weekend, Montgomery decided to continue voluntary checks.

Montgomery stressed that system would last only until the federal government next year begins computerized criminal background checks that can occur immediately at each point of handgun purchase.

Columbus attorney Richard Cordray, former state solicitor who had argued in support of the Brady law, contended that the state still had legal authority to do handgun background checks despite the court ruling.

Cordray, a possible Democratic opponent against Montgomery in 1998, also called the voluntary waiver system "useless," adding, "The law-abiding citizen will agree to sign, but the criminal will not."

THE PLAIN DEALER • TUESDAY, JULY 1, 1997

THE CINCINNATI ENQUIRER

# METRO

TUESDAY • JULY 1, 1997

# Ohio gun checks on again

## Under fire, attorney general changes mind

BY MICHAEL HAWTHORNE  
Enquirer Columbus Bureau

COLUMBUS — Attorney General Betty Montgomery, in an abrupt about-face, announced Monday that Ohio will resume criminal background checks on prospective gun buyers.

Ms. Montgomery faced a torrent of criticism after cutting off the gun checks Friday following a U.S. Supreme Court decision

that struck down a key part of the Brady gun-control law.

Following discussions during the weekend that included a telephone conversation between Ms. Montgomery and U.S. Attorney General Janet Reno, Ms. Montgomery's office unveiled a new method that allows the background checks to continue.

Potential gun buyers now will be asked to sign a waiver allowing the state Bureau of Criminal Identification and Investigation to conduct a background check. If they refuse to sign the waiver, the buyer's personal information will be forwarded to the federal Bureau of Alcohol, Tobacco and Firearms.



Betty Montgomery

To encourage people to volunteer for the state check, Ms. Montgomery's office is guaranteeing the results will be back within two days. The Brady law imposes a waiting period of up to five days.

The changes were prompted by a U.S. Supreme Court ruling that the federal government cannot require local law enforcement to determine whether buyers are fit to own handguns. Ohio

was one of 23 states that conducted the checks only because federal law required them to.

"No one should expect Ohio's chief legal officer to take it upon herself to pre-empt the state legislature and invade individual privacy," Ms. Montgomery said in defending her earlier decision to stop the checks.

The Brady law, which affects only licensed gun dealers, has kept pistols out of the hands of 1,206 felons and other prohibited handgun buyers in Ohio since 1994, according to the attorney general's office.

Ms. Montgomery said her office is drafting legislation that would make it a felony for a

convicted felon to attempt to acquire a handgun.

Gun-control advocates sharply criticized Ms. Montgomery for temporarily stopping the background checks, noting they continued in other states with no laws equivalent to the Brady law.

The state checks will be replaced with a federal system scheduled to go on line in 1998.

Democrats pounced on the potential political implications of Ms. Montgomery's decision.

"Keeping the background checks seemed like an easy call," said Columbus-area lawyer Richard A. Cordray, a Democrat who wants to challenge Ms. Montgomery in the 1998 elections.



Crime - Brady -  
Legislative fix

U.S. Department of Justice  
Office of Intergovernmental Affairs

Office of the Director

Washington, D.C. 20530

July 9, 1997

MEMORANDUM FOR: Elena Kagan  
Deputy Assistant to the President

FROM: Nicholas M. Gess  
Director of Intergovernmental Affairs

SUBJECT: Brady Legislative Fix

Presuming that we determine that legislation is needed to permit proper enforcement of the Brady Act, our concept is that:

1. In the first instance, a Federal Firearms Licensee (FFL) determines whether the chief law enforcement officer (CLEO) of the prospective purchaser's residence will conduct a background check. If the CLEO will do the check, then he does it.
2. If the CLEO of the prospective purchaser's residence will not conduct the check, then the FFL determines whether the CLEO of his own residence will do the check. If the CLEO of the FFL's residence will do the check, then he does it.
3. If neither the CLEO of the prospective purchaser's nor FFL's residence will do the check, then the FFL may call any CLEO in the state who is willing to do the check.
4. All CLEOs are expressly authorized by Federal law to conduct background checks unless expressly prohibited from doing so by state law.
5. CLEOs may charge a reasonable fee for conducting background checks.
6. An FFL may not transfer a handgun unless he is able to find a CLEO to do a background check.

We can turn this into legislative language fairly easily. Please call me on 514-8352 if you have any questions.



