

Speaker 1: [00:06](#) [Music].

JJ: [00:08](#) This is the legal disclaimer where we tell you that the views, thoughts and opinion shared on this podcast belong solely to us that people talking and not necessarily Brady or Brady's affiliates. Please note that this podcast does contain discussions of violence that some people may find disturbing. Don't worry. We find it pretty disturbing too.

Speaker 1: [00:43](#) [Music]

JJ: [00:43](#) Hey everybody. Welcome to the Brady podcast Red, Blue and Brady. We're so glad you're here with us and you came back again to continue to learn about gun violence prevention and today's cast, we're covering a lot of ground. We're talking about Colorado releasing a map of safe storage places, how babies in Wisconsin can get gun licenses. And we're here with Jonathan Lowy who be talking to us about a fascinating legal case. We're also joined by Erin Davis. These are two great people from the legal team here at Brady--can you introduce yourselves?

John Lowy: [01:13](#) Sure. I'm John Lowy. I'm chief counsel and vice president of legal here at Brady.

Erin Davis: [01:19](#) Good morning. I am Erin Davis and I am the senior counsel for trial and appellate litigation, which means that they are both much smarter than me, so I'm so glad that they're here this morning and yes you will hear JP is yet again, not with us.

JJ: [01:32](#) This is what happens when you have like the king of grassroots movement be your cohost. He's always off gallivanting around the country doing great stuff while I sit in a cubicle. So we're going to start right off the bat here since I have some legal experts with me talking about a recent release done from Colorado where the University of Colorado is on Schwartz medical campus identified and publicly posted 62 locations in the state where a person can temporarily store their firearms outside of their home during a mental health crisis. Many of these places are open 24 hours a day, seven days a week, and they did this because the rate of suicide by gun in Colorado is actually exceptionally high. They have one of the highest suicide rates in the nation overall and about 50% of the suicides that happened in 2017, which is the latest CDC data that they had available. A little over a thousand individuals die by suicide and 50% of that happened as a result of a firearm. So really great that they released it, but they have already started to get some pushback with individuals saying that this will not be helpful and that individuals who put their firearms in temporary safe

storage locations may be giving up their rights to reclaim those guns later. What do you have to say about that Lowy? You've got the face of a man who is a little not happy about the fact that people are protesting this.

- Lowy: [02:57](#) You know, know it's a really positive step by Colorado. We should all be doing everything we can to uh, make people and their homes safer. And if people or their families make the responsible judgment that having a gun in the home, uh, places, some of them at risk, uh, they should certainly be able to get that gun out of their home. Um, it really is outrageous that anyone would protest this. There's no legal argument. There is no second amendment argument. Uh, it's just extremists basically railing against anything.
- JJ: [03:37](#) Now Colorado is also one of the states that's been talking increasingly about extreme, well we would call extreme violence protection orders, but a lot of people call red flag laws. Is this sort of in line with those laws or is this sort of completely different because this is 100% voluntary done on the individual's part, not something that's brought by an outside party.
- Lowy: [04:00](#) Well, you're right, this is different because this is voluntary, but it's a different way to get at the same problem, which is when you have someone who has a gun and they become, or it becomes apparent that they're too dangerous to have one, that gun should be taken from them for their own safety and for the safety of others, and so I think the two will work in concert and, uh, there's no question it will save lives.
- JJ: [04:28](#) Yeah. I think one of the things that people forget when, since especially in gun violence prevention and we talk so much about mass violence or about crime guns that actually the majority of deaths we see in the United States with guns is the result of suicide.
- Lowy: [04:41](#) It, you know, and I'll add it, I think something like this, both the extreme risk protection or law and the safe storage, uh, will also prevent homicides. And we'll be talking later about a lawsuit, which in my view, if you'd had either the extreme risk protection order or safe storage available, uh, the woman that we're talking about may be alive today, uh, because I think that the guns used to kill her could well have been taken outside of the home.
- Speaker 4: [05:14](#) [Music]

JJ: [05:16](#) Can we just go right into it then? I really want to devote as much time as we have together. These are very busy people. I'm glad I was able to grab them to talk about Kirsten England and what happened to her, what her life was like and what life is now like for her surviving family.

