

The Brady Handgun Violence Prevention Act: Lessons in the Development and Implementation of Federal Policy

By Andy DiRosa

Abstract: *The Brady Handgun Violence Prevention Act (P.L. 103-159) was implemented in a two-stage process beginning in March 1994. During the act's 57-month interim phase, from March 1, 1994, to November 30, 1998, chief law enforcement officers in the United States conducted nearly 13 million handgun background checks, providing documentation that would prevent 312,000 sales to convicted felons and others who were ineligible to purchase firearms. Since November 30, 1998, when the FBI's National Instant Criminal Background Check System became operational, thousands more firearm sales to ineligible buyers have been prevented. This article explores some of the issues surrounding the passage, implementation, and ramifications of this landmark legislation.*

Inspired by increased public anxiety over handgun violence and articulated in the wake of an assassination attempt on President Ronald Reagan in 1981, the "Brady Bill" represented an ambitious, yet measured, attempt to regulate the sale of firearms in the United States. The bill was first introduced in the House in 1987 but lay dormant for years. Reintroduced in February 1993, during the first Clinton administration, the re-invigorated Brady Bill enjoyed broad bipartisan support in both houses of Congress. It moved through committee, floor, and conference proceedings in less than 11 months. Formally titled the Brady Handgun Violence Prevention Act (P. L. 103-159), the Brady Act was signed into law by President Clinton on November 30, 1993.

Though somewhat complex in its design, the act has a straightforward objective—the institution of background checks for the sale of all firearms (not just handguns) by federally licensed firearms dealers (FFLs). The

act established a two-stage implementation process. In the first, or interim, phase, (a 57-month period from March 1, 1994 to November 30, 1998) FFLs were required to request pre-sale background checks of potential handgun purchasers. These requests were made to the chief law enforcement officer (CLEO) in the jurisdiction where the dealer operated who had five days to respond to dealers' queries. This interim period was designed to allow the Department of Justice (specifically, the Federal Bureau of Investigation) time to develop an instant, automated, nationwide background check capability. The act's permanent provisions became effective on November 30, 1998, and required FFLs to request pre-sale background checks through the FBI's newly created National Instant Criminal Background Check System (NICS). These background checks apply to potential purchasers of all firearms, including handguns and long guns (shotguns and rifles).

Since its inception, the Brady Act has been the focus of heated debate not only between supporters of gun rights and gun control but also between advocates of strict constitutionalism and activist public policy. The tensions—and the resulting innovation in policy making—introduced into the legislative process by these forces illustrate the complexity of lawmaking. These factors, as well as important constitutional concerns raised by the interim provisions of the act (which were ultimately decided by the U. S. Supreme Court) and issues related to the implementation of the act's permanent provisions, provide a compelling glimpse into the fac-

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tors that can influence and shape contemporary policy making in the United States.

Origins

A central feature of the policy process involves the means by which issues move from what John Kingdon calls a “systematic agenda” onto a more formal “governmental agenda” (1995, 18). That is, how and why do certain issues attract the necessary attention to prompt government action?

Three key factors seem to influence agenda setting within the public policy realm: events that serve to focus public and governmental attention on a given issue, the synthesis of problems with appropriate solutions, and the critical role played by individuals who move issues through the policy process (Kingdon, 1995, see also Peters, 1982). The legislative history of the Brady Act includes all of these factors.

Focusing Events

Few events could rival the impact—both on the public and on government—of an assassination attempt on the President of the United States. Within hours of John Hinckley’s attempt on Ronald Reagan outside the Washington Hilton on March 31, 1981, televised images of the shooting became locked in the nation’s collective memory. The assassination attempt by a mentally imbalanced loner firing a legally purchased handgun also echoed the death of former Beatle John Lennon, who had been murdered in New York City just three months earlier in December 1980. Lennon’s killer, a delusional fan named Mark David Chapman, also used a handgun purchased through a federally licensed dealer.

