

CAPITAL JOURNAL
By GERALD F. SEIB

**Budget Package
Fails to Resolve
Deficit in Trust**

AMID THEIR understandable feelings of satisfaction over winning a victory for their economic plan in Congress, President Clinton and his team should find one lingering problem particularly worrisome. That problem is the president's credibility gap.

Plains people, jobs of people didn't behave what Mr. Clinton told them about the deficit reduction plan. This amounts to a kind of deficit in public trust, which is an enormous problem for a president, and one that transcends any single issue.

The problem is hardly Mr. Clinton's own making. A credibility gap also is a product of breathtaking cynicism about all politicians. It once seemed impossible for cynicism to surpass the levels achieved in last year's campaign, but cynicism seems to be growing as fast as cynicism runs so deep that many people now seem to view politicians as a kind of reverse indicator of the truth. If a politician says it's black, it's white. The problem is becoming more and unhealthy. It may well prove to be the heaviest burden Mr. Clinton carries through his presidency.

TO GET SOME IDEA of how serious his problem is, look at how unsure Mr. Clinton was in conducting the most fundamental plan that his tax

**As Prospects Improve for Passage of Brady Bill,
NRA Opponents Debate What Should Come Next**

By JAMES M. PEABY
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—President Clinton is scheduled to outline his views on crime legislation in a Rose Garden ceremony today, and he is expected to urge Congress to pass the Brady bill, setting a national waiting period for the purchase of handguns. He has vowed he will sign it into law.

With the president's support, the chances of passing the Brady bill are improved. But nobody believes that passage of the bill would mean the bad guys will suddenly be "disarmed" or that the killing will stop. Americans own 200 million guns, 40 million of them handguns. In 1990, the latest year for which figures exist, 17,125 Americans died from gunshot wounds, including 14,145 people under the age of 20.

Americans, increasingly frightened by urban rioting, cult, arsenals and casual drive-by shootings, are much more likely to buy guns than to give them up. The Brady bill won't change that.

If necessary, it's rational, Daniel Webster, an instructor at the Injury Prevention Center at Johns Hopkins University, says of the bill. But it has significant limits to what it can accomplish.

We need to break away from concentrating on this legislation to get at the roots of the problem.

There is immense disagreement on what these next steps might be. Yet, beyond the emotionally charged Brady bill (it's named for former White House press secretary James Brady, badly wounded and crippled for life in the assassination attempt on President Reagan's life), some provocative notions are being floated about what might be done to bring silencing the guns.

A couple of these notions are even supported by the National Rifle Association.

Sharply reduce the number of Americans licensed to sell guns. There are 250,000 dealers peddling guns, most of them working out of their homes or the trunks of their cars. They pay \$10 for a three-year license, Johns Hopkins's Mr. Webster urges raising the fee to \$2,500 and requiring that every dealer maintain a shop from which to do business. James V. Baker, the NRA's chief lobbyist, says the proposal is reasonable.

Sharply increase the penalty for selling illegal guns. David B. Kopel, an NRA defender who believes the nation would be safer if even more homes con-

tained guns, has proposed the idea, and the NRA thinks it would be helpful. Writing in the Heritage Foundation's magazine, Policy Review, Mr. Kopel says that selling a hot \$75 pistol ought to be a more serious offense than selling a hot \$75 toaster oven.

There are plenty of other ideas that the gun lobby either opposes or believes to be unworkable.

One idea that has been widely floated would have the federal government increase the tax Americans pay to buy legal guns. It's now 11% for long guns and 10% for handguns, and it produces about \$150 million a year. Reformers talk about doubling the tax, perhaps using the added revenue to help pay for health care.

The reformers argue that the money that would be collected that's so important is the social benefits that would take place. Raising the price of a new gun makes a difference in the price of an illegal gun on the street, says Phillip Cook, a public policy professor at Duke University.

Maybe a teenage criminal decides he can't afford to buy a gun. It's tough for a 15-year-old to buy a car, we have to make it just as tough for him to buy a gun.

The gun lobby argues that gun-control laws don't work. The reformers respond that gun-control laws don't work because most of the time they aren't enforced.

Mark Moore, a professor of criminal justice at Harvard University, says ways must be found to keep the guns out of the hands of the "bad guys." The Brady bill, with its five-day waiting period to buy a handgun, might help, he says. But he would toughen enforcement by giving cop-portable magnetometers, like the ones used to screen airline passengers, to check suspects for illegal concealed weapons.

The NRA's Mr. Baker says he isn't opposed to using magnetometers, he simply doubts they would do much good.

A new element has been added to the gun debate in the last few years, public health specialists, and they too have some

**Note Left by White House Aide Foster
Listed Causes of Distress Before Suicide**

By JEFFREY H. BIRNBAUM
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—A torn-up note left by a senior White House aide who killed himself last month described a man deeply troubled by criticism, including that in the editorial pages of The Wall Street Journal.

In the note, released yesterday by government authorities, Vincent Foster, Jr., the former deputy White House counsel, disclosed himself to be upset by a wide range of things related to his high-pressure job, from partisan attacks by

pieces in a briefcase in Mr. Foster's White House office.

Federal officials at a news conference yesterday criticized the White House counsel, Bernard Nussbaum, for insisting that he and his staff, and not the FBI or Park police, handle the search of Mr. Foster's office. A 30-hour delay between the finding of the note and turning it over to the police authorities, however, was described as reasonable by Robert Bryant, special agent in charge of the FBI's Washington field office.

ideas.

They point to a serious problem inside people's homes where thousands of Americans are killed or wounded every year in homicides, suicides or gun accidents. Safer guns, some of these specialists say, would help.

Dr. Arthur Kellerman, a professor and director of the emergency department at the University of Tennessee Medical Center in Memphis, says there is no reason handguns in the home couldn't be kidproof, just like caps on medicine bottles.

Smith & Wesson, he says, made a childproof gun for 80 years and brag was never used to kill a child. But pulled it off the market. Now, they deliberately making a hazardous weapon when they know from their own experience can make a safer one.

A spokesman for Tomkins PLC's Wesson says the gun, known as "lemon squeezer" because you hit squeeze hard on the handle, before could pull the trigger, was produced in 1887 until shortly before World War I when it was dropped because hardly one was buying it.

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[WST, 8/11/93]

Counterfeit claims for the Brady Bill

JAMES BOVARD

President Clinton is making the Brady Handgun Violence Prevention Act a centerpiece of his re-election campaign. However, the deceptions, coddling of criminals, and publicity mania that surround the enforcement of the Brady Act epitomize Mr. Clinton's "therapeutic presidency." The Brady Act has little or no effect on violent criminals, wastes vast amounts of local law enforcement resources, and has caused denials of the constitutional rights of thousands of law-abiding Americans.

Mr. Clinton has repeatedly proclaimed that "we stopped 60,000 felons, fugitives and stalkers from getting handguns under the Brady bill." Few criminals bother filling out federal firearms purchase forms when they acquire weapons.

A recent national survey of police chiefs found that 85 percent believed the Brady Act has not prevented any criminal from obtaining a handgun from illegal sources in their jurisdiction. According to a 1991 Justice Department survey of convicts, most guns used to commit crimes have themselves been acquired illegally or on the black market. The only way Mr. Clinton could confidently assert that the 60,000 "felons, fugitives and stalkers" didn't get guns is if his administration had prosecuted all of them and locked them away. (It is a federal crime, carrying a prison sentence of up to 10 years, for a convicted felon to purchase a handgun.)

However, federal prosecutors in the first 15 months of the new law locked away only three people. (Four others were convicted but not incarcerated). A General Accounting Office report noted, "None of the prosecutions involved prospective gun purchasers with previous convictions for violent offenses."

While the feds have not bothered prosecuting felons who sought to buy guns, the Brady Act has proven an administrative nightmare for local law enforcement. Dennis Martin, president of the National Association of Chiefs of Police, estimated in late 1993 that enforcement would require at least 10 million hours a year of police and law enforcement employees' time. Mr. Martin noted, "Ironically, we may expect an increase in crime as understaffed, overworked law enforcement agencies throughout the nation spend millions of hours away from patrols and crime-solving to engage in background checks

not funded by the Brady bill."

Nor is there any credibility to Mr. Clinton's claim that all the 60,000 blocked purchasers were "felons, fugitives and stalkers." A January General Accounting Office survey found that, in the first 15 months of the law's enforcement, 38 percent of would-be gun buyers had their applications rejected because of administrative reasons (primarily paperwork snafus), 7.6 percent were rejected because of traffic violations, 2 percent were rejected because of minor drug violations, 0.3 percent were denied because of a dishonorable discharge from the Armed Forces (primarily for being AWOL), and 0.8 percent were denied because they were illegal aliens.

Only 44.7 percent were denied as a result of felony convictions, arrests, warrants or indictments. (Another 1 percent were denied because they were classified as "fugitives from justice"). GAO found that the vast majority of the felons who were denied handgun purchases did not have a history of violence — convictions for crimes such as aggravated assault, murder, rape or robbery. In Fort Worth, Texas, only 2.3 percent of those denied handgun purchases were violent felons; in Harris County, Texas, 3.4 percent; and in the state of Ohio, 15.3 percent of the denied applicants had violent felonies on their records — the highest figure that GAO found in any area that kept records. And the 44.7 percent felony number is also probably vastly inflated. GAO stated, "We did not attempt to determine whether the denials were appropriate."

Paul Blackmun of the National Rifle Association notes, "No one has a clue how many false positives are in the system. My guess would be that it would be somewhere in the neighborhood of four-fifths" of the total number of handgun purchase denials, based on the experience of Maryland with a similar law in the early 1990s.

Law enforcement officials in some of the jurisdictions GAO surveyed (including the states of Arkansas and Nevada) routinely denied handgun purchase applications based on records showing a felony arrest, even when no evidence was found of a conviction. This casual disregard for a person's guilt or innocence makes a mockery of the Brady Act's pretensions to fairness.

Also, some jurisdictions are denying the right to buy a handgun to any person who has ever had been arrested for "minor drug offenses," regardless of whether the person was convicted. Thus, the fact someone was caught with a single marijuana cigarette at age 19 empowers police to prohibit that person from ever owning a handgun for his family's self-defense. This epitomizes how pleasuring legislation such as the Brady Act can result in the forfeiture of con-

stitutional rights by millions of Americans who had marijuana arrests in their youth but who pose no threat to public safety.

The Clinton administration does not differentiate the false positives from the real felons in its Brady-bragging statistics because, according to many Clintonites, any citizen denied the right to a handgun makes society safer. For instance, the Clinton administration's official federal budget presentation for 1995 announced, "The administration also supports a ban on semiautomatic firearms." Clinton administration officials later disavowed the statement, claiming they didn't know how that sentence managed to get into the official budget plans of the president. If all semiautomatic guns were banned, the federal government would confiscate more than 35 million weapons.

Mr. Clinton declared last year, "A crucial part of our job here in Washington is to help arm the American people, through our police officers, to fight crime and violence. The Brady law, in that sense, is one of the things that I'm proudest of." Mr. Clinton's notion that the only way to "arm the American people" is by restricting and delaying their right to own a gun — and instead vesting more power in police officers — epitomizes his paternalistic attitude. Yet, armed citizens prevent far more crimes than do police officers.

Some type of instant computerized check of gun buyers' possible criminal records, such as currently done by Virginia and several other states, is far superior to the Brady Act's five day delays and police background checks. Instant computerized checks minimize the discretionary power of law enforcement officials over law-abiding citizens. Bill Clinton has been by far the most anti-gun president in American history. Yet, his proudest anti-gun legislative achievement has been administered almost solely to gin up statistics for applause lines for his speeches. If the American people are waiting for salvation via the federal government from violent crime, they will need to keep waiting — and to continue relying on themselves and their own firearms.

James Bovard is the author of "Lost Rights: The Destruction of American Liberty" (St. Martin's, 1994) and "Shakedown" (Viking, 1995).

MARVIN LEIBSTONE

Sinister potential of cyber-terrorism

The political terrorist still leverages power to get what he wants. He knows of no other way to persuade his target, whether government or person. This will never change, say terrorism experts. What will be different, however, will be the terrorist's perception of what allows him to manipulate power to his advantage.

In the '70s and '80s, terrorists employed hostage taking, skyjacking, assassination, kidnapping and the occasional bombing. In the '90s, bombing became the terrorists' tactic of choice. Will this continue into the next century, or will the terrorist move on to something else?

Bombing became the terrorist's game because the tactics of earlier days were less effective against increasingly experienced security forces. The old means now require multiple organizations and phases, and sophisticated equipment. International law enforcement information pools and instant electronic reporting have narrowed the terrorist's possibilities greatly since the 1972 Munich Olympiad incident.

Bombing is the simplest of terrorist activities. A bomber does not have to be at the scene when it goes off. Bombs are easy to prepare, and many can be moved around undetected. It requires the least infrastructure and little planning. Bombing is the terrorist *downsizing within narrowing operational confines*.

But recent Mideast experiences, and the American response to

bombings at home, catalyzed advances ranging from sensors that detect munitions from further distances, to coding an explosive item with microscopic taggants so that even debris can be examined and the last known purchaser of explosives identified.

It is likely, then, that a terrorist will find the employment of explosives increasingly difficult. He may even find so few opportunities to bomb a target, he will move to another means of leverage.

Instead of threatening violence to obtain what he wants, the future terrorist may have only one avenue open for success — denial of services to the public; in effect, cutting off water, electric and fuel supplies, ground and air transportation, electronic financial transactions, telephone communications.

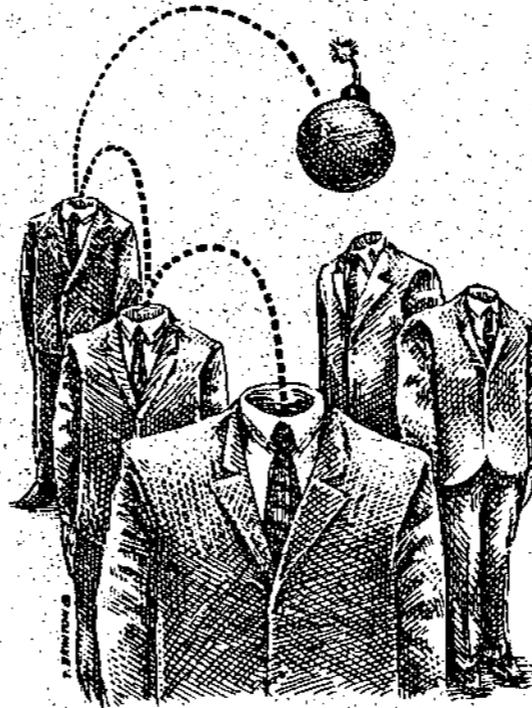
Why? Because public service denial can be activated simply, just like bombing. No more than one or two persons need plan and perform the act. Perpetrators can be poolside drinking a Bud Lite while utilities go haywire.

Right now, the foundation for

future terrorism lies with the same building blocks for better human services — our revolutionary electronic and information-handling technologies. It is computers that today manage the flow of oil through a pipeline, power across electric grids serving several states simultaneously, the water purified and accessed from reservoirs, and money transferred to and from accounts; or trucks, buses, trains and airplanes guided safely, and data processed and transmitted.

According to the National Computer Security Association, the CIA and the DOD, the growth rate of computer viruses today exceeds that of antivirus measures, mainly why the Pentagon experienced more than 220 computer invasions last year in the face of computer security modernization. During testimony on Capitol Hill this summer, CIA boss John Deutch said foreign terrorists were using the Internet repeatedly, which grows by thousands of global business users monthly and has more than 40 million users.

Mr. Deutch also said profession-



services and that which is proprietary by law. Policy guidance will develop as a U.S. interagency commission, led by Attorney General Janet Reno, discusses related problems and builds consensus for action.

Meanwhile, a lot is hanging in the wind. By the time that the Reno group's findings become policy, the inventory of viruses and other means to disrupt electronic information flow may increase tenfold, making it easier for the terrorist to employ electronic warfare strategies.

