

**Brady Supreme Court Decision
Questions and Answers
June 27, 1997**

Q. What did the Supreme Court rule today on the Brady Law?

A. The decision left the majority of the Brady Handgun Control Act intact--the Court simply ruled that part of the Brady Act is unconstitutional. The Supreme Court ruled that the Federal government cannot require local police officers to conduct background checks but left intact Brady's 5-day waiting period. Police can, and we expect will, continue to complete background checks on handgun buyers voluntarily because it is a common sense law enforcement practice.

Q. What did the Brady Law require?

A. The Brady Law has been the cornerstone of law enforcement's efforts to stop people who are legally barred from having access to handguns from being able to purchase them. The law provides for a 5-day waiting period on a federal firearms licensee's (FFL) transfer of a handgun to a prospective purchaser, during which time a criminal records check is completed.

Since the Brady Law was adopted, over 250,000 prohibited purchasers including convicted felons, fugitives from justice, the mentally unstable, and stalkers have been kept from purchasing handguns. The President's juvenile crime legislation would add violent juvenile offenders to the list of people who are barred from purchasing a gun.

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

The Brady Law provides that a National Instant Criminal Background Check System ("insta-check") which will be administered by the FBI will be established by November 1998. Once this is complete, the 5-day waiting period under the current system will be eliminated.

Q. After today's decision, what is still required under the law?

The Brady Act requires all Federally-licensed firearms dealers (FFLs) to fill out a form for each prospective handgun purchaser. The FFL must then forward the form to the chief law enforcement officer in their jurisdiction. The Court left both of

these provisions intact. If, after five days, the chief law enforcement officer has not advised the FFL not to transfer the gun to the purchaser, then the FFL may sell the handgun.

Under today's Supreme Court ruling, once the chief law enforcement officer receives the form from the FFL, the officer may choose to complete the background check on the potential gun purchaser on a voluntary basis. Nothing in the Court's decision prohibits a chief law enforcement officer from completing these checks-- but they are not required by federal law to do so.

Q. Does this mean that police no longer have to do criminal background checks on handgun purchasers?

A. We expect the vast majority of law enforcement officers to continue to conduct background checks. Nothing in the law prohibits law enforcement from voluntarily enforcing the Brady Act checks. More importantly, it is a smart law enforcement practice to confirm that the person trying to buy a handgun down the street isn't a violent felon, a fugitive from the law, stalker, or some other prohibited gun purchaser.

In addition, we understand that most of the nation's law enforcement organizations are pledging their support for law enforcement to continue to do Brady checks voluntarily.

Q. Is the President going to do anything in response to the Supreme Court's decision?

A. While the President was disappointed by the Court's decision, he is firmly committed to the principle that those people who are prohibited by law from owning handguns should not be able to purchase them. The policy should remain: no background check, no handgun.

The President has directed his chief law enforcement officers-- Attorney General Reno and Secretary Rubin-- to immediately contact law enforcement across the country to clarify what the Supreme Court decision says, and to ask for the continued enforcement of the Brady Act through voluntary background checks.

In addition, the President has directed the Attorney General and Secretary Rubin to sit down with law enforcement and to get their recommendations to make sure that there are no safe havens for prohibited gun purchasers.

Q. How many handgun sales have been blocked by the Brady Law?

A. Since the Brady Act went into effect in February 1994, an estimated 250,000-- one quarter of a million-- handgun sales to felons, fugitives, and stalkers were blocked by background checks. An estimated 6,600 attempts are thwarted each month-- and more than 70 percent of these are rejected because the prospective purchaser was indicted or convicted as a felon.

Q. What does the letter from the Attorney General and Secretary Rubin say?

A. The letter-- from the President's own chief law enforcement officers-- will be sent to law enforcement around the nation asking them to join us and continue to enforce the Brady Act. The letter provides clarification to law enforcement about what is still required under the Brady Act and what they may do voluntarily. This should help to avoid confusion and ensure that law enforcement who want to voluntarily complete background checks will continue to do so without any gaps in coverage.

Q. Does the Supreme Court decision affect all 50 states? Weren't there some states that were not subject to the Brady waiting period for background checks?

A. The decision will affect the 23 "Brady" states that were subject to the 5-day waiting period under Brady. However, the law permits states to use alternate criminal records checks systems as long as they meet the minimum standard established by the Brady Act. These 27 states already have background checks under state law and are therefore, not subject to Brady. These states are unaffected by today's decision.

However, the Court's decision does impact about half of the states. That is why we are seeking the continued commitment of all of the chief law enforcement in those states to conduct criminal background checks on handgun purchasers.



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

June 27, 1997

Dear Law Enforcement Colleague:

Earlier today, the Supreme Court ruled that part of the Brady Handgun Control Act is unconstitutional. Although we are disappointed in the Court's decision, we must all abide by it.

All of you should understand that the Supreme Court's decision did not "strike down the Brady Act," "declare it unconstitutional" or any one of a number of broad based and inaccurate statements that you may hear. Rather, the Court simply stated that the federal government cannot require that state, county and municipal officials conduct the checks provided for under the law until November 1998, at which time the National Instacheck System (NICS) will become effective.

We know that the vast majority of concerned and effective law enforcement officers in this country support and conduct background checks under the Brady Act, not because they are required, but because it is good law enforcement. Therefore, this decision will likely have little impact on law enforcement. Those who wish to purchase a handgun from a licensed federal firearms dealer (FFL) must still complete a background check form under the Brady Act, and the FFL must forward that form to the chief law enforcement officer (CLEO). As before, if, after five days, the CLEO has not advised the FFL not to transfer the handgun, the FFL may sell the handgun to the purchaser.

The sole change occasioned by the Supreme Court decision is that the CLEO is no longer required by federal law to run the Brady background check. We expect and hope that the vast majority of law enforcement agencies in America will continue to run these checks voluntarily because they are saving lives, keeping guns out of the hands of criminals and generally in the best interest of law enforcement. We urge you to continue these checks.

Since the Brady Act went into effect, over 250,000 felons, fugitives and other prohibited persons have been denied handguns. We are making great strides in reducing violent crime in America and our failure to keep up these Brady background checks will seriously undermine all of our efforts in this regard.

We recognize that some CLEOs may still use the Court's decision as an excuse not to conduct Brady background checks. That would be most unfortunate for the people of this country. It is just common sense that we all keep doing whatever we can to keep guns from criminals.

Please do not let America down. Please join responsible law enforcement in continuing to serve and protect the public.



Janet Reno
Attorney General

Sincerely,



Robert E. Rubin
Secretary of the Treasury



File - Crime - Brady -
Legislative fix.

U.S. Department of Justice

Office of Policy Development

Deputy Assistant Attorney General

Washington, D.C. 20530

June 12, 1997

MEMORANDUM

TO: Attached list
FROM: Mark Greenberg
SUBJECT: Brady Act legislative fix

Toni/Leanne -
Have you seen this? Should
it be ignored?
Where are the AG + Rubing going
to have their meeting w/ law enforcement
officers? How are we going to resolve
differences on a leg. fix? Please
let me know how we should proceed.
Etc

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

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

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

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

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

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

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

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

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

A BILL

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

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

SECTION 1. SHORT TITLE.

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

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

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

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

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

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

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

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

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

and

(4) by striking paragraph (2); and

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

paragraphs (2) through (7) respectively; and

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

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

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

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

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

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

(8) by adding after new paragraph (8), added by paragraph (6) above, the following:

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

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

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

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

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H.L.C.

Original signature of Member

105TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

Revised

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H.L.C.

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

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

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

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

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

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

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H.L.C.

3

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

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

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

14 (3) in paragraph (8)—

15 (A) by inserting "(A)" after "(8)"; and

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

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

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

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

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H.L.C.

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

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

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

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

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

- Q. The Center to Prevent Handgun Violence (the Center) has issued a report saying that an estimated **102,822 prohibited purchasers**, including **72,325 felons** -- or 85 felons a day, have been stopped from taking possession of a handgun since the Brady law's inception on February 28, 1994. Secretary Rubin and Attorney General Reno stated in February that the Brady law has stopped "**more than 60,000 felons, fugitive and other prohibited purchasers** from buying handguns over the counter during the past two years," and the President stated in the State of the Union that **44,000 convicted felons had been prevented from purchasing handguns**. Who is right?
- A. We welcome the Center to Prevent Handgun Violence study. The Center has added another set of estimates to the several that have been conducted over the past couple of years, by the government and private organizations. Each of the studies uses slightly different methodologies, but they are all within range of each other.

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

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

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

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

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

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

HANDGUN CONTROL

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



FAX COVER SHEET

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NOTES/COMMENTS:

**100,000
BRADY REPORT**

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

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

EXECUTIVE SUMMARY

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

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

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

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

INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

METHODS

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

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

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

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

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

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

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

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

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

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

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

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

RESULTS

Handgun Purchase Denial Rate

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

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

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

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

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

III Queries

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

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

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

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

Total Denials

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

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

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

COMMENT

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

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

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

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

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

In fact, the estimated 2.5 percent denial rate is exceedingly conservative. ATF itself had conducted a non-random survey of 30 law enforcement agencies from 26 Brady states which were responsible for approximately one of every four firearm background checks conducted in all Brady states in 1994. The survey provided strong evidence that the actual denial rate in 1994 was 40 percent higher than the 2.5 percent rate the Treasury/ATF applied in evaluating the law. In its survey results, ATF found that "3.5 percent of persons who applied to purchase handguns had their applications denied because they were convicted felons, fugitives from justice, persons subject to a restraining order for alleged domestic violence or other prohibited persons."

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

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

¹² Bureau of Alcohol, Tobacco and Firearms. *Felons denied access to handguns by Brady Law: March 1994-December 1995*. January 18, 1996.

¹³ Handgun Control, Inc. and the International Association of Chiefs of Police. *The Brady Law: One Year Proves Effectiveness*. February 28, 1995.

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

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

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

CONCLUSION

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

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

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

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



HORWITZ_R @ A1
06/27/97 01:32:00 PM

Record Type: Record

To: Cathy R. Mays, Laura Emmett

cc:

Subject: POLICE CHIEFS WILL VOLUNTARILY CONDUCT BRADY CHECKS ...

Date: 06/27/97 Time: 13:05

bPolice Chiefs Will Voluntarily Conduct Brady Checks After Scotus

To: National Desk

Contact: Martha Plotkin of the Police Executive Research Forum,
202-466-7820, ext. 232

WASHINGTON, June 27 /U.S. Newswire/ -- The Police Executive Research Forum (PERF), in response to today's Supreme Court decision on the Brady law, announced that it will continue to support voluntary background checks of gun purchasers.

While the court ruled that the federal government could not mandate police chiefs to conduct checks on people who buy handguns from federally licensed dealers, many law enforcement leaders in affected states are already organizing to do them voluntarily.

According to PERF Executive Director Chuck Wexler, 22 PERF-member police agencies in eight of the 22 affected states have already committed to voluntarily continue background checks so long as the immunity provisions of the law still apply, they maintain access to the national criminal record system, and no other state or federal prohibitions apply. In some states such as Arkansas, Arizona, South Carolina, Kentucky and Ohio, a state agency conducts the Brady background checks for police agencies, which means chiefs will be waiting to see how those state agencies decide to act, except in the few instances in which local police have existing ordinances to conduct the checks on their own. Chiefs are, of course, counting on the federal government still mandating federally licensed firearms dealers to submit background requests to police.

"Compared with the resources required to conduct a gun-related homicide investigation -- not to mention the immeasurable human costs of gun violence -- the investment that police agencies must make to conduct background checks is very reasonable," remarked Chief Ellen Hanson of Lenexa, Kan. Hanson is a member of PERF's board of directors and one of the 22 PERF chiefs who have committed to continuing background checks.

PERF joined several other national police groups in an amicus brief to the court supporting the law because they know the decision has national impact beyond the 22 "Brady states." Police chiefs know that the Brady checks provide the kind of national approach needed to address a gun violence problem exacerbated by uneven responses among the states.

Evidence shows the Brady law's extraordinary success. According to the Justice Department, in the first 28 months after Brady was enacted, more than 186,000 illegal gun sales were blocked by background checks, and it is estimated that more than 70 percent of blocked purchase attempts each month involve indicted or convicted felons.

"Police know that it makes no sense to allow felons and purchasers ineligible because of mental illness, domestic violence convictions or other prohibitions to walk into a gun shop and get a gun -- no background check required," said Wexler. "Brady checks may not be a panacea for the nation's gun violence problem, but it is a tremendous step in the right direction -- a step police are unwilling to abandon."

PERF is a D.C.-based organization of progressive police chiefs and criminal justice professionals who serve more than 40 percent of the nation's population.

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/U.S. Newswire 202-347-2770/
APNP-06-27-97 1322EDT



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 10, 1996

The Honorable Newt Gingrich
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I am submitting today on behalf of the Administration a proposed bill entitled the "Enhanced Prosecution and Punishment of Armed Dangerous Felons Act of 1996." This bill makes significant and important changes in the federal firearms statutes relating to a criminal who unlawfully possesses a firearm.

The bill corrects the restrictive interpretation that the Supreme Court rendered of the verb "use" under section 924(c) of title 18, United States Code, in Bailey v. United States, ___ U.S. ___, 116 S. Ct 501, 133 L. Ed. 2nd 472 (1995). Bailey held that a defendant violates the "us[ing]" prong of 18 U.S.C. § 924(c)(1) only if the factfinder determines that the defendant "actively employed" the firearm in connection with the offense. Id slip op. 6. The Department believes that section 924(c)(1) should also reach those situations, as most previous appellate opinions interpreting the statute had determined, where the defendant has a firearm present or available to him/her in the course of his/her criminal activity. This situation commonly exists in drug trafficking crimes. Hence, the bill would punish "possess[ion]" of a firearm in the course of a violent or serious drug felony, rather than "use." A conforming change would also be made to section 929(a) of title 18, United States Code, which deals with the use of restricted ammunition during the course of such offenses.