These shootings, combined with the May 1981 assassination attempt on Pope John Paul II in Rome and an increase in drug-related homicides in the United States, acted as focusing events that fueled existing, but lim-

ited, public sentiments toward the implementation of controls on the sale of firearms. This sentiment sparked interest in the budding gun control movement in the United States.

The Policy Process and Policy Entrepreneurs

The public’s identification of a perceived problem rarely means that the collective citizenry has agreed upon a solution. Various means of addressing handgun violence had been advanced by a number of interest groups in the years preceding the assassination attempt on President Reagan. These proposals had little success overcoming the opposition and political clout of the National Rifle Association (NRA) and other gun rights interest groups on the national level. However, by the 1980s, several states, including California and Massachusetts, had enacted legislation requiring background checks for in-state handgun purchases (U. S. Department of Justice, Office of Justice Statistics, 2000).

Gradually, a number of gun control interest groups, including Handgun Control, Inc. and the Center to Prevent Handgun Violence, began to endorse background check requirements on the national level. In the mid-1980s, Sarah Brady, the wife of James S. Brady, President Reagan’s Press Secretary who had suffered permanent brain damage in the 1981 assassination attempt, began working with Handgun Control, Inc. This Washington, DC-based interest group had been focused on strengthening gun control laws since its founding in 1974. With Sarah Brady as its new chair, the group became a leading proponent for the national background check requirement, modeled, in part, on states that had already enacted such policies.

This early phase in the development of the policy initiative that would become known as the Brady Bill demonstrates how informal participants—actors outside the formal policy world of legislators and executive branch

officials – can be instrumental in the creation of policy initiatives. Drawing upon the lobbying strength of Handgun Control, Inc. and the established practices adopted by a number of states, Sarah Brady became a policy activist (or “policy entrepreneur,” as described by Kingdon), championing a specific policy in response to a perceived national problem. The naming of the proposed legislation after her husband represented a tactical move to help win support among uneasy Republican legislators. At the same time, the long road to the policy’s adoption and implementation illustrates features of the policy-making process that reflect the structural tendency toward compromise and incrementalism that are hallmarks of American lawmaking.

Legislative Summary

Initially the Brady Bill suffered a false start in the Congress. First introduced in the House by Congressman Ed Feighan (D-Ohio) on January 4, 1987 – six years after the assassination attempt on President Reagan – the Brady Bill (House Resolution 467) failed to secure broad-based bipartisan support. The gun rights lobby, led by the NRA, secured sufficient legislative support to block meaningful action on the bill throughout the 99th-102nd congressional terms.

During the 1992 presidential campaign, Democratic candidate Bill Clinton, then Governor of Arkansas, proposed sweeping anti-crime initiatives to counter an alarming rise in firearms violence across the nation. After his election to the presidency, Clinton challenged the Congress to take up the Brady Bill, vowing to lawmakers that if Congress passed the legislation, he would sign it (Presidential Documents, 1993).

House Action

The Brady Bill (H.R. 1025) was re-introduced into the House by Representative Charles Schumer (D-New

York) on February 22, 1993, shortly after the inauguration of Bill Clinton. The implementation of mandatory records checks on the sale of firearms through federally licensed firearms dealers nationwide remained the central provision of the proposed legislation. On February 25, H.R. 1025 was referred to the Subcommittee on Crime and Criminal Justice. On September 30, 1993, the subcommittee held open hearings on the bill.

Several Members of the subcommittee proposed substantive amendments. One of these, introduced by Representative Lamar Smith (R-Texas), called for eliminating the five-day waiting period provision from the measure in favor of direct implementation of the instant check procedure. Representative Steven Schiff (R-New Mexico) offered several amendments, including a proposal to reimburse local agencies for the costs of conducting background checks during Brady’s interim period. None of the substantive amendments offered by the subcommittee were approved. (Amendments of a technical nature offered by Representatives Don Edwards [D-California] and Charles Schumer [D-New York] were agreed to by voice vote.)