Sure, the federal government's management infrastructure is a big electronic maze, but most

al computer criminals have approached rogue states such as Iraq, Iran and Libya with schemes to undo vital U.S. interests via computer intrusions.

In July, President Clinton signed an executive order requiring upgrades to national infrastructure security, which includes protection of the kind of information used to inform the process for delivery of

services begin at state and regional levels. Most are metropolitan or multiple-rural. Utility companies no longer serve just a city or one agricultural locale; they provide particular regions like the D.C. area, which comprises more than 15 municipalities, from large Fairfax and Montgomery counties, to little Falls Church, and all of the District of Columbia; or they deliv-

er to several rural areas across many states.

There are more than 200 major metropolitan areas in America, and less than a dozen have attempted to develop common computer security procedures. Most of those with web sites have not yet had them tested or certified as being secure. In fact, there is no nationwide standard in existence today reflecting the proper level of security to which organizations with computer systems ought to strive toward. Most computer security officials in local and regional governments know little about firewalls, a way of building defenses around a network.

While the Reno effort has included many industry segments, such as the banking industry, it hasn't incorporated representatives from those clusters where most of the nation could be denied vital services — our greater metropolitan areas.

Nor has the federal government delivered *interim guidelines* for private sector computer information security standards.

Terrorists thrive on a target's unpreparedness and bad timing. For the responsible nation, there are some things that have to take off right away, unfortunately with low-power engine and bent wing.

Marvin Leibstone is North American editor of *Military Technology* magazine and a syndicated columnist.

U.S. Department of Justice
 Office of Justice Programs

*Crime -
 Brady Bill*

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Bureau of Justice Statistics Bulletin

A National Estimate

June 1999, NCJ 175034

Presale Handgun Checks, the Brady Interim Period, 1994-98

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The Brady Handgun Violence Prevention Act (P.L. 103-159, November 30, 1993) provided for an interim period from February 28, 1994, through November 29, 1998, before its permanent provisions became effective. The period permitted the U.S. Department of Justice time to establish the National Instant Criminal Background Check System (NICS). Operating primarily through telephones and computers, NICS indexes and accesses relevant criminal justice agency databases.

During the 57-month interim period, the Brady Act required federally licensed firearm dealers (FFLs) to request a presale background check of potential handgun purchasers. These requests were made to the Chief Law Enforcement Officer (CLEO) of the jurisdiction where the FFL operated. The CLEO had 5 days to respond. The 12.7 million background checks resulted in about 312,000 rejections, a rejection rate of 2.4%.

On November 30, 1998, the permanent provisions of the Brady Act became effective. All FFLs must request a presale background check of potential purchasers of all firearms, both handguns and long guns.

Highlights

Presale handgun checks: Estimates of inquiries and rejections, 1998 and 1994-98

	Presale checks for handguns				
	1/1/98-11/29/98			3/1/94-11/29/98	
	All States	Original Brady States*	Brady States in 1998	All States	Original Brady States*
Inquiries and rejections					
Inquiries/applications	2,384,000	1,248,000	891,000	12,740,000	7,238,000
Rejected	70,000	47,000	29,000	312,000	203,000
Rejection rate	2.9%	3.8%	3.2%	2.4%	2.8%
Reasons for rejection					
Felony indictment/conviction	44,000	30,000	16,000	207,000	130,000
Other	26,000	17,000	13,000	105,000	73,000

Notes: All estimated counts are rounded. Percentages were calculated from unrounded data. Detail may not add to total because of rounding.
 *Original Brady States were 32 States required

to follow presale review procedures set out in the Brady Act when it became effective on February 28, 1994. At the end of the Brady interim period (11/29/98), 23 of the 32 were still Brady States. (See table 2.)

- During the first 11 months of 1998, about 70,000 (2.9%) of an estimated 2,384,000 applications to purchase a handgun were rejected due to presale background checks of the potential handgun purchaser.
- About 63% of the rejections were for a prior felony conviction or a current felony indictment. Domestic violence misdemeanor convictions accounted for 10% of the rejections; domestic violence protection orders, 3%.
- On November 30, 1998, the permanent provisions of the Brady Act became effective, requiring presale background checks for the sale of all firearms (not just handguns) through the FBI's National Instant Criminal Background Check System (NICS).
- Including December 1998, the first month of the permanent provisions of the Brady Act, the number of handgun application rejections totaled an estimated 78,000 for the 12 months of 1998.
- From the inception of the Brady Act in March 1994 to November 1998, approximately 312,000 handgun applications were rejected as a result of background checks; from March 1994 to December 1998, approximately 320,000 were rejected.
- During the first month of the permanent provisions, the FBI conducted 506,554 background checks on potential firearm buyers. The State points of contact made an additional 386,286 checks.

DRAFT**Table 1. Reasons for rejection of handgun purchase applications, national estimates, January - November 1998**

Reason for rejection	All States	Original Brady States	Brady States during 1998
Total	100.0%	100.0%	100.0%
Felony (indictment/conviction)	63.3	68.7	54.8
Fugitive	6.1	7.5	13.4
Domestic violence			
Misdemeanor conviction	9.9	7.9	11.9
Restraining order	3.4	2.8	0.3
State law prohibition	6.6	2.5	6.2
Mental illness or disability	0.7	0.2	0.4
Drug addiction	0.8	1.1	2.4
Local law prohibition	0.3	0.1	0.1
Other*	8.8	9.2	10.5

*Includes illegal aliens, juveniles, persons discharged from the armed services dishonorably, persons who have renounced their U.S. citizenship, and other unspecified persons. At the end of November 1998, 23 of the 32 original Brady States were still under the Brady Act. Firearm Inquiry Statistics information covers only the 50 States; National Criminal History Improvement Program information on pages 6 and 7 includes States, the District of Columbia, and U.S. Territories.

The Firearm Inquiry Statistics (FIST) program administered by BJS collected the data. FIST was initiated in 1994 to describe presale background checks of applicants to buy a handgun from a FFL. CLEOs made the checks in accordance with the Brady Act or comparable State legislation. FIST does not include information on appeals to rejected applications.

During the first 11 months of 1998, about 2,384,000 background checks of potential handgun buyers prevented an estimated 70,000 purchases, a rejection rate of 2.9% (*Highlights*). The most prevalent reason for rejection of a handgun purchase was that the applicant was either under felony indictment or had been convicted of a felony (63.3%) (table 1). Denials owing to domestic violence offenses or restraining orders (13.3%) and State law prohibitions (6.6%) were the next most common reasons for rejection.

When the interim period began there were 32 original Brady States and 18 Brady-alternative States, as classified by the Bureau of Alcohol, Tobacco and Firearms (ATF). At the end of the period, there were 23 Brady States and 27 Brady-alternative States.

For the first 11 months of 1998, original Brady States rejected 47,000 handgun applicants. Current Brady States rejected 29,000. Two-thirds of the

rejections in the original Brady States in 1998 were due to felony indictment or convictions, compared to slightly more than half of the rejections in current Brady States.

From March 1994 to November 1998, an estimated 12.7 million handgun purchase applications were submitted to CLEOs, of which about 312,000 were rejected. Two-thirds (207,000) were rejected because the applicant had been convicted of a felony or was under a felony indictment at the time the application was processed.

During this period the original Brady States processed more than 7.2 million applications, rejecting 203,000 (2.8%). Sixty-four percent of the applicants rejected in these States had been convicted of a felony or were under a felony indictment.

In 1998 all of the States maintained databases that record past felony convictions, and many States retained databases of other disqualifying information, such as fugitive status, court restraining orders, mental illness, and domestic violence misdemeanor convictions (table 2). In some States information is not available at the State level for statewide dissemination, but some local CLEOs, courts, or other local agencies within the State maintain automated databases of this type of information. Some States have other

data files related to their own prohibitions. Beginning November 30, 1998, background checks that are handled entirely by the FBI's NICS may not access all of the State-level files. (See the discussion of NICS, page 8.)

Statewide reporting of handgun applications and rejections, 1998

State governments, the FBI, and ATF cooperated to identify about 5,400 law enforcement agencies to serve as CLEOs. Among the CLEOs responding to this survey, 18 served as the only CLEO for their State and provided statewide totals for January to November 1998 (table 3).

The 18 States represented 47% of the U.S. population and 46% of the total applications processed during the 11-month period. They processed 1,103,683 applications and rejected 28,349; a rejection rate of 2.6%.

The reasons for rejection included the following:

Reason for rejection by 18 statewide CLEOs	
Felony (indictment/conviction)	68%
Domestic violence	
Misdemeanor conviction	9
Restraining order	4
Fugitive	6
State law prohibition	5
Mental illness or disability	1
Drug addiction	1
Other*	7

*Includes illegal aliens, juveniles, persons discharged from the armed services dishonorably, persons who have renounced their U.S. citizenship, and other unspecified reasons.

The interim period: cumulative summary and significant events

ATF calculated the number of applications for firearm purchases from March 1994 to the end of 1995. (See *Presale Firearm Checks*, BJS Bulletin, NCJ 162787, February 1997.)

When data collection for FIST began in January 1996, the estimated number of inquiries for handgun purchases during that year was 67% of the total number

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of firearm inquiries ("F" code) to the National Crime Information Center (NCIC), approximately 3,842,000. To

estimate the number of inquiries for handgun purchase applications before 1996, ATF estimates were multiplied by

67%. After the first 10 months of the interim period, the number of NCIC "F" code counts per 100,000 adult U.S. residents remained relatively consistent:

Table 2. Background checks for handgun purchases, by State, November 1998

State*	Brady status		Number of law enforcement agencies responsible for record checks	State databases being accessed				
	Original 3/1/94	11/29/98		Criminal histories	Wanted fugitives	Re-straining orders	Mental health	Domestic violence misdemeanor
Alabama	■	■	67	■	■	■		
Alaska	■	■	35	■	■	■		■
Arizona	■	■	1	■	■			
Arkansas	■	■	1	■	■	■		■
California ^b	■	■	1	■	■	■	■	■
Colorado	■	■	1	■	■	■		■
Connecticut ^c	■	■	1	■	■	■	■	■
Delaware ^b	■	■	1	■	■	■	■	■
Florida ^b	■	■	1	■	■	■	■	■
Georgia	■	■	1	■	■	■	■	■
Hawaii ^c	■	■	4	■	■	■	■	■
Idaho	■	■	1	■	■	■	■	■
Illinois ^b	■	■	1	■	■	■	■	■
Indiana	■	■	1	■	■	■	■	■
Iowa	■	■	100	■	■	■	■	■
Kansas	■	■	123	■	■	■	■	■
Kentucky	■	■	5	■	■	■	■	■
Louisiana	■	■	64	■	■	■	■	■
Maine	■	■	129	■	■	■	■	■
Maryland	■	■	1	■	■	■	■	■
Massachusetts ^b	■	■	270	■	■	■	■	■
Michigan	■	■	595	■	■	■	■	■
Minnesota	■	■	568	■	■	■	■	■
Mississippi	■	■	262	■	■	■	■	■
Missouri	■	■	115	■	■	■	■	■
Montana	■	■	58	■	■	■	■	■
Nebraska	■	■	95	■	■	■	■	■
Nevada	■	■	1	■	■	■	■	■
New Hampshire	■	■	1	■	■	■	■	■
New Jersey ^b	■	■	505	■	■	■	■	■
New Mexico	■	■	113	■	■	■	■	■
New York	■	■	58	■	■	■	■	■
North Carolina	■	■	100	■	■	■	■	■
North Dakota	■	■	53	■	■	■	■	■
Ohio	■	■	1	■	■	■	■	■
Oklahoma	■	■	440	■	■	■	■	■
Oregon	■	■	1	■	■	■	■	■
Pennsylvania	■	■	67	■	■	■	■	■
Rhode Island ^b	■	■	39	■	■	■	■	■
South Carolina	■	■	1	■	■	■	■	■
South Dakota	■	■	66	■	■	■	■	■
Tennessee	■	■	56	■	■	■	■	■
Texas	■	■	991	■	■	■	■	■
Utah	■	■	1	■	■	■	■	■
Vermont	■	■	22	■	■	■	■	■
Virginia ^b	■	■	1	■	■	■	■	■
Washington ^b	■	■	291	■	■	■	■	■
West Virginia	■	■	1	■	■	■	■	■
Wisconsin	■	■	1	■	■	■	■	■
Wyoming	■	■	40	■	■	■	■	■
Total	32	23	5,391	50	44	36	16	34

Note: Not all States that reported having a database reported reasons for rejections.
^aIn the Brady States contacts were the chief law enforcement officers; in Brady-alternative States these contacts were identified according to criteria of each State.
^bBackground checks were required for handguns and long guns.

Year	Rate
1994*	2,262
1995	2,083
1996	1,957
1997	1,984
Jan.-Nov. 1998	1,927

*January and February were imputed, using the average of those months, 1995-97.

The ATF estimates for 1994 and 1995 were calculated using the number of firearm-coded inquiries to NCIC. The percentage of denials used for those estimates was based on the experiences of jurisdictions that had implemented presale firearms check procedures before the Brady Act.

Table 3. Number of applications to buy handguns received or rejected in 18 States reporting complete data, January-November 1998

State	Number of applications		Rejection rate
	Received	Rejected	
Total	1,103,683	28,349	2.6%
Arizona	54,754	1,950	3.6%
Arkansas	28,835	1,397	4.8
California	171,654	1,546	0.9
Colorado	14,383	2,804	6.8
Connecticut	26,981	153	0.6
Florida ^a	180,438	5,499	3.4
Georgia	74,977	6,326	8.4%
Idaho	18,539	772	4.2
Illinois ^b	146,870	1,490	1.0
Maryland	25,222	236	0.9
Nevada	21,097	734	3.5
New Jersey	18,995	198	0.9
Ohio	53,713	481	0.9%
Oregon	42,523	1,069	2.5
Utah	24,140	733	3.0
Virginia ^c	148,278	2,251	1.5
West Virginia	15,162	258	1.7
Wisconsin	30,022	457	1.5

Note: Each State had 1 CLEO that reported complete statewide data for applications and rejections for January through November 1998. Seven other States contributed data but could not be included for various reasons.
^aCounts in this table include handguns and long guns.

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On average each year from 1994 to 1998 States reported 34 statutory changes dealing with firearms (tables 4 and 5). Over the same period the estimated number of inquiries about the criminal histories of handgun buyers remained stable at around 2.5 million. Except for 1995, the estimated rate of rejection to those inquiries was between 2.5% and 2.9%. Inquiries to the FBI regarding weapons, the "F" counts, also varied relatively little, with a high of 4 million in 1995 and a low of 3.6 million in 1998.

Events during the interim period

1994 The Bureau of Justice Statistics initiated the National Criminal History Program (NCHIP) to provide funds to States to improve criminal history operations. Five States passed legislation that moved them from Brady status to alternative status, and significant

changes in State firearm laws were made.

1995 Several sheriffs filed suit in federal court to contest mandatory State participation in the Brady handgun checks, resulting in a Supreme Court decision in 1997. Two more States moved to Brady-alternative status, and in other States significant changes in the law took effect.

1996 The "Lautenberg Amendment" to the Federal Gun Control Act (GCA) became effective in October. It prohibits persons convicted of a misdemeanor of domestic violence from purchasing firearms. State and local CLEOs began to implement the amendment's provisions in their background check procedures. Thirty-one significant State laws took effect,

and two more States attained alternative status.

1997 On June 27 the Supreme Court ruled that State participation in the Brady checks must not be mandatory (see *Printz v United States*, 521 U.S. 98, 117 S.Ct. 2365 (1997)). As a result, some smaller agencies ceased activity, and FIST adjusted its national estimate to account for the decision. California implemented its paperless process for firearm checks.

1998 The permanent provisions of the Brady Act took effect on November 30, resulting in the FBI's implementation of the NICS. In addition to handguns, background checks for long guns and pawn redemptions were required.