Lowy: [05:32](#) Sure. Um, well, Kirsten England was a wonderful woman. Uh, she was the mother of two young adult sons. She loved the outdoors. Uh, she loved to hike, and in April of 2013, she was enjoying the outdoors and her family. She was visiting her two sons in college and she was driving along the Oregon coast to visit them. And she pulled over to a scenic overlook before she was to drive up to see one of them. And she wanted to see a lighthouse, which was off the coast. And it was early morning. It was foggy and she couldn't see the lighthouse. She saw a man at the overlook and she went up to him and said, "I can't see the lighthouse. Where is the lighthouse? Is it here?" And he pulled out a gun and killed her and then dragged her body into the woods and burned it. And the question is, how did a clearly deranged, troubled man, uh, have the gun that was used to kill Kirsten England?

JJ: [07:04](#) And so this was this man, perfect stranger to her? Just wrong place--

Lowy: [07:10](#) Wrong time for her in the case. Yes.

JJ: [07:13](#) Was it, and so was this premeditated or impossible to know? Just seems like random violence.

Lowy: [07:22](#) It was a man who was a deeply troubled, had serious, uh, psychiatric issues and, uh, actually had been convicted of a felony a few years before for shooting at somebody's car. And then he, working with his mother, had had his felony expunged from his record. Um, but he clearly was just bent on, uh, committing a number of crimes and probably, uh, going out, um, with, uh, those crimes to his, uh, infamous credit.

JJ: [08:10](#) And if you're, if you have a, I've actually never heard of someone getting a felony expunged. I'm sure it happens. But if I get a felony expunged, can I then, if I would have been previously banned from buying a firearm, can I now buy a firearm if my felonies expunged or is that the case by case?

Lowy: [08:24](#) Uh, you can, I mean, if your felony is expunged, then your record becomes clean and, uh, you can get a firearm and there are also ways that you can have your firearm rights restored as

it's called, um, where you've been convicted of a felony and can be able to legally buy a gun that way. In this case it was illegal, as we'll talk about.

JJ: [08:48](#) Yeah. So what brought them this case? I mean this is a horrible case, but what brought this to your attention, what brought this to Brady's attention overall?

Lowy: [08:59](#) Well, I mean, Brady has been, uh, representing victims of gun violence for about 30 years now and, uh, we're the only lawyers who really do this as a, uh, dedicated part of our work. Uh, it's been my privilege to, uh, litigate these sorts of cases for about 22 years now, um, for Brady. And people come to know that when there is a potential claim against a gun company that did something wrong that contributed to crime, uh, we're the people to go to, to advise them and if there is a legitimate suit to, to bring it. And so, uh, we were brought into this case and, um, looked into it and it certainly was, uh, one that we thought was extremely important to bring.

Davis: [09:57](#) And I would add to what John was saying and that is, this is a, this family in particular is a family who did not want this type of thing to happen to any other family. And they were very vocal in terms of reaching out to us and finding us and really being an active participant in the case to really make sure that this type of crime and this type of illegal sale does not affect another family the way it affected them. In a previous podcast, I had spoken with Kris Brown, who's head of Brady, and Cordy, who's head of comms, about why it's so important for survivors', families or survivors of gun violence to be able to come forward and present their case as sort of a way for them to have some agency over the situation that they find themselves in. Do you think it's sort of therapeutic for people sometimes or, I can see how it might be a little really hard for people and traumatic to go through a very legal long legal battle.