Crime-Brady -  
Legislative fix

U.S. Department of Justice  
Office of Intergovernmental Affairs

Office of the Director

Washington, D.C. 20530

July 11, 1997

MEMORANDUM

TO: Elena Kagan, 456-2878  
Jose Cerda, 456-7028

FROM: Nick Gess

SUBJECT: Brady "advice"

Elena & Jose -- Attached is the first draft of a Brady advice letter which is now circulating within DoJ. Please let me know if you have any comments. Phone: 514-3465 / Fax: 514-2504.

Many thanks. Nick

A large, stylized handwritten signature in black ink, appearing to read "Nick Gess".

7/11/97-9:30 AM

Dear Law Enforcement Colleague:

I am extremely encouraged by the reports I have received concerning the continued enforcement of the Brady Handgun Control Act in light of the recent decision of the United States Supreme Court. By all accounts, the vast majority of law enforcement officers are doing right and responsible thing by continuing to do background checks. Background checks are not done because they must be done, but because background checks make good law enforcement.

I am disturbed by the suggestion that certain local law enforcement lacks the authority to do these background checks because the laws of particular states do not expressly authorize them. This is a new and dangerous theory, one which erodes the historic authority of law enforcement.

As you are aware, law enforcement methods are generally not expressly authorized in specific state statutes. Rather, state statutes generally give local law enforcement broad-brush authority to enforce the law and to protect the public. Thus, there are generally no state laws which authorize law enforcement to conduct interviews, to take photographs at crime scenes, to operate radars to measure speed on highways or to increase drunk driving patrols in the vicinity of bars. But, it is beyond dispute that generally, law enforcement can do these things despite express authority to do so. Likewise, in the absence of an express statutory bar, law enforcement officers clearly may check records to prevent crime. It is a dangerous precedent indeed to suggest that law enforcement's authority to investigate and to prevent crime must be spelled out by statute.

Brady background checks make common sense. The reason for prohibiting felons, fugitives, military deserters and several other groups of individuals from possessing firearms is to protect the public from the dangers which these individuals pose. While it is all very well to have laws on the books which prohibit possession, it would be tragic to have the means to determine whether a person poses a danger to America from firearms possession, and then not to use those means and thus protect the public.

We know that the Brady Act works. It has already prevented



File - Crime - Brady -  
Legislative fix.

U.S. Department of Justice

Office of Policy Development

Deputy Assistant Attorney General

Washington, D.C. 20530

June 12, 1997

MEMORANDUM

Tom/Leanne -

Have you seen this? Should

it be ignored?

TO: Attached list

where are the AG + Rubing going

FROM: Mark Greenberg

to have their meeting w/ law enforcement

officers? How are we going to resolve

differences on a leg. fix? Please

SUBJECT: Brady Act legislative fix

let me know how we should proceed.

Steve

On June 2, I circulated an OPD draft of the proposed legislative fix to be used in case of an adverse Supreme Court decision in the Brady Act case. I have received very few comments on it and thought it might be useful to provide the following analysis of the major differences between the OPD draft and the Schumer bill. (The analysis is based on the revised version of the Schumer bill received on June 2, and on a June 12 version of the OPD bill. I attach copies of the two bills.)

There are two major issues to be resolved in drafting the legislative fix. The first is how cooperating CLEOS are to be designated. There are a range of possibilities that differ in the burdens they would place on federal agencies (most likely the Secretary of the Treasury, i.e., BATF) and on CLEOS. We obviously want to minimize the burdens placed on federal agencies. At the same time, the success of the regime will depend on the voluntary participation of CLEOS, so we do not want to place obstacles in their way.

The second issue concerns which CLEOS the statute should allow to conduct the background checks. Possible options include the CLEO of the prospective purchaser's place of residence, the CLEO of the gun dealer's place of business, the CLEO of the state itself, and any CLEO in the state. (Only one state would ever be involved because, under 18 U.S.C. § 922(b)(3), a dealer is not permitted to sell a handgun to a purchaser who the dealer has reasonable cause

to believe does not reside in the state of the dealer's place of business.)

With respect to the first issue, the Schumer bill requires the Secretary of the Treasury (the Secretary) to compile and distribute to gun dealers a list of CLEOS that have asked to be certified as cooperating CLEOS. The bill also authorizes but does not require the Secretary to distribute lists of previously certified CLEOS who are determined no longer to be cooperating. The bill thus places the major burden on CLEOS to request certification. By requiring the Secretary to list only those CLEOS who have requested certification, as a de jure matter, the bill does not require much action by the federal government. In practice, however, if many CLEOS fail to take the initiative to request certification, the burden may fall on BATF and the FBI actively to solicit such requests.