In addition, the bill proposes that there should be a higher, mandatory ten-year penalty under section 924(c)(1) if the firearm is discharged or is otherwise employed to inflict serious bodily injury.

The bill also ensures that a criminal previously convicted of a state crime constituting a violent felony or a serious drug

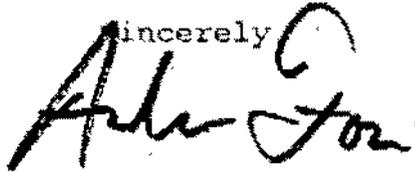
offense, as such terms are defined under section 924(e) of title 18, United States Code, cannot have his/her federal rights pertaining to firearms restored under state law. We believe that a conviction for one of these serious offenses warrants a lifetime bar. Hence, under this legislation, any subsequent possession which was not authorized by law, by a felon convicted of a state violent felony or a serious drug offense, would violate 18 U.S.C. § 922(g), which generally proscribes possession of firearms by convicted felons.

Enclosed is an assessment of the potential impact of these proposals on the criminal justice system.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal, and that its enactment would be in accord with the program of the President. An identical letter and enclosures have been forwarded to the President of the Senate.

I urge that this legislation be promptly enacted so as to better protect the safety of all Americans.

Sincerely



Andrew Fois
Assistant Attorney General

Enclosures

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Prosecution and Punishment of Armed Dangerous Felons Act of 1996".

SECTION 2. ENHANCED PENALTIES FOR DISCHARGING OR POSSESSING A FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

(a) Sections 924(c)(1) and 929(a)(1) of title 18, United States Code, are each amended by striking "uses or carries a firearm" and inserting "possesses a firearm."

(b) Section 924(c)(1) of title 18, United States Code, is further amended by inserting "or if the firearm is discharged or is used to cause serious bodily injury (as defined in section 1365 of this title)," before "to imprisonment for ten years".

SECTION 3. CLOSING LOOPHOLE PERMITTING DANGEROUS CONVICTED FELONS TO ACQUIRE ARMS.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony or a serious drug offense (as defined in section 924(e)(2)(A) and (B)), the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights."

ENHANCED PROSECUTION AND PUNISHMENT OF ARMED DANGEROUS FELONS ACT
PRISON IMPACT ASSESSMENT

We have examined the likely impact of these proposals on the criminal justice system. We anticipate that the five-year mandatory minimum provision in our proposed legislation will compensate for the likely decline in convictions under 18 U.S.C. § 924(c) directly due to the Bailey decision and is unlikely to have a significant impact on prison projections developed prior to Bailey. We are unable, however, to project with precision the impact on the criminal justice system of both that decision and the Department's proposed remedy to that decision.

Our proposed ten-year mandatory provision, however, can be expected to increase prison needs and costs. This increase will occur gradually, starting five years after the legislation is implemented and reaching full impact after ten years. We estimate that between one and five percent of those charged under Section 924(c) will qualify for the ten-year provision. If we use data from the U.S. Sentencing Commission as a guide, without assuming its complete accuracy, and assume that about 2,000 defendants were sentenced under 924(c) in the year prior to Bailey, then the estimated impacts would be as follows:

- o If one percent qualify for the ten-year mandatory minimum, we would need an additional 100 beds by the tenth year, at an operating cost of \$1.6 million per year.
- o If five percent qualify, we would need 500 more beds by the tenth year, at an operating cost of \$8 million per year.¹

¹ Please note that these estimates do not include the costs of any additional needed construction.

THE BRADY ACT

Crime - Brady Bill

BACKGROUND:

The Brady Act [Brady Violence Prevention Act of 1993] was signed into law by President Clinton on November 30, 1993. The legislation took effect in February of 1994.

REQUIREMENTS:

The Brady Act established a five-day waiting period for persons seeking to purchase handguns. During this period, local law enforcement agencies can conduct criminal history background checks to determine if the sales in question are prohibited by law. The Act requires prospective purchasers to complete a form that is forwarded to the chief law enforcement officer in the area where the buyer resides. Law enforcement then has five business days to check an applicant's record and advise the dealer as to whether or not the sale is legal.

NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM:

The Violent Crime Control Act of 1994 also provided \$100 million in FY1995 for the National Criminal History Improvement Program (NCHIP). The NCHIP program, administered by the Department of Justice, provides grants and technical support to states to help them improve their criminal records systems. To date, nearly \$80 million in grants have been distributed by the Justice Department to all fifty states, the District of Columbia, and eligible territories. This money is helping to implement the provisions of the Brady Act as well as the National Child Protection Act of 1993. In addition, the grants help states to participate in the FBI's National Instant Criminal Background Check Systems (NICS).

ACHIEVEMENTS:

The Treasury Department estimates that in the first two years, the Act stopped more than 60,000 felons, fugitives and other prohibited purchasers from buying handguns over the counter. Treasury Secretary Robert Rubin stated that the act is "preventing nearly 2,500 criminals from buying guns while permitting law-abiding citizens to do so." Attorney General Janet Reno added that the Brady Act checks have helped local police "identify and arrest gun-buying criminals, often on other serious charges." For example, a Brady check in October, 1995 helped ATF agents apprehend a convicted murderer as he tried to buy three handguns in Dekalb County, Georgia. Before the Act took effect, he had purchased at least eight other handguns without being challenged. Now he has been convicted of violating federal firearms laws and returned to prison.

OTHER ISSUES:

The Supreme Court has recently agreed to hear two cases challenging the Brady Act's requirement that local law enforcement officials check the backgrounds of gun buyers. Two appeals courts have upheld the requirement; another found it to be an unconstitutional violation of state sovereignty. The Court will most likely not decide this case until 1997.

May 1996

* Presidential Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<p>5</p> <p>Cinco de Mayo DAY & EVENING OFF</p>	<p>6</p> <p>Evening Off</p> <p>Hold For Family Time (Afternoon) In Performance @ the White House</p>	<p>7</p> <p>DNC Office NEW LEADERS TRAVEL DNC/TURKEY DINNER, RI</p> <p>DC, IN & NY Primaries</p>	<p>8</p> <p>Ph. & Off (9:00 am - 1:00 pm) Product Liability Veto Event Foreign Policy Meeting (1 hour) VP Lunch AFTERNOON COFFEE DNC GALA Staxophone Club</p>	<p>9</p> <p>Great State Visit Meeting w/ Director Deutch</p>	<p>10</p> <p>Presentation of the Commander in Chief's Trophy (T) Tape Radio Address Green State Commencement Address WH Photographer's Dinner (T)</p>	<p>11</p> <p>Monday Stays Day & Evening Off</p>
<p>12</p> <p>Model's Day DNC Evening Off</p>	<p>13</p> <p>Camps</p> <p>DNC Office Camps Event, DC VP Lunch Military & PPO Departures (30 min) DNC DINNER, OFF COMPLEX</p>	<p>14</p> <p>MORNING COFFEE DNC LUNCH, OFF COMPLEX DC Community Leaders Veteran's Roundtable (T) Hold Evening</p> <p>NEW VP Primaries</p>	<p>15</p> <p>Morning Off Peace Gilder's Memorial (12:45 pm - 1:45 pm) Dinner For Day (2:00 pm)</p>	<p>16</p> <p>Corporate Responsibility Breakfast @ WH Corporate Responsibility Event, DC SW Voter Dinner, Off Complex Cong. Asian Pacific Caucus Dinner</p>	<p>17</p> <p>Texas! DNC Office (F) Tape Radio Address Capitol Theater, MD Domestic Violence</p>	<p>18</p> <p>Domestic Violence Armed Forces Day Day & Evening Off</p>
<p>19</p> <p>Day & Evening Off</p>	<p>20</p> <p>Morning Coffee Remarks to Pacific Basin Economic Council, DC VP Lunch Photo w/ NCAA Basketball Champions Gen. Dean Fundraiser, DC DNC Jewish Dinner, DC</p>	<p>21</p> <p>Anti-teen Pregnancy DNC Office Hold 30 Min (LP) DNC LUNCH @ WH Speech Prep (1 hour) Office Photo-Op DNC Dinner, Off Complex</p> <p>Arkansas Primaries</p>	<p>22</p> <p>Commencement Address @ US Coast Guard Academy, New London, CT DNC LUNCH @ WH RON TRD</p>	<p>23</p> <p>Meeting w/ Ambassador Kishi, Washington (Day) Hold Evening</p>	<p>24</p> <p>Day & Evening Off</p>	<p>25</p> <p>Live Radio Address Evening Off</p> <p>[Food Safety?]</p>
<p>26</p> <p>Day & Evening Off</p>	<p>27</p> <p>Memorial Day Observed Veteran's Event, Arlington, VA Evening Off</p>	<p>28</p> <p>DNC Office Meeting on Counter Narcotics Hold For WH Hispanic Reception</p> <p>INDIANA, KY Primaries</p>	<p>29</p> <p>Morning Coffee Hold For Education Event (T) Meeting w/ Democratic Governors (172 hours) Office Photo-Op Hold Evening</p>	<p>30</p> <p>Morning Coffee VP Lunch</p>	<p>31</p> <p>Hold Day Evening Off</p>	

June 1996 Presidential Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
2	3 Speech Prep (1 hour) @ DNC, District, Off Campaign	4 Principles (New 1996) Ambr. Comm. transmission (1) Roll For DNC Dinner, MISC (1)	5 Dinner (New 1996) p.m. Meeting of Members (1 hour) Fudge Dinner @ WH	6 Morning Coffee VP Lunch Hold Evening	7 Day 2 Evening Off	8 Live Radio Address Evening Off
9	10 DNC Fundraising Dinner, Los Angeles	11 Dinner with John A. Lewson Evening Off	12 Morning Coffee Hold Evening	13 With State Visit	14 VP Lunch Type Radio Address Hold For WH Ethnic Leadership Reception (1) DNC Dinner, Off Campaign	15 Day 2 Evening Off
16	17 DAY ON Gov. Laramie Fairbanks, DC DNC Dinner, Off Campaign	18 Morning Coffee Presidential Candidates of Oregon (4 min) Hold For Congressional Press Hold Evening	19 Morning Coffee Hold 30 min (LP) Hold For Congressional Press Hold Evening	20 Evening Coffee Hold For Press Photo	21 Hold For Olympic Event (am) (10) Office Photo-Op Hold For Press Photo Evening Off	22 Live Radio Address DNC Points @ WH (1)
23	24 Day 2 Evening Off DNC Dinner, Off Campaign	25 DAY OFF White House Dinner	26 Morning Coffee VP Lunch Hold Evening	27 Change (with press) location	28	29
30	Day 2 Evening Off	Day 2 Evening Off				

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29	30	31				

THE WHITE HOUSE
WASHINGTON

February 15, 1994

MEMORANDUM FOR RICKI SEIDMAN

FROM: CHRISTINE A. VARNEY *CV*
JENNIFER M. O'CONNOR *JMO*

SUBJECT: Brady Bill Goes Into Effect February 28

CC: Rahm Emanuel
Bruce Reed
Liz Bernstein
Jody Greenstone
Anne Walley

Listed below are several suggestions from the Department of Justice to commemorate the date the Brady Law goes into effect. The events could include the President, Attorney General Reno and Secretary Bentsen. The Department of Justice is waiting for some direction from us on what we would like the President to do. Should we meet to discuss these ideas?

- o Appear at a police station where background checks are being performed for the first time.
- o Appear at a gun shop where background checks have never been done before.
- o Meet with federal prosecutors who will bring actions against those who falsify federal forms in an effort to illegally purchase guns.
- o Release a training video for cops with an intro from the President.

February 16, 1994

MEMORANDUM FOR RICKI SEIDMAN

FROM: BRUCE REED
LIZ BERNSTEIN

SUBJECT: Event Suggestion for Brady Law Implementation

CC: Rahm Emanuel
Christine Varney
Jennifer O'Connor
Jody Greenstone
Anne Walley

We spoke with Ron Noble, Assistant Secretary of Treasury for Enforcement, yesterday about how to properly kick-off Brady (law goes into effect February 28th). He noted that the 28th was also the first anniversary of the raid at Waco, where four ATF agents were killed by assault weapons. The combination of those two plus the uphill fight on the assault ban in the crime bill could be very powerful.

Ron thought a good site would be Shiloh Baptist Church -- 1500 Ninth Street, N.W. -- on Sunday, February 27. Shiloh has a strong reputation for its community activism, particularly in its commitment to fighting drugs, crime and violence in the District. The President could address the congregation -- Brady and Waco would drive it but emphasis could also be on the community empowerment and values components of the crime issue.

Members of Shiloh include Marian Wright Edelman, Lorraine Miller and Kent Amos of the Urban Family Institute. Carter G. Woodson, a noted historian, also attended Shiloh.

Participants : Attorney General Reno
Deputy Treasury Secretary Altman (Bentsten will
be at G-7 Conference in Frankfurt)
Assistant Secretary Noble
ATF Director Magaw



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

MEMORANDUM

January 4, 1994

TO: Lloyd Bentsen
Secretary of the Treasury

Carol H. Rasco
Assistant to the President for Domestic Policy

Bruce Reed
Deputy Assistant to the President for
Domestic Policy

Ronald K. Noble
Assistant Secretary for Enforcement
Department of the Treasury

John W. Magaw
Director
Bureau of Alcohol, Tobacco and Firearms
Department of the Treasury

Rebecca Hedlund
Legislative Policy Advisor to the Assistant Secretary
for Enforcement
Department of the Treasury

FROM: Philip B. Heymann 
Deputy Attorney General

SUBJECT: Kent Markus -- Brady Bill Liaison

Attached is a copy of a memorandum from Attorney General Reno advising that Kent Markus has been appointed to coordinate all Department of Justice activity to implement the Brady Bill and to act as the primary Department of Justice liaison with other agencies with respect to Brady Bill implementation issues.