Lowy: [10:53](#) So in my experience, it's a very positive one because as Aaron said, you know, Kirsten's family is like a number of the families that we've represented and do represent where they want to have something positive come out of this horrific tragedy that befell their family and they don't want other families to suffer the way they did. And that's why they're willing and really, uh, excited about the possibility of seeking some sort of civil justice in the courts and changing the way gun companies do business. And this family, they had some gun owners in them. They were not at all, you know, what someone would call anti-second amendment or anti-God. They just thought guns should be sold

responsibly and the person who killed Kirsten should not have had a gun. So you mentioned

- JJ: [11:54](#) really briefly that people sort of seek out Brady specifically for this, but I know Brady has a lot of partners, right? Was this case brought in, in conjunction with anyone else or any other firms? So I, we had two wonderful sets of law firms who partnered with this on this case. The first was a local law firm in Oregon where the case was brought and our attorneys, our key attorney's name on that with Tom D'Amore, who is a fantastic successful trial lawyer in Oregon, and the second firm that worked with us was also a wonderful from their name was Cohen Milstein and we worked very closely with them and both of these firms were fantastic partners and really helping us achieve the great result we did in this case.
- Lowy: [12:35](#) And the key lawyers at Cohen Milstein were Julie Goldsmith, riser, Ray Serola and Molly Bowen, and they were others as well, but they were all, uh, tremendous and Brady really relies on partners like that to bring our cases.
- JJ: [12:51](#) Yeah, I think people like me who sort of grew up on Law and Order don't realize that it's whole teams of people that are absolutely necessary for these cases to go forward and Brady and its affiliates, those, that representation was pro bono. Right. It's not that you're getting paid to, to be there as it were. That's correct. Both of this, both of these firms worked entirely on a pro bono basis and really devoted incredible amounts of time and resources to the success of this case. And our work is pro bono as well. Yeah, I mean that's part and parcel with being a non profit, but it's, I think it's really important that I see our partners doing incredible work in this space that normally they would get paid for, but because they're passionate about this issue, they devote immense time and resources to.
- Lowy: [13:40](#) Yeah. And I'll tell you, um, a lot of our partners and some of their other work are very well paid, but um, their experience is pretty consistent in that they tend to feel that working on cases like this are the greatest experiences in their professional career or, or some of them and more satisfying than, uh, ones that earn them a lot of money.
- JJ: [14:07](#) So this case eventually reaches a settlement. How is that a little bit different from it maybe coming to an end with the judgment? Is that the correct term? Again, I'm sorry. I only know Law and Order. I didn't go to school for this.

- Lowy: [14:20](#) Well, uh, unlike law and order in reality, almost all cases are settled. Very few cases go to trial. Um, I don't know the exact percentages now, but it's probably in the 90% or so, uh, cases that end up being settled and we've had some cases that go to trial. Um, and we thought this could well be one of them. And this case was ultimately settled I think a few days before Aaron and I were going to hop on a plane to Oregon to try the case. Um, which we would have done and, and I think successfully, but it settled as they say on the courthouse steps, uh, shortly before trial was to begin.
- JJ: [15:03](#) And this settlement, if you look up this case, the England case online at all in Oregon, it's labeled as a landmark case and particularly because it was the first Oregon court case to hold dealers liable for online sales. Can you talk about that a little bit? What, what made it a landmark case? How were dealers held liable for online sales? And then I guess, and, and what has to go with long with that isn't, how did the shooter get access to a gun if he shouldn't have had it?
- Lowy: [15:31](#) So I'll begin. First let's talk about how this uh, deeply troubled man who has he say had a felony conviction that had been expunged. How he was able to get a gun. He went on the internet and first he ordered a gun online and he used his mother's name and his mother's credit card. And that gun was then shipped from the online seller who was J&G sales to a local gun dealer in Oregon. And then a few weeks later he ordered another gun from the same online seller. And this time he used his own name, but he used his mother's credit card. And there are a number of indicators that gun dealers know that something bad is happening. It's, it's an indicator that this is an unusual transaction and it is probably, if not certainly an illegal transaction. And one of those indicators is if one person's buying the gun and someone else is paying for the gun, that is not legal, that indicates it's a straw purchase, which means one person's buying a gun for someone else. Federal law does not allow it.
- Davis: [17:01](#) And I would add to what John says is that it is the responsibility of a federally licensed firearms dealer, which everybody who sells guns through a shop has to be to look for those indicators and recognize when those indicators come out and stop a sale and ask questions if they see sides that may be indications of a straw sale.
- Lowy: [17:24](#) And another thing that that gun dealers are supposed to do is alert law enforcement. If you know that a crime is being attempted and the crime is somebody illegally trying to get a