Several additional amendments were offered during mark-up in the House Judiciary Committee. An amendment offered by Representative Bill McCollum (R-Florida) that would allow the instant check system to pre-empt existing state laws was rejected by the Committee (Vote no. 7550: 16-19). An amendment offered by Schiff, recommending the creation of an alternative system that would use coding on driver’s licenses to allow police to conduct background checks, was determined to be non-germane to the bill. Another amendment offered by Schiff, allowing applicants wrongfully denied a firearm the right to challenge the rejection in court, was agreed to by unanimous consent.

On November 10 the House Judiciary Committee reported the amended bill to the full House where several

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additional amendments were offered. Language offered by Rep. James Ramstad (R-Minnesota) requiring that a local law enforcement official provide a reason for the denial of a firearms application within 20 business days if the denied applicant requests an explanation was agreed to by a vote of 431-2 (Vote number 1558). An amendment offered by Rep. George Gekas (R-Pennsylvania), requiring that the “instant check” system automatically replace the five-day waiting period after enactment, was initially rejected by unanimous consent (CR Page H-9124). However, when Rep. Gekas requested a recorded vote for a slightly modified version of the amendment, the modified amendment was agreed to by a vote of 236-198 (Vote number 1559). The full House passed H.R. 1025 (as amended) on November 10 by a vote of 238-189 (Thomas Legislative History, 2000).

Senate Action

On November 17, 1993, the House-approved bill was received in the Senate; Senators Howard Metzenbaum (D-Ohio) and George Mitchell (D-Maine) co-sponsored the bill. The Senate substituted its own language for much of the measure, but this substituted language did not substantively alter the tenor of the bill. On November 20, by a recorded vote of 63-36, the Senate passed the measure (as amended by S. 414, reflecting the alternate language favored by the Senate).

Conference Committee Action

On the same date, the Senate requested a joint conference. On November 23 the House agreed to the conference report by a recorded vote of 238-187 ([Vote number 1614]—closely mirroring the original House vote on H.R. 1025). By voice vote on the following day the Senate agreed to the conference report. The Senate vote (63-36) also mirrored its vote on the initial bill.

The Brady Handgun Violence Prevention Act was presented to the President on November 30, 1993, nearly seven years after the original bill was introduced in the 99th Congress but barely 11 months after the revised bill was re-introduced in the 103rd. During the signing of the new law, President Clinton stressed the positive effects he hoped the measure would have on crime rates; he also commented on some of the factors that impacted the legislative fortunes of the bill (Presidential Documents, 1993).

Presidential Remarks on Signing the Brady Act

At a ceremony in the East Room of the White House on the afternoon of November 30, 1993, President Clinton signed the Brady Handgun Violence Prevention Act (P. L. 103-159) into law. In a prepared statement, the President thanked Jim and Sarah Brady for their efforts on behalf of the measure.

President Clinton noted that nearly seven years had passed since the original Brady Bill had been introduced in the House. Acknowledging the long and difficult struggle over passage of the bill, he went on to recognize Members who represented districts where support of the Brady Bill may have been a political liability. In thanking these Members for exhibiting political courage, he singled out Congressman Beryl Anthony (D-Arkansas). The President noted that Anthony had been defeated in a close race in 1992, in part, because the NRA attacked his support of the Brady Bill. The President quoted Anthony as saying, “If it cost me my seat, it was worth it” (Presidential Documents, 1993, 2477).

THE LEGISLATION

Titles and Provisions

The ban on assault rifles that would later be enacted as part of the Violent Crime Control and Law Enforce-

ment Act of 1994 is often mistakenly believed to be a provision of the Brady Act; however, the Brady Act itself focuses exclusively on waiting periods and background checks on firearms purchases.