Kent may be reached at 202-307-0770.

Attachment:



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

January 4, 1994

MEMORANDUM FROM *Kent Markus* THE ATTORNEY GENERAL

TO: Addressees

SUBJECT: Brady Bill Implementation/Kent Markus

As of today, I have appointed Kent Markus, working out of both the Deputy Attorney General's Office and the Office of Justice Programs, to coordinate all Justice Department activity to implement the Brady Bill. Kent will also act as the primary liaison with other agencies with respect to implementation issues. As you know, this is a matter of substantial importance to the Department, and I encourage your maximum cooperation with Kent in this effort.

Kent comes to us with a background in a wide range of issues relevant to this assignment. As the Chief of Staff in the Ohio Attorney General's Office, he had responsibility for the operations of all of its divisions, including the Ohio Bureau of Criminal Identification and Investigation. He was also keenly involved in efforts to bring an AFIS system to Ohio. As a principal drafter of the "Ohio Brady Bill," Kent became familiar with many of the issues now faced in this implementation effort.

Please feel free to contact Kent with suggestions or concerns about Brady Bill implementation. Kent may be reached at 307-0770.

7-PAGES

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

File:

Crime - Brady Bill

September 29, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1354

TO: Legislative Liaison Officer -

TREASURY - Richard S. Carro - (202)622-1146 - 228
ONDCP - Babette Hankey - (202)467-9870 - 257

FROM: JAMES J. JUKES (for) *Ji-*
Assistant Director for Legislative Reference

OMB CONTACT: Douglas STEIGER (395-3386)
Secretary's line (for simple responses): 395-3454

SUBJECT: JUSTICE Proposed Testimony RE: HR 1025, Brady
Handgun Violence Prevention Act

DEADLINE: 4 PM TODAY September 29, 1993

COMMENTS: The hearing is scheduled for tomorrow. A Treasury
statement for the record has been previously circulated.

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
C. Walden/J. Cerda
Bruce Reed
Clarissa Cerda
C. Edley/M. Shaw
Ken Ryder
Peggy Young
Jim Duke
Cora Beebe
Milo Sunderhauf
Howard Paster
Bernie Martin
Ron Jones

**DRAFT****U.S. Department of Justice**

**STATEMENT
OF
ELEANOR D. ACHESON
ASSISTANT ATTORNEY GENERAL
OFFICE OF POLICY DEVELOPMENT
BEFORE THE
SUBCOMMITTEE ON
CRIME AND CRIMINAL JUSTICE
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
CONCERNING
H.R. 1025
(The "Brady Handgun Violence Prevention Act")
ON
SEPTEMBER 30, 1993**

DRAFT

Introduction

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify before you today. On behalf of the President and Attorney General Reno, I want to express the Administration's strong support for H.R. 1025, legislation known as the Brady Bill.

In our generation, America has become a place of fear. Too many of us are becoming used to feeling unsafe in our homes, on the streets where we grew up, or even in public places. As the President said last week, "When Michael Jordan's father was killed recently, a nation grieved, but no one knew the names of the other 22 people who died in that county last year. This is a national problem."

We may have gotten used to seeing teenagers roaming the streets with handguns or other weapons, but it will never be acceptable. Across America, boards of education are installing metal detectors, because children are getting off the school bus with guns instead of schoolbooks.

In the last few years, the proliferation of gang violence has multiplied these problems. Hardly a night goes by when we don't hear about drive-by shootings or gang slayings. This is not just an urban problem -- violent crime is a threat to the suburbs and rural America as well.

Winning the struggle against violent crime may be the hardest challenge our nation faces. But it is a challenge we must address head on with common sense solutions. The Brady Bill is a common sense approach to addressing the problem of ease of firearm acquisition by dangerous individuals. Existing law already prohibits the possession of firearms by felons, fugitives, drug addicts, persons who have been adjudicated as a mental defective or been committed to a mental institution, illegal aliens, persons dishonorably discharged from the military, and persons who have renounced U.S. citizenship. Federal law prohibits gun dealers from transferring handguns to anyone under age 21, and long guns to anyone under the age of 18. States also prohibit additional categories of purchasers from obtaining firearms.

How the Brady Bill Would Work

The Brady Bill provides for up to a five working-day waiting period to buy a handgun through a licensed dealer. Prospective purchasers would have to provide proof of identification to gun dealers, and state on a federal form that they are not among the classes of prohibited purchasers, as is currently required. The gun dealer would forward the prospective purchaser's name, address and date of birth to local law enforcement authorities, who would have up to five working days to conduct a background check on the prospective purchaser. A handgun transfer could occur prior to five working days if the dealer is notified by law enforcement that the sale may proceed earlier.

Under the waiting period provision, unless the sale is denied, local law enforcement

DRAFT

would have to destroy the form submitted by the gun dealer and records derived from it. Local law enforcement would not have discretion to arbitrarily deny a handgun purchase. If law enforcement has no information indicating that the purchaser is in a prohibited class, the sale must proceed.

The Brady Bill would also authorize \$100 million in funds for the development of state criminal history records and establish a national instant background check system for all firearm purchases through gun dealers. Upon the Attorney General's certification that the national instant criminal record background check system had achieved at least 80 percent currency of case dispositions in the last five years, the waiting period will be superseded. However, stronger state and local guns laws will remain unaffected. We are pleased that the Brady bill would not preempt state and local law. The measure is a floor, not a ceiling, and we hope this remains the case. States and localities should have the option of imposing additional standards for firearm purchases.

Why We Need the Brady Bill

The Administration supports the Brady Bill as an important tool in enforcing existing law and in preventing crimes before they are committed.

If today is an average day, handguns will end 65 lives in America before midnight -- an average of one every 22 minutes. Nearly half of all murders in 1991 were committed with handguns. The leading cause of death for teenage boys -- black and white -- is gunshot wounds. Firearm injuries cost our nation billions of dollars in health care costs every year.

The ease with which handguns can be obtained is a prominent contributor to violent crime in America. Bureau of Justice Statistics surveys of state prisoners reveal that 27% of those inmates who admit to having possessed handguns bought them at a retail outlet. Eighteen percent of those inmates who have possessed guns acquired them in the month prior to their arrest. Of those who admit that they carried handguns during their crime, about half admit that they fired them. Ten percent of those possessing handguns admit to having been in a mental institution.

The best argument for the Brady Bill is a simple one -- it will work. In state after state, years of experience show that waiting periods provide law enforcement officers with the time necessary to thoroughly check the background of prospective purchasers, and that the background check prevents numerous illegal purchases. Most crimes are committed by people local to the area. And the knowledge and experience of local law enforcement authorities -- which the Brady Bill would harness -- is the single, most powerful tool we have for preventing illegal handgun sales.

144 inmates

DRAFT

For example, based on dealer record of sale documents provided by the California Department of Justice, California's waiting period and background check stopped felons from buying guns on almost 2,500 occasions last year - an average of about one every three hours. Among those prevented from getting guns were persons who had committed 37 homicides, 102 sex crimes and 7 kidnappings. And statistics compiled this year indicate that the rate will be even higher. The Illinois Firearm Owner's Identification Program prevents about 3,000 prohibited purchases every year, and once a Firearm Owners Identification Card is issued to a purchaser, the state regularly reviews the lists of card holders to ensure that they have not become ineligible to possess firearms. Under this program, about 10,000 cards have been revoked in the last five years.

Calif. - stopped
2500

Widespread "forum-shopping" - the fact that so many criminals ship guns from jurisdictions without waiting periods and background checks into those which do have such laws - is clear evidence of the need for a national law.

And every time a background check screens out a prohibited purchaser, it stands to reason that serious harm is avoided. For example, Oregon's fifteen-day waiting period and background check caught a convicted kidnapper who had shot his neighbor and taken his neighbor's wife and two-year old daughter hostage. He was stopped, caught and convicted of illegally purchasing a firearm before he could commit further crimes.

As I just mentioned, a waiting period will provide law enforcement officers with the time necessary to check the backgrounds of prospective purchasers. It also provides a "cooling-off" period, which will help prevent crimes of passion and suicides. A waiting period and background check performed at the local level remain the best methods for screening out felons and other prohibited purchasers.

Criminal Records

The Department of Justice is hard at work in improving and computerizing criminal history records, thanks to funding from Congress and cooperation between the Bureau of Justice Statistics, the FBI, SEARCH, Inc., and the states. The Brady Bill would provide \$100 million more in support of these efforts.

But enormous tasks remain. There are states that still have no automated criminal history files whatsoever. Only half of the states belong to the FBI's Interstate Identification Index. Only eleven report that at least 80% of the arrests in the preceding 5 years contained disposition information -- the Brady Bill's requirement for the phase-in of the instant check system. In some states with automated systems, backlogs prevent records from being entered for a year -- so that a criminal could very well be back out on the street buying guns before the system even knows that he was convicted of a crime.

There are many more complications. Despite a great deal of effort, only thirty states, the District of Columbia and Puerto Rico are currently capable of flagging some or all of their felony convictions. A national system must include a check of each state's additional categories of proscribed purchasers, and accommodate a growth of criminal records at

almost 2 million each year.

DEPT

Proposed Modification

While we strongly support the bill as drafted, the Administration is opposed to Section 4(c) of the bill, which would severely penalize the Department of Justice if the Attorney General has not certified an national "instant check" system within two and one half years after the bill's enactment.

While the Office of Justice Programs and the Federal Bureau of Investigations are actively working to upgrade and improve the availability of criminal history records, even \$100 million to computerize these records and improve their accessibility would not be sufficient to meet such a deadline. We urge that this funding sanction be removed.

Conclusion

There are a great many reasons that the Department of Justice supports the Brady Bill, but I will close with only one - it is long overdue. It is time to give law enforcement this simple, yet powerful tool in its struggle against violent crime.

Thank you very much.

HANDGUN CONTROL

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

Richard M. Aborn
President

August 13, 1993

File:
➤ Crime - ~~Bill~~
Brady Bill
cc: Jose

Bruce Reed
Deputy Assistant to the President
for Domestic Policy
Domestic Policy Council
Executive Office of the President
Washington, D.C. 20500

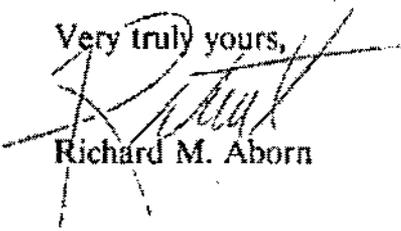
Dear Bruce:

As I'm sure you can imagine, we were delighted with the directives the President announced on Wednesday to curb the flow of deadly firearms as part of his crime initiative. We were particularly pleased that these directives included every proposal we have made to the Administration regarding dealer licensing.

Thanks so much for your help with this. We look forward to working with you in the months to come on other important initiatives.

Best regards.

Very truly yours,


Richard M. Aborn

HANDGUN CONTROL

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

Brady Bill

MEMORANDUM

To: Bruce Reed

From: Richard Aborn

Date: July 6, 1993

Re: Pass the Brady Bill separate from the Crime bill

We urge the Administration to publicly support, and work for, passage of Brady as a separate bill, beginning with a vote in the House of Representatives during the month of July.

The purpose of this memorandum is to explain why it would be most advantageous to both the Administration and the Democratic Party to move Brady separate from the crime bill, and move it now.

1. The Brady Bill is much more popular than any crime bill.

(a) Public opinion. It is long-established that about 90% of the American people favor the Brady Bill. (See, e.g., national poll by Louis Harris, April 3-12, 1993.) The Brady Bill is unique. No other major piece of legislation *exists* which has this kind of name recognition and support. If the President takes the lead on Brady, his own poll numbers will go up.

Put another way, a Brady Bill campaign by the President will increase his political capital, putting him in a stronger position to pass other legislation in Congress. Governor Wilder benefitted heavily from his one-gun-a-month legislative campaign. Governor Florio, frankly, would have no chance for re-election if not for his legislative battles over assault weapons. And neither of these proposals are nearly as popular as the Brady Bill!

In contrast, an omnibus crime bill will end up with a mixed level of popularity. Opponents of the death penalty will hate the bill, and proponents of the death penalty will probably be unsatisfied by the final product. Most Americans will never even understand what's in the crime bill. Even if it contains the Brady Bill, passage of such omnibus legislation will require the President to expend a lot of political capital, and it won't improve the President's poll ratings. Simply, the work and aggravation will not be appreciated or rewarded.

Look at the 1992 election. George Bush made a big deal of supporting an omnibus crime bill. Bill Clinton made a big deal of supporting the Brady Bill. Don't we all agree that it was the Democrats who got the most mileage out of this issue?

(b) The media. The media has no enthusiasm for any omnibus crime bill. A majority of the influential national commentators, columnists, and editorial writers oppose the death penalty. Most of the rest have no passion for the death penalty. As a general rule, the media thinks that omnibus crime bills are enacted as political gimmicks rather than as solutions to crime.

In contrast, the media *adores* the Brady Bill. Brady events receive tremendous news coverage and the issue is a favorite for editorial commentators of all kinds -- even right-wingers like William Buckley and George Will support the Brady Bill. This extraordinary media attention comes, in part, because the issue is considered "controversial" and it involves a David versus Goliath battle.

Just look at news and editorial coverage from last year. The 1991-92 crime bill got little news coverage and virtually no editorial support, even though that bill contained Brady and came up for a cloture vote in the Senate three times. The principal Biden/law enforcement press conference on the omnibus crime bill received no attention at all.

Don't make last year's mistake! Don't kill the media benefits of Brady by putting it in a crime bill with the death penalty. Let the President play the part of David, who slays the evil gun lobby Goliath. This is a unique opportunity for the Administration -- please don't blow it.