lethal firearm, you're supposed to call up local law enforcement, call up ATF and give them a chance to investigate. None of that happened here. What happened is we've see this all too often. These are gun dealers that were happy to take the money and hand over the guns, no questions asked. So what happened is, is with both of these gun sales, the online seller ships the guns to the local dealer in Oregon who then transfers those guns to the killer's mother who then supplied the killer with the guns that he used.

Davis: [18:24](#) Had law enforcement been called in this case, at any point, they would have discovered the fact that this individual had multiple guns and it really would've prevented Kirsten England's death. I just, I'd never thought about that, that if I were to say, get online with my husband's credit card and buy a gun and then to go pick it up, that that is actually something that should be flagged. Because I know when I tried to buy groceries, if I use his card, sometimes people were like, no, it's not your name. You can't use it at the very least. And that should also apply to a gun. I know I can't buy alcohol with it, so why can I buy a firearm?

Lowy: [19:06](#) Exactly. And, and sometimes you can use someone else's credit card and my kids use my credit card on Amazon all the time. And one thing that was disturbing, we heard this line in this case, we've heard it in other cases where guns sellers will say, well your kid can go on Amazon and use your account and buy books and tennis rackets and and anything else. And of course our response is these people, we're not selling books or tennis rackets or groceries. They were selling lethal firearms. Uh, and by the way, another gun that this killer had was a, uh, AK 47 assault rifle, which he did not use to do, not fire it, Kirsten, but that was in his arsenal as well.

JJ: [19:54](#) So a dealer should be able to know and identify a straw purchaser that's part and parcel of them being illegal dealer. But this individual, just really quick, because we've had this come up a number of podcasts he could have saved and if it were today, he could have bought it from a, he could have bought a gun from someone who doesn't have to undergo background checks from an individual person to person sale because of the loophole that exists in the law. Correct?

Lowy: [20:22](#) That's right. I mean he could have gone to a gun show in Oregon or elsewhere or gone onto Armslist.com and gotten a gun that way. But he didn't actually, in this case, if you got a sense of who this person was, it's clear that he wouldn't have he, he was a man who lived at home with his mother all his life. He was not

really functioning outside of the home and he really relied on his mother for all sorts of things and it's hard to conceive of him actually going out and buying a gun any other way than having his mother buy it for him.

- JJ: [21:10](#) Oh, so then this was a case where it was then exceptionally clear that it was negligence on behalf of the gun dealers?
- Lowy: [21:16](#) Yes, and the fact is, and I think that's important to note, is that most gun dealers are responsible business people. I mean the, you know, the latest stats that we have, they're old, but they're the most current is that about a 5% of crime guns are sold by about, or about 90% of a crime guns are sold by about 5% of gun dealers. About 90% of gun dealers sell no crime guns. These are responsible business people and they do the right thing. Uh, you know my senses these are people who do call law enforcement who do identify straw sales. You know, you've got some bad actors who just aren't doing the right thing. And those are the ones that are really supplying the crime guns.
- JJ: [22:04](#) So what then was the outcome of this case?
- Lowy: [22:08](#) Well, it was a very good outcome for the England family. We reached settlements with the online seller, the Oregon retail dealer, and the killer's mother, because we brought suit against her as well and we ultimately got a, a substantial financial settlement contributing, uh, from all of those defendants. And perhaps more importantly, we got both dealers, the online dealer and the, uh, Oregon retail dealer to change the way they do business in significant ways.
- JJ: [22:53](#) How, what were some of those changes?
- Lowy: [22:57](#) Well for one and there, there were some, a number of concrete reforms that they, that they did in updating their employee manuals, their invoice systems to identify and flag these sorts of purchases. So they changed their procedures, both, both online and on the ground in ways. So if this sort of thing were to happen again, it wouldn't happen again. It would be stopped. And the salespeople would be trained and they would not sell or ship a gun if one person was paying for it and someone else was ordering it. And another thing which, uh, I think was of particular significance both to us and to Kirsten's, uh, sons, was that the Oregon dealer as part of the settlement put on their Facebook page a statement which was a statement, not just about their responsibility but the responsibility to all gun dealers that recognize what happened to Kirsten. And, uh, if I could read some of it. Um,