The OPD bill takes the different approach of requiring the Secretary to compile and distribute to gun dealers only a list of CLEOS that the Secretary has determined are not cooperating. The intent is that the Secretary will not be required to investigate whether each CLEO is cooperating. Rather, the Secretary's duty will be limited to placing CLEOS on the list when it comes to BATF's attention that a CLEO is not cooperating. (The draft does not provide that the Secretary shall determine which CLEOS are cooperating, but that the Secretary shall maintain a list of CLEOS determined not to be cooperating.) When particular CLEOS are not conducting background checks, it will typically come to the attention of BATF's local offices, especially since many of the CLEOS who do not wish to cooperate are likely attempting to make a political statement.

With respect to the second issue, the Schumer bill would allow a gun dealer to contact any of three CLEOS -- the CLEO of the purchaser's place of residence, of the dealer's place of business, and the CLEO of the state itself -- who is cooperating. It would be left to the dealer which of these to choose. In contrast, the OPD bill would make the CLEO of the purchaser's place of residence the preferred CLEO: the dealer would be required to contact that CLEO if the CLEO is not on the non-cooperating list. In the event that the CLEO is on the list, the bill would require the second-choice CLEO to be the CLEO of the dealer's place of business, if that CLEO is not on the list. As a back-up, the bill would allow the dealer to contact any CLEO in the state who is not on the list. The advantage of requiring the dealer to use the CLEO of the purchaser's place of residence when possible is that this CLEO has the best chance of finding relevant information concerning the purchaser. When the CLEOs of the purchaser's place of residence and the dealer's place of business are not cooperating CLEOS, the OPD bill makes it more likely than the Schumer bill that there will still be a cooperating CLEO because it opens the field to any CLEO in the state. Disadvantages of this option are that it would

increase the possibility of a gun dealer's manipulating the system by selecting specific CLEOS and would make it possible for a sale to be approved based on a background check conducted by a CLEO from a distant part of the state wholly unrelated to the seller or purchaser. Another option would be to leave the back-up CLEO to be specified by regulation.

A final difference between the two bills is that the OPD bill makes entirely clear that if there is no cooperating CLEO, the dealer may not transfer the handgun. (This is unlikely to occur because the OPD bill, as explained above, allows any CLEO in the state to be the back-up CLEO.) The Schumer bill does not address the issue as explicitly, but probably would be interpreted to have the same result. If that is the intent of the Schumer bill, it could easily be changed to make the point clear (e.g., by adding after (s)(1)(A)(ii): "(iii) there is a designated chief law enforcement officer;").

A BILL

To ensure that background checks are conducted before the transfer of a handgun by a firearms dealer.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Brady Law Revitalization Act".

SEC. 2. REFERRAL TO BE SENT TO CHIEF LAW ENFORCEMENT OFFICERS WHO ARE COOPERATING IN CONDUCTING BACKGROUND CHECKS.

Section 922(s) of title 18, United States Code, is amended --

(1) in paragraph (1)(A)(i), by amending subclauses (III) and (IV) to read as follows:

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to a cooperating chief law enforcement officer; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to a cooperating chief law enforcement officer;" and

(2) in paragraph (1)(A)(ii)(II), by inserting "and" after the semicolon; and

(3) by inserting after paragraph (1)(A)(ii)(II) the following new clause:

"(iii) there is a cooperating chief law enforcement officer;"

and

(4) by striking paragraph (2); and

(5) by redesignating paragraphs (3) through (8) as

paragraphs (2) through (7) respectively; and

(6) by adding the following new paragraph (8):

"(8) For purposes of this subsection, the term 'cooperating chief law enforcement officer' means --

(A) the chief law enforcement officer of the transferee's place of residence, if the chief law enforcement officer of the transferee's place of residence is not listed in the most recent list of non-cooperating chief law enforcement officers compiled under paragraph (9); or

(B) the chief law enforcement officer of the licensee's place of business, if the chief law enforcement officer of the transferee's place of residence is listed in the most recent list of non-cooperating chief law enforcement officers compiled under paragraph (9) and the chief law enforcement officer of the licensee's place of business is not listed in the most recent list; or

(C) any chief law enforcement officer in the State in which the transferee's place of residence is located who is not listed in the most recent list of non-cooperating chief law enforcement officers compiled under paragraph (9), if the chief law enforcement officers of the transferee's place of residence and of the licensee's place of business are on the most recent list."