Table 4. Significant activity during the Interim Brady period, 1994-98

	1994	1995	1996	1997	January - November 1998	December 1998
Federal firearms law	Interim Brady takes effect	Lawsuit contests Brady participation by States	Domestic violence misdemeanor added to disqualifiers	Supreme Court rules Brady participation by CLEOs must not be mandatory		Permanent Brady provisions implemented; long gun and pawn redemption checks added
State firearms laws	CO, ID, MN, TN, and UT change from Brady to Brady-alternative	NH and NC change from Brady to Brady-alternative	GA and WA change from Brady to Brady-alternative	CA begins paperless process for firearms checks	PA and TN inaugurate statewide gun check systems	IN, NJ, and VT inaugurate statewide gun check system
Number of significant changes in State laws ^a	38	42	31	18	35	8
Other events	National Criminal History Program initiated by BJS	Brady anniversary report published by Bureau of Alcohol Tobacco and Firearms	First Firearm Inquiry Statistics program national estimates	Some smaller Chief Law Enforcement Officers stop Brady checks ^b		National Instant Criminal Background Checks system becomes operational
National estimates	3/1/94-12/31/94	1/1/95-12/31/95	1/1/96-12/31/96	1/1/97-12/31/97	1/1/98-11/29/98	11/30/98-12/31/98
Number of handgun inquiries/applications	2,483,000	2,706,000	2,593,000	2,574,000 ^c	2,384,000	261,000
Number of rejections	62,000	41,000	70,000	69,000	70,000	7,700
Rejection rate	2.5%	1.5%	2.7%	2.7%	2.9%	2.9%
Inquiries to FBI about firearm possession ("F")	3,878,000	4,009,000	3,842,000	3,930,000	3,623,000	155,858

Notes: in 1994 and 1995 the estimate of handgun inquiries/applications was based on 67% of "F" counts, and the rejection rate was that of previously implemented State check systems. National estimates from 1996 to 1998 are based on national surveys. The NICS largely replaced "F" code inquiries, which will be discontinued in 1999.

^aBased on effective date of legislation. Sources: *Survey of State Procedures Related to Firearm Sales, 1997* (forthcoming, NCJ 173942) for 1994-97, and a survey of the States for 1998.

^bBased on survey of FIST participants, 1998.

^cThe number of applications was reduced from 2,671,000, based on a special study of Indiana's combined reporting of licenses and applications, which reduced the published count by 97,000. There was no impact on the published 1997 rejection rate.

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Table 5. Summary of significant changes in State laws related to firearm sales passing or becoming effective between February 28, 1994, and December 31, 1998.

Subject of new or amended law or regulation*	Number of States
Added category of persons prohibited from possessing firearms	
Felons or other specific offenders	14
Drug or alcohol addicts or offenders	10
Mentally ill (committed)	10
Domestic violence offenders (convicted or restrained)	10
Minors (under age)	11
Adjudicated delinquent or committed offense as juvenile	6
Failed firearm safety course	3
Other restrictions	7
National instant check implementation (major changes)	
Statewide system for all firearms	4
Instant check for handguns	1
Addition of long gun checks by State agency	6
Qualified as a Brady-alternative State	
Instant check system	5
Permit or other approval-type system	4
Permit-to-carry law enacted	9
Restoration of the right to possess a firearm — procedures modified	8
Fee increase for record check or purchase permit	7
Subjecting domestic abusers to seizure or restricted use of firearms	7
Database required to be accessed during every check	5
Waiting period rules	5
Registration of firearms	2
Permit to purchase enacted	1
Regulation of private (non-Federal firearms licensee) transfers	1

*includes governors' executive orders and administrative regulations.

Rejections during the interim period

The FIST data can be used to compare reasons for rejections in 1996, 1997, and the first 11 months of 1998. For all States, when reason for rejection was specified, the most prevalent reason was that the applicant was either indicted for or convicted of a felony (67.8% in 1996, 61.7% in 1997, and 63.3% in the first 11 months of 1998).

In 1997 and the first 11 months of 1998, a misdemeanor conviction for domestic violence (9.1% and 9.9% respectively) was the next most prevalent reason for rejection of a handgun purchase. This category was added as a prohibition in October 1996. Prior to that time, being a violator of a State law prohibition had ranked third among specific reasons for rejection; afterwards, it ranked fourth (table 6).

Background

Federal prohibitions

The Federal Gun Control Act (GCA), as codified at 18 U.S.C. 922, prohibits the

transfer of any firearm to any person who —

- is under indictment for, or has been convicted of, a crime punishable by imprisonment for more than 1 year
- is a fugitive from justice
- is an unlawful user of or addicted to any controlled substance
- has been adjudicated as a mental defective or committed to a mental institution

- is an alien unlawfully in the United States
- was discharged from the armed forces under dishonorable conditions
- has renounced United States citizenship
- is subject to a court order restraining him or her from harassing, stalking, or threatening an intimate partner or child or
- has been convicted in any court of a misdemeanor crime of domestic violence.

Additionally, among other provisions, the GCA makes it unlawful for any licensed importer, manufacturer, dealer, or collector to transfer a long gun to a person less than 18 years of age or any other firearm to a person less than 21 years of age. (For further detail see the full text of the GCA on the ATF website listed on page 12.)

Many States, prior to the Brady Act, imposed procedural or prohibitory requirements beyond the minimal requirements of Federal law. (See *Survey of State Procedures Related to Firearm Sales, 1997*, BJS report, NCJ 173942, December 1998). These States, under the Brady Act, were allowed to continue their operations.

Interim Brady Act provisions

The interim provisions of the Brady Act prohibited sale of a handgun by a FFL for 5 days or until the licensee had

Table 6. Reasons for rejection of handgun purchase applications, national estimates, January 1996- November 1998

Reason for rejection	All States		
	1996	1997	1/1/98-11/29/98
Total	100%	100%	100%
Felony (indictment/conviction)	67.8	61.7	63.3
Fugitive	6.0	5.9	6.1
Domestic violence			
Misdemeanor conviction	—	9.1	9.9
Restraining order	—	2.1	3.4
State law prohibition	5.5	6.1	6.6
Mental illness or disability	3.9	0.9	0.7
Drug addiction	1.2	1.6	0.9
Local law prohibition	0.7	0.9	0.3
Other	13.4	11.7	8.8

—Not applicable.

*includes illegal aliens, juveniles, persons discharged from the armed services dishonorably, persons who have renounced their U.S. citizenship, and other unspecified persons.

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Table 7. National Criminal History Improvement Program funding and accomplishments, 1994-98

	Amount of NCHIP funds received	Purposes that NCHIP funded							
		Securing AFIS (digitized fingerprint) live-scan terminals	Improving the justice system communications network	Enhancing criminal case disposition reporting	Locating missing dispositions of criminal cases	Refining restraining order system	Establishing sex offender registry	Reducing the backlog in criminal history repository	Enhancing criminal record system in other ways*
Alabama	\$2,258,819								
Alaska	2,321,318								
American Samoa	200,000								
Arizona	3,049,144								
Arkansas	2,213,996								
California	17,825,542								
Colorado	2,810,359								
Connecticut	3,047,968								
Delaware	2,352,369								
District of Columbia	1,248,676								
Florida	\$5,366,986								
Georgia	3,794,910								
Guam	200,000								
Hawaii	2,047,125								
Idaho	1,141,000								
Illinois	8,392,000								
Indiana	4,242,273								
Iowa	2,120,093								
Kansas	2,362,000								
Kentucky	2,640,000								
Louisiana	\$2,566,396								
Maine	3,491,500								
Maryland	3,360,000								
Massachusetts	6,575,250								
Michigan	5,660,874								
Minnesota	3,270,360								
Mississippi	2,818,496								
Missouri	3,741,122								
Montana	1,741,383								
Nebraska	2,347,485								
Nevada	\$1,265,000								
New Hampshire	2,836,713								
New Jersey	4,882,748								
New Mexico	3,644,992								
New York	14,021,095								
North Carolina	3,761,715								
North Dakota	2,193,913								
Ohio	7,126,343								
Oklahoma	2,025,517								
Oregon	2,964,850								
Pennsylvania	\$8,953,260								
Puerto Rico	400,000								
Rhode Island	1,740,244								
South Carolina	3,056,020								
South Dakota	1,473,300								
Tennessee	3,262,155								
Texas	14,561,200								
Utah	2,171,054								
Vermont	3,643,836								
Virginia	4,708,913								
Washington	3,822,682								
West Virginia	2,614,800								
Wisconsin	3,656,000								
Wyoming	896,264								
Totals	\$206,090,058	14	39	49	35	44	35	49	45

*Other improvements included juvenile record conversion, offsetting costs of certain types of background checks, research and evaluation, training, interfacing with the National Incident-Based Reporting System, and so forth.

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been advised that, based on a background check, a prospective purchaser was not prohibited from purchase under Federal or State law. Thirty-two States (identified as original Brady States) and Puerto Rico were required to follow the review procedures at the start of this interim period.

The interim provisions of the Brady Act also allowed States with prohibitory statutes comparable to Federal law to follow a variety of alternative procedures. The Brady-alternative States generally employed either an "instant check" or a "permit or other approval-type" system (as designated by the ATF). By the end of 1998, the number of States following the Brady Act review procedures rather than alternative State statutes, had dropped to 23 (table 2).

When the U.S. Supreme Court negated mandatory background checks by CLEOs in Brady States, most CLEOs in the Brady States voluntarily conducted the checks. In Brady-alternative States, checks continued in accordance with State law. The impact of this decision on making a national estimate of presale handgun checks is addressed in *Methodology* on page 10.

Changes in State firearm laws since the effective date of the Brady Act

After passage of the Brady Act, numerous States enacted legislation to implement the Act's interim and permanent provisions. State firearm sale regulations in existence before passage of the Brady Act were also frequent subjects of legislative amendments.

A minimum of 14 States enacted laws intended to prohibit certain categories of persons from purchasing, receiving, possessing or transferring firearms (table 5). Most new State prohibitions involve persons who —

- were convicted of a felony, violent misdemeanor, or other specified offense;
- have committed offenses involving drugs or alcohol;
- are under the age at which firearm possession is allowed;
- were adjudicated delinquent or committed offenses as juveniles; or
- have not completed a firearm safety course.

Eight States modified procedures for restoration of the right to possess a firearm. In addition to prohibiting purchases by domestic violence offenders, seven States enacted new legislation to permit court-ordered seizure of firearms from persons subject to restraining orders.

State statutes requiring permits or other documents to purchase or carry firearms generated substantial legislative activity during the interim period. Four States modified their existing permit system; one established a new permit or other approval-type system; nine enacted laws related to carrying a handgun; and seven increased fees to conduct a record check or get a permit. Many of these permits or licenses can be used to waive purchase requirements such as a new background check or a waiting period.

Nine States qualified for Brady-alternative status under the act's interim provisions by enacting new or substantially amended instant check or permit or other approval-type systems. Several other jurisdictions enacted legislation that either established a statewide system for implementing the national instant check or expanded the scope of State firearm regulations to include background checks on long gun purchasers.

National Criminal History Improvement Program (NCHIP)

The Brady Act established a grant program (NCHIP) to ensure immediate availability of complete and accurate State records. An additional authorization of \$20 million was made available through the National Child Protection Act of 1993 (Public Law No. 103-209, 107 Statute 2490), and \$6 million were authorized under the Violence Against Women Act (42 U.S.C. 13701 et seq.). Another \$25 million were provided to establish State sex offender registries as a component of NCHIP. The program under which these funds are awarded is designed to assist States to develop or improve existing criminal history records systems and to establish an interface with the NICS.

Under NCHIP, over \$200 million were given in direct awards to the States during fiscal years 1995, 1996, 1997, and 1998 (table 7). The appropriation for 1999 is \$45 million. NCHIP funds have also supported direct technical assistance to States, evaluation, and research related to improving criminal and other non-felony records within the States.

As a result of NCHIP, State criminal history databases are becoming increasingly automated as the number of records kept continues to grow. A survey of State criminal history information systems at yearend 1997 reported 54,210,000 subjects in manual (7.4 million) and automated (46.8 million) files nationwide, an increase of over 4.3 million subjects from 1995, the next most recent year surveyed. Forty-one States increased their percentage of automated files during the period. By December 31, 1997, 49 States had automated at least some records in their criminal history record file, 20 States had fully automated criminal history files, and 45 States had fully automated master name indexes. Of the States that in 1997 maintained partially automated criminal history files, 23 updated a prior manual record when the subject was subsequently arrested (up from 19 in 1995). (See *Survey of State Criminal History Infor-*

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ation Systems, 1997, BJS report, NCJ 175041, April 1999.)

The FIST program was established under NCHIP. Information requested from checking agencies does not include data traceable to an applicant, and none of the FIST information provided from agencies to BJS contains or reveals the identity of individual applicants. The computer program that some agencies used for both operational purposes and to collect FIST data transmits only the appropriately aggregated or categorized responses. Moreover, the computer program assists agencies to purge records after the delay specified by law.

National Instant Criminal Background Check System (NICS)

Permanent Brady Act provisions

The NICS provides national minimum requirements for checking firearm purchase applications. Since November 30, 1998, a licensed dealer can contact the FBI or State point of contact (POC) and request an immediate response on whether a firearm transfer would violate Federal or State law. The NICS became effective November 30, 1998, implementing the permanent provisions of the Brady Act. The NICS, at 18 U.S.C. 922(t), allows a Federal Firearms Licensee (FFL) to contact the system by telephone or other electronic means for information on whether receipt of a firearm by a prospective transferee would violate Federal or State law. In addition to regulation of handgun sales by FFLs, the permanent provisions of the Brady Act require licensees to request background checks on long gun purchasers and persons who redeem a pawned firearm. Licensees have the option of requesting a NICS check on persons who attempt to pawn a firearm.

When applying to purchase a firearm from an FFL, prospective transferees are required to undergo a NICS check or to present a permit which the ATF has qualified as an alternative to a

NICS check at the point of sale. Qualifying permits are those which —

1. allow a transferee to possess, acquire, or carry a firearm
2. were issued not more than 5 years earlier by the State in which the transfer is to take place, after verification by an authorized government official that possession of a firearm by the transferee would not violate Federal, State, or local law.

A permit issued after November 30, 1998, qualifies as an alternative only if the information available to the State authority includes the NICS check.

A licensee initiates a NICS check at the point of sale by contacting either the FBI or a State POC. The FBI or the POC checks applicable databases and responds with a notice to the FFL that the transfer may proceed, may not proceed, or is delayed pending further review of the transferee's record. (See <http://www.fbi.gov/programs/nics/index.htm>)

State involvement in presale firearm checks

Each State determined the extent of its involvement in the NICS process. Three forms of State involvement currently exist:

1. *Full State POC participation* — a State POC conducts a NICS check (permit or point of sale) on all firearm transfers originating in the State
2. *Partial State POC participation* — a State POC conducts a NICS check (permit or point of sale) on all handgun transfers, with FFLs in the State required to contact the FBI for approval of long gun transfers
3. *Checks via NICS only* — there is no State POC, requiring FFLs to contact the FBI for NICS checks on all firearm transfers originating in the State.

Firearms dealers in 23 States request checks on prospective handgun owners via NICS only, and dealers in 27, via a State POC (table 8). For transfers of

Table 8. National Instant Criminal Background Check System: Checking agencies — FBI or State point of contact — for transfers of handguns and long guns, December 1998

	Handguns		Long guns	
	FBI	POC	FBI	POC
Alabama	■		■	
Alaska	■		■	
Arizona		■		■
Arkansas	■		■	
California		■		■
Colorado		■		■
Connecticut		■		■
Delaware	■		■	
Florida		■		■
Georgia		■		■
Hawaii		■		■
Idaho	■		■	
Illinois		■		■
Indiana		■	■	
Iowa		■	■	
Kansas	■		■	
Kentucky	■		■	■
Louisiana	■		■	■
Maine	■		■	
Maryland		■	■	
Massachusetts	■		■	
Michigan		■	■	
Minnesota	■		■	
Mississippi	■		■	
Missouri	■		■	
Montana	■		■	
Nebraska		■	■	
Nevada		■		■
New Hampshire		■	■	
New Jersey		■		■
New Mexico*	■		■	
New York		■	■	
North Carolina		■	■	
North Dakota	■		■	
Ohio	■		■	
Oklahoma	■		■	
Oregon		■	■	
Pennsylvania		■		■
Rhode Island	■		■	
South Carolina		■		■
South Dakota	■		■	
Tennessee		■		■
Texas	■		■	
Utah		■		■
Vermont		■		■
Virginia		■		■
Washington		■	■	
West Virginia	■		■	
Wisconsin		■	■	
Wyoming	■		■	
Total	23	27	34	16

Note: Details of State participation in the NICS change from time to time. *The New Mexico State Department of Public Safety is a temporary POC for dealers not yet registered with the FBI.

long guns, dealers in 34 States go through NICS alone, while those in 16 use a POC. NICS checks by the FBI are without charge; POC fees are determined by State law. The details

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of State participation in NICS change from time to time.