JJ: [24:17](#) We love when people read aloud on the show. It's our, it allows me to live my own reading rainbow fantasies. It's great.

Lowy: [24:24](#) Well, so imagine this, this is not, uh, uh, James Joyce or John Updike. But, but it is a, uh, this is a local Oregon gun dealer in by the way, a very conservative part of our, again, um, many gun owners, uh, so that, think of that because this is who they are speaking to. And on their Facebook page they wrote: World Pawn Exchange recognizes that with rights come responsibilities. In 2013, a woman named Kirsten England was killed with a gun transferred by World Pawn. World Pawn is instituting measures to do all it can to prevent tragedies like that from ever happening again. World Pawn will no longer transfer firearms that have been ordered from online sellers. World Pawn recognizes that that as a federally licensed firearms dealer, it has an important role to play in preventing dangerous people from obtaining firearms and keeping its community safe. World Pawn recommends and encourages that all gun dealers, including online sellers, go beyond the legal minimum to implement the safest business practices to prevent firearms from being obtained by criminals, straw purchasers and other persons who pose a danger to themselves or others when in possession of a firearm. So they could not, we could not even say it better ourselves and, uh, it's super powerful. Yeah. And, you know, they are speaking to the gun dealing community. Um, so that was very, very significant.

JJ: [26:10](#) That's gotta be hard though. If you're someone who views yourself as a responsible dealer or views yourself as a responsible gun seller or whatnot, to know that in many ways you were complicit in someone's death. That's gotta be sort of very difficult internally to take on too, I would imagine.

Lowy: [26:28](#) It is. And, and, you know, I, I certainly give them credit that they, you know, owned up to their responsibilities, uh, as they stated in this Facebook ad. And they really showed how we can, you know, breach the divide and the, the divide between those who, uh, guns are extremely important part of their lives or their livelihood in this case. And Brady at that divide is not very vast at all. And the fact is, we disagree about some things, but we certainly agree that guns should be, uh, sold in a responsible way to prevent dangerous people from getting them.

Davis: [27:13](#) Many responsible gun owners feel the same way. They know the dangers and the risks that can come with somebody not being in the right frame of mind to be able to handle a gun. And then as a result of that, they're very onboard with companies like this who make these statements that they're going to be

careful and responsible in selling their guns. So that was obviously a very public way then for these dealers to get out that they felt responsible and they're almost apology to the England family and to Kirsten herself. Why do you think it was so important for this case to be publicized or cases like this to be publicized?

Lowy:

[27:52](#)

Well, we need to get the message out there to the rest of the gun industry and there are two ways that cases like this communicate that message. One of them is to the bad actors. When they read that there was a successful lawsuit and significant amount of money that was transferred to the, to the victims, they realized that even if all they care about is money, it may not make financial sense for them to do the wrong thing anymore. I mean, there's a few dollars profit they're gonna make from any one gun deal. Uh, but if they have to face the prospect of a substantial, if it's hundreds of thousands, and in some of our cases, uh, millions of dollars in an ultimate settlement or judgment. Um, we had a case went to trial, it was a \$5.7 million, uh, judgment against the gun dealer. All of a sudden it no longer makes financial sense.