(7) by redesignating paragraph (9) as paragraph (10).

(8) by adding after new paragraph (8), added by paragraph

(6) above, the following:

"(9) (A) The Secretary shall maintain a list of the chief law enforcement officers of law enforcement agencies that the Secretary

determines do not maintain the practice of conducting background checks described in subparagraph (B).

(B) For purposes of this subsection, a law enforcement agency maintains a practice of conducting background checks if it maintains a practice, upon receipt of a notice provided pursuant to paragraph (1)(A)(i)(III) with respect to a transfer of a handgun, of making a reasonable effort to ascertain within 5 business days whether receipt or possession of the handgun would be in violation of Federal, State, or local law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(C) The Secretary shall provide to each licensed dealer, on an annual basis, a copy of the list described in subparagraph (A)."

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H.L.C.

Original signature of Member

105TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

IN THE HOUSE OF REPRESENTATIVES

Mr. SCHUMER introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

**A BILL**

To ensure that background checks are conducted before the  
transfer of a handgun by a firearms dealer.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Brady Law Restora-  
5 tion Act".

*Revised*

\_\_\_\_\_

F:\MS\SCHUME\SCHUME.026

H.L.C.

2

1 **SEC. 2. BACKGROUND CHECK REQUESTS REQUIRED TO BE**  
2 **SENT TO CHIEF LAW ENFORCEMENT OFFI-**  
3 **CERS WHOSE POLICE DEPARTMENTS ARE CO-**  
4 **OPERATING IN CONDUCTING THE CHECKS.**

5 Section 922(s) of title 18, United States Code, is  
6 amended—

7 (1) in each of subclauses (III) and (IV) of para-  
8 graph (1)(A)(i), by striking “the chief law enforce-  
9 ment officer of the place of residence of the trans-  
10 feree” and inserting “a designated chief law enforce-  
11 ment officer with respect to the transfer”;

12 (2) by striking paragraph (2) and inserting the  
13 following:

14 “(2)(A) Upon request of a chief law enforcement offi-  
15 cer of a cooperating law enforcement agency, the Sec-  
16 retary shall certify the chief law enforcement officer as  
17 the head of a cooperating law enforcement agency.

18 “(B) For purposes of subparagraph (A) of this para-  
19 graph, a law enforcement agency is a cooperating law en-  
20 forcement agency if the agency maintains a practice, upon  
21 receipt of a notice provided pursuant to paragraph  
22 (1)(A)(i)(III) with respect to the transfer of a handgun,  
23 of making a reasonable effort to ascertain within 5 busi-  
24 ness days whether receipt or possession of the handgun  
25 by the transferee would be in violation of Federal, State,  
26 or local law, including research in whatever State and local

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H.L.C.

3

1 record keeping systems are available and in a national sys-  
2 tem designated by the Attorney General.

3       “(C)(i) Not later than 90 days after the date of the  
4 enactment of this paragraph and periodically thereafter,  
5 the Secretary shall provide to each licensed dealer a list  
6 of the chief law enforcement officers certified under sub-  
7 paragraph (A).

8       “(ii) From time to time, the Secretary may provide  
9 to each licensed dealer, or to each licensed dealer within  
10 a State, a list of chief law enforcement officers previously  
11 certified under subparagraph (A) who the Secretary deter-  
12 mines are no longer the head of a cooperating law enforce-  
13 ment agency.”; and

14               (3) in paragraph (8)—

15                       (A) by inserting “(A)” after “(8)”; and

16                       (B) by adding at the end the following:

17       “(B) For purposes of this subsection, the term ‘des-  
18 ignated chief law enforcement officer’ means, with respect  
19 to a handgun transfer, any of the following who is a listed  
20 chief law enforcement officer:

21               “(i) The chief law enforcement officer of the  
22 place of residence of the transferee.

23               “(ii) The chief law enforcement officer of the  
24 place of business of the transferor at which the  
25 handgun transfer is to be made.

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H.L.C.

1           “(iii) The chief law enforcement officer of the  
2           State in which the place of business described in  
3           clause (ii) is located.

4           “(C) For purposes of this subsection, the term ‘listed  
5           chief law enforcement officer’ means, with respect to a  
6           handgun transferor, a chief law enforcement officer who—

7                   “(i) has been identified, in the list of chief law  
8                   enforcement officers most recently distributed to the  
9                   transferor under paragraph (2)(C)(i), as the head of  
10                  a cooperating law enforcement agency; and

11                   “(ii) has not been identified, in a list of chief  
12                   law enforcement officers subsequently distributed to  
13                   the transferor under paragraph (2)(C)(ii), as the  
14                   head of a law enforcement agency that has ceased  
15                   to be a cooperating law enforcement agency.”.