The NICS process does not supplant State firearm regulations. State background check statutes that existed prior to the NICS remain in force unless they are repealed by legislative action or allowed to expire. Six States continue to maintain parallel systems that require background checks in addition to the NICS.

The FBI and 18 State POCs (those volunteering to provide the data) conducting NICS background checks reported their December 1998 activity to FIST (table 9). While a number of States withdrew from background checks, Pennsylvania, Tennessee, and Vermont became State POCs. Although California, Colorado, and New Jersey distinguished between handguns and long guns, many States ignored the distinction, referring to firearms.

Methodology

Two approaches were used for the collection of data from local law enforcement agencies. The first involved an ongoing survey among CLEOs based on a random sampling procedure. The second consisted of telephone contact with remaining local CLEOs in the U. S. to obtain data from those that collected and would share information on handgun applications.

Based on data provided by both sets of CLEOs, national estimates were developed using weighting factors derived from the original stratification. When a CLEO did not provide data for all months, a simple linear extrapolation or interpolation was used to generate an 11-month total.

Ongoing survey

The following presents the approach used to derive the estimates for January 1, 1998, to November 29, 1998, from a sample of chief law enforcement officers charged with determining eligibility to purchase a handgun.

Table 9. Number of applications to buy firearms received or rejected, as reported by the FBI and 18 States, December 1998

	Number of applications		Rate of rejection
	Received	Rejected	
NICS checks			
FBI	506,554	9,557	1.9%
POC	386,286	—	
Arizona*	14,340	409	2.9%
California	38,352	427	1.1
Handguns	17,827	175	1.0
Long guns	20,525	252	1.2
Colorado	12,164	768	6.3
Handguns	4,149	252	6.1
Long guns	7,714	501	6.5
Both	301	15	5.0
Connecticut*	4,434	6	0.1
Delaware*	1,032	61	5.9
Florida*	28,798	780	2.7
Georgia*	34,752	2,149	6.2
Illinois*	19,754	198	1.0
Maryland	2,445	13	0.5
Nevada*	5,915	210	3.6
New Jersey	7,244	96	1.3
Handguns	3,228	46	1.4
Long guns	3,987	50	1.3
Both	29	0	
Oregon	4,487	109	2.4
Pennsylvania*	49,944	1,455	2.9
Tennessee*	30,918	1,726	5.6
Utah*	9,555	262	2.7
Vermont*	1,893	72	3.8
Virginia*	23,443	275	1.2
Wisconsin	2,867	41	1.4
Total for the 18 States	292,446	9,057	3.1%

Note: Applications reported by the States are a part of the total 386,286 submissions to the NICS by the POCs.

*Counts include handguns and long guns.

The data were stratified by size of the population served. Information collected included the following: (1) handgun applications made to the CLEO; (2) handgun applications rejected by the CLEO; and (3) the reasons for rejection.

The sample for the survey was selected from a population of 5,400 CLEOs. These CLEOs were stratified into: State agencies which served an entire State population; local CLEOs which served a population greater than 100,000; local CLEOs which served a population between 10,000 and 100,000; and local CLEOs which served a population of less than 10,000. Population size was based on 1990 Census information. The popula-

tion categories were chosen to be consistent with those commonly used by the FBI when conducting similar studies. A total of 600 CLEOs were randomly selected for the study.

From the start of this study to November 29, 1998, three States implemented operation of statewide CLEOs, and one State began reporting data for local jurisdictions. These changes reduced the total number of CLEOs selected to 563.

The sample universe included 25 statewide CLEOs (Pennsylvania added during 1998), 113 CLEOs that service populations over 100,000, 184 CLEOs from the 10,000 to 100,000 category, and 241 from the under 10,000 category. For each State, 4% or a minimum of five CLEOs were selected in their respective categories.

Overall, 244 CLEOs provided data — a response rate of 43%. Respondents included 25 statewide CLEOs, 37 local CLEOs serving populations of more than 100,000, 88 local CLEOs from the 10,000 to 100,000 category, and 94 local CLEOs serving under 10,000.

New Jersey provided data on the number of applications and the number of rejections for the whole State but did not provide reasons for rejections. Local New Jersey CLEOs in the sample provided data on the reasons for rejection. For applications, rejections, and rejection rates, information from the statewide CLEO was used. The descriptive information about reasons for rejections used data from both the local and State CLEOs.

Maine was one of several States that used both local CLEOs and the State police in areas not served by a local CLEO. In the other States, data from the State police were classified in the under 10,000 category because of the rural area that was normally being served. However, because the State police report accounted for 40% of Maine and a wide range of population classifications, State police data were classified as statewide data.

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Indiana has two processes under which a person can qualify to purchase a handgun. One involves the acquisition of a handgun license that can be used for multiple purposes including purchasing a handgun. The second involves a sales application at the time of the purchase. In order to determine which of the two processes should be used, a special study was conducted of Indiana's handgun procedures. This study is available through the BJS Internet site. As a result of this study it was decided that the counts for handgun licenses was the most appropriate statistic to use for this Bulletin. Handgun license numbers were also used for 1996 and 1997 in computing the cumulative estimates for 1994 through 1998.

Agencies with a rejection rate over four standard deviations above the average standard rejection rate were classified as outliers and their data were not used for projection of estimates. In addition, agencies were classified as outliers if their final rejection rate could not be determined with sufficient accuracy. The data provided by the outliers were added to the total estimated counts to get the final national totals.

To compensate for the June 1997 Supreme Court decision, the CLEOs from Brady States that had been selected for this study were surveyed to determine if they stopped performing background checks. For each size category, a percentage of the population that had stopped participating was computed. These percentages were then applied to the estimated number of rejections for that size category and subtracted from the total estimated number of rejections.

The accuracy of the estimates presented in this report depends on two types of errors: nonsampling and sampling. In this study, nonsampling error may occur from the following: nonresponse; differences in the ways CLEOs process, code, store, and retrieve their information; differences in interpretation of the survey questions; and even activities which delay personnel from doing paperwork.

Also, the process of a researcher receiving data and storing it in the computer for analysis can introduce nonsampling error. In any sample survey, the full extent of nonsampling error is never known. However, steps were taken to minimize the potential for error. Extensive telephone follow-ups were made to encourage responses, answer questions about misunderstood requests, and generally help CLEOs in assembling the information in a form useable by FIST. Extensive verification of the data ensured the accuracy of the numbers.

Because of the sampling design, State comparisons cannot be made. The estimates are only for the 50 States and do not include U.S. territories or the District of Columbia.

Supplemental survey

The following presents the approach used to supplement the ongoing survey among CLEOs. Telephone contact was attempted in November 1998, with all agencies not invited to participate in the ongoing survey. Also omitted from contact were those statewide CLEOs reporting directly to FIST and local police departments within those States. CLEOs not participating in the ongoing survey were asked if they collected the following data in 1998 and would share those data with FIST: handgun applications made to the CLEO; handgun applications rejected by the CLEO; and the reasons for rejection.

Of the CLEOs that said they collected and maintained data, 512 agreed to send to FIST the data they had collected in the period from January through November. Simple linear extrapolation or interpolation was used to supply an 11-month total for those CLEOs that could supply only a portion of November or had data missing for previous months of 1998.

CLEOs in this supplemental survey served a population between 10,000 and 100,000 or served a population of less than 10,000, based on 1990 census information. All local CLEOs serving a population greater than

100,000 had been asked to participate in the ongoing survey, as had all CLEOs that served an entire State population. The number of CLEOs in the ongoing survey were compared with those of the supplemental survey by population category and U.S. region.

The supplemental survey increased the number of the smallest agencies in the study from 94 to 444, and those serving a population between 10,000 and 100,000 from 88 to 250. These increases were not concentrated in any particular region, but were distributed across all regions.

The agencies in the supplemental survey and those in the ongoing survey together served a population of 179,061,298 (72% of the 248,102,973 population identified in the 1990 census).

The addition of CLEOs did not skew the distribution of agencies toward any particular region or regions, and improved representation in the Northeast and South. A relative balance in terms of population was also maintained. Moreover, the supplement addressed the issue of agencies dropping out of the study over time. Between 1996 and 1998, the number of CLEOs participating in the ongoing survey fell from 311 to 244. Two factors were chiefly responsible for this phenomenon. After the Supreme Court's decision, agencies were allowed to discontinue background checks and thus no longer collected and submitted data to FIST. At the same time, the continuing effort required to report data decreased interest in participation among some agencies. FIST was able to compensate for the decline in participation by the addition of new CLEOs.

Respondents contacted by telephone may be subject to nonsampling error in much the same manner as with respondents in the ongoing survey. Error may occur from nonresponse, differential handling of data, differences in interpretation of questions, and activities causing delay in paperwork. In addition, as in the ongoing survey,

the process of a researcher receiving and storing data can introduce nonsampling error. Efforts were made to minimize the potential for error. CLEOs providing data by telephone were asked to review and revise their reports, and various quality checks were performed in receiving and processing the data.

Data collection procedures

The Regional Justice Information Service (REJIS), through a cooperative agreement with BJS under the Firearm Inquiry Statistics (FIST) program, collected the data.

The CLEOs supplied data on either paper or diskette. Several different forms were provided to meet the varying office procedures of the CLEOs. In addition REJIS wrote and provided special software that was distributed free of charge to requesting CLEOs. This software was designed to simplify the record tabulating functions of the CLEO. It also helped to reduce the burden of keeping the statistical data since one of the capabilities of the software was to automatically report the data needed for the study. In all cases the data that the CLEO sent to REJIS contained only statistical information and would not allow the identification of an individual.

Respondents contacted during the supplemental survey supplied data either directly by telephone to the caller or on a special tally sheet prepared by FIST staff and returned to REJIS by facsimile.

Determining populations

For local CLEOs, a State would choose to have county officials (usually the sheriff) as the CLEOs or municipal officials (police departments) or a combination of the two. To evaluate properly the application and rejection rates for purchasing handguns within a

given area, the appropriate CLEO population was needed and was determined as follows:

- The stratification classification of the county was based on the size of the largest city within the county.
- If cities within a participating county CLEO were acting as their own CLEOs, their populations were subtracted from the county population.
- If a municipal CLEO was discovered to be providing services for other selected municipalities, then populations for those municipalities were added to the populations of the city having the CLEO.
- Those CLEOs selected to participate in the study but found to be relying on other jurisdictions to conduct background checks were replaced by those other jurisdictions (for example, a town being replaced by a county).

Sources of additional information

NICS regulations are found at 27 CFR 178 (ATF) and 28 CFR 25 (FBI). Additional information on State firearm laws is available on the Internet from BJS in the *Survey of State Procedures Related to Firearm Sales, 1997*. BJS report, NCJ 173942, December 1998. Further information on Federal law and BJS-related publications is available from the following Internet sites:

ATF: <http://www.atf.treas.gov/core/firearms/firearms.htm>
 BJS: <http://www.ojp.usdoj.gov/bjs/>
 FBI: <http://www.fbi.gov/programs/nics/index.htm>

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Bulletins present the first release of findings from permanent data collection programs such as the Firearm Inquiry Statistics program. State and local officials have cooperated in reporting the data presented.

Donald A. Manson and Darrell K. Gilliard of BJS and Gene Lauver of Regional Justice Information Service wrote this report. Terry Tomazic, Ph.D., professor of research methodology at St. Louis University, provided statistical consultation. Carol G. Kapian supervised the project. REJIS collected and analyzed the FIST data presented. Tom Hester produced and edited the report. Marilyn Marbrook, assisted by Yvonne Boston, administered final report production.

Further information on the FIST program can be obtained from —

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June 1999, NCJ 175034

This report, as well as other reports and statistics, can be found at the Bureau of Justice Statistics World Wide Web site:
<http://www.ojp.usdoj.gov/bjs>

DRAFT

Guns -
Brady Bill

**President Clinton: Keeping Guns Out of the Hands of Criminals
June 15, 1999**

President Clinton will announce the findings of a Justice Department report showing that, since taking effect in 1994, the Brady Law has blocked over 400,000 illegal gun sales – two-thirds of which involved purchasers with a previous felony conviction or current felony indictment. The President will also join a group of Members of Congress in challenging the House of Representatives to strengthen the successful Brady Law by passing legislation that: (1) requires Brady background checks at gun shows and flea markets, without NRA-sponsored loopholes; (2) raises the age of handgun ownership from 18 to 21; and (3) includes the other common sense measures already passed by the Senate that will help keep guns out of the hands of criminals and children.

The Brady Law: One of the Most Effective Law Enforcement Tools Ever

312,000 illegal handgun sales blocked in less than 5 years. The Justice Department's Bureau of Justice Statistics (BJS) will release a study showing that, under the interim provisions of the Brady Law, approximately 312,000 applications to buy handguns were rejected because background checks revealed the purchaser was prohibited by state or federal law from buying a handgun. The interim provisions of the Brady Law, which were in effect from 3/1/94 to 11/29/98, allowed designated state and local law enforcement officials up to five business days to conduct background checks of all prospective handgun purchasers. The BJS report also finds that:

- 12.7 million presale handgun checks were conducted under interim Brady;
- 2.4 percent of these handgun applications – or 312,000 -- were denied; and
- 66.3 percent of all denials were for felony convictions or indictments. Other denials were for domestic violence misdemeanors and restraining orders, status as a fugitive, or other state and federal prohibitions in law.

90,000 additional gun sales blocked by NICS in 6 months. The Justice Department will also report today that, during its first six months of operation, the National Instant Criminal Background Check System (NICS) blocked an estimated 90,000 illegal gun sales. The NICS, which was mandated by the Brady Law and replaced its interim provisions last November, allows law enforcement officials access to a more inclusive set of records than was previously available, and applies not just to handguns but to all firearms. Just six months after the NICS' implementation:

- Over 4.1 million background checks have been conducted – approximately 2 million by the FBI and another 2.1 million by the states;
- The FBI has denied over 42,000 applications for gun sales; and
- States have denied an estimated 48,000 applications for gun sales.

The House Vote: An Opportunity to Strengthen the Brady Law

This week the House will have an important opportunity to make the Brady Law even more effective – and to help stop even more felons, fugitives, and stalkers from getting access to guns. That is why the President will call on the House to put the interests of the American people over the clout of the gun lobby and pass effective gun legislation that:

Closes the gun show loophole. The President will insist that the House pass a bill that closes the gun show loophole once and for all by extending the same Brady background checks we know work to all sales at gun shows. He will ask House members to reject the phony reforms that were already defeated in the Senate, including:

- *Flawed definitions of gun shows.* The gun lobby is advocating for a narrower definition of “gun show” that would not cover flea markets and other such commercial venues where hundreds of guns are regularly bought and sold.

- *Abbreviated Brady background checks.* The gun lobby wants to reduce the amount of time law enforcement has to complete a Brady background check at gun shows. Although more than 70 percent of background checks are completed within minutes, and nearly 95 percent within a 2-hour period, the remaining 5 percent take longer for a reason: they are much more likely to turn up a problem and result in a denial. If proposals to shorten background checks at gun shows to between 24 and 72 hours were applied to the NICS, the FBI estimates that between 9,000 and 17,000 prohibited persons would have been able to buy guns over the past six months.