Lowy:

[28:55](#)

So that's one way. And another message is to those gun dealers who want to do the right thing. And that, as I said, is most gun dealers. And, and I know that when they hear about cases like this, they analyze their business practices and they think, you know, I hadn't thought about how dangerous it is that someone can order a gun online. And I really have no idea who that person is. I just know somebody's typed information on a screen somewhere. It could be a five-year-old, it could be a convicted felon, it could be anyone. And it could be someone who is very different who ultimately comes into my store, pick the gun up. And so that, you know, this message with some specific reforms really informs those gun dealers and changes those practices of gun dealers all around the country.

JJ:

[29:55](#)

What is it like, maybe to get personal for a second for both of you? I know John, you mentioned that you're in contact, you have the contact of Kirsten England's sons still, and this case is old now. It's been completed. It's over. What is it like for you to represent victims of gun violence or the surviving family members of victims of gun violence?

Lowy:

[30:18](#)

So there's something that I say to, uh, a lot of my clients when they bring these cases and I told it to, to Kirsten's sons and that is that every year about 100,000 people in America are shot, about 30 to 40,000 of them are killed. And of that hundred thousand they have husbands, wives, sons, daughters, friends,

coworkers. So you can easily come up with over a million people every year affected in some way from a shooting. Put that over 10 years you're well into the millions of victims and of those millions of victims, every 10 years, a very small handful of them take action to prevent other people from suffering that harm and I do not hold it against anyone who doesn't take action. They've endured far too much already. But for those like Kirsten's family who do go the extra mile, bring a lawsuit solely to prevent other people from suffering like they have.

- Lowy: [31:41](#) To me, those are the greatest American heroes I can think of. So I, there is, it is an honor to represent them. And you know, personally I can say it doesn't, they don't have to be great people, but they are. And certainly Kirsten's sons are just wonderful young men, which of course, and it's one of the consequences of, of the work that we're in. We never get to meet the Kirsten Englands of the world. We just hear about them. And, but I do get a sense of her because of the sort of people her sons are. So, you know, I do feel a bond with them. Uh, but also with Kirsten in a way from how, um, I've gotten to know her through her family. I have a picture of Kirsten and her sons on the wall, my, um, with the, with pictures of many of the people who've been killed who, um, we've represented over the years. And that's a constant reminder of why we do what we do at Brady.
- JJ: [32:53](#) Yeah. If you're cool with it and I'm going to ask you on air so that then you have to be, um, I would love to take a picture of you in front of your photo wall because the first time I came to talk to you in your office, I couldn't help but get distracted. You just look at this giant wall of photos and then to no, that's not even what, what would you say? Like half of the people that you've represented or?
- Lowy: [33:14](#) That's probably right. Yes.
- New Speaker: [33:16](#) But also then to know that people are on that wall because of tragedy. I mean, I'm, I'm sure that you have them up there, sort of a reminder of what you do and why you do it, but that's, that's rough every day.
- Davis: [33:29](#) It's also a reminder that with each of those pictures in each of those stories, the bravery that comes from each of those people associated with them and also the difference that each of those people have made in making gun dealer safety and changing the landscape and the conversation of this issue. I wish I never had the opportunity to meet any of them, but given that I am in this role, they are incredibly brave, wonderful people. They have a

tremendous impact on everything that, that this movement stands for and you know, for somebody to be able while grieving and sometimes in the most horrible time of their life to come forward and be an example of somebody who can really make a difference for somebody else is really, I'm incredibly, I admire them incredibly and I find it a huge pleasure to be able to engage and work with them. And you know, it's an honor for me to do every day.