(c) Constituency groups. We have dozens and dozens of major national groups which support the Brady Bill, and which will actively lobby by our side (see attached list). Obviously, their lobbying makes the bill easier to pass. And it would be useful for the Administration to please these groups by doing something they support.

Except for the police groups, none of the other national organizations can or will support any omnibus crime bill which contains the death penalty. In other words, by linking Brady to a crime bill, you dismember your own lobbying coalition. That is terrible politics.

2. The Brady Bill will put Republicans on the defensive, while the crime bill will not.

(a) Brady puts Bob Dole on the spot. Bob Dole has been getting a free ride on the Brady Bill. Right now, his private posture is against Brady -- but in public no one knows it.

As the co-author of the current Brady Bill, Dole will look absolutely terrible to the media and the public if he leads the fight against Brady. To be specific, we will organize editorials, columns and press conferences against Dole if he publicly opposes Brady -- or tries to amend Brady with portions of a Republican crime bill. He'll be hounded every time he steps onto the stage of a Sunday morning interview show.

Further, youth gangs from California have invaded Kansas, turning Wichita into a battleground. The media and public in Dole's home state are ready to denounce him if he stands in the way of Brady.

But Dole cannot be pressured unless the Brady Bill is moving. Otherwise, it's simply not an issue. How can Dole be blamed when the Democrats aren't even bringing the bill up for consideration?

If Brady starts to move and Dole obstructs it, he will start a political hemorrhaging. If he gives in on Brady, the Democrats will get the glory. It's a win-win situation.

In contrast, Dole will not be hurt by consideration of an omnibus crime bill. In fact, he'll love it. A crime bill allows Dole to go on the offensive. No matter what you say or do, Republicans will be perceived as being more committed to "law-and-order" than Democrats. Dole can look good either obstructing or pushing a crime bill. It's a lose-lose situation for the Democrats.

(b) Brady puts other Republicans on the spot. Republicans all over the Hill could be put on the defensive by raising the Brady Bill issue. According to the latest national poll, 88% of all Republicans support the Brady Bill. Ronald Reagan vocally and publicly supports Brady.

Again, in contrast, a crime bill plays to the Republicans' strengths. Don't give them the home-field advantage! Bring up a crime bill later, when the Administration holds a stronger hand.

3. Speed is important to the Brady Bill, and not important to the crime bill.

(a) To get credit, Clinton has to move it. Pretty soon, the media is going to lose patience over the Brady Bill. The media and all the constituency groups will clamor for the bill. If the Administration waits until then to move Brady, it will be perceived as caving in to pressure.

No one outside the Beltway is going to clamor for the crime bill. No one will care if that bill doesn't move until 1994. Aside from the fact that it contained Brady, did anybody outside the Beltway even care that the crime bill died last year?

(b) Visible results in 90 days. The Brady Bill can show visible results faster than almost any other major legislation. 90 days after enactment, firearms dealers must begin using the mandatory waiting period and background check. The day after Virginia began its background check program in 1989, police caught a fugitive murder suspect attempting to buy a handgun. It is likely that the Brady law will produce similar success stories.

4. Putting Brady in a crime bill gives the impression that the Administration has no commitment to enact gun control.

(a) Makes Clinton look like Bush. If Clinton puts the Brady Bill in an omnibus crime bill, the media cannot help but compare his action to that of George Bush. It is well known that Bush took the position that he would accept the Brady Bill only as part of an omnibus crime bill. This was perceived, correctly, as an attempt to divert attention from Brady, and ultimately kill it. Last fall, we succeeded in having the media place the blame for Brady's demise squarely upon George Bush's shoulders, precisely because he insisted that Brady remain in a crime bill.

When the press asks President Clinton why he put Brady in the crime bill, any answer he gives will invite comparisons with Bush. He will be perceived as backing down on a key campaign promise.

(b) Makes it difficult to enact any other gun control during this Congress, and the press will know it. There are a lot of other gun control battles to fight, including a ban on semiautomatic assault weapons and large-capacity magazines, which the President promised to support. Our best chance to pass anything other than Brady is to enact Brady separately and then tack other gun-related provisions onto a crime bill a few months later. We know this, the National Rifle Association (NRA) knows this, and savvy folks in the media know this. Intentional or not, if Brady is in the crime bill it be exactly what the NRA wants.

SUPPORTERS OF WAITING PERIODS

Every major law enforcement organization in the nation supports the Brady Bill, including:

Federal Law Enforcement Officers Association (FLEOA)
Fraternal Order of Police (FOP)
International Brotherhood of Police Officers (IBPO)
International Association of Chiefs of Police (IACP)
Major Cities Chief Administrators
National Association of Police Organizations (NAPO)
National Organization of Black Law Enforcement Executives (NOBLE)
National Sheriffs Association (NSA)
National Troopers Coalition
Police Executive Research Forum (PERF)
Police Foundation

Other major national organizations supporting a waiting period for handgun purchasers include:

AFL-CIO	International Ladies' Garment Workers' Union
A.F.S.C.M.E.	League of Women Voters of the U.S.
African Methodist Episcopal Church	Mennonite Central Committee, Washington Office
Amalgamated Clothing and Textile Workers Union	National Association for the
American Academy of Pediatrics	Advancement of Colored People
American Academy of Physical Medicine	National Association of Children's Hospitals
and Rehabilitation	and Related Institutions, Inc.
American Association of Retired Persons	National Association of Counties
American Bar Association	National Association of Social Workers
American College of Emergency Physicians	National Congress of Parents and Teachers
American College of Surgeons,	National Council of Jewish Women
Southern California Chapter	National Criminal Justice Associati
American Federation of Teachers	National Education Association
American Jewish Committee	National League of Cities
American Jewish Congress	National Rainbow Coalition, Inc.
American Medical Association	National Urban League
American Medical Student Association	Southern Christian Leadership Conference
American Nurses Association	U. S. Conference of Mayors
American Psychiatric Association	Union of American Hebrew Congregations,
American Public Health Association	Religious Action Center
Americans for Democratic Action	Unitarian Universalist Association,
Anti-Defamation League of B'nai B'rith	Washington Office
B'nai B'rith International	United Church of Christ,
B'nai B'rith Women	Office for Church in Society
Children's Defense Fund	United Methodist Church,
Emergency Nurses Association	General Board of Church and Society
Episcopal Church, Washington Office	United States Catholic Conference
General Federation of Women's Clubs	Woman's National Democratic Club



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

Bruce -
Fiji,
Palm

February 26, 1994

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: RON KLAIN *RK*

SUBJECT: BRADY BILL CHALLENGE

Rumor has it that on Monday, a challenge may be brought by NRA-backed local and state officials to enjoin enforcement of the Brady Bill. Their claim may be that the Bill's mandate that "law enforcement officers" undertake a "reasonable effort" to ascertain the background of gun purchasers is an unconstitutional infringement on state sovereignty, under the Tenth Amendment.

Background

As originally drafted in 1986, the Brady Bill provided a seven-day wait for handgun purchases, during which local law enforcement could perform a background check on a purchaser. Thus, one of the NRA's principal criticisms of the original Brady Bill was that it insured only delay in gun purchases, without guaranteeing that a background check would be performed.

In 1991, as part of a compromise that first won Senate passage of the Bill, Sen. George Mitchell combined the original Brady Bill with an NRA Instant Check alternative, to create a new version of the legislation. One of Mitchell's major changes was to make the background check mandatory on law enforcement officials. This provision was included in the final version of the Brady Bill, enacted late last year.

Constitutional Attack on the Law

Relying on a 1992 Supreme Court decision, United States v. New York, NRA-backed state and local officials may attack the Brady Bill, saying that its mandatory background checks violate the Tenth Amendment. In essence, their claim would be that the mandate from the federal government to state and local officials to perform a specific task is violative of the Tenth Amendment's protection of core state sovereignty.

The Office of Legal Counsel has never passed on this question, declining to render an opinion on the constitutionality of the mandatory background checks in February 1993. Walter Dellinger and his staff are now studying the question.

Their initial read is this: even if the mandate of background checks is unconstitutional (and they do not yet even concede this point), the five-day waiting period can probably be severed and saved. In this scenario, the Brady Bill would be restored to its original provision -- a waiting period with the opportunity for a check, but no mandate of a check. If so, the NRA's "victory" in a lawsuit against the Brady Bill would be pyrrhic at best.

What to Say If Asked

I think if you are asked on Monday about this issue, you could say:

- If it is attacked, we will defend the Brady Bill in court, and hope to prevail.
- I believe that the core of the Bill, the five-day waiting period for gun purchases, will ultimately be upheld if challenged.
- As I understand it, the legal challenge is centered on the federal mandate on local law enforcement to conduct background checks. Without speaking to the merits of that legal case, my view -- based on touring the country and talking to countless police chiefs and sheriffs -- is that the vast majority of police departments will implement this law with or without a mandate.
- Given how strongly law enforcement lobbied for the waiting period, I am confident that -- if given the time to do the checks -- law enforcement will undertake the background checks -- whether or not they are mandated.

We will keep you informed if the litigation is in fact filed, and if any Temporary Restraining Order against enforcement of the Bill (the relief that the NRA would likely seek) is granted.

Are you ^{or} [Pres] planning to make any
calls on [Tracy]?
Assault?

If yes on assault, here are #3, ^{undecided} Senators,
(as well as I can remember.)

Dargan > they'll go together, probably.
Conrad

(Rs) Surenberger, Cohen, Packwood
Sasser

Neun

Leahy

Reid

Brent - surprise!, but has expressed possibility

Bingaman - voted Delonici last time

Campbell - gettable

Latest count: 39 #1 strong
7 #2 leaning yes
46

CRIME - LEGIS. STRATEGY

HANDGUN CONTROL

Richard M. Aborn
President

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

October 14, 1993

MEMORANDUM

TO: Bruce Reed
FROM: Richard Aborn
RE: Legislative Strategy

SHORT TERM LEGISLATIVE STRATEGY--PROSPECTS

In the near term, three--and possibly four--measures have a realistic chance of gaining Congressional approval. They are, in descending order of likelihood:

- 1)--The Brady bill (H.R. 1025/S.414)
- 2)--The Kohl (S.1087) and Glickman/Castle (H.R.3098) Youth Handgun Safety Act of 1993, which would: 1) bar the sale or transfer of a handgun to a minor under the age of 18; and 2) ban the possession of a handgun by anyone under age 18, with exceptions for target shooting or (under the House bill) hunting under adult supervision.
- 3)--The Metzenbaum Semiautomatic Assault Weapon Violence Prevention Act (S. 653), which would ban the further manufacture and importation of any weapon, which fails the ATF's sporting purposes test and which also has a detachable magazine and two or more of the following assault weapon features: a folding stock, a pistol grip, a bayonet mount, a flash suppressor or a grenade launcher.
- 4)--The Simon Gun Dealer Licensing Reform Act (S. 496), which would 1) raise the FFL fee from \$30 for 3 years to \$750 per year; 2) eliminate the 45-day limit on background checks; 3) require FFLs to comply with trace requests; 4) require FFL compliance with state and local laws; 5) lift limits on compliance inspections; 6) require dealers to report the theft or loss of firearms; and 7) require common carriers, like UPS, to obtain identification before delivering firearms.

Each of these measures face a unique set of legislative obstacles and require different legislative strategies. A discussion of each follows:

THE BRADY BILL

While enjoying a solid base of legislative support in both Houses (153 House cosponsors, 32 Senate cosponsors), support for the Brady bill is stronger in the House, which two years ago passed the Brady bill, 239-186, after 234 Members earlier rejected the NRA's "instant check" substitute. Support in the 103rd Congress may be even stronger (see attached information on "House Vote Count").

Two years ago, the Senate approved a Dole-Metzenbaum compromise version of Brady by a vote of 67-32, after rejecting the NRA's substitute, 54-44. Despite a net loss of two votes due to the election, Senate support for the bill remains just as strong as in the 102nd, with the likely pickup of some additional Republican support on amendments. (See attached information on "Senate Vote Count").

The Senate picture, however, is clouded by the prospect of a filibuster. If the opponents--led by Stevens, Craig and Gramm--mount a concerted filibuster, a vote on cloture could be close and the first cloture effort may fail. Our present count indicates that 11 Republican Senators are likely to support the bill on a first or second cloture vote. With 6 Democratic Senators (Shelby, Heflin, Johnston, Breaux, Hollings and Baucus) almost certain to oppose cloture, there is not much margin for error. If a cloture vote is to succeed, we need and should get--with White House support--the support of three undecided Democrats:

■ **Richard Bryan**, who voted for the NRA substitute in the last Congress, but who supported adoption of the Dole-Metzenbaum substitute. [This year's bill is virtually identical to the Dole-Metzenbaum substitute]. In this Congress, Bryan is, publicly and privately, "undecided."

■ **Byron Dorgan**, who voted for the NRA substitute in the House two years ago and who voted against the Brady bill on final passage. Dorgan, whose mother was beaten to death seven years ago, appears to have based his vote last time on the need for an instant check system capability, in the belief that such a system might have prevented his mother's attackers from having received suspended sentences in an earlier conviction. (The judge was not aware of prior convictions at the time of sentencing). This year's Brady bill, however, affirmatively establishes an instant check capability. Dorgan, like Bryan, is officially "undecided."

■ **Ben Nighthorse Campbell**, who voted for the NRA substitute in the House two years ago and who voted against the Brady bill on final passage. Campbell, however, now represents a more urban constituency and support for gun control in Colorado is at an all time high due to a growing wave of handgun violence. [The Colorado legislature recently met in special session to adopt

legislation making it illegal for juveniles to possess handguns.] Campbell has not announced his stance on Brady in this Congress, but he has expressed private interest in other gun control measures, including Kohl's bill and assault weapons legislation.