The Brady Act was actually enacted as an amendment to the Gun Control Act of 1968 (GCA), the federal government's first serious attempt at regulating the transfer of firearms. The 1968 act (as amended) makes it unlawful to transfer a long gun to a person less than 18 years of age or any other firearm to persons under 21 years of age and contains other provisions that regulate (to a limited degree) the sale and transfer of firearms. Review of the legislative debate regarding Brady indicates that many lawmakers viewed the act as a logical extension of the provisions contained in the GCA (see, for example, Congressional Register, pages S-17083-17236).

As noted, the Brady Act was designed to be implemented in two stages. These stages are commonly referred to as the interim phase (or Brady I) and the permanent phase (or Brady II).

Title I of the Brady Act established an interim national waiting period of five days before a licensed importer, manufacturer, or dealer could transfer a handgun to nonlicensed individuals (citizens who are not licensed importers, manufacturers, or dealers, and who do not possess a valid state license to carry a firearm). During this five-day period, federally licensed dealers were required to conduct a records check with the jurisdiction's chief law enforcement officer (CLEO—generally a chief of police or sheriff). The act called for this interim provision (and the five-day waiting period) to be replaced with an instant criminal background check system (Brady II) to be used by licensed firearms dealers before transferring either handguns or long guns to nonlicensed individuals. The act made violation of either its interim or permanent provisions punishable by fines of up to

\$2,000 and/or one-year imprisonment (Implementation of Public Law 103-159, Department of the Treasury; Bureau of Alcohol, Tobacco and Firearms; 1993). Brady mandated that these sanctions would be imposed on federally licensed importers, manufacturers, or dealers who knowingly violated the terms of the law rather than on firearm purchasers.

The Brady interim period gave the FBI 57 months to establish the National Instant Criminal Background Check System (NICS). Pursuant to the timetable in Title I of the Act, the NICS became operational on November 30, 1998.

Titles II and III of the act relate to reporting requirements for multiple handgun sales (including special provisions for law enforcement agencies) and the labeling of packages containing firearms. The two titles also include provisions relating to the theft of firearms from licensed dealers and increased license fees for firearms dealers to offset the cost of the background check requirement.

Implementation and Preliminary Results

At the time the interim provisions of the Brady Act took effect in March 1994, 18 states had enacted pre-sale background check requirements for handguns that were at least as restrictive as those contained in the new Brady Act. The Bureau of Alcohol, Tobacco and Firearms (BATF), the agency responsible for implementing these interim provisions, classified these states as "Brady-alternative" states. These Brady-alternative states were allowed to maintain their existing background check protocols. The act, as administered by the BATF, required the 32 remaining states (and the U. S. Commonwealth of Puerto Rico) to adopt the interim provisions of the Brady Act. During the nearly five-year interim period, several state legislatures moved to strengthen their requirements to meet or exceed those of the federal legislation. By the

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end of the interim period, there were 27 Brady-alternative states and 23 “Brady” states (jurisdictions that had no existing background check requirements).

Over 5,000 CLEOs were conducting presale handgun background checks by November 1998, the final month of the interim period. Twenty-nine of the states had multiple CLEOs conducting checks. In the other 21 states, a single agency—often a component of the state police—was responsible for conducting the checks. The Commonwealth of Virginia, for example, had established an instant background check system four years *before* the interim provisions of Brady took effect. The Commonwealth continued to operate the system, which was managed by the Virginia State Police, after the interim provisions of Brady went into effect in March 1994 (GAO, 2000).

From March 1994 to November 1998, an estimated 12.7 million handgun purchase applications were submitted to CLEOs across the country. Of these, approximately 312,000 (2.4 percent) were rejected. Of the rejected applicants, two-thirds (207,000) were denied because the applicant had been convicted of a felony or was under a felony indictment (Office of Justice Statistics, 1999).

Under the permanent Brady provisions, background checks are conducted either by the FBI or by a designated state agency that uses the FBI’s National Instant Check System to automatically query available federal, state, and local records to determine an applicant’s eligibility to own a firearm. During the first year of NICS’ operation (November 30, 1998 to November 30, 1999), the FBI and designated state agencies conducted approximately 8.8 million background checks. A majority of the transactions (approximately 66 percent) involved long guns; approximately 32 percent involved handguns and roughly 1 percent involved transactions including both long

guns and handguns (GAO, 2000).