- Lowy: [34:27](#) Well, whenever a case settles, a trial lawyer wants to give the arguments that you would've given given a jury. I had a cat for many years who heard many closing arguments of cases that had settled. I now have a golden doodle who has heard many of them as well. He's less patient than than my cat was, who had tended to as cats do sit on the couch and listen to the whole thing. And when I was hoping to tell a jury in COOs Bay, Oregon, if this case had not settled, is that Kirsten England, when she asked to see that lighthouse never saw it. Her life was ended before the fog broke. And what is a lighthouse, ladies and gentlemen, the lighthouse is a beacon that leads us to safety to leads us away from rocky shores, members of
- JJ: [35:38](#) the jury, and really all of us, we are the lighthouse. We are the ones who will lead this country to safety. Oh wow. Now I see why your cat just listen to the attention. That's really good.
- Lowy: [35:57](#) I think that's one that even Mike, a golden doodle would have remained to listen to.
- JJ: [36:03](#) Golden deal, golden doodle seal of approval.
- Speaker 4: [36:10](#) [Music]
- JJ: [36:12](#) I had right into what I put down as the, we can't believe it section of this podcast where we try to end this podcast on a lighter note because we're already, you know, there's a big ask for people to hey, we know that the world is perpetually on fire but we want you to take the time out today to learn about gun violence prevention so click on this gun violence prevention podcast. So we try to end with something a little bit lighter so they don't go away terribly, terribly depressed and you know, cry in their work bathroom. That's what we hope. So I would love, especially when I knew that I was going to have two lawyers in the room, I picked this one especially in that as of November, 2017 there were 10 hunting licenses sold to babies in Wisconsin. But since babies can't have a bank accounts, I'm going to presume to their parents on behalf of these babies, which happened two weeks after the state eliminated its

minimum hunting age and the rate of licenses sold to, or in the name of toddlers and whatnot has only increased. And I was just curious in your thoughts on that Lowy's smirking at me like he's got a lot of thoughts,

- Lowy: [37:20](#) A lot of thoughts and no thoughts is really, I don't know anything that can be said about that. Um, I mean obviously in one respect it's, it's funny but it's also so disturbing because it, it's, it's meant to be serious. It's meant to be a way to sell more guns. And that's what this industry is all about. You know, that's what we're up against is an industry that markets lethal weapons and just wants to make a buck. And if they can make it by saying, buy a gun for your two week old hunter who can't pull the trigger yet, their gun industry is happy to take your money. And of course, as we know, that gun may well end up being used to hurt or kill someone in that family.
- JJ: [38:17](#) Yeah. The, the shooting allowance comes through what the state calls a mentored hunting law, which allows anyone to hunt without completing an education course provided that individual is accompanied by a licensed hunter and it was done under the guise of well this way people can pass on their love of hunting to children.
- JJ: [38:36](#) And indeed in that November of 2017, there were eight deer kills registered children under five. But it's unclear if the children actually pulled the trigger on those cases. Aaron's like, I have no comment on that. Just her face is just like, that's not good. And the 34, I mean, Wisconsin is not alone. There are 34 other states that don't have a minimum hunting license age. They've got laws on who can purchase a gun. But if you are with a licensed hunter, you can go out and shoot it pretty much any time.
- Lowy: [39:04](#) I will say, uh, Erin and I, uh, yesterday were posing a, another gun dealer in, in, uh, another state in another case. And we were surrounded by the heads of deer, elk, caribou, a stuffed bear, a wolf, and probably a number of other animals that I'm forgetting or couldn't identify.
- Davis: [39:27](#) And I will add that there is no disclaimer as to whether they were shot by children or adults.
- New Speaker: [39:38](#) Yeah, there wasn't an age delineation on Bambi and the room, yeah, you guys were rack up the frequent flyer miles. I feel like when we have staff meetings on Monday, it's always, we're going here, here, here, here, and...

Lowy: [39:50](#) We, uh, have actually litigated cases in over 40 States here at Brady. So, uh, almost the entire country. Um, and we've brought cases successfully and really all over every, every region and uh, yeah, often in small places like COOs Bay, Oregon, where the case of Kirsten England was going to be tried.

Davis: [40:16](#) I really enjoy traveling all over the country really. If they were places that I wouldn't necessarily go if I didn't have business in those areas because it's really great and interesting to meet people who live in these communities and really realize how similarly everyone feels on this issue when it actually comes down to it. I love talking to the local people. I love hearing where they come from and that makes me realize that this is not an issue that's so divided in that there really is so many more areas that we are united on.