- *Safe harbor for criminals.* By creating a new class of “instant check registrants” to do background checks at gun shows, the gun lobby’s proposals will undermine law enforcement efforts to trace firearms that are later used in crimes. Unlike federally-licensed gun dealers, “instant check registrants” will not have to keep the same records, and they will not face the threat of losing their license if they do not cooperate fully with law enforcement authorities. Criminals will know that guns bought and sold at gun shows will continue to be untraceable by law enforcement.

- *Interstate gun sales.* For more than 30 years, federal law has prohibited gun dealers from selling guns to private persons across state lines. The gun lobby is pushing for an amendment that would allow federal gun dealers to ship guns directly to unlicensed buyers in other states. This would greatly undermine the ability of states to control the flow of guns across their borders.

Raises the age of handgun ownership from 18 to 21. Several weeks ago, Speaker Hastert expressed support for such a proposal, and today the President will challenge the House to pass it into law. Yesterday, the Vice President announced the release of a report by the Treasury and Justice Departments making the case for this important provision. The report found that:

- Eighteen, nineteen and twenty year-olds ranked first, second and third among all age cohorts in the number of gun homicides committed in 1997. Overall, these age groups accounted for 24 percent of known gun murderers.

- Offenders between 18 and 20 were more likely than offenders in any other age group to use a firearm to commit non-lethal violent crimes.

- Crime guns recovered by law enforcement officials were more likely to have been possessed by 19 year-olds than any other age cohort, with 18 year-olds ranking a close second. Overall, nearly 15 percent of crime guns traced were possessed by 18 to 20 year-olds.

- More than 80 percent of the crime guns recovered by law enforcement are handguns, especially semiautomatic pistols.

Includes the same common sense gun measures already passed by the Senate. The Senate-passed juvenile crime bill included additional measures to help keep guns out of the hands of criminals and children, including: a requirement that child safety locks be provided with every handgun sold; a total ban on the importation of large capacity ammunition magazines manufactured before they were outlawed in 1994; new penalties for gun kingpins; increased resources for federal firearms prosecutions; and an expansion of the President's initiative to crack down on illegal gun traffickers by tracing all crime guns to their source. The President is urging the House to pass these provisions as well.

**House Gun Event
Questions and Answers
June 14, 1999**

Brady Report

Q: If the Brady Law has helped to detect and block over 400,000 illegal gun sales, how many of these persons who tried to buy guns illegally have you prosecuted? The gun lobby and its supporters say that if you really wanted to strengthen the Brady Law, you would focus on putting all of these criminals behind bars. What is your response?

A: We do focus on putting gun criminals behind bars. Since the NICS was implemented 6 months ago, the FBI has been actively referring cases to ATF and state and local law enforcement for further investigation and potential prosecution. Ultimately, we won't take every case, but we have asked Congress for more funds to hire ATF agents and federal prosecutors to do the best follow-up possible. I would also note that, prior to the NICS' implementation, Brady denials were the responsibility of designated state and local law enforcement officials. With the NICS now up and running, we expect to take more Brady-related cases.

Unfortunately, some of you in the press have been taking the gun lobby at its word, and you simply have not gotten the full story on this issue. Let's review the facts:

1. The Brady Law has stopped over 400,000 illegal gun sales. By surveying local law enforcement officials and tracking the number of gun applications rejected by the FBI, we know this to be true. Prior to Brady background checks, guns were bought and sold on the honor system.
2. Two-thirds of the illegal gun sales we stop involve persons who have been previously convicted or are currently indicted for a felony crime. The remaining third involve domestic violence misdemeanors and restraining orders, drug addicts, mental deficient, and other prohibitions in state and federal law. Although some of these persons may not be serious criminals – or may have committed their crimes many years ago and are no longer a threat to public safety – it is very reasonable to assume that, by stopping them from buying a gun, we have prevented gun crimes and violence.
3. Gun crimes are down by virtually every measure. FBI crime statistics confirm that, since 1993, gun-related crime is down by more than 25 percent. The overall number of violent crimes is down, and so too is the percentage of violent crimes committed with guns.
4. The number of gun criminals doing time in state and federal prisons is up by 25 percent since 1992 (from 20,681 to 25,186), and the number of serious gun criminals (those serving sentences of 5 or more years) in federal prison is up by nearly 30 percent. This is because we work more closely with state and local law enforcement – who investigate and prosecute most gun crimes – to vigorously enforce gun laws.

5. This Administration has increased funding for state and local law enforcement by more than 500 percent, helped local law enforcement trace a record number of crime guns, proposed increased funds for new ATF agents and federal prosecutors, and more. We need these resources to investigate and prosecute more gun cases. Unfortunately, the gun lobby and critics of our enforcement record have not backed up their tough talk with resources.

Q: Have all 400,000 of these attempted gun purchases been referred to law enforcement for further investigation?

A: The FBI refers all persons who are denied guns to the ATF. The ATF then screens these potential cases, and sends a portion of those cases to appropriate ATF field offices for further investigation. At the field level, ATF works with their local U.S. Attorney's office to determine which potential cases warrant the additional investment of federal resources and prosecution. Federal prosecutors and ATF attempt to target the most serious and dangerous offenders for prosecution.

Q: The report states that 312,000 sales were stopped through background checks through 11/29/98. How did you arrive at the 400,000 total?

A: While the report only contains information during the interim Brady period, today, the Justice Department released additional, up-to-date information on background checks since the NICS took effect in late November. The FBI keeps current information on the number of background checks conducted by the NICS and by state points of contact. Thus, the 400,000 total includes an additional 90,000 gun sales that have been blocked in the first 6 months of the NICS.

During this six month period, over 4.1 million background checks were conducted -- about half by the FBI (2 million), and the other half by the states (2.1 million). The FBI confirms that it has denied over 42,000 applications for gun sales of the total number of checks it conducted, and estimates that state points-of-contact have denied another 48,000 applications for gun sales.

Q: The 400,000 gun sales stopped is based on an estimate that States have denied about 48,000 applications for gun sales since the National Instant Check System took effect. What did you base the 48,000 figure on?

A: The Bureau of Justice Statistics (BJS) based the 48,000 figure on two key pieces of information. First, the FBI can confirm that states conducted about 2.1 million background checks in the first six months of NICS. BJS then applied the average denial rate during the entire interim Brady period (2.4 percent) to the total number of state checks conducted (2.1 million) -- which comes to an estimated total of 48,000 gun sales denied.

Q: The report contains some state breakout data on the number of gun sales denied. Why is there so much variance between states in their denial rates?

A: There are a number of factors that can impact state denial rates. For instance, states may have in place additional laws to disqualify individuals from buying guns that exceed federal law. For instance, some states may prohibit gun sales to individuals based on arrests alone, without requiring a conviction. In addition, law enforcement access to, and computerization of records on critical information which impacts gun eligibility (e.g., mental illness, domestic violence misdemeanors) can have a significant impact on denial rates.

Misc. Gun

Q: Yesterday, the Vice President said that youths between the ages of 18 to 20 years-old could go into gun stores, pawn shops and gun shows and legally buy a handgun. Isn't this wrong?

A: As the Vice President's office clarified yesterday, currently, 18 to 20 year olds can legally buy handguns from gun shows, friends, neighbors, private collectors and other unlicensed sellers. However, they may not legally purchase handguns from federally-licensed gun shops and pawnshops. This is already prohibited under current law.

More importantly, however, current law allows 18 to 20 year-olds to possess handguns regardless of where they obtained them. The Vice President strongly believes that we should close this loophole by making it illegal for 18 to 20 year-olds to generally possess handguns. The Justice-Treasury report the Vice President released yesterday on the disproportionate amount of gun crime committed by 18 to 20 year-olds confirms the importance of passing into law the Administration's proposal to ban transfer to and possession of handguns by this age group.

Guns -
Brady Bill

For Immediate Release
March 3, 2000

Contact: Nancy Hwa
(202) 289-5785

New Study Provides Evidence that the Brady Law Saves Lives; Fewer Guns Used in Crime Means Fewer Deaths

(Washington, D.C.) Following the sixth anniversary of the enactment of the Brady Law, the Center to Prevent Handgun Violence has released a new report with conclusive evidence that the Brady Law is saving lives. *Saving Lives by Taking Guns Out of Crime* details the drop in gun-related crime murders following implementation of the Brady Law.

For the past five years, the Center has drawn the public's attention to the drop in gun-related crime since the Brady Law passed in 1993. While crime of all types has been going down nationwide, gun-related crimes -- murders, robberies and assaults committed with guns -- have been decreasing even faster than the violent crime rate overall. Now, *Saving Lives* translates the accelerated drop in gun crime into lives saved and provides statistical evidence linking these events to the enactment of Brady.

It has long been known that assaults and robberies committed with guns result in a higher death rate than similar crimes committed without firearms. By analyzing violent crime data from the FBI's Uniform Crime Reports for 1990 through 1998 (the most recent year available) and applying the death rate of victims of gun crimes to the drop in crimes committed with firearms, the Center was able to calculate the number of lives saved because a smaller percentage of violent crimes involved a gun. The results are telling: from 1994 (the first year of the Brady Law) to 1998, over 9,000 lives were saved because fewer guns were used in assaults and robberies.

A similar analysis of the rising gun crime rates that existed in the years just prior to the implementation of the Brady Law provide further evidence the Law is saving lives: prior to enactment of Brady, gun crimes were rising even faster than crime overall, resulting in an accelerated loss of life. According to the report, the rapid increase in gun use cost 3,000 individuals their lives in the three years (1991-1993) before Brady was enacted.

The study further illustrates the value of the Brady Law. According to the U.S. Department of Justice, background checks prevented an estimated 320,000 prohibited purchasers -- mostly felons -- from getting guns during the first five years of the Law. A September 1997 Center study, *Traffic Stop*, showed that the Brady Law's background check and waiting period

requirements disrupted interstate gun trafficking.

“By preventing gun sales to felons and other prohibited purchasers and by disrupting the movement of illegal guns across state lines, the Brady Law reduces criminal gun use,” said Dr. Douglas Weil, Director of Research for the Center. “This report quantifies in human lives how important it is to take guns out of crime and provides compelling evidence of the life-saving impact of the Brady Law.”

The Brady Law was implemented in February 1994. Prior to its passage, 32 states had no system of background checks for gun purchasers; a felon could walk into a gun store, sign a form stating that he or she has never been convicted of a felony, and buy a gun. Felons were confident that their criminal records would not be discovered because the form would simply get filed away. The Brady Law closed this “lie and buy” loophole – creating a system by which all retail gun sales today are conditioned on a background check of the prospective buyers. Initially, Brady created a five-day waiting period for handgun purchases in combination with the background check requirement.

The National Rifle Association led the opposition to the Brady Bill and continues to dismiss the effectiveness of the Brady Law today. “The background check and waiting period were deemed too ‘inconvenient’ for gun owners,” noted Dr. Weil. “This ‘inconvenience’ has saved thousands of lives and would have saved thousands more had the National Rifle Association not fought passage of the Brady Bill for seven years.”

Visit our website to view the Executive Summary and full text of *Saving Lives by Taking Guns Out of Crime: The Drop in Gun-Related Crime Deaths Since Enactment of the Brady Law*. The report is available in Adobe Acrobat at <url>.

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The Center to Prevent Handgun Violence, chaired by Sarah Brady, was founded in 1983 to reduce gun violence through education, legal advocacy, research, and outreach to the entertainment community. Based in Washington, DC, CPHV's national initiatives include prevention programs for parents and youth on the risks associated with guns, legal representation for gun violence victims, work with the entertainment community to encourage deglamorization of guns in the media, and research of the risks associated with guns and the efficacy of gun control laws. More information about CPHV and its affiliated organization, Handgun Control, can be found on our website at www.cphv.org.

Brady Bill

FALSE STATEMENTS ON BRADY FORMS

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

ARRESTS AS A RESULT OF BRADY BACKGROUND CHECK

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

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

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

- In St. Louis, a South Carolina man wanted for sexual assault was arrested in the gun store after a Brady background check (4/3/94 St. Louis Post-Dispatch 05E).
- In Clayton County, Georgia, Brady checks on the law's first day lead to the arrest of a convicted felon and pinpointed 30 people wanted on other criminal charges. According to the Chief Deputy, Larry Bartlett, 16 felons have been prosecuted for illegally owning handguns (2/28/95 Atlanta J. & Const. C1).

ARRESTS FOR OUTSTANDING WARRANTS

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

OTHER BRADY LAW VIOLATIONS

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

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

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

- Q.** The Center to Prevent Handgun Violence (the Center) has issued a report saying that an estimated *102,822 prohibited purchasers*, including *72,525 felons* -- or 85 felons a day, have been stopped from taking possession of a handgun since the Brady law's inception on February 28, 1994. Secretary Rubin and Attorney General Reno stated in February that the Brady law has stopped *"more than 60,000 felons, fugitive and other prohibited purchasers from buying handguns over the counter during the past two years,"* and the President stated in the State of the Union that *44,000 convicted felons had been prevented from purchasing handguns*. Who is right?
- A.** We welcome the Center to Prevent Handgun Violence study. The Center has added another set of estimates to the several that have been conducted over the past couple of years, by the government and private organizations. Each of the studies uses slightly different methodologies, but they are all within range of each other.

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

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

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

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Treasury/ATF Brady Denial Statistics

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

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

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

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

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

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

TOTAL estimated purchase denials since Brady implementation: 62,097

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

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

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

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

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

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

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

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

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

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

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Response to James Bovard
"Clinton's Gun Hoax"
WSJ 9/17/96

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Gun Violence May be Subsiding, Studies Find

By FOX BUTTERFIELD

In what may be a significant turning point in the battle against gun violence, analyses of two new studies suggest that murders, robberies and assaults committed with guns dropped faster than violent crime over all last year.

This decline in gun violence comes after a decade, from 1985 to 1994, when the number of murders, robberies and assaults using a gun grew nearly 60 percent while the overall violent crime rate increased 42 percent, according to one study, the Federal Bureau of Investigation's annual crime survey.

Experts cautioned that this abrupt reversal of the decade-long increase in crimes committed with guns covered too short a time to allow a definitive conclusion. But they said the turnaround indicated that some new strategies to combat gun crime might be having an impact. Those include the Brady Bill, which requires a waiting period to buy a handgun, the ban on assault weapons and innovative tactics by police forces to focus on guns.

"For a decade crime spiraled out of control while Washington sat on the sideline pointing fingers," said Rahm Emanuel, an assistant to President Clinton. Now, he said, "President Clinton has pointed to solutions," with the Brady Bill in 1994 and adding 700,000 police officers to work on the streets.

The study showing that criminals were less likely to use guns in crime last year was done by the Center to Prevent Handgun Violence, drawing on data in the new F.B.I. report, which was officially released yesterday. According to the figures, the number of murders in 1995 fell 7.4 percent from 1994 while the number of murders committed with a gun dropped 11.8 percent.

Similarly, the number of robberies in 1995 decreased 6.2 percent from 1994, but the number of robberies committed with a firearm slid 7.6 percent. And the number of aggravated assaults for 1995 dropped 1.3 percent while the number of aggravated assaults with guns fell by 6.35 percent.

"These data provide more compelling evidence that the Brady Law is working," said Sarah Brady, the chairwoman of the Center to Prevent Handgun Violence and the wife of James Brady, the former press secretary to President Ronald Reagan who was seriously wounded in the 1981 assassination attempt on Mr. Reagan.

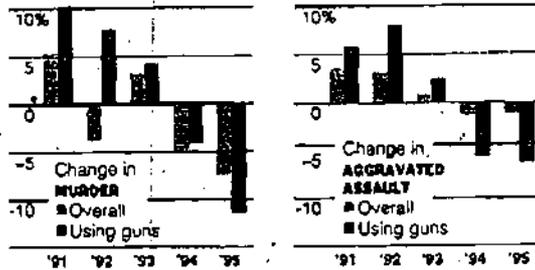
The figures on the decrease in gun crimes was only one of several indications in the F.B.I. report that violent crime appeared to be declining.