OR, we must get the support of:

■ Harry Reid, who voted for the Dole-Metzenbaum amendment in the last Congress. But Reid, who was reelected last November, will be a tougher sell; he is publicly opposed to the Brady bill in this Congress and has good ties with the NRA.

If we fail to get three of the above votes on cloture, we will need to pick up an additional vote from among four or five possible Republicans, including Bennett, D'Amato, Simpson, Gorton, Domenici or Hatch.

House-First Strategy Prospects of winning a cloture battle in the Senate could be improved by first getting a resounding victory for the bill in the House. But if--as now planned--the Brady bill is considered as part of the crime bill in the House, there will be no 'separate' vote on Brady. Any victory will be muted. And, if the House fails to act on the crime bill before the Senate considers Brady, we will gain absolutely no momentum.

Senate-First Strategy The Senate is presently scheduled to consider the Brady bill after the Senate completes consideration of the crime bill. Consideration could come as early as the first week of November and may precede House floor consideration of the crime bill. If the Senate passes Brady before the House considers the crime bill, Brooks will be under strong pressure to allow Brady to be considered separately. Brooks, however, has offered no formal commitments and may--absent a White House request--continue to insist on considering the Brady bill as part of the crime bill.

Amendments In the last Congress, the only recorded Senate vote came on the NRA-backed "instant check" substitute. Earlier this year, another NRA-backed substitute (S.891) was introduced by Sen. Larry Craig. Similar to the Stevens substitute offered in 1991, the Craig Substitute would require each state to establish an instant check system within 12 months and require the Federal government to begin work immediately on an national instant check system that would link the 50 state systems together.

But in recent testimony before the House Subcommittee on Crime, the NRA did not endorse a substitute proposal. Instead, it unveiled a series of proposed amendments. (See attached memorandum on "Proposed NRA Amendments"). The NRA's apparent strategy is to amend the bill in some way--even if the change is minor--in hopes of being able to declare "victory." This has been their pattern in previous legislative battles, including the fights over plastic guns and "cop-killer" bullets.

Of greatest concern is an amendment that would sunset the Brady waiting period after 2 and 1/2 years...whether or not the national instant check system is reliable or even operational. This is a killer amendment and **must** be defeated...and in all likelihood will be defeated.

It will be more difficult, however, to defeat some of the other weakening amendments. This is particularly true, if some of our marginal Senators are looking for political cover. They may feel like they need some votes to 'throw' to the NRA. In anticipation of that 'need,' we may want to have some strengthening amendments offered. Sen. Kohl, for example, has expressed interest in offering an amendment that would make the Brady waiting period permanent.

Other Gun Control Amendments Some Members have expressed interest in adding other gun control measures to the Brady bill. It is imperative that the Brady bill be kept free of such amendments. If other gun control measures are added to the bill, it will not be possible to avoid a conference. And if a conference is required because of additional gun measures, Senate opponents of the Brady bill will have a second opportunity--and more reason--to mount a filibuster...a filibuster that could further delay passage of the bill.

Timetable for Brady Separate If the Senate takes up consideration of the Brady bill the first week in November, it should be possible to complete House consideration--and final conference action, if necessary--prior to the Thanksgiving recess or a December adjournment. That's assuming, however, that Brooks permits the bill to be moved through committee and on to the floor at the very time that the crime bill is scheduled to move to the House floor.

Timetable for Brady in the Crime Bill In the House, markup of the crime bill has been delayed until the week of October 25, because of a renewed debate over the habeas corpus provisions. If there are no further delays, markup could be concluded by the end of the month or early November. But, even then, it's not likely that the crime bill could be considered before the week of November 8, as time will be needed to write the report and the Rules Committee will need to give Members time in which to submit proposed amendments.

With Foley now promising a Thanksgiving adjournment, it's very unlikely that the crime bill will be signed into law by the end of the year. While the conference on a crime bill might begin in mid-November, it's unlikely that the conference report will be finished by the end of the session. And when Congress returns, if Brady remains part of the crime bill, the likelihood of a Republican filibuster of the crime bill conference report increases and with it the prospect that the Brady bill might not be signed into law until late next year.

RECOMMENDATIONS:

- Separate the Brady bill from the House crime bill and pursue a "House First" strategy.
- Secure the support of the three undecided, Senate Democrats needed to invoke cloture.
- Work to defeat all NRA attempts to salvage "victory" by weakening the Brady bill through amendment.
- Stop any attempts to amend the Brady bill with non-germane amendments, including other gun control measures.

BAN ON JUVENILE POSSESSION OF HANDGUNS

With teenage homicides soaring and an increasing number of children carrying guns to school, the issue of "kids and guns" has taken on a special sense of urgency. (See our attached report on "Kids Carrying Guns"). In Colorado, recently, Gov. Romer called a special session of the state legislature to approve legislation banning juvenile possession of handguns. Other states--Florida, Utah, New Mexico, and Massachusetts--are actively considering "kids and guns" legislation. Last year, Arizona approved a ban on juvenile possession.

Federal legislation (S.1087) to ban juvenile possession of guns was introduced in June of this year by Sen. Kohl and a House companion bill (H.R.3098) was introduced just a few weeks ago by Representatives Glickman and Castle.

In a Senate hearing on this subject in early June of this year, the NRA equivocated on the issue, agreeing in principle to the need to do something, but expressing reservations about the federal approach taken by Kohl's bill. In the recent Colorado battle, the NRA actively worked against the legislation, but obviously bruised by their battle with Gov. Romer and embarrassed by the media, the NRA is now claiming that the Colorado legislation was their idea in the first place.

There are indications, in fact, that the NRA is preparing to take the offensive on behalf of this legislation. Brewster from Oklahoma, an NRA board member, has expressed an interest in leading an effort to amend the House crime bill with a ban on juvenile possession.

If adopted as an amendment to the crime bill in the House Judiciary Committee, a juvenile possession ban would likely survive any floor challenge. It may be best, however, to adopt a closed rule that would bar any amendment to strike it. Having voted for a

juvenile possession ban, some Brady supporters may feel a need to "balance" their vote on "kids and guns" by voting in favor of some of the NRA-backed amendments to the Brady bill. Adoption of such a rule, however, will require the support of the Speaker.

In the Senate, the best approach is to amend Biden's crime bill with a "kids and guns" amendment prior to floor consideration. If it's in the bill, it's unlikely that it will be challenged on the floor. And if it is challenged, the amendment will likely be defeated.

RECOMMENDATIONS:

- **Push for approval of a juvenile possession ban during House Committee markup of the crime bill.**
- **Request a closed rule in the House that bars any amendment to delete or change the provision.**
- **Amend the Senate crime bill prior to floor consideration and work to defeat any attempt to remove it on the floor.**

ASSAULT WEAPONS

Two years ago, one day after the assault weapon slaying in Killeen, Texas, the House rejected, 247-177, a bill banning 22 assault weapons. While support for an assault weapons ban has increased, a preliminary House vote count suggests that any bill or amendment would still fall about 20 votes short. (See, "House Assault Weapons Count")

Prospects for passage of assault weapons are brighter in the Senate, but by no means certain. According to our current vote count, an effective assault weapons ban would fall 5-6 votes short. In 1990 the Senate approved--by one vote--a limited assault weapons ban offered by DeConcini, and which in the last Congress approved--without a floor vote--another limited assault weapons ban in its version of the crime bill. In this Congress, any Senate vote (see, "Senate Assault Weapons Count") will likely hinge on whether proponents are able to satisfy critics that the ban will not cover legitimate hunting rifles.

Proposed Amendments DeConcini has reintroduced (S.639) the limited assault weapons ban earlier approved by the Senate. It would ban, by name, nine of the most commonly used assault weapons and require the Justice Department to conduct a study on assault weapons and their use in crime. The bill, however, would sunset the ban after three years and would not prevent manufacturers from marketing the banned assault weapons under a different name or with a slight design change.

Metzenbaum has introduced a broader assault weapons ban that would ban the further manufacture and importation of any gun that has two or more objective

characteristics of an assault weapon. The bill would also ban large capacity magazines capable of holding more than 10 rounds.

The Assault Weapons Debate The crucial issue in any assault weapons vote is the definition of assault weapons. We know from dozens of lobbying battles that the NRA will assert--no matter what the language really says--that the bill will ban all semiautomatic firearms, not just military-style weapons. The NRA will use the Bureau of Alcohol, Tobacco and Firearms (ATF) as their bogeyman, asserting that ATF will abuse any discretion given to them and ban as many guns as possible.

We drafted Sen. Metzenbaum's bill, S. 653, in an effort to defeat these NRA arguments. S. 653 provides that a gun can be banned only if it has two or more objective characteristics of an assault weapon. For example, if a rifle has a pistol grip and bayonet mount, it is an assault weapon. Sporting rifles have none of these objective characteristics.

In addition, there is redundant protection built into the bill. A whole paragraph is devoted to both a list and generic description of firearms which cannot be designated as assault weapons. It's redundant, because none of these weapons could possibly be declared assault weapons under the objective criteria established by the bill. Furthermore, the bill gives ATF the authority to exempt guns that meet the objective criteria, but AFT is given no authority to ban guns that do not have the objective characteristics spelled out in the bill.

HCI is prepared to mount a campaign aimed at educating members about assault weapons and the need for a narrowly defined, features-based definition. But Members of Congress need to hear from the objective firearms experts--the FBI, in particular--that such a criteria is needed and will work without banning traditional hunting rifles.

Vote Count At the request of Biden, Sen. Feinstein has been conducting an informal vote count to determine how much support there is for a strict assault weapons ban. We have not been shown her vote count and we do not know how extensively she has worked this issue, but she believes that there may be adequate support for a Metzenbaum-type ban, so long as key Senators--like Campbell and Exon--can be assured that the ban will not affect legitimate hunting weapons. This is consistent with the concerns we have heard about giving ATF much--if any--discretion in determining what weapons are banned.

Responding to the "Hunter's Concern" Although, as argued above, there is no legitimate concern here, Feinstein and Metzenbaum are both exploring ways of responding to the "hunter's concern," while maintaining the essential Metzenbaum test. To date, three different options have been discussed.

- 1) Eliminating any use of ATF's "sporting purposes" test. [Ironically, this change would actually strengthen Metzenbaum's bill, making the features test the sole criteria.]

2) Inserting a long list of rifles that are specifically not covered by the bill. The Metzenbaum bill, for purposes of example only, already mentions seven of the most common rifles that would not be affected by the ban. The list could be extended, but unless the list is truly comprehensive, it might raise more questions about any guns left off the list.

3) Restating in some way that the existing test will not affect any rifle or shotgun, unless it has a detachable magazine and at least two of the defined assault weapons features. The bill already clarifies that it does not affect bolt, lever, or slide action firearms.

Senate-only Strategy If the "hunter's concern" can be successfully met, the best strategy may be to press for Senate adoption of an assault weapons ban as part of the crime bill, while avoiding any separate floor vote in the House.

The House Judiciary Committee could approve an assault weapons ban during the pending markup of the crime bill, but the only way of defending it on the floor would be to get a closed rule blocking any effort to delete it on the floor. In the past, however, the Rules Committee has been unwilling to offer such protection.

If a Senate-only strategy is adopted, the fate of any assault weapons ban would be left to the conference committee, just as it was in the last Congress. Assuming that the Brady bill is separated from the crime bill before conference, conferees may decide, this time around, to keep assault weapons in the conference report as a means of retaining liberal support for the crime bill. The House would subsequently vote on assault weapons, but as part of a larger crime bill, with no opportunity to press for a separate vote.

← *

In pursuing a Senate crime bill strategy, the best option would be to have Biden introduce, prior to floor consideration, an amended crime bill with the "compromise" language on assault weapons. But even with an acceptable compromise, we may still want to consider some type of floor amendment that will allow wavering Senators to "affirmatively" vote for a change that reassures hunters.

agree

Separate Consideration The crime bill strategy, outlined above, is not the only means of getting assault weapons legislation passed in this Congress, but it may be the easiest.

If the conferees drop the assault weapons ban in conference, some effort would have to be made to extract a pledge from Brooks to allow the House to consider separate assault weapons legislation next year. Otherwise, assault weapons legislation is effectively dead for this Congress.

agree

Even with a commitment from Brooks, it will be difficult to get separate House approval of an assault weapons ban. Not impossible, perhaps, but certainly difficult. It will take an intense lobbying campaign, conducted with White House support, to turn the tide in the House. HCI--once Brady is passed--will be prepared to help mount such a campaign.

If a House victory is obtained, an assault weapons ban will face a renewed struggle in the Senate. A House passed assault weapons could avoid the Committee and be held at the desk for Senate floor action, especially if the House-passed bill closely parallels the earlier Senate language. But the bill would still face the very serious threat of a Republican-led filibuster. While the Brady bill has the support of eleven or more Republicans, assault weapons legislation--at present--commands the support of only six or seven (Jeffords, Warner, D'Amato, Chafee, Hatfield, Packwood, and possibly Danforth). With the likely defection of seven Democrats (Heflin, Shelby, Johnston, Breaux, Hollings, Baucus and Reid), a cloture effort might fall short by four or more votes.

RECOMMENDATIONS:

- **Determine whether there is adequate Senate support at this time for an assault weapons ban that uses objective criteria and which satisfies the "hunter's concern."**
- **If there is sufficient support for an assault weapons ban, amend the Senate crime bill--prior to its introduction.**
- **If the Senate approves an assault weapons ban, keep it in the conference report.**
- **If the conferees reject a Senate-passed assault weapons ban, obtain a commitment from Brooks to allow the Judiciary Committee to consider assault weapons legislation next year.**
- **If there is insufficient support for an assault weapons ban at this time, avoid taking a vote.**

DEALER LICENSING REFORM

Earlier this year, Sen. Simon introduced a package of reforms (S.496) aimed at tightening regulation of Federal Firearms Licensees (FFLs). (See attached summary). With an estimated 280,000 FFLs in existence and numerous reports of their widespread abuse, there is a growing recognition of the need for legislative changes, starting with a hike in the annual \$10 fee.