The FBI conducted 4.4 million background checks within this time frame, with 2 percent (approximately 81,000) resulting in denials. The remaining 4.4 million checks were performed by agencies in 26 states that were either full participants in NICS (a state agency is designated to conduct background checks on all firearms purchases) or partial participants in NICS (a state agency is designated to conduct handgun background checks, while the FBI conducts checks for potential long gun purchases). By October 1, 1999, 15 states had become full participants in NICS and 11 states were partial participants (GAO, 2000). (In the remaining 24 states, the FBI performs all NICS firearms background checks.)

These data indicate that denial rates established during the act’s interim period remained fairly constant when the act’s permanent provisions took effect (2.4 percent and 2 percent, respectively). In nearly three-fourths (72 percent) of the background checks conducted by the FBI, NICS provided approval responses less than 30 seconds after the purchaser’s identifying information was entered into the system. Twenty-eight percent of the background checks resulted in delayed responses. The FBI estimated that 80 percent of these delays were resolved within two hours; the remaining 20 percent took several hours or days to resolve (GAO, 2000).

In a limited number of cases, these delays led to “default proceeds”—transactions involving persons who were allowed to purchase firearms despite being in a prohibited status. During the first 10 months of Brady II, a total of 2,519 transactions involved the transfer of handguns or long guns to persons who were later determined by the FBI to be prohibited from purchasing firearms. As the U. S. Government Accounting Office (GAO) noted in a report to Congress titled *Gun Control: Options for Improving the National Instant Criminal Background Check System*:

Such transactions increased public safety concerns, placed demands on law enforcement resources—particularly the Bureau of Alcohol, Tobacco and Firearms—in retrieving the firearms, and exposed law enforcement agents to potential risk associated with such retrievals. (March 2000)

Many of these default proceeds occurred because automated state criminal history records often fail to indicate final dispositions (*e.g.*, acquittals or convictions) of cases involving felony arrests. FBI data indicate that efforts to obtain such information in these cases took longer than the three-day maximum waiting period mandated by Brady's permanent provisions (GAO, 2000). Thus, dealers could proceed with the sale without violating the terms of the Brady Act.

The GAO report (2000) cites three potential remedies for the underlying problems resulting in default proceeds. One is to continue a program established under Brady I that provided grants to states to improve their automated criminal history records. The second option is to provide "financial incentives" that encourage state participation in NICS. A third option recommended by the GAO is to amend the three-business-day requirement to extend the waiting period for potential purchasers who are known to have been arrested for disqualifying offenses but whose complete dispensation records are not readily available (GAO, 2000).

FEDERALISM AND INTERGOVERNMENTAL RELATIONS

Implementation of the Brady Act required a high degree of interaction between the federal and state governments and among various agencies and offices within each level of government. In this way, the act reflects the ideals of federalism and intergovernmental relations that have become integral to the implementation of contemporary public policy on the national level.

Although the Brady Act was legislative in nature, rather than regulatory or a function of executive-level rulemaking, implementation of the act's provisions fell primarily to two executive-level agencies. During the interim period, the BATF, a component of the U. S. Department of the Treasury, and the FBI, an agency within the U. S. Department of Justice (DOJ), worked with state governments to identify 5,400 law enforcement agencies to serve as CLEOs. Shortly after enactment of the Brady Act, the BATF issued a "temporary rule" that formally implemented the law in practical terms by imposing the five-day waiting period on the sale of handguns, the national background check requirement, and regulations regarding reporting requirements of multiple handgun sales, labeling of packages containing firearms, theft of firearms from FFLs, and increased fees for dealers in firearms (BATF Temporary Rule, 1994). This temporary rule, published in the *Federal Register* on February 14, 1994, also served to clarify the provisions of the act, in effect translating its legislative language into a format more suitable for practical administration. In October 1998, the BATF issued a public notice that explained terms of the impending transition from the interim stage of the act to enactment of its permanent provisions on November 30, 1998. Among other points included in the release was notification that, with the implementation of Brady's permanent provisions, background checks would expand beyond handguns to include long-barreled guns (BATF press release, 1998).