In fact, the report, based on statis-

BY THE NUMBERS

Use of Guns to Commit Crimes Falls

While the number of violent crimes committed nationally has fallen in each of the last two years, the number committed using guns has fallen even faster.



Source: Center to Prevent Handgun Violence

The New York Times

NEW YORK'S CRIME DROP

Although violent crime is dropping in many big cities, none can match New York for the sustained decline that began after crime peaked in 1990. Federal figures show. Page B3.

tics compiled by police departments around the nation, found that violent crime decreased 4 percent in 1995, the fourth consecutive decrease, led by a 7 percent drop in the national homicide rate. That put the homicide rate at 8 per 100,000, the lowest it has been since 1985, before the epidemic of crack cocaine, which spread drugs, guns and gangs in inner cities.

The last time before 1985 that the homicide rate had been as low as 8 per 100,000 was all the way back in 1970, when it stood at 7.9 per 100,000.

The modern crime wave began in the mid-1960's, after decades of decline in violent crime, when the homicide rate rose from 4.6 per 100,000 in 1963 to a high point of 9.8 in 1974. Since then, said Alfred Blumstein, a criminologist at Carnegie Mellon University, the murder rate has been oscillating between roughly 8 and 10 per 100,000.

Professor Blumstein and other experts pointed to several factors they believe underlie the decline in violent crime, though these causes are hard to measure separately. In addition to the new gun-control laws and the innovative police tactics, they include greater community involvement in crime prevention, longer prison sentences and possibly a change in attitude toward violence among young people.

"It seems as though there may be a significant change in attitude even

among kids in our tolerance for homicide," said James Alan Fox, the dean of the college of criminal justice at Northeastern University.

Last August the Justice Department reported that the nationwide rate of violent juvenile crime fell slightly in 1995 for the first time in almost a decade and the rate of homicide by juveniles decreased for the second year in a row, down by 15.2 percent. That came after a tripling of the murder rate for boys 14 to 17 years old over the previous 10 years.

The decline among adolescents would be particularly important if it can be extended, Professor Fox said, because it was the sharp rise in juvenile violence that led to the jump in the overall national crime rate in the late 1980's and early 1990's. The homicide rate among adults 24 and older has been decreasing since 1981.

The new F.B.I. report suggested that another possible reason for the decline in homicides came from urban hospitals setting up trauma centers that are better able to treat gunshot victims. The report found that 92 percent of gunshot victims who are hospitalized now survive.

The drop in the murder rate last year was sharpest in the nation's large cities, the F.B.I. found, with New York leading the way with a 24.6 percent decline. But several other cities also posted sizable decreases: Houston had a decline of 15.7 percent, New Orleans 14.4 percent, Detroit and Washington, both 12.2 and Chicago 11.2 percent. Los Angeles had an increase in murders, rising to 849 in 1995 from 845 in 1994.

Bruce:

Here is an NRA-generated letter from Dole and Gingrich to Reno on Brady. Some of the lingo and the accusatory tone of the letter is pretty surprising for the Majority Leader and the Speaker to a Cabinet official -- but I guess if you have the NRA drafting your letters, they are going to have a little bite to them.

I think DoJ's response is really clunky and you have to wade through it several times to even figure out their point. It downright defensives sounding instead of offensive.

I think it could use a redraft w/ some real punch upfront and be more concise and to the point -- e.g. "Thank you for your letter regarding the Brady Law. After years of congressional gridlock, the Brady Bill, which was supported by every major law enforcement organization in America, was finally enacted into law in 1994. We in law enforcement are extremely proud of its impact on illegal firearm purchases....."

What do you think?

Dennis

Congress of the United States
Washington, DC 20515

April 26, 1996

Honorable Janet Reno
Attorney General
Department of Justice
Washington, D.C. 205

Dear Attorney General Reno:

Now that the Clinton Administration has begun touting its record on crime, we believe it is time for some truth in advertising. Specifically, we have seen reports claiming that the Clinton Administration, through use of the Brady law, is responsible for "preventing" 60,000 felons from buying handguns. We trust that we all know that is not accurate. Further, we trust that you are also aware that your Administration continues to drag its feet on implementing the nationwide "instant-check" system required by the Brady law.

The reality is that the number 60,000 refers to attempted purchases that have been identified -- not prevented. There is a life and death difference between identifying purchases and preventing them. Prevention goes to the question of prosecuting those guilty of illegally purchasing those weapons.

On that score, you know that the Clinton Administration's record is woefully inadequate. Based on a General Accounting Office sampling, only seven people have been prosecuted under the Brady bill statute since July 1995. Moreover, you know that most criminals obtain weapons in ways unaffected by background checks.

In order to correct this glaring deficiency, we call on you to take immediate action to send directives to each U.S. Attorney instructing them to give the highest priority to not just identifying armed, violent criminals, but apprehending, prosecuting and convicting them. Unless this is done, those identified as felons attempting to obtain firearms will turn to other sources for their guns, as the majority of criminals already do. Anything less will continue perpetrating a cruel hoax on the American people by making them think they are safer from armed criminals than they actually are.

You, as the nation's top law enforcement officer, bear the responsibility of taking corrective action. Identifying a criminal does not end his career. Only putting him behind bars will do that. We urge you to carry out your responsibility and repudiate this false advertising by directing the U.S. Attorneys to place the highest priority on prosecuting illegal firearms purchases.

Thank you very much.


Newt Gingrich


Bob Dole



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Newt Gingrich
Speaker
United States House of Representatives
Washington, D.C. 20515

The Honorable Robert Dole
Majority Leader
United States Senate
Washington, D.C. 20510

Dear :

Thank you for your April 26, 1996 letter to the Attorney General concerning the Brady Law. In your letter, you assert that the Clinton Administration has 1) inaccurately claimed that the Brady Law "is responsible for 'preventing' 60,000 felons from buying handguns;" 2) delayed implementation of the "nationwide 'instant check' system;" and 3) failed to adequately prosecute people under the Brady Law. The Attorney General appreciates your comments. However, these assertions either misstate the facts or demonstrate an unwillingness to accept the primary goal of the Brady Law - keeping firearms out of the hands of criminals.

Since being enacted, the Brady Law has prevented approximately 60,000 individuals who are prohibited from possessing handguns from purchasing handguns -- including convicted felons, fugitives from justice, and persons subject to certain domestic violence restraining orders. At no time has the Administration, the Department of Justice, or the Bureau of Alcohol, Tobacco, and Firearms, claimed that the Brady Law prevented 60,000 felons from purchasing handguns. The Department of Justice has consistently viewed the primary purpose of the Brady Act to be to prevent these prohibited persons from purchasing firearms from licensed dealers. In that regard, the Brady Act has been extremely successful.

*check
confusing
and*

The Brady Act was responsible for preventing Randy Eddy, under a restraining order for murder threats made against his estranged wife, from buying a handgun from a Wichita County, Kansas gun dealer in February 1996. We strongly believe that preventing these over-the-counter sales alone, is a significant accomplishment, and

More over dates

law enforcement authorities as well as the American people overwhelmingly agree. That 60,000 prohibited persons have attempted to purchase handguns from federally licensed firearms dealers demonstrates the vital need for Brady background checks.

Some criminals will use illegal means to acquire firearms, but this does not mean that Brady is futile. If a prohibited person cannot buy handguns from federally licensed firearms dealers, it will be more difficult for them to obtain them, and some will be deterred. Furthermore, since the Brady Law took effect, federal law enforcement has given increasing attention to addressing the illegal gun market. We understand from the Bureau of Alcohol, Tobacco, and Firearms, that their investigations of illegal gun traffickers are growing as a percentage of the firearms cases made by ATF.

With respect to the National Instant Check System (NICS), there are two components necessary for it to perform its intended function. First, the infrastructure for the system must be designed. The Federal Bureau of Investigations (FBI) convened its Brady Act Task Group first in April of 1994 to help formulate the Concept of Operations. In March of this year, the FBI submitted a draft of the Concept of Operations to the computer engineers who will construct the system. The draft is due for final approval by the Task Group in June, but the process to develop the infrastructure is well underway.

The second component necessary for the NICS is the actual data which will be included in the database (criminal history records, citizenship renunciations, illegal aliens, etc). This data will be provided by both Federal agencies and the states. The Federal agencies which maintain records relevant to the eight prohibiting categories have all been contacted and will provide that information to the database as soon as the infrastructure is set up. The vast majority of disabling information, however, is maintained not on the Federal level but by the states. The Brady Act contained no mandate requiring states to provide this information into the NICS. Therefore, state participation is entirely voluntary. While most states have indicated a desire to provide the data necessary, they do not yet have the capability to do so.

In addition, as you know, we worked hard to obtain funding to help the states upgrade their criminal history records so that the NICS may be both operational and inclusive. In anticipation of these problems at the state level, the Brady Act provided \$200 million for grants to help states upgrade their records systems. The Department's Bureau of Justice Statistics has already provided states with over \$75 million under the National Criminal History Improvement Program (NCHIP). Using these funds, the states have begun to upgrade their records and have made significant strides. However, the Congress has yet to appropriate the remaining funds which the states sorely need and for which we continue to push.

We again ask for your help...

In short, the Administration has absolutely not been dragging its feet in implementing the NICS -- we have done everything possible, and continue to work under the 1998 deadline in an effort to have both accessible and complete criminal history records contained in the database. [NEED TO CLEAR WITH BJS]

In your letter, you also state that the Administration has been "woefully inadequate" in its Brady prosecutions and you call for the Attorney General to instruct U.S. Attorneys to make prosecuting armed, violent criminals a top priority. In fact, aggressively prosecuting these individuals has been the priority of the Department of Justice for years. The Attorney General identified this as her top priority shortly after she came to the Department in 1993. Since then, we have done this consistently and aggressively. United States Attorneys Offices review cases that are referred to them and make determinations for prosecution as appropriate. With respect to Brady-related prosecutions, the Attorney General sent a memorandum to each U.S. Attorney's office in 1994, which outlined the types of Brady-related cases that she felt warranted attention. [NEED TO CLEAR WITH TOM ROBERTS AND EOUSA] However, as you know, the Department of Justice has never viewed the Brady Law as a prosecutorial tool in its own right.

In your letter, you cited the General Accounting Office report which identified seven prosecutions under Brady. As you know, the Brady Act did not contain any new criminal sanctions for prospective handgun purchasers. The closest thing to a "Brady violation" is a false statement on a Brady check form. Firearms forms have been in use since the enactment of the Gun Control Act of 1968. Although the Department of Justice has never considered false statements to be a prosecutorial priority or an effective use of limited resources, we have prosecuted hundreds of defendants who have made false statements on firearm purchase forms in the last two years. The exact number of cases in which false statements were made on a Brady form as opposed to some other firearms check form, cannot be determined without overly burdensome reviews of each case file.

More importantly, we know that there have been numerous cases in which criminals were identified and prosecuted because of a Brady check, but unless the false statement becomes the primary charge against a defendant, this information, again, would likely not be reflected in our prosecutions database. Finally, we understand that Brady checks have identified criminals who were later prosecuted at the state or local level. This data would clearly not be reflected in our federal prosecutions database but is no less indicative of the effects and the importance of Brady.

The Department has been aggressively moving toward full implementation of the National Instant Check System and prosecuting armed, violent criminals. Our record speaks for itself. Not only have we fought to curb crime through aggressive prosecution, we have sought to keep guns out of the hands of criminals on the front end, to prevent the crimes from occurring.

The Administration has done this through, reasonable regulation of firearms including the Brady Act and the assault weapons ban and we are still fighting for (BAILEY), and to pass legislation to fix the Gun Free Schools Act. These measures, along with the appropriation of the remaining NCHIP funds authorized under the Brady Act of 1994, have been stalled in the Congress. Law enforcement officers and the American people know how sorely needed these measures are and understand that the Department of Justice and the Clinton Administration are doing everything possible to realize them.

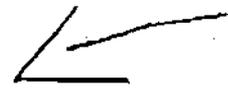
Thank you for your letter. If we may be of further assistance on this or any other matter concerning the Department of Justice, please do not hesitate to call.

Sincerely,

BJS

Bureau of Justice Statistics, U.S. Department of Justice
 Firearm Inquiry Statistics rejection data as of January, 1998

State	Applications processed	Applications rejected	Reject rate
Alabama			
Alaska	23,858	582	2.4%
Arizona			
Arkansas	40,019	688	1.7%
California	472,213	8,398	1.4%
Colorado	118,020	7,625	6.5%
Connecticut			
Delaware	5,587	347	6.1%
Florida	653,865	18,495	3.3%
Georgia			
Hawaii			
Idaho	57,266	1,716	3.0%
Illinois	23,858	662	2.4%
Indiana			
Iowa			
Kansas			
Kentucky			
Louisiana			
Maine			
Maryland	32,605	360	1.1%
Massachusetts			
Michigan	201,797	1,696	0.8%
Minnesota			
Mississippi			
Missouri			
Montana	22,040	167	0.8%
Nebraska			
Nevada	59,727	1,325	2.2%
New Hampshire	5,784	39	0.7%
New Jersey			
New Mexico			
New York			
North Carolina			
North Dakota			
Ohio	119,564	651	0.5%
Oklahoma	10,860	289	2.7%
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas			
Utah	43,133	760	1.7%
Vermont			
Virginia	421,524	3,361	0.8%
Washington			
West Virginia			
Wisconsin			
Wyoming	17,597	350	2.0%
US total	2,250,045	46,505	2.1%
Brady states			1.4%
Brady alternative states			2.2%



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

0 indicates Brady Alternative State

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

LEVEL 1 - 4 OF 5 DOCUMENTS

Public Papers of the Presidents

July 17, 1996

(TE: 32 Weekly Comp. Pres. Doc. 1271

NGTH: 1730 words

SADLINE: Remarks Announcing Cellular Telephone Debations to Neighborhood
atch Groups

BODY:

Thank you very much. Thank you, Matt, for your introduction and for your
sars of community leadership, for doing this before it was popular and making
ure it becomes more popular. We are grateful to you.

I thank all of those who have come today. I'm especially glad to see Senator
eflin and Congressman Kennedy, Congresswoman Lofgren, Secretary Kantor, and Joe
rann who runs our COPS program at the Justice Department. He told me that we
ave now funded 44,000 of those 100,000 police officers, so we're ahead of
chedule and we intend to stay that way. I thank Tom Wheeler for being here and
he Community Policing Consortium executive director, Bill Matthews, and all

Public Papers of the Presidents

the rest of you.

Before I begin my remarks today I just have to take a moment to express my outrage and I know the outrage of all Americans at the Nazi swastikas which were painted on the doors of African-Americans living in the Army Special Forces barracks at Fort Bragg. No one in America should be subject to such vile acts. But these men and women of our Armed Forces have committed themselves to the highest level of dedication to our security. They dedicate their lives to protecting our freedom. They embody our commitment to tolerance and liberty. And they do not deserve this kind of abuse.

We are taking immediate action to get to the bottom of this incident. We intend to punish those who are responsible. We have a zero tolerance for racism in our military, and make no mistake, we intend to apply it. I know that I will have your support and the support of all Americans in maintaining this position.

We are joined today by another group of courageous Americans who are taking responsibility in their own communities to protect the American way of life. There are about 100 neighborhood watch leaders with us here today. They represent all the neighborhood watch participants all across America. In the last 15 years, as you've just heard, neighborhood watches have sprung up on block after block. Every time another American puts on an orange hat our

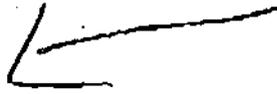
Public Papers of the Presidents

tracts become a little safer.

Today there are more than 20,000 neighborhood watch groups in America. They're in every State, and they all make a difference. Just before coming in I saw some very impressive statistics from Salt Lake City and Chicago and Dade County. I recently had the opportunity to visit with neighborhood watch activists in San Diego, and they have been extremely instrumental in giving that community one of the lowest crime rates of any major city in the United States.