Lowy: [40:48](#) Erin knows this, but I will often turn our Uber or Lyft driver into a focus group or mock juror and uh, whether we're in Texas or South Carolina or in conservative areas. And I can tell you virtually if not every single one of them, often major gun owners, when they hear about cases like Kirsten England's, they hear the facts, they're like, make them pay. Make those bastards pay, uh, because they understand, they understand better than anyone. There's a good way to to sell guns and there's a bad way to sell guns and if you sell it the bad way, he should have to pay the consequences.

Davis: [41:35](#) And I think that that's a theme that comes up in all of our cases, the right safe way to sell guns legally and the wrong way. That puts them into the hands of people who never should have them.

JJ: [41:47](#) I'll maybe end this the, we can't believe it section with how you think that maybe your focus groups, I hope your Uber rating is very high or your Lyft rating. I hope you tip well for that free focus group, but what this new line Wisconsin does allow children of any age to carry a weapon so that their mentee has their own weapon and then the child can carry a weapon as well. There where previous laws that there could only be one firearm between the two with the idea being that the mentee would have it show the student, you know the child now each can carry a gun. I would assume that most people who have been around firearms their whole life own firearms would be of the opinion that that's probably a bad idea. I don't want someone who is untrained carrying a firearm with me in the woods. It seems like they would shoot themselves or me. But as a lawyer, what do you, what do you think is that like sort of immediate liability of...

- Lowy: [42:38](#) It's, I mean to, to put it in wonky legal terms, it, it seems reckless and gross negligence and the idea that the state is sanctioning it in some way is uh, terrifying.
- JJ: [42:55](#) Please. Next time you're traveling around to ask her Uber driver what he thinks on this cause I would be interested in and those hot takes. I know when I called, I referenced my dad a lot because he's for law enforcement, so he's my gun guy. He's my gun go to. I know when I asked him about it he was like, oh, that's an easy way for your child to shoot you in the foot. Like that's, and that's best case scenario. So that was his sort of my, my version of an Uber driver. That was his takeaway of what it was. Now, right before I let you go, because I know you're very busy, I've watched your phone slowly blow up with like texts, both of you. The whole time you've been here is we do sort of ask people when we have them on in about a sentence or so, what do you think needs to change in the U.S maybe legally culturally as related to gun violence? What if you could wave a magic wand but you can only do one thing?
- Lowy: [43:48](#) Well, for policy the first thing would be required background checks for all gun sales. The other thing is for us all to come together and agree that dangerous people should not have access to guns and we do all agree on that. But for the gun owners to follow what they truly believe, not with the NRA says they should believe.
- Davis: [44:16](#) You know, I agree with with a lot of that. I think that I think that being able to bring these cases is really an important thing. To have the laws and the people enforcing the laws and the people selling guns to really implement these practices I think would make a tremendous difference because the gun dealers and the gun sellers are really the last person you know and they have the choice of whether they want to sell a gun or not sell a gun. The discretion, the laws drafted to the discretion lies with them and for them to use that discretion in a safe way I think is an extremely important thing.
- Lowy: [44:52](#) Thank you both so much for being here. I can't wait to have people from the legal department on again to talk about other cases and other ongoing sort of cases and events that Brady has been a part of because really there is ground breaking like litigation that's really happening here.
- JJ: [45:07](#) These are precedents that are being set, and it would be really interesting if anyone is listening out in Oregon who sort of around the general area to say, you know, hey, like we have noticed gun dealers in the years since the England case,

modifying how they do their practices on a more widespread scale that I think I would love to hear from people sort of in the area who buy guns a lot. What is that like for you now? Maybe before and after this case.

Lowy: [45:31](#)

Thanks for having me.

Davis: [45:33](#)

Thank you for having me as well.

JJ: [45:34](#)

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Speaker 1: [46:15](#)

[Music]