The FBI was mandated by the Brady Act to use the interim period to develop an instant national criminal background check capability by November 30, 1998. Supplemental funding for NICS development was included in the DOJ budget for the years 1994-1998. The FBI now draws from existing operational budgeting to maintain and service the NICS system.

The flexibility of the act's provisions illustrates the interplay between federal and state governments in es-

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establishing a national background check protocol. Prior to enactment of the Brady Act, many states imposed procedural or prohibitory requirements beyond the minimal requirements of federal law. Under the act, these states were allowed to continue their operations (Bureau of Justice Statistics, 2000). The interim provisions of the Brady Act also allowed states with statutes comparable to federal law to follow a variety of alternatives. The Brady-alternative states generally relied upon either an instant check or a permit approval system. By the end of 1996, the number of states following the Brady Act review procedures rather than alternative state statutes had dropped to 23. This decline was due, in large part, to legislative activity on the state level in the wake of the federal Brady Act.

After passage of the Brady Act, several states enacted legislation to implement the act's interim and permanent provisions. State firearm purchasing regulations in existence before enactment of the Brady Act also were frequent subjects of legislative amendments. At least 14 states enacted laws intended to prohibit certain categories of individuals from purchasing, receiving, possessing, or transferring firearms. Most of these state regulations included completion of a firearms safety course as a condition to acquiring a firearm. Eight states modified procedures for restoring the right to possess a firearm. Seven states adopted new legislation to permit the court-ordered seizure of firearms from individuals subject to restraining orders.

State statutes requiring permits or other documentation to purchase or carry firearms generated considerable legislative activity during the act's interim period. Four states modified their existing permit system, one established a new permit or other approval protocol, nine enacted laws related to the carrying of a handgun, and seven unilaterally increased fees to conduct a records check or obtain a permit.

Nine states qualified for Brady-alternative status during the act's interim period by enacting new or substantially modified instant check or permit systems. Several other states enacted legislation that either established a statewide system for implementing the national instant check or expanded the scope of their firearm regulations to include background checks for the purchase of long guns (Office of Justice Statistics, 2000).

This flurry of activity on the part of the states in response to the Brady Act provides a strong illustration of the effects of federalism and intergovernmental relations on state governments. Easily overlooked, however, is the fact that the Brady Act itself was modeled after programs in place in several states before the implementation of a national background check requirement. In this regard, the federal law had the practical effect of standardizing disparate state efforts under a national protocol. While several states have adopted requirements that exceed those in the Brady Act, the act served to provide a uniform baseline for all states in terms of firearms background checks.

U.S. Supreme Court Challenge to Brady's Interim Phase

The federal nature of the Brady Act, in fact, led to important constitutional questions regarding the authority of the national government to mandate state participation in a federal regulatory scheme. In 1994, during the interim phase of the Brady Act, Jay Printz and Richard Mack, the CLEOs for Ravalli County, Montana, and Graham County, Arizona, respectively, filed separate court actions challenging the constitutionality of the act's interim provisions. Specifically, the plaintiffs challenged the mandatory state participation in Brady-mandated handgun checks. In separate decisions, district courts in Montana and Arizona held that the provisions requiring CLEOs to perform background checks violated the

U. S. Constitution but found that the provision was “severable” from the rest of the act, in effect leaving a voluntary background system in place (854 F. Supp. 1503 [D. Mont. 1994]; 856 F. Supp. 1372 [D. Ariz. 1994]). The two cases were consolidated on appeal.