Crime-Brady law ~~Experimentation~~  
U.S. Department of Justice *Legislation*  
Office of Intergovernmental Affairs

Office of the Director

Washington, D.C. 20530

July 10, 1997

Tom/Leanne -  
I assume  
Nick sent this to  
you, but just in case...  
Elena

MEMORANDUM

TO: Elena Kagan  
FROM: Nick Gess  
SUBJECT: Brady Act / Halbrook Letter

Elena -- Attached is my draft response to the Halbrook / NRA letter on the Brady Act. I've given it to Beth Nolan & Eldie Acheson. Basically, I want to stay away from being drawn into a battle of each of the 19 states' laws. Rather, I want to cast Brady as a law enforcement investigative method, one which is no different than a wide variety of other law enforcement activities which aren't graven in any statutes.

Enclosures

Stephen P. Halbrook, Esquire  
10560 Main Street, Suite 404  
Fairfax, Virginia 22030

Dear Mr. Halbrook:

Thank you for your recent letter to the President and the Attorney General concerning law enforcement efforts in support of enforcement of the Brady Handgun Control Act. Your letter suggests a rather novel view of the law, one which bodes ill for law enforcement's ability to protect the American public.

In our criminal justice system, Federal, state and local laws generally authorize law enforcement agencies to enforce the law. With the exception of certain particularly intrusive methods of investigation, Federal and state laws do not generally authorize specific investigative methods. Your analysis seems to suggest that unless there is a state law expressly authorizing law enforcement to conduct interviews or surveillance in support of an investigation, that law enforcement cannot conduct interviews or surveillance in that state. This is, of course, not the case and, if it were, would deal a body blow to the public's safety.

The Brady Handgun Control Act is one of a panoply of authorities which exist in our society to prevent crimes from occurring in the first place. Just as law enforcement heavily patrols highways and streets with significant incidents of drunk driving fatalities in an effort to prevent further such crimes from occurring; the Brady Handgun Control Act is designed to permit law enforcement to assure that an individual may lawfully possess a handgun before the handgun transfer takes place.

Just as there are no statutes which specifically authorize enhanced drunk driving patrols, yet law enforcement may, within the limits of the law, conduct such patrols, we find it inconceivable that for law enforcement to conduct pre-sale background checks, that it must have a specific authorization to do so. Of course, those provisions of the Act which create a five-day delay to permit the check to take place, remain in full force and effect.

Ultimately, we view our request to law enforcement to continue doing what it has done as exactly the sort of good cooperative law enforcement which the public needs to be safe and secure. We do not intend to change our advice because to do so would be legally incorrect and would put the citizens whom we serve at significant risk.

END

## STEPHEN P. HALBROOK, PH.D.

ATTORNEY AT LAW  
SUITE 404  
10560 MAIN STREET  
FAIRFAX, VIRGINIA 22030  
TELEPHONE (703) 352-7276  
FAX (703) 359-0938

JUL 8 1997

June 30, 1997

President Bill Clinton  
The White House  
Washington, D.C. 20500

Attorney General Janet Reno  
U.S. Department of Justice  
10th & Constitution Ave., N.W.  
Washington, D.C. 20530

Re: "Voluntary" Background Checks Under Brady Act

Dear President Clinton and Attorney General Reno:

I am writing as counsel for Sheriff Jay Printz. As you know, on June 27, 1997, the Supreme Court in *Printz v. United States* declared the Brady Act's required background checks by chief law enforcement officers (CLEOs) unconstitutional. President Clinton responded in the news media that he would urge all law enforcement departments in the States where the Brady Act applied to do the background checks voluntarily.

I would respectfully draw your attention to the fact that, under the laws of most if not all of these States, CLEO involvement in firearms transactions is contrary to law or not authorized by law. As stated in *Printz*, Slip Opinion at 36 n. 18:

Both CLEOs before us here assert that they are prohibited from taking on these federal responsibilities under state law. That assertion is clearly correct with regard to Montana law, which expressly enjoins any "county . . . or other local government unit" from "prohibit[ing] . . . or regulat[ing] the purchase, sale or other transfer (including delay in purchase, sale, or other transfer), ownership, [or] possession . . . of any . . . handgun," Mont. Code §45-8-351(1) (1995).