The NRA, in testimony before Congress earlier this year, acknowledged the need for change, including some hike in the license fee. Hoping to capitalize upon this admission, Simon has been working to gain NRA and Republican support for a compromise package of reforms.

The first test of that effort came on July 30 when Simon offered an amendment to the FY 1994 Treasury-Postal Appropriations bill to raise the FFL fee to \$375 a year. Before offering his compromise amendment (Simon's bill call for a \$750 per year fee), he felt he had the support of the NRA and Kit Bond, the ranking Republican on the Appropriations Subcommittee. The NRA, however, reneged on the deal and actively lobbied against it, arguing that it was an unwarranted attack on small businesses (i.e. gun dealers). The amendment was defeated 30-68 on a germaneness challenge.

Since that vote, Simon has been working with Craig and Bennett in a renewed attempt at bipartisan compromise. At this point, however, the NRA does not appear anxious to compromise. Absent an agreement, Simon will have to work aggressively on reversing the votes of 20 Senators. In meeting with Simon this past week, HCI offered to help in this effort, but strongly urged that no attempt be made to amend the crime bill until the necessary votes have been lined up. We are concerned that a second defeat on this amendment will doom any further efforts to reform dealer licensing in this Congress.

The Senate crime bill is, for the short term, the only logical vehicle for gun dealer reform. While there has been some interest in Simon's package on the House side, a House vote may be premature. There is no House companion bill and no reliable vote count.

If Simon's package--or any of its individual components--cannot be included in the Senate crime bill, action will likely be postponed until next year, when the measure--or its components--can be considered separately (if some agreement can be reached with the NRA and key Republicans) or as part of a larger gun package (see below).

RECOMMENDATIONS:

- Continue working to get a bipartisan consensus on some portion of Simon's gun dealer package.
- If consensus is reached, amend the crime bill--prior to floor consideration, if possible. If consensus is not reached, offer only those provisions which are likely to pass.
- If nothing can be done on the crime bill, incorporate Simon's bill into a larger gun bill to be considered next year.

VP

INTERMEDIATE TERM STRATEGY FOR 103RD CONGRESS

Gun Control Package Depending on the success of the short term strategy outlined above, it may be necessary to consider an intermediate term strategy aimed at pushing for Congressional consideration of a small "gun control" package that could include a one handgun-per-month limit, along with--if they are not passed as part of a crime bill--a ban on juvenile handgun possession, a ban on assault weapons and Simon's FFL package.

But the ultimate success of such a package will depend heavily upon the level of White House commitment. A high intensity campaign will be required to overcome three threshold obstacles:

--Brook's desire to consider only one piece of gun legislation (i.e. Brady) in this Congress;

--A Senate Judiciary Committee that is likely to split, 9-9, on any gun control measure, unless it has the support of either Leahy or Cohen; and

--A Senate filibuster that will be difficult to defeat without the support of 10 or 11 Republicans.

What can we link it to?

If these three hurdles can be cleared, it should be possible to pass some or all of the gun control package outlined above. An assault weapons ban will face tough, but not insurmountable, opposition in the House, and the public and Congress will have to be educated on the compelling need for a one-handgun-per-month limit. But a ban on juvenile possession should face light opposition and FFL reform, in one form or another, should receive adequate bipartisan support.

RECOMMENDATIONS:

■ After passage of the Brady bill, mount a high intensity campaign aimed at educating the public about the need for additional legislation. Despite the difficulties we believe that a coordinated campaign by the White House and HCI will be able to effectively tap into the overwhelming public support for gun control measures.

■ Put together a small gun control package of measures not adopted as part of the crime bill, including--if necessary-- a ban on assault weapons, a ban on juvenile possession of handguns, a one-handgun-a-month limit, and gun dealer licensing reforms.

- **Work to clear away potential obstacles to House and Senate consideration, including opposition from Brooks and the Senate Judiciary Committee.**

Taxation of Guns and Ammunition Proposed increases in the existing federal excise tax on guns and ammunition are outside the usual confines of the gun control debate. With gunshot wounds imposing an ever greater cost on urban trauma centers and other health care providers, this issue is ripe for consideration as part of the broader health care debate.

The idea of taxing guns and/or ammunition has been strongly endorsed by both Moynihan, a long time proponent of taxing ammunition at confiscatory levels, and Bradley, who has embraced in principle a bill (S.868) introduced by Patty Murray that would tax all transfers of a handgun or an assault weapon at 25 percent. With two prominent Members of the Committee endorsing the concept, it is virtually guaranteed a fair hearing.

While broadly supporting the application of higher taxes on guns and ammunition, HCI believes the argument for taxing handguns is especially compelling as handguns now account for 55 percent of all homicides. For a fuller discussion of the technical aspects of this issue and HCI's position, see attached memorandum on "Increasing the Federal Tax on Guns and Ammunition".

RECOMMENDATIONS:

- **Develop the public health rationale for higher taxes on guns and ammunition. Begin referring to a gun tax as part of the 'sin' taxes on tobacco, alcohol, etc.**
- **Develop a tax package that reflects the greater danger posed to society by weapons like handguns and assault weapons.**
- **Work to incorporate the "gun tax" into the health care financing package.**

LONGER TERM STRATEGY

While the Brady bill and other gun control measures, such as a ban on assault weapons, will save lives and help to reduce gun violence, they are no substitute for a more comprehensive approach.

While the public is broadly supportive of gun control legislation, many wonder whether the measures that are currently being considered will do enough to stem the rising tide of gun violence. A comprehensive package--one that addresses all the various facets of the problem--will address that concern head on. Presented as a "bottom line" proposal, it will also serve to calm the fears of those who believe that gun confiscation--and not responsible gun regulation--is the ultimate objective of the leading gun control proponents.

Under separate cover you will receive a draft outline of such a comprehensive package. While this is only a preliminary draft, it should give you some idea of the general scope and direction of a comprehensive approach.

Before such a plan is unveiled, it's important that the public better understand the problems we face. While Americans are fully aware of gun violence and its terrible consequences, many lack a deeper understanding of the underlying problems that need to be addressed. The President, in that respect, is uniquely positioned to educate the public on where the real problems lie and to take the lead on this issue.

■ Other nations also struggle with crime and violence. What makes our country unique is the easy access to guns...and the results are murderous.

■ The gun is more than just a weapon, for thousands of disillusioned youth, it's become a tragic symbol of power and respect.

■ Gun violence is exacting a terrible toll on our society. And the toll is not just measured in deaths and injuries, it measured in shattered lives and communities. The costs are enormous, not just the medical and the rehabilitative; Americans, and children especially, are living in fear.

■ The reduction of gun violence must be attacked on several fronts at once.

■ We must do a better job of regulating the sale of handguns. The Brady bill will help, but with over 250,000 licensed gun dealers in this country, it's simply not possible to regulate all the dealers who are selling guns.

■ Everyone who wants to acquire a handgun should obtain a license and take safety training. If we do that for cars, we should do that for something as dangerous as a handgun.

■ If we are to discourage the use of guns in crime, we simply must do a better job of tracing the ownership of guns. If we require the transfer of cars to be recorded, shouldn't we do the same for handguns.

■ Not all guns are created equal...or, at least, kill equally. Some guns, like assault weapons and concealable handguns, pose a far

greater danger to society than the traditional hunting rifle. And guns that are more dangerous should be regulated more closely.

■It is not enough to make guns less accessible to criminals and other prohibited purchasers, we must actively seek to educate and protect our children from the growing cult of gun violence. And that will require a strong emphasis on education and conflict avoidance.

■It's now been 25 years since Congress last passed any major gun control legislation. During the deliberations on the Gun Control Act of 1968, Congress considered but rejected measures like licensing and registration. It's now time to reopen that debate.

Once Brady is completed, HCI intends to mount a public campaign for a comprehensive gun control bill which will include the intermediate term strategy outlined above.

The sentiment in the country supporting comprehensive solutions to gun violence is at an all time high. This provides the ideal environment within which to seek legislation.

HCI would be delighted to work with the White House in developing a public campaign that lays the groundwork for comprehensive gun control legislation.

OFFICE OF POLICY DEVELOPMENT

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COMMENTS: _____

RATINGS ON BRADY BILL IN SENATE

1 - 49
2 - 4
3 - 13
4 - 9
5 - 25

* indicates that Senator will probably vote to keep amendments off, but it should be confirmed

L'S

- 1 Daniel Akaka -- voted for Brady and against instant check
- 2 Joseph Biden -- voted for Brady and against instant check
- * 3 Jeff Bingaman -- voted for Brady and against instant check (need to make sure he supports keeping all amendments off)
- * 4 David Boren -- voted for Brady and against instant check (probably fine but need to make sure he's ok on all amendments)
- 5 Barbara Boxer -- voted for Brady and against instant check in House
- 6 Bill Bradley -- voted for Brady and against instant check
- 7 Dale Bumpers -- voted for Brady and against instant check
- * 8 Robert Byrd -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 9 John Chafee -- voted for Brady and against instant check
- * 10 Tom Daschle -- voted for Brady and against instant check (probably fine, just need to confirm he'll keep amendments off)
- 11 Chris Dodd -- voted for Brady and against instant check
- * 12 Jim Exon -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- * 13 Russ Feingold -- (probably ok, just need to make sure)
- 14 Dianne Feinstein
- * 15 Wendell Ford -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 16 John Glenn -- voted for Brady and against instant check
- 17 Bob Graham -- voted for Brady and against instant check
- 18 Tom Harkin -- voted for Brady and against instant check
- * 19 Mark Hatfield -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 20 Daniel Inouye -- voted for Brady and against instant check
- * 21 Jim Jeffords -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 22 Nancy Kassebaum -- voted for Brady and against instant check
- 23 Ted Kennedy -- voted for Brady and against instant check
- 24 Robert Kerrey -- voted for Brady and against instant check (probably ok but need to confirm he'll vote to keep all amendments off)
- 25 John Kerry -- voted for Brady and against instant check
- 26 Herb Kohl -- voted for Brady and against instant check
- 27 Frank Lautenberg -- voted for Brady and against instant check
- 28 Carl Levin -- voted for Brady and against instant check

- * 29 Joseph Lieberman -- voted for Brady and against instant check (probably fine but need to confirm he'll vote to keep all amendments off)
- 30 Howard Metzenbaum -- Brady sponsor
- 31 Barbara Mikulski -- voted for Brady and against instant check
- 32 George Mitchell -- voted for Brady and against instant check
- 33 Carol Moseley Braun
- 34 Daniel Patrick Moynihan -- voted for Brady and against instant check (may want to offer M-39 bullet ban onto Brady)
- * 35 Patty Murray (probably fine, need to make sure ok on all amendments)
- * 36 Sam Nunn -- voted for Brady and against instant check (should be ok on Brady, but need to make sure he's okay on keeping all amendments off)
- * 37 Bob Packwood -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 38 Claiborne Pell -- voted for Brady and against instant check
- 39 David Pryor -- absent on Brady but strong supporter
- 40 Donald Riegle -- voted for Brady and against instant check
- 41 Charles Robb -- voted for Brady and against instant check
- * 42 Jay Rockefeller -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- * 43 William Roth -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 44 Paul Sarbanes -- voted for Brady and against instant check
- * 45 Jim Sasser -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 46 Paul Simon -- voted for Brady and against instant check
- * 47 John Warner -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 48 Paul Wellstone -- voted for Brady and against instant check
- * 49 Harris Wofford -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)

2'a

- 1 Bill Cohen -- voted for instant check before voting for Brady (need to make sure he'll vote to keep all amendments off)
- 2 John Danforth -- voted against instant check and against Brady (probably fine, just need to make sure ok on amendments)
- 3 Dave Durenberger -- voted for instant check before voting for Brady (need to make sure he votes to keep all amendments off)
- 4 Harlan Mathews (probably fine but need to make sure he'll vote to keep all amendments off)

3'a

- 1 Richard Bryan -- voted for instant check before voting for Brady
- 2 Dan Coats -- voted for instant check before voting for Brady
- 3 Kent Conrad -- voted for instant check before voting for Brady
- 4 Al D'Amato -- voted for instant check before voting for Brady
- 5 Dennis DeConcini -- voted against Brady and against instant

check

- 6 Bob Dole -- voted for instant check before voting for Brady
- 7 Pete Domenici -- voted for instant check before voting for Brady
- 8 Byron Dorgan -- opposed Brady in House
- 9 Slade Gorton -- voted for instant check before voting for Brady
- 10 Patrick Leahy -- voted against instant check and against Brady
- 11 Richard Lugar -- voted for instant check before voting for Brady
- 12 Harry Reid -- voted for instant check before voting for Brady
- 13 Strom Thurmond -- voted for instant check before voting for Brady

4's

- 1 Max Baucus -- voted against Brady and for instant check
- 2 Ben Nighthorse Campbell -- voted against Brady in House
- 3 Paul Coverdell
- 4 Charles Grassley -- voted against Brady and for instant check
- 5 Ernest Hollings -- voted against Brady and for instant check
- 6 Kay Hutchinson
- 7 Connie Mack -- voted against Brady and for instant check
- 8 Alan Simpson -- voted against Brady and for instant check
- 9 Arlen Specter -- voted against Brady and for instant check