When I lived in Little Rock we had a very active neighborhood watch group in my neighborhood. And it was fascinating because if the crime rate got too low and the neighborhood watch folks got a little relaxed, the crime rate went up. It was as soon as they went back on the street it went back down again, which was, I guess, the ultimate test of the success of the neighborhood watch.

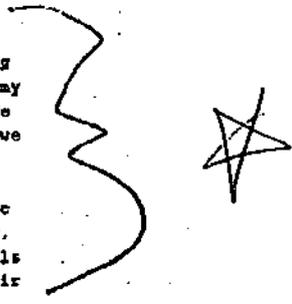
As the Vice President said, as a nation we have finally begun to push crime back. When I ran for President I was struck by two things that seem to go directly in conflict. I was struck by how many Americans just had taken for granted that we'd have to put up with an unacceptable crime rate forever; how many people just sort of assumed that we could never make our streets safe again; that our kids could never feel secure walking to and from school again;



... last point I would make to you: If we are to be personally secure enough to make the changes and meet the tests of this time, we must protect our people better against the ravages of violence. Our people have the right to feel safe where they live, where they go to school, and where they work.

My fellow Americans, I was in California the other night and I talked to people all across the State in a booked-up town hall meeting. And this young African-American boy, a junior high school student, said, "Mr. President, my brother and I, we don't want to be in gangs. We don't want to have guns. We don't want to cause any trouble. We want to learn. We want a future. And we thought our school was too unsafe. So we decided to go to another school and enroll in it because it was safer. And on the day we showed up to register for school, my brother was standing right in front of me, and he was shot," because he got in a crossfire of one of these mindless, arbitrary, needless shootings that occur among children on our streets and in our schools today. We have to stop this. We cannot let these children be robbed of their future.

I know this State grieved recently when your native son Michael Jordan's father was killed. And I know we all wish him well as Michael embarks on a new journey in his life. But let us not forget that 22 other men and women were killed in that same county in your State this year. Ten foreign tourists



The other day on the front page of our paper, the Nation's Capital, are we talking about world peace or world conflict? No, big article on the front page of the Washington Post about an 11-year-old child planning her funeral: "These are the hymns I want sung. This is the dress I want to wear. I know I'm not going to live very long." The freedom to die before, you're a teenager is not what Martin Luther King lived and died for.

More than 37,000 people die from gunshot wounds in this country every year. Gunfire is the leading cause of death in young men. And now that we've all gotten so cool that everybody can get a semiautomatic weapon, a person shot now is 3 times more likely to die than 15 years ago, because they're likely to have three bullets in them. One hundred and sixty thousand children stay home from school every day because they are scared they will be hurt in their school.

The other day I was in California at a town meeting, and a handsome young man stood up and said, "Mr. President, my brother and I, we don't belong to gangs, we don't have guns, we don't do drugs. We want to go to school. We want to be professionals. We want to work hard. We want to do well. We want to have families. And we changed our school because the school we were in was so dangerous. So when we showed up to the new school to register, my brother and I were standing in line and somebody ran into the school and started shooting a gun. My brother was shot down standing right in front of me at the safer



LEVEL 1 - 5 OF 15 DOCUMENTS

Public Papers of the Presidents

February 13, 1994

HEADLINE: Remarks to Members of the Law Enforcement Community in London, Ohio

BODY:

Thank you very much. Thank you, Ray Skillern, for that introduction and, even more important, for your personal endorsement of community policing. I'm glad to be here with John Lambart and Greg Merritt and my longtime friend Attorney General Lee Fisher. I thank him for what he said and for the work he is doing with all of you here in Ohio with Operation Crackdown and with many other anticrime initiatives.

I thank Senator Glenn and Senator Biden for coming down here. Senator Biden doesn't represent Ohio, except he represents all the law enforcement people in Ohio as the chairman of the Judiciary Committee, and I appreciate him taking a whole day off from this break and coming down and being with Senator Glenn and me and being here with your Congresswoman Deborah Pryce. The three of them will vote to produce a crime bill that will deal with the issues I came here to discuss with you today.

partmanship.

Now the fifth thing we need to do is to make our schools gun-free, drug-free, and violence-free. If kids can't go to school safe, this country cannot move into the 21st century in good shape. It sounds like a simple thing, but there have been schools in this country where people do bullet drills. I met at one of my town meetings in California -- this really eloquent young man stood up and said, "My brother and I, we don't want to be in a gang. We don't want to have guns. We don't want to do wrong. We want to stay in school and make something of ourselves. And we left the school in our neighborhood because it wasn't safe. We went to another school because we thought it was safer, and a nut walked in that school when we were registering, shooting a gun, and shot my brother standing right in front of me to register for school." There are hundreds of stories like this, all over America. We have got to make the schools safe. Our bill allocates \$ 300 million over 3 years for local schools and communities for safe-school projects. Up to a third of it can be used for metal detectors, school police, or security measures. We need to provide alcohol and drug education counseling for youngsters who are victims of violence and activities to get young people to stay out of gangs.

You know, we've got to put basic recreation and a spirit of teamwork and working together back into a lot of these schools. There are a lot of

LEVEL 1 - 4 OF 15 DOCUMENTS

Public Papers of the Presidents

October 22, 1994

CITE: 30 Weekly Comp. Pres. Doc. 2115

LENGTH: 2260 words

HEADLINE: Remarks to the Students at Carlmont High School, in Belmont, California

BODY:

It's nice to be back in California. It's nice to be here in Belmont. It's nice to be here at Carlmont High School. I'm honored to be the first President to come here. And it's only fair that I came here to see your principal, since he didn't get to come and see me. Now that should not be interpreted as a sign of dissatisfaction with the lady who got to be principal of the year, but he would have made an awful good one. [Laughter] And he sounds to me like the principal of the year here.

I want to say how very honored I am to be here with all of you. I thank Mayor Rianda for her welcome. Mayor David for what he said. I thank them for

Public Papers of the Presidents

We all know stories, horrible stories of children being shot or cut or mangled. When I was in California last year, I did a town meeting and a young man from northern California told me that he and his brother changed schools because they thought the school they were in was so dangerous. And then when they lined up to register in the new school they thought was safer, somebody just came in the school door and shot his brother, standing right here in line to register. He just happened to be in the wrong place.

You would not believe the letters I get from children of all ages begging me to do something about the violence that terrorizes their lives. You may have even seen me read a letter that I got from a young man from New Orleans, when the crime bill was being debated, who said, "I know you can do something about this, and I am frightened." That young man was shot a couple of weeks after he wrote a letter to me.

I got a letter after the crime bill was signed from the son of a friend of mine in my administration who said, "I have a nice family. We have a high income. We live in a good neighborhood. I go to a good school. My friends and I are still scared every time I go downtown to the movies. I feel better now that the crime bill has been signed."

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

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

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

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

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

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

Using this data, we can state that:

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

-2-

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

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

-3-

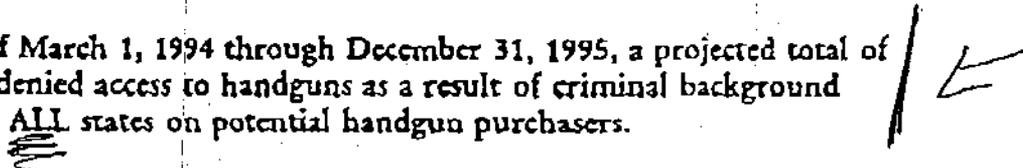
ADDENDUM

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

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

During the period 1/1/95 to 12/31/95, there were 4,040,867 queries made of the 'III' Criminal Database. This again included all states - both Brady and non-Brady. Using the 1.2% rate of handgun purchasers who would ultimately be disqualified from receiving a firearm under Federal law (the percentage most accurate after firearms purchaser background screening programs have been operating for a length of time), we can project:

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

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

Crime Bill

9/22/96 FACENATION

PAGE 5

(Publication page references are not available for this document.)

Mr. BROWNSTEIN: May--Mayor--Mayor GIULIANI, let me ask you about another--another trend here. As we've been lamenting the rise in teen-age drug use, we have a countervailing trend which is decline in violent crime over the last few years. Now your city is responsible for a big chunk of that overall national decline. Let me ask you, how useful in your efforts have been the initiatives out of Washington, under Bill Clinton--the gun control laws, the fund for 100,000, or somewhat fewer, police officers, and the--and the prevention money. Has that been an important part of what you've been able to do?

Q

Mayor GIULIANI: The assault weapon ban has been important to us. The help--the help with regard to the police department has been very helpful. The CRIME BILL help has really assisted us. All of those things have been very supportive...

* A

Mr. BROWNSTEIN: Senator...

Mayor GIULIANI: ...and the fact is that we now have--we now have probably 3,000 to 4,000 more police officers doing just drug work than we ever had before and that has a lot to do with it, too.

Sen. BIDEN: But, Rudy, tell--tell them about how you use the police in community policing. The reason why I think you're so successful is not just the additional cops out of the crime law you've been able to supplement with your--your--your own taxes but the way you've used them. You've used them in a way that, in fact, is incredibly effective. And the second point is that--let's make a distinction between the kind of drug use we're using about--we're talking about. We're talking about our alarm--and we should be alarmed--over first-time drug users, young kids who said in the last month they tried a drug. That is up double from 5 percent to 11 percent of those kids in the teen-age years saying that. But the kind of crime--that's not--that's the place where crime gets spawned. They're the people that develop into the addicts and the traders and the--and the dealers, but what's bringing drug--drug use nationally is level overall, and slightly down. And the reason why they're so successful is because Rudy's been focus--Excuse me for calling you Rud--but the mayor's been focusing on--on hard-core drug areas, closing open-air drug markets, going after syndicates, moving on areas of the--of that city with community policing in conjunction with the federal police. No one knows it better than him as a federal prosecutor. I think we should make a distinction here.

SCHIEFFER: Now, Mr. Mayor, do you--if I could interrupt--Mr. Mayor, do you have anything to add to the answer to the question that Senator Biden just posed to you?

Mayor GIULIANI: The--the--the real focus here has to be not only Copr. (C) West 1996 No claim to orig. U.S. govt. works

Crime-Brady Bill

Today, the President made two announcements: (1) he urged Congress to make the Brady waiting period a permanent requirement before it expires on November 30, 1998; and (2) he strongly opposed efforts by certain members of Congress -- with the strong support of the gun lobby -- to sabotage final implementation of Brady's National Instant Background Check System by prohibiting the FBI from charging a fee for records checks, requiring immediate destruction of records, and allowing lawsuits against the FBI.

Since the Brady law went into effect in Feb 1994, it has stopped 242,000 felons, fugitives, stalkers, and other prohibited purchasers from buying handguns.

* 27 states have their own background check or permit systems, and are exempt from the Brady law.

* In the other 23 states, the Brady law requires gun dealers to notify local law enforcement of every prospective handgun purchaser, and law enforcement has up to 5 days to run a background check.

On Nov. 30 of this year, this requirement of the Brady law will sunset, and be replaced by a national instant check system for all firearms. Gun dealers will no longer have to check with local law enforcement, and there will be no waiting period whatsoever unless the national system detects a prior arrest that needs to be investigated.

Today, the President endorsed legislation sponsored by Schumer/Durbin that will 1) require gun dealers to check with local law enforcement (as well as the national instacheck system) and 2) impose a minimum 3-day wait for handguns (and give law enforcement up to 5 days if necessary).

The President also expressed his strong opposition to an amendment that Senator Smith of New Hampshire has attached to the Justice Department's appropriations bill. This amendment -- inspired and promoted by the gun lobby -- would fundamentally undermine implementation of the NICS system that was originally promoted by the NRA, by 1) Prohibiting 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;
2) requiring the 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,
and 3) establishing a federal right to sue if records are not immediately destroyed.

Imagine that -- Congressional Republicans don't want to let patients sue their HMO for denying them medical treatment, but they want to sue the FBI for trying to keep handguns out of the hands of criminals.

Concealed Weapons Legislation

Q: What is the Administration's position on the concealed weapons legislation that passed out of the House Judiciary Committee this week?

A: There may be good reasons to allow retired and current police officers to carry their weapons on an interstate basis, and we intend to consult the law enforcement organizations and others on this issue. However, as we understand it, the bill's current language also allows the increasing number of persons with state permits to carry concealed weapon to similarly carry these weapons into other states. Frankly, we do not think that it is a good idea -- before the Brady Law is made permanent, and before the NICS system is implemented -- to allow millions of persons to carry concealed weapons throughout the country.

NEWS

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August 6, 1998

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President Endorses Schumer-Durbin Legislation to Fully Restore Brady Handgun Waiting Period

Clinton Calls on Congress to Pass Schumer-Durbin bill Requiring Minimum Waiting Period, Local Police Background Check before Purchase of a Handgun

Washington, DC - President Clinton today called on Congress to pass legislation introduced by Rep. Charles Schumer (D-NY) and Sen. Dick Durbin (D-IL) to restore the Brady handgun waiting period and local police background check. Both of these provisions in the Brady Law are scheduled to expire on November 30, 1998.

"This is a tremendous shot in the arm for the Brady law extension," said Schumer who wrote the original Brady Bill which passed in 1993. "One of the nation's most popular and effective laws is under siege and the President has just joined the battle. President Clinton continues to do more to keep guns out of the hands of criminals than all of the previous presidents combined."

When the Brady Bill became law in 1994 it contained two separate provisions. It required local police to conduct a mandatory background check to deny handguns to felons and others who are barred from owning a gun. It also included a maximum five day cooling off period to cut down on violent crimes of passion and to ensure that the background check was thorough. On November 30th, the five day cooling off period will expire in favor of an "insta-check" computer system that bypasses local police and instead relies on a national database.

"The concept is flawed," said Schumer. "There are certain crimes that will never show up on a national felony database but which local police know about and would use to deny a violent individual a handgun."

In particular, Schumer noted that crimes of domestic violence, drunk and disorderly conduct, and non-violent drug offenses are often handled locally and rarely receive felony convictions. From 1994 to 1997, 27,000 individuals convicted for domestic violence misdemeanors were stopped by Brady from acquiring a handgun. 4,000 people addicted to drugs were also stopped.

"Do the math. At least 31,000 of those stopped under today's Brady Law would have gotten guns under the new system. That's a huge gap to fill. You have to wonder if even the NRA wants these people to have guns," said Schumer.

The President also warned the Congress not to include Senate-passed legislation in the Justice Department appropriations bill that would deny funding and render even more weak the insta-check system.

"This amendment shows the true colors of the Congress. You cannot claim to support the Brady Bill and claim to support insta-check while stripping the money necessary to conduct background checks. It's a fraud," said Schumer.

Schumer predicted the President's support will focus attention throughout America and in Congress. "The Republican Congress would like this issue to fade away, but the sunlight of public scrutiny is upon them. They will have to choose between their partners in the gun lobby and the families of America who support reasonable handgun restrictions."

Under the new Schumer-Durbin Brady Extension all handgun purchases will have a minimum three-day waiting period that will include insta-check but also a criminal background check by local police.

"Three days isn't too long to wait to get a handgun, especially if it will save lives. Insta-check is an untested system," said Schumer. "With the NRA ardently opposed to extending Brady we will see if Congress is guided by common interests or special interests."

Joining the President at the Rose Garden was Vice President Gore, Treasury Secretary Rubin, Attorney General Reno, Senator Durbin, and Jim and Sarah Brady.

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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.

*ensure
through
background
checks*

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.

AA LIST OF
23 STATES
TX, PA, OH
AR, SC, OK, KS
AZ, NV, WY, MT, AK

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. (7)

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

WON'T ALLOW PATIENTS TO SUE HMO'S, BUT SUE FBI FOR TRYING TO STOP ORIGINALS

FOR ORIGINALS
RETURNING
THEIR MEDICAL RECORDS

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

**White House Briefing for Brady Extension Event
August 6, 1998**

- At today's event with Jim and Sarah Brady and representatives from law enforcement, the President made two key announcements: (1) he urged Congress to extend the Brady waiting period before it expires on November 30, 1998; and (2) he strongly opposed efforts by certain members of Congress -- with the strong support of the gun lobby -- to sabotage final implementation of Brady's National Instant Background Check System. But before I touch on these two issues, let me first provide you with some background.