In 1995 a divided panel of the Court of Appeals for the Ninth Circuit reversed the decisions of the district courts, finding none of the Brady Act’s interim provisions unconstitutional (66 F. 3rd 1025 [1995]). The case was ultimately brought before the U. S. Supreme Court in December 1996. In a divided ruling decided on June 27, 1997, the Court reversed the decision of the Appeals Court and held that state participation in the background checks must not be mandatory (117 S. Ct. 2365 [1997]).

Writing for the majority, Justice Scalia held that the “[o]bligation to conduct background checks on prospective handgun purchasers imposed an unconstitutional obligation on state officers to execute federal laws” (West, 1996; 2365). Concurring Justices O’Connor and Thomas agreed that the design of the interim provisions of the Brady Act violated the ideals of dual sovereignty by, in effect, compelling state officers to enforce a federal regulatory program.

While the Court’s decision in *Printz v. United States* represented a potentially important contribution to constitutional law regarding the parameters of federalism, the effect of the decision on the implementation of the Brady Act was limited. As a result of the decision, some CLEOs, primarily in smaller jurisdictions, ceased their background check efforts. However, most CLEOs in Brady states (jurisdictions that did not have pre-existing background check requirements) voluntarily continued to conduct the background checks. In Brady-alternative states (jurisdictions that had existing background check requirements), background checks continued in accordance with state law (Office of Justice Statistics, 1999). Seventeen months after the Court’s decision, the

permanent provisions of the act went into effect, placing responsibility for the conduct of background checks with a federal agency, the FBI. (As noted, some states have *voluntarily* chosen to conduct Brady background checks—in accordance with the Court’s ruling in *Printz* that participation by state agencies should be of a consensual, voluntary nature.)

Funding

The Brady Act established a grant component, the National Criminal History Improvement Program (NCHIP), to help ensure immediate availability of complete and accurate state database records. An additional authorization of 20 million dollars was made available through the National Child Protection Act of 1993 and 6 million dollars was authorized under the Violence Against Women Act. (Another 25 million dollars was provided to establish state sex offender registries as a component of the NCHIP.) The program under which these funds are awarded is designed to assist states in developing or improving existing criminal history records systems and establish compatibility with the FBI’s NICS.

Under the auspices of the NCHIP, more than 245 million dollars was provided in direct awards to the states during fiscal years 1995-1999. NCHIP funds also have supported direct technical assistance to states as well as research and program evaluation related to improving criminal and other non-felony records within the states. As a result, state criminal history databases are becoming increasingly comprehensive and automated. Twenty states had fully automated their criminal history files by 1997, and another 29 had automated at least some of their records (Bureau of Justice Statistics, 2000).

Conclusion

The Brady Act may not have proven to be the solution to gun-related crime that some supporters hoped it might

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but neither has it proven to be the first step down the road to universal firearms registration, as some critics had feared.

The act has fostered, however, a largely effective partnership between federal and state governments in an area of public policy where such cooperation had not existed to any similar degree before. Development of the legislation illuminates many of the factors that affect the formation of public policy. Implementation of the act illustrates the interconnected relationship that is a hallmark of the "overlapping" model of federalism, a model that, it could be argued, is increasingly becoming the norm within the American political structure. If the success of the Brady Act in achieving its ambitious, yet focused, objectives is an indication, the prospect for continued effectiveness in developing balanced and effective public policy might not be as dim as some observers of the current state of American deliberative government might believe.

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The Federal Gun Control Act of 1968, as amended, (18 U.S.C. 922) prohibits the transfer of any firearm to any person who:

- is under indictment for, or has been convicted of, a crime punishable by imprisonment for more than one year
- is a fugitive from justice
- is an unlawful user of or addicted to any controlled substance

- has been adjudicated as a mental defective or committed to a mental institution
- is a juvenile
- is an alien unlawfully in the United States
- was discharged from the armed forces under dishonorable conditions
- has renounced U.S. citizenship
- is subject to a court order restraining him or her from harassing, stalking, or threatening an intimate partner or child

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