5's

- 1 Robert Bennett
- 2 Kit Bond -- voted against Brady and for instant check
- 3 John Breaux -- voted against Brady and for instant check
- 4 Hank Brown -- voted against Brady and for instant check
- 5 Conrad Burns -- voted against Brady and for instant check
- 6 Thad Cochran -- voted against Brady and for instant check
- 7 Larry Craig -- voted against Brady and for instant check
- 8 Lauch Faircloth
- 9 Phil Gramm -- voted against Brady and for instant check
- 10 Judd Gregg
- 11 Orrin Hatch -- voted against Brady and for instant check
- 12 Howell Heflin -- voted against Brady and for instant check
- 13 Jesse Helms -- voted against Brady and for instant check
- 14 Bennett Johnston -- voted against Brady and for instant check
- 15 Dirk Kempthorne
- 16 Trent Lott -- voted against Brady and for instant check
- 17 John McCain -- voted against Brady and for instant check
- 18 Mitch McConnell -- voted against Brady and for instant check
- 19 Frank Murkowski -- voted against Brady and for instant check
- 20 Don Nickles -- voted against Brady and for instant check
- 21 Larry Pressler -- voted against Brady and for instant check
- 22 Richard Shelby -- voted against Brady and for instant check
- 23 Robert Smith -- voted against Brady and for instant check
- 24 Ted Stevens -- voted against Brady and for instant check
- 25 Malcolm Wallop -- voted against Brady and for instant check

RATINGS ON CLOTURE FOR BRADY BILL IN SENATE

1 = 48
 2 = 4
 3 = 13
 4 = 12
 5 = 23

* indicates that Senator will probably vote to keep amendments off, but it should be confirmed

1's

- 1 Daniel Akaka -- voted for Brady and against instant check
- 2 Joseph Biden -- voted for Brady and against instant check
- * 3 Jeff Bingaman -- voted for Brady and against instant check (need to make sure he supports keeping all amendments off)
- 4 David Boren -- voted for Brady and against instant check (probably fine but need to make sure he's ok on all amendments)
- 5 Barbara Boxer -- voted for Brady and against instant check in House
- 6 Bill Bradley -- voted for Brady and against instant check
- 7 Dale Bumpers -- voted for Brady and against instant check
- 8 Robert Byrd -- voted for Brady and against instant check
- 9 John Chafee -- voted for Brady and against instant check
- 10 Tom Daschle -- voted for Brady and against instant check
- 11 Chris Dodd -- voted for Brady and against instant check
- * 12 Jim Exon -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 13 Russ Feingold
- 14 Dianne Feinstein
- 15 John Glenn -- voted for Brady and against instant check
- 16 Bob Graham -- voted for Brady and against instant check
- 17 Tom Harkin -- voted for Brady and against instant check
- * 18 Mark Hatfield -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 19 Daniel Inouye -- voted for Brady and against instant check
- * 20 Jim Jeffords -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 21 Nancy Kassebaum -- voted for Brady and against instant check
- 22 Ted Kennedy -- voted for Brady and against instant check
- 23 Robert Kerrey -- voted for Brady and against instant check (probably ok but need to confirm he'll vote to keep all amendments off)
- 24 John Kerry -- voted for Brady and against instant check
- 25 Herb Kohl -- voted for Brady and against instant check
- 26 Frank Lautenberg -- voted for Brady and against instant check
- 27 Carl Levin -- voted for Brady and against instant check
- 28 Joseph Lieberman -- voted for Brady and against instant check (probably fine but need to confirm he'll vote to keep all amendments off)
- 29 Howard Metzenbaum -- Brady sponsor

- 30 Barbara Mikulski -- voted for Brady and against instant check
 31 George Mitchell -- voted for Brady and against instant check
 32 Carol Moseley Braun
 33 Daniel Patrick Moynihan -- voted for Brady and against instant check (may want to offer M-39 bullet ban onto Brady)
 34 Patty Murray (probably fine, need to make sure ok on all amendments)
 * 35 Sam Nunn -- voted for Brady and against instant check (should be ok on Brady, but need to make sure he's okay on keeping all amendments off)
 * 36 Bob Packwood -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
 37 Claiborne Pell -- voted for Brady and against instant check
 38 David Fryor -- absent on Brady but strong supporter
 39 Donald Riegle -- voted for Brady and against instant check
 40 Charles Robb -- voted for Brady and against instant check
 41 Jay Rockefeller -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
 * 42 William Roth -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
 43 Paul Sarbanes -- voted for Brady and against instant check
 44 Jim Sasser -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
 45 Paul Simon -- voted for Brady and against instant check
 * 46 John Warner -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
 47 Paul Wellstone -- voted for Brady and against instant check
 48 Harris Wofford -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)

2'a

- 1 John Danforth -- voted against instant check and against Brady (probably fine, just need to make sure ok on amendments)
 2 Dennis DeConcini -- voted against Brady and against instant check
 3 Wendell Ford -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
 4 Harlan Mathews (probably fine but need to make sure he'll vote to keep all amendments off)

3'a

- 1 Richard Bryan -- voted for instant check before voting for Brady
 2 Ben Nighthorse Campbell -- voted against Brady in House
 3 Dan Coats -- voted for instant check before voting for Brady
 4 Bill Cohen -- voted for instant check before voting for Brady (need to make sure he'll vote to keep all amendments off)
 5 Kent Conrad -- voted for instant check before voting for Brady
 6 Pete Domenici -- voted for instant check before voting for Brady
 7 Byron Dorgan -- opposed Brady in House

- 8 Dave Durenberger -- voted for instant check before voting for Brady (need to make sure he votes to keep all amendments off)
- 9 Slade Gorton -- voted for instant check before voting for Brady
- 10 Patrick Leahy -- voted against instant check and against Brady
- 11 Richard Lugar -- voted for instant check before voting for Brady
- 12 Harry Reid -- voted for instant check before voting for Brady
- 13 Strom Thurmond -- voted for instant check before voting for Brady

4's

- 1 Max Baucus -- voted against Brady and for instant check
- 2 John Breaux -- voted against Brady and for instant check
- 3 Hank Brown -- voted against Brady and for instant check
- 4 Al D'Amato -- voted for instant check before voting for Brady
- 5 Bob Dole -- voted for instant check before voting for Brady
- 6 Charles Grassley -- voted against Brady and for instant check
- 7 Howell Heflin -- voted against Brady and for instant check
- 8 Ernest Hollings -- voted against Brady and for instant check
- 9 Bennett Johnston -- voted against Brady and for instant check
- 10 Connie Mack -- voted against Brady and for instant check
- 11 Alan Simpson -- voted against Brady and for instant check
- 12 Arlen Specter -- voted against Brady and for instant check

5's

- 1 Robert Bennett
- 2 Kit Bond -- voted against Brady and for instant check
- 3 Conrad Burns -- voted against Brady and for instant check
- 4 Thad Cochran -- voted against Brady and for instant check
- 5 Paul Coverdell
- 6 Larry Craig -- voted against Brady and for instant check
- 7 Lauch Faircloth
- 8 Phil Gramm -- voted against Brady and for instant check
- 9 Judd Gregg
- 10 Orrin Hatch -- voted against Brady and for instant check
- 11 Jesse Holms -- voted against Brady and for instant check
- 12 Kay Hutchison
- 13 Dirk Kempthorne
- 14 Trent Lott -- voted against Brady and for instant check
- 15 John McCain -- voted against Brady and for instant check
- 16 Mitch McConnell -- voted against Brady and for instant check
- 17 Frank Murkowski -- voted against Brady and for instant check
- 18 Don Nickles -- voted against Brady and for instant check
- 19 Larry Pressler -- voted against Brady and for instant check
- 20 Richard Shelby -- voted against Brady and for instant check
- 21 Robert Smith -- voted against Brady and for instant check
- 22 Ted Stevens -- voted against Brady and for instant check
- 23 Malcolm Wallop -- voted against Brady and for instant check

THE WHITE HOUSE

Howard G. Paster 10/8

CAROL RASCO -

your views, please,
or recommendations

President or

FIRST LADY

ATTEND?

Howard

HANDGUN CONTROLRichard M. Aborn
President**ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.**

October 6, 1993

Mr. Howard G. Paster
Assistant to the President and
Director for Legislative Affairs
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Howard:

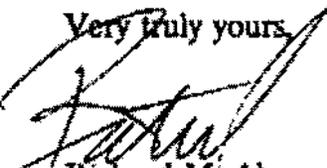
On October 19, Handgun Control's partner organization, the Center to Prevent Handgun Violence is having its second annual "Stop the Violence" benefit at the Sequoia Restaurant in Georgetown. As you may know, Sarah serves as the Chair and I am President of the Center. We are honored to have President and Mrs. Clinton on the Presidential Host Committee for the event.

Sarah and Jim just received a note dated October 1 from the President stating that the scheduling office would be in touch soon as to whether or not the President and First Lady will be able to attend. Their appearance at the benefit on the 19th would give the Center and the gun violence issue the national attention they deserve. We are expecting over 400 people at the event, including a number of business leaders, entertainers, philanthropists and victims of gun violence, all who share the President's concern about the toll gun violence is taking on our country, especially our children. Nearly all of the victims of the tragic shooting at the Pettit and Martin firm in San Francisco will be attending the event and then lobbying on the Hill. I know how touched that would all be by the President and First Lady making an appearance.

We are grateful for the President's continued outspoken commitment to the Brady Bill and the First Lady's attention to gun violence as part of her health care reform package. We would be honored if the President and First Lady and/or an Administration representative could attend the benefit. Please give me a call if you would like to discuss this.

Best regards.

Very truly yours,


Richard M. Aborn

Brady Bill's targets . .. and misfires

RICHARD ABORN

After seven long years, a dispute of an intensity not often heard outside of the abortion issue, and a finale of the highest political drama, the Brady Bill has finally become the Brady Law.

Few believe the acrimonious debate that took place over the Brady Bill was really about waiting periods or background checks for handgun sales. Those who opposed the measure tried to either diminish its importance by calling it a symbol, or to proclaim it meant only the beginning of the slide to ever-more gun restrictions — the so-called "camel's nose under the tent."

We agree with the latter characterization, and hope that the Brady Bill is indeed what Jim Brady called the "end of unchecked madness and the first step toward a safer and saner nation." But now that the nose is firmly in place, what does the rest of the camel look like?

Handgun Control Inc. will this week outline a comprehensive gun control package that will address some of the problems that we face as a nation because of our treatment of guns as sacred icons. We must stop the incremental approach to gun control legislation that resulted in seven years of wrangling over the Brady Bill. Before Brady, it had been 25 years since the country took a serious look at its national gun control policies. Then, it was the assassinations of Robert Kennedy and the Rev. Martin Luther King that prompted passage of the 1968 Gun Control Act. We cannot afford to wait another 25 years, or lose more of our leaders and people before we revise our federal firearm laws.

We must first ban military-style assault weapons. The Senate passed, as part of its omnibus crime bill, a ban on the manufacture and sale of these combat arms — by name and by definition — while protecting hunting and sporting guns. We must now look to the House to ensure that

any crime bill sent to the president will include this measure to keep these weapons of war off our streets.

We need laws that will stem illegal gun trafficking. Nearly all the guns used in crime in the United States originate from retail gun shops. When Virginia found it had gained a reputation as the gun running source for the East Coast, state lawmakers enacted the toughest gun control law to date — a one-per-month limit on handgun purchases. Early reports show that the law — in effect since July 1 — has already had

a dramatic effect. We need to take the same sort of strong action on a national level. Who — other than a gun trafficker — needs more than one handgun a month?

We must also seriously examine the issues of licensing and registration. We should require at least as much of an individual purchasing a handgun as we do of those purchasing a car.

Handguns, the most dangerous consumer product manufactured, are not subject to any consumer safety standards. In fact, guns and the gun industry are almost completely unregulated.

Much of the violence in our society is committed with the help of handguns. Since 1987, murders committed with weapons other than handguns have actually decreased 11 percent. Yet handgun homicides have increased 52 percent. It is imperative that handguns be treated as the deadly instruments they are.

Finally, we must continue to expand the debate over gun control. As we work toward these legislative initiatives, we must encourage others

— public health professionals, doctors, lawyers, educators, law enforcement officers, members of the entertainment industry — to continue to work with us. We need their expertise if we are to save the next generation from the gun violence that is epidemic in this country.

The American people have demonstrated their strong support for common-sense legislation to end the violence. Common sense also tells us we must re-examine the roles of guns in our society if we are to be successful.

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CONT.

Richard Aborn is president of Handgun Control Inc. This article was written for Scripps Howard News Service.

After years of treating criminals as "victims of society" rather than human beings who should be held responsible for their violent acts, Congress may be on the verge of passing real anti-crime legislation.

If all goes well, President Clinton will be able to sign a strong anti-crime bill into law early next year.

A "three strikes, you're out" provision for repeat felons, funds for prisons and additional police, the creation of "boot camps" for non-violent offenders, an enhanced death penalty, stricter sentencing guidelines and other tough measures have already been approved by the Senate.

However, in typical D.C. fashion, the House of Representatives may be dragging its feet.

What's the problem?

Still affected by the criminal-coddling philosophies of the 1960s, some members are allergic to tough anti-crime laws. Instead of enacting laws to get repeat violent offenders off the streets, they want to spend more tax dollars on pie-in-the-sky "rehabilitation" programs that put some of the worst thugs back on the streets to offend again.

But, you guessed it, the House's aversion to real anti-crime measures won't stop its rush to "do something." In fact, despite passage of the largely symbolic Brady bill, some members want to substitute additional gun control measures for real crime control so they can declare victory and tell Americans the problem is solved in time for re-election.

Few things could be more dangerous or dishonest.

Unless the House is willing to get tough on repeat violent offenders by passing most of the provisions in the Senate bill, more and more innocent lives will be lost. More police, larger jails, stiffer criminal sentences and the enforcement of the death penalty are absolutely necessary.

Despite the inflammatory rhetoric of the numerous criminal coddlers in Congress, few other things will work.