Brady Background

- **Just the Facts.** As you know, since the Brady Law went into effect on February 28, 1994, designated Chief Law Enforcement Officials from so-called Brady states have had up to 5 days to conduct background checks on all prospective handgun purchasers. During these 5 days, if law enforcement officials turned up any disqualifying information under state, local or federal laws, the transfer of a handgun could be stopped. Federal law (U.S.C. Title 18, Section 922 (g) or (n)) generally prohibits anyone from owning a firearms if they are: (1) convicted felons; (2) fugitives from justice; (3) unlawful drug users; (4) adjudicated "mental defectives"; (5) illegal aliens; (6) military dishonorable discharges; (7) persons who have renounced their citizenship; (8) person subject to domestic violence restraining orders; and (9) persons convicted of misdemeanor crimes of domestic violence.
- **Brady vs. Non-Brady States.** Initially, 32 states were subject to the Brady waiting period and background check. Since then, 9 additional states have implemented permit or background check systems that exempt them from Brady's requirements. Thus, 23 states continue to be subject to the Brady Law today.
- **Brady Sunset.** As of November 30, 1998, however, the 5-day waiting period will expire, and will be replaced by the National Instant Criminal Background Check System -- or the NICS, as it is commonly referred to. Additionally, at this time, all firearms -- not just handguns -- will be subject to background checks under the NICS. This will require 18 of the 27 non-Brady states to either do state background checks on long guns or refer these checks to the NICS.
- **The National Instant Criminal Background Check System (NICS).** Developed by the Justice and Treasury Departments over the past 5 years, the NICS is a computerized background check system designed to respond within a

*Waiting period provision expires
Make sure enough time
- Domestic violence - increasing records
- Lessen chance to check w/ local law enforce.*

matter of seconds to most background check inquiries. Three main databases will be accessed by NICS for background check information: (1) the National Crime Information Center (or NCIC), which contains records on all fugitives, the Secret Service's Protective File, and the Deported Felons file; (2) the Interstate Identification Index (or Triple I), which contains automated criminal history records; and (3) a newly created NICS index, which contains information on drug users, mentally unstable persons, illegal aliens and others.

Here is how the system will generally work:

1. Initial Check. Federal gun dealers will be required to submit the name, date of birth, state of residence and other identifying information to the FBI's NICS Operation Center or an FBI-appointed point of contact. The FBI or state point of contact will make the NICS check and determines whether any matching record indicates that the purchaser is disqualified from possessing a firearm under state or federal law. Where a state point of contact initiates the check, state and local records will also be consulted.

2. Initial Response. If a matching record is found by the NICS, the gun dealer will be notified that the application is "denied." If no match is found, the gun dealer will be instructed to "proceed." And if additional record analysis is required, the gun dealer will be told that the application is "delayed." In these circumstances, law enforcement can take up to 3 days to determine whether or not the prospective purchaser can legally purchase a firearm.

3. Fee-based System. To operate this system of checks, the Justice Department intends to charge gun dealers a user fee of about \$15 -- as it currently does with child care providers, school districts and others for whom it conducts checks.

- **Improved Access to Records.** One final and important note: since 1993, we have spent \$200 million to help states improve the accessibility of criminal history records and to maximize the effectiveness of the NICS. As a result, 9 million of the most current and most important criminal history records required for the NICS have been automated during this period. In fact, the Bureau of Justice Statistics estimates that, on average, 42 million of the 57 million state and federal criminal history records in the U.S. -- or about 73% -- would be accessible if a handgun purchase background check were performed today. Nonetheless, we are continuing to work to automate even more records, to improve information sharing with states, and to include additional records of persons in other prohibited categories -- such as drugs users, stalkers, and the mentally unstable.

Making the Waiting Period Permanent

- With respect to the President's calling for an extension of the waiting period today, there are 2 important reasons for this: (1) to preserve a critical law enforcement tool; (2) to provide for a "cooling off" period prior to the sale of a handgun.
- **State and Local Law Enforcement Knows Best.** First and foremost, the President wants to preserve the ability of local law enforcement officials to check their records -- including those that have not been computerized -- before a handgun purchase goes through. While NICS will improve access to many records and shorten the time required to do a background check -- to mere seconds in most cases -- it will no longer require gun dealers to notify designated local law enforcement officials of proposed handgun purchases in their jurisdiction. New legislation is required to keep local law enforcement in the loop and to give them the time they need to act. This is especially important since certain records -- such as information on restraining orders for stalking or domestic violence misdemeanors -- will take more time to have included in the NICS and may be readily available locally.
- **"Cooling Off" for Handguns.** Additionally, the expiration of the current waiting period precludes the "cooling off" impact of the Brady Law. While current law only provides for a waiting period of "up to 5 days," the decentralized nature of the current system -- with background checks being conducted by some 5,400 law enforcement agencies -- ensures that prospective handgun purchasers can not necessarily expect to receive their handguns right away. Under NICS, however, the vast majority of handgun purchasers can expect to be approved or denied almost immediately. Thus, new legislation is required to provide for any type of waiting period after November 30th.
- **The Schumer-Durbin Bill.** The Brady extension bill recently introduced by Representative Schumer and Senator Durbin addresses both of these issues and is supported by the President. In brief, the Schumer-Durbin bill would:
 - (1) Require a minimum 3-day waiting period for all handgun purchases, even if the NICS background check is completed well beforehand. This will give local law enforcement additional time to review other local records that may not be found in the NICS, as well as restore Brady's "cooling off" effect..
 - (2) Add up to an additional two days to the waiting period if law enforcement officers need more time to clarify arrest records. Under

the NICS, law enforcement will be allowed up to 3 days to complete a background check if more time is necessary to determine whether an arrest resulted in a conviction that disqualifies the prospective purchaser from owning a gun. The Schumer-Durbin bill extends this period to 5 days, giving law enforcement even more time to get the information it needs to make an accurate decision.

- (3) Require gun dealers to notify the local law enforcement official in the purchaser's place of residence prior to selling the gun. When the NICS takes effect, gun dealers will no longer have to forward the names and addresses of prospective gun purchasers to the existing network of 5,400 law enforcement officials that have already stopped tens of thousands of prohibited handgun purchases each year. The Schumer-Durbin bill requires gun dealers to keep these local law enforcement officials informed about local handgun purchases.

Defending Brady from the Gun Lobby

- Finally, the President expressed his strong opposition to an amendment that Senator Smith of New Hampshire has attached to the Justice Department's appropriations bill. This amendment -- inspired and promoted by the gun lobby -- would fundamentally undermine implementation of the NICS system that was originally promoted by the NRA. In brief, the amendment would:

- What was orig. intent of Brady?*
- (1) 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. States and local law enforcement agencies also generally charge dealers for the costs of background checks they complete. Without these resources -- or about \$15 per check and \$80 million overall -- the FBI will either have to forego processing millions of background checks, or transfer resources from other crime fighting efforts.
- (2) Require the 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.
- more lawsuits*
- (3) Establish a federal right to sue if records are not immediately destroyed. Creating a federal cause of action with punitive damages for person aggrieved by the provisions of this amendment are -- pure

and simple -- just another attempt to undermine the operation of the NICS.

STATE-BY-STATE IMPACT OF BRADY EXTENSION

In the 23 Brady States

- Twenty-three states are now required to comply with the Brady Law's five-day waiting period and background check. These states are: Alabama, Alaska, Arizona, Arkansas, Colorado, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Texas, Vermont, West Virginia, Wyoming
- **Brady II Impact:** If the Schumer-Durbin were to pass, gun dealers in these states would be subject to a minimum 3-day waiting period before the sale of a handgun, a NICS background check before the sale of all firearms (and which in certain instances could take as long as 5 days); and they would be required to notify the chief law enforcement official from a handgun purchaser's place of residence.

In 9 of the Non-Brady States with Comprehensive Background Checks

- Only 9 of the 27 Non-Brady states require background checks for all firearms purchasers. These include:
 - California, with a 10-day waiting period and background check;
 - Connecticut, with a permit to purchase system and 14-day waiting period;
 - Florida, with an instant check on all firearms and a 3-day waiting period for handgun purchasers;
 - Hawaii, with a permit system for all firearms;
 - Illinois, with a Firearm Owners Identification Card required for all firearms;
 - Massachusetts, with a Firearms Identification Card for all firearm purchasers;
 - New Jersey, with a permit required for all firearms purchasers;
 - Tennessee, with a permit system that will change to a state instant check on all firearms effective as of November 30, 1998; and
 - Virginia, with an instant check on all firearms;
- **Brady II Impact:** All of these states would be exempt from the requirements of the Schumer-Durbin legislation

In 18 of the Non-Brady States with Background Checks Only for Handguns

- Fully 18 of the 27 states that are currently exempt from the Brady Law's

requirements only conduct background check on handgun purchasers. These states are:

Delaware, with an instant check on handgun purchases;
 Georgia, with an instant check on handgun purchases;
 Idaho, with an instant check on handgun purchases;
 Indiana, with a 7-day waiting period and background check for
 handguns -- but which will switch to a state instant check on handguns
 as of November 30, 1998;

Iowa, with a permit to purchase for handguns;
 Maryland, with a background check and 7-day waiting period for
 regulated

firearms (handguns/assault weapons);
 Michigan, with a permit to purchase for handguns;
 Minnesota, with a permit to purchase for handguns and assault
 weapons

(7-day waiting period);
 Missouri, with a permit to purchase for handguns (7-day waiting
 period);

Nebraska, with a permit and/or state instant check on handguns (with
 up to 2 days
 to process the permit);

New Hampshire, with an instant check on handgun purchases;
 New York, with permit to purchase for handguns (up to 6 months to
 process
 permit);

North Carolina, with a permit to purchase for handguns (up to days to
 process
 permit);

Oregon, with an instant check on handgun purchases;
 Pennsylvania, with an instant check on handgun purchases;
 Utah, with an instant check on handgun purchases;
 Washington, with a five-day waiting period and background check for
 handgun
 purchases;

Wisconsin, with an instant check on handguns with waiting period.

- **Impact of Brady II:** Generally, gun dealers in these states would be exempt from the minimum 3-day waiting period in the Schumer-Durbin bill, and they would not be required to notify the chief law enforcement official from a handgun purchaser's place of residence. However, consistent with the current Brady Law, gun dealers in these states would need to conduct a NICS background check before the sale of all long guns, and under the

Schumer-Durbin bill this process could take 2 more days (or a total of 5 days) in some instances.

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.

Did inclusion of the Brady Bill increase support for the bill among liberal Democrats? Possibly. Twenty-one liberal Democrats switched from voting "no" on House passage to "yes" on the conference report. But of those 21 switchers only 13 were supporters of Brady. And of those 13, it's not clear that Brady was the reason for the switch. Liberal members may have switched their votes because the death penalty, habeas corpus and evidentiary provisions of the conference report which were, on balance, more liberal than the original House language.

On the other hand, did inclusion of the Brady Bill decrease support for the bill among Republicans and House conservatives? We know that 94 Republicans voted for House passage of the crime bill--only six of whom voted for House passage of the conference report. Of the 88 who switched their vote from "yes" to "no," some of them may have switched to "no" because of changes made in habeas corpus, but several members in the floor debate specifically cited their opposition to Brady.

The Senate: The Senate is more difficult to analyze because the Brady Bill was included in both the Senate-passed crime bill and the conference report. Still, it is difficult to argue that the Brady Bill is needed to pass the crime bill in the Senate. The Senate passed its version of the crime bill by a vote of 71-26 with Brady in it. It might be assumed at first glance that the wide margin was attributable to the inclusion of the Brady Bill (on the theory that it allowed liberal death penalty opponents to vote for the bill), but the inclusion of the Brady Bill did not stop seven key Democratic opponents of the death penalty (Simon, Cranston, Kennedy, Wellstone, Moynihan, Metzenbaum, and Leahy) from voting against the Senate crime bill in 1991. Neither did it stop two Republican death penalty opponents (Hatfield and Durenberger) from voting against the crime bill.

Just as significantly, inclusion of the Brady Bill was responsible for the loss of two Democratic votes (Breau and Johnston) on Senate passage of the crime bill. And subsequently four Democrats (Breau, Johnston, Shelby and Heflin) voted against cloture on the crime bill conference report, principally because Brady was in the bill.

In short, even if inclusion of the Brady Bill in the crime bill picks up three or four votes from death penalty opponents, it may well lose as many votes from conservatives who strongly oppose Brady, including Democrats like Breau, Johnston, Heflin, and Shelby.

Conclusions: While the Brady Bill has broad support in both Houses, the Brady Bill is not needed to pass a crime bill. Experience suggests that whatever gains are made by attracting liberal "switchers" may be offset by conservative "switchers," who elect to vote against a crime bill because of the Brady Bill provisions.

Other Gun Control Measures

To the extent that liberal "switchers" are needed to pass a crime bill, adding other gun control measures--like gun dealer licensing reform, one-gun-a-month and an assault weapons ban--is likely to be just as successful--and possibly more successful--than including the Brady Bill. Such measures are likely to convert as many as liberals as inclusion of the Brady Bill, without losing as many marginal conservatives.

Gun Dealer Licensing: There is a growing consensus on Capitol Hill about the need to overhaul the issuing and regulation of Federal Firearms Licenses (FFLs). Numerous media reports have exposed the growing role of FFLs in illegal gun traffic. With over 270,000 FFLs, it is virtually impossible for ATF to properly screen applicants or regulate existing dealers.

Sen. Simon's has introduced legislation, The Gun Dealer Licensing Reform Act (S.496) to respond to this growing problem. As evidenced by the testimony given at two Congressional hearings on this topic, reform of FFLs has broad support. Even the NRA, which typically opposes any gun control measure, has given grudging support. The NRA, for example, is supporting an increase in the FFL license fee. It's also backing a change requiring dealers to report thefts. It will be difficult for the NRA--or its Republican backers in Congress--to oppose further tightening of FFLs.

One Handgun-A-Month: One of the simplest, but most effective, means of inhibiting interstate gun running is to impose a limit of one handgun purchase a month. Whether they are employing fake IDs or straw purchasers, it simply becomes much more difficult for gun runners to acquire guns in bulk. As the recent battle in Virginia makes clear, it is very difficult for gun control opponents to fight this issue. The NRA wasted a lot of money and prestige in attempting to derail the Virginia initiative and failed miserably.

Two "one handgun-a-month" bills have already been introduced in Congress (H.R. 544 by Torricelli and S. 376 by Lautenberg) and in the wake of the Virginia victory, the President himself identified the need for federal legislation in this area.

To guarantee success it will be necessary to educate voters as to the need for such legislation, but as the Virginia battle also made clear, informed voters readily understand the need for such legislation and--as the polls already indicate--few regard a one-handgun-a-month limit as unreasonable.

In support of this legislation, Handgun Control, Inc. could mount an aggressive, national public education campaign and secure broad bipartisan support in Congress.

Assault Weapons Ban: While it was earlier rejected by the House and narrowly approved in the Senate, there is growing public support for a ban on assault weapons. As recent votes in New Jersey and Connecticut make clear, the public is increasingly concerned about the use of assault weapons, especially in multiple slayings, like the recent tragedy in San Francisco.

While an assault weapons ban is attracting support from across the political spectrum, it is receiving strong support from House and Senate liberals. In the House, Pete Stark's bill already has more than 60 cosponsors.

Other Measures

If additional measures are needed to attract liberal support for a crime bill that need may already be met by the decision to add more "cops" to this year's crime bill.

Conclusion

The fate of the crime bill does not turn on the Brady Bill. As always, passage of a crime bill will depend on the ability of the House and Senate to reach a workable consensus on longstanding and contentious issues like habeas corpus reform and changes in the exclusionary rule. The Brady Bill does not change that basic calculus.

To the extent that additional measures are needed to maintain liberal support for the crime bill, other gun control measures may be more effective than the Brady Bill in achieving that end.