The Court added that "it is arguably correct with regard to Arizona law as well," citing Ariz. Rev. Stat. §13-3108(B) (1989). Similar preemption laws exist in most of the other States where the Brady Act applied. (See attached addendum.)

In addition to the preemption statutes, the general laws of

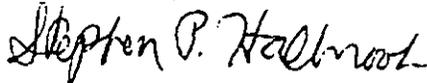
the states governing the duties of law enforcement do not encompass voluntary execution of federal law, and law enforcement departments are not authorized to expend funds on volunteer activities not sanctioned by State law. See, e.g., Mont. Code §7-32-2121 (duties of sheriff under State law), §§7-4-2110, 7-4-2203 (board of county commissioners supervise officials charged with the disbursement of public revenues and prosecute delinquencies). All of the other States also define law enforcement duties and prohibit use of funds for purposes unauthorized by State law.

The above limitations apply as much to departments of State police and Attorneys General as to local sheriffs and police chiefs. State officials are not authorized to expend funds for activities not sanctioned by State law any more than are local officials.

Certainly the Supreme Court's decision does not create a problem so urgent as would justify encouraging local law enforcement officials to violate the laws of their own States. In 1994, federal district courts in Montana, Mississippi, Arizona, Vermont, and Louisiana declared the Brady Act unconstitutional. The Brady Act has been inoperative in Texas, Mississippi, and Louisiana since March 1996, when it was declared unconstitutional in *Koog v. United States*, 79 F.3d 452 (5th Cir. 1996). Yet no one has suggested since then that a crisis was forthcoming in those States such as warranted acting outside of and in conflict with State law.

The above points to the necessity of putting on line the permanent provision of the Brady Act, the federal instant check. This task should be accomplished with all deliberate speed. Meanwhile, in urging CLEOs to execute the Brady law voluntarily, we urge you to inform them that you do not warrant that they may lawfully do so under the laws of their respective States, and that you warn them that expenditure of funds for unauthorized execution of federal law may be contrary to State law.

Sincerely,



Stephen P. Halbrook

cc: Honorable Walter Dellinger  
Acting Solicitor General  
Department of Justice  
10th St. and Constitution Ave., N.W.  
Washington, D.C. 20530

## ADDENDUM

<u>State</u>	<u>Statute</u>
Alabama	Ala. Code § 11-45-1.1
Arizona	Ariz. Rev. Stat. Ann. § 13-3108(B)
Arkansas	Ark. Code Ann. § 14-54-1410
Kentucky	Ky. Rev. Stat. Ann. § 65.870
Maine	Me. Rev. Stat. Ann., tit. 25, Chap. 252-A, § 2011
Mississippi	Miss. Code Ann. § 45-9-51
Montana	Mont. Code Ann. § 45-8-351(1)
Nevada	Nev. Rev. Stat., Chaps. 244, 268, 269
New Mexico	Const. of N.M. Art. II, § 6
North Dakota	N.D. Cent. Code § 62.1-01-03
Oklahoma	Okla. Stat., tit. 21, § 1289.24
Pennsylvania	18 Pa. Cons. Stat. § 6120
Rhode Island	R.I. Gen. Laws § 11-47-58
South Carolina	S.C. Code Ann. § 23-31-510
South Dakota	S.D. Codified Laws Ann. § 7-18A-36; § 8-5-13; § 9-19-20
Texas	Local Gov't Code § 215.001
Vermont	Vt. Stat. Ann. tit. _____, § 2295
West Virginia	W.Va. Code § 8-12-5a
Wyoming	Wyo. Stat. § 6-8-401

Crime-Brady law -  
legislation

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JUL 8

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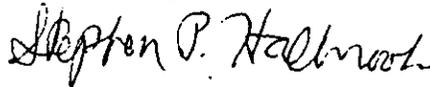
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Original signature of Member

105TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

IN THE HOUSE OF REPRESENTATIVES

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1 **SEC. 2. BACKGROUND CHECK REQUESTS REQUIRED TO BE**  
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17 the head of a cooperating law enforcement agency.

18 “(B) For purposes of subparagraph (A) of this para-  
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25 by the transferee would be in violation of Federal, State,  
26 or local law, including research in whatever State and local

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2 tem designated by the Attorney General.

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17 “(B) For purposes of this subsection, the term ‘des-  
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3 clause (ii) is located.

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