Gun control laws will do very little to remove guns from the hands of criminals. The much ballyhooed ban on semiautomatics deals with less than 1 percent of violent crimes. Baseball bats kill more people than AK-47s in at least one big city.

Even the Brady bill — mistakenly dubbed the cure-all for violent crime by some in Congress and the media — will do very little.

Originally calling for a permanent seven-day waiting period, the compromise Brady law now includes a temporary five-day waiting period and a national computerized background check of criminal records to detect felons attempting to purchase guns.

While the waiting period will do nothing to get guns out of the hands of felons, who tend to buy on the black market, the instantaneous computerized background check I helped add to it will provide law enforcement with a useful tool.

Congress should pass Sen. Bob Dole's common-sense amendment package to put some real crime fighting provisions into the new Brady law. It includes my amendment that would close the loophole allowing adjudicated standards that would put the computerized system on line sooner.

With the frenzy of the Brady bill behind us, it's time for Congress to accept its responsibility and really grapple with the problem of violent crime rather than passing more largely symbolic gun control gestures.

Obviously, it will take strong families and communities and a return to the ethic of personal responsibility to bring about a major decrease in violent crime. But there's no substitute for the enactment of tough laws. The Brady bill got a lot of headlines. But a crime bill it's not.

It's time for tough laws that take repeat offenders off the streets.

Larry Craig is a Republican member of the U.S. Senate from Idaho. This article was written for Scripps Howard News Service.

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The Washington Post

High Court Plans Review of Brady Handgun Law

By Joan Biskupic
Washington Post Staff Writer

The Supreme Court announced yesterday that it would decide whether a federal law that requires sheriffs to run background checks on handgun purchasers unconstitutionally burdens local officials and infringes on the domain of the states.

The high court's review of the 1993 Brady Handgun Violence Prevention Act will bring together some of the hottest issues of the day: debate over crime control and gun ownership and the shifting balance between federal and state powers. In recent decisions, the court has found in favor of states that have complained about Washington usurping their powers.

The handgun law, named for former White House press secretary James Brady, who was wounded in the 1981 assassination attempt on President Ronald Reagan, was enacted after years of partisan wrangling and intense opposition by the National Rifle Association.

When the 9th U.S. Circuit Court of Appeals upheld the gun control law, a dissenting judge, Ferdinand F. Fernandez, said, "This case makes palpable the notion that the states are just a part of the national government, a notion that was rejected when this country was founded."

The Arizona and Montana sheriffs who challenged the law in the pair of

cases to be heard next term assert that the law "commandeers" local officials and forces them to run a federal program. The Justice Department, which defends the law, did not object to the justices' taking up the case because appeals courts are in conflict over its constitutionality.

The Brady law established a five-day waiting period and dictated that law enforcement officers make a "reasonable effort" in that time to determine whether the buyer has a felony record or a history of mental illness or drug use, or otherwise should be barred from buying the gun. The law

requires a national instant-check system to be in place by November 1998, at which time local officials would no longer have to do background checks.

In his challenge to the law, Graham

County, Ariz., Sheriff Richard Mack detailed the daily hours of work the law required and contended it earned him the anger of constituents who held him accountable "for diversion of his law enforcement resources." Jay Printz, sheriff of Ravalli County, Mont., contended the law was an example of Washington increasingly asking local officials to do more with less.

Deciding the two cases together, the 9th U.S. Circuit Court of Appeals acknowledged that the law forced local law enforcement officials to help carry out a federal program. But, the court said, the sheriffs "are directed to serve for a temporary period as law enforcement functionaries in carrying out a federal program."

The cases are *Mack v. United States* and *Printz v. United States*.

Separately yesterday, the justices agreed to hear the Justice Department's appeal of a ruling that overturned the conviction of a former Tennessee state judge accused of sexually assaulting five women in his chambers, one while he was wearing his judicial robe. The victims happened to be in the judge's chambers either because of their jobs or their desire to get employment with the court system.

Former Chancery Court Judge David W. Lanier was found guilty of numerous sexual assaults, including forcible oral rape, and was convicted under a federal statute criminalizing the willful "deprivation of any rights . . . protected by the Constitution" by any person acting in an official capacity.

But the 6th U.S. Circuit Court of Appeals reversed, ruling that the

DATE: 06-18-96

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vaguely written statute does not specifically mention or contemplate sex crimes. *United States v. Lanier*, like the other cases accepted for review yesterday, will be heard in the term that begins this October.

In separate action, the court:

- Agreed to decide the constitutionality of state laws that confine "sexually violent predators" after they have served their prison sentences. The Kansas law at issue provides for civil commitment of defendants who are "suffering from a mental abnormality" that has caused them to commit a sexually violent crime and who present a continuing danger to society. A state court struck down the law as violating constitutional due process of law because it would allow confinement without a medical determination that a person is "mentally ill." (*Kansas v. Hendricks*)

- Turned down an appeal, without

comment, by Bosnian Serb leader Radovan Karadzic to block lawsuits by women alleging they were raped and tortured in the former Yugoslavia and seeking to sue Karadzic in the United States for crimes against humanity. Human rights groups brought the lawsuits on behalf of thousands of Bosnian Muslim and Croatian women based on the Alien Tort Act, which allows foreign citizens to sue for violations of the law of nations. An appeals court ruled Karadzic could be sued for the crimes both as an individual and as a state politician. (*Karadzic v. Kadic*)

- Agreed to use a Maryland case to decide whether police who stop cars for routine traffic violations may order the passengers out of the vehicle. Maryland says any intrusion on passengers' personal liberty is overridden by the state's interest in protecting police from potentially dangerous individuals. (*Maryland vs. Wilson*)

*Crisis -
Brady Bill*

OFFICE OF POLICY DEVELOPMENT

PUBLIC LIAISON AND
INTERGOVERNMENTAL AFFAIRS



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Bruce Reed

OFFICE:

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456 7739

PHONE

FROM:

Jack Hoffman

TOTAL PAGES (INCLUDING COVER SHEET)

45

PHONE: 514-3465

FAX NO: 514-2504

COMMENTS:

updated 9:15 pm, Nov 18

RATINGS ON BRADY BILL IN SENATE

1 = 49
2 = 8
3 = 11
4 = 11
5 = 21

1's

- 1 Daniel Akaka -- voted for Brady and against instant check
- 2 Joseph Biden -- voted for Brady and against instant check
- 3 Jeff Bingaman -- voted for Brady and against instant check.
- 4 David Boren -- voted for Brady and against instant check.
- 5 Barbara Boxer -- voted for Brady and against instant check in House
- 6 Bill Bradley -- voted for Brady and against instant check
- 7 Dale Bumpers -- voted for Brady and against instant check
- * 8 Robert Byrd -- voted for Brady and against instant check
- 9 John Chafee -- voted for Brady and against instant check
- 10 Tom Daschle -- voted for Brady and against instant check.
- 11 Chris Dodd -- voted for Brady and against instant check
- 12 Jim Exon -- voted for Brady and against instant check
- 13 Russ Feingold
- 14 Dianne Feinstein
- * 15 Wendell Ford -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)
- 16 John Glenn -- voted for Brady and against instant check
- 17 Bob Graham -- voted for Brady and against instant check
- 18 Tom Harkin -- voted for Brady and against instant check
- * 19 Mark Hatfield -- voted for Brady and against instant check
Much depends on what gets worked out with Dole. No problem on cloture.
- 20 Daniel Inouye -- voted for Brady and against instant check
- * 21 Jim Jeffords -- voted for Brady and against instant check
- 22 Nancy Kassebaum -- voted for Brady and against instant check
- 23 Ted Kennedy -- voted for Brady and against instant check
- 24 Robert Kerry -- voted for Brady and against instant check.
- 25 John Kerry -- voted for Brady and against instant check
- 26 Herb Kohl -- voted for Brady and against instant check
- 27 Frank Lautenberg -- voted for Brady and against instant check
- 28 Carl Levin -- voted for Brady and against instant check
- 29 Joseph Lieberman -- voted for Brady and against instant check
- 30 Howard Metzenbaum -- Brady sponsor
- 31 Barbara Mikulski -- voted for Brady and against instant check
- 32 George Mitchell -- voted for Brady and against instant check
- 33 Carol Moseley Braun

34 Daniel Patrick Moynihan -- voted for Brady and against instant check (may want to offer M-39 bullet ban onto Brady)

35 Patty Murray

* 36 Sam Nunn -- voted for Brady and against instant check (should be ok on Brady, but need to make sure he's okay on keeping all amendments off)

37 Claiborne Pell -- voted for Brady and against instant check

38 David Pryor -- absent on Brady but strong supporter

39 Donald Riegle -- voted for Brady and against instant check

40 Charles Robb -- voted for Brady and against instant check

* 41 Jay Rockefeller -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)

* 42 William Roth -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off)

43 Paul Sarbanes -- voted for Brady and against instant check

44 Jim Sasser -- voted for Brady and against instant check

45 Paul Simon -- voted for Brady and against instant check

* 46 John Warner -- voted for Brady and against instant check (need to make sure he'll vote to keep all amendments off). Warner is getting misinformation that Virginia instant check will be wiped out by Brady. Other office said they got similar misinformation from Warner's office. George Cartagena said NRA is pushing a two year sunset. George didn't think even a five year sunset was feasible.

47 Paul Wellstone -- voted for Brady and against instant check

48 Harris Wofford -- voted for Brady and against instant check

* 49 Harlan Mathews will support Brady. Will not vote for preemption. Not sure on instant check. Fine on cloture unless preemption added.

2's

1 Max Baucus -- voted against Brady and for instant check

2 Hank Brown -- voted against Brady and for instant check. According to HCL, he committed to vote for Brady.

3 Dan Coats -- voted for instant check before voting for Brady. Concerned about preemption; Don't think he'll support it. Made progress with his staff (Pam Sellars) on date certain, and on cloture. He will likely vote for Brady as he did last time.

4 Bill Cohen -- voted for instant check before voting for Brady. Nothing definite. He's inclined to go for sunset, not preemption. It all may depend on debate.

5 John Danforth -- voted against instant check and against Brady. Joe Graupensperger spoke with Rob MacDonald. Danforth is for bill and probably no cloture problem. No indication of stance on amendments.

6 Dennis DeConcini -- voted against Brady and against instant check. Wants to support Brady Bill this time, but will probably vote for date certain for instant check. Probably ok on cloture -- not certain.

7 Dave Durenberger -- voted for instant check before voting for Brady. Rick Evans, his AA said Durenberger will not support preemption and told Dole. Probably okay on no date certain. Wants

to keep agreement reached last time. Doesn't want to change bill -
- it would take a lot to justify doing so.

8 Richard Lugar -- voted for instant check before voting for Brady. They brought Coats with them on assault weapon vote. Lugar told NRA he had a major problem with preemption. AA said would probably be with us on everything including cloture, but didn't want to promise. They have a marine who knows guns working for them who AA Marty Morris said may be calling me as a resource.

3's

1 Kent Conrad -- voted for instant check before voting for Brady. Sheila left message for Darla.

2 Bob Dole -- voted for instant check before voting for Brady

3 Pete Domenici -- voted for instant check before voting for Brady.

4 Byron Dorgan -- opposed Brady in House

5 Slade Gorton -- voted for instant check before voting for Brady

6 Patrick Leahy -- voted against instant check and against Brady. Will likely vote against Brady, but for cloture, and against NRA amendments.

7 Connie Mack -- voted against Brady and for instant check. Mack may consider voting for Brady this time. Spoke with Kim Cobb, who told me that NRA said Florida waiting period would not be wiped out by preemption because it is part of their state constitution. I checked with Walter Dellinger who said that preemption would wipe out Florida law regardless of whether it is in their statute or constitution. Kim Cobb was most appreciative of the call back and said it would help the Senator make a decision. She thought Mack would have a big problem with preemption. Not sure about date certain for sunset.

8 Bob Packwood -- voted for Brady and against instant check. Undecided according to aide Marcia Ohlmiller.

9 Harry Reid -- voted for instant check before voting for Brady

10 Alan Simpson -- voted against Brady and for instant check. Simpson's staff encouraging him to vote for cloture but no promises.

11 Strom Thurmond -- voted for instant check before voting for Brady. Thad Strom said Thurmond would probably support Republican substitute, but if it failed, would probably support Brady as it is.

4's

1 John Breaux -- voted against Brady and for instant check

2 Richard Bryan -- voted for instant check before voting for Brady. Will likely vote for sunset, but having trouble on preemption. Probably no on cloture.

3 Ben Nighthorse Campbell -- voted against Brady in House. Will likely oppose Brady.

4 Paul Coverdell

5 Al D'Amato -- voted for instant check before voting for Brady. Gary spoke to Morgan Hardiman who said probably against cloture.

- 6 Charles Grassley -- voted against Brady and for instant check
- 7 Ernest Hollings -- voted against Brady and for instant check
- 8 Kay Rutchison
- 9 Bennett Johnston -- voted against Brady and for instant check
- 10 Mitch McConnell -- voted against Brady and for instant check
- 11 Arlen Specter -- voted against Brady and for instant check

5's

- 1 Robert Bennett
- 2 Kit Bond -- voted against Brady and for instant check
- 3 Conrad Burns -- voted against Brady and for instant check
- 4 Thad Cochran -- voted against Brady and for instant check
- 5 Larry Craig -- voted against Brady and for instant check
- 6 Lauch Faircloth
- 7 Phil Gramm -- voted against Brady and for instant check
- 8 Judd Gregg
- 9 Orrin Hatch -- voted against Brady and for instant check
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- 17 Larry Pressler -- voted against Brady and for instant check
- 18 Richard Shelby -- voted against Brady and for instant check
- 19 Robert Smith -- voted against Brady and for instant check
- 20 Ted Stevens -- voted against Brady and for instant check
- 21 Malcolm Wallop -- voted against Brady and for instant check