EVERYTOWN
FOR GUN SAFETY | SUPPORT FUND

June 18, 2025

By electronic submission to www.regulations.gov

Robert Hinchman
Senior Counsel
Office of Legal Policy
U.S. Department of Justice
Room 4252 RFK Building
950 Pennsylvania Avenue NW
Washington, DC 20530

Re: RIN 1105-AB78
Docket No: OLP-179: Comment on Interim Final Rule Withdrawing the Attorney General's Delegation of Authority

Dear Mr. Hinchman:

Everytown for Gun Safety Support Fund[1] ("Everytown") submits this comment regarding the March 20, 2025 Interim Final Rule ("IFR") posted by the Department of Justice ("Department" or "DOJ") relating to the Department's delegation of authority for the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") to adjudicate applications for relief from the disabilities imposed by certain firearms laws.

Everytown is deeply concerned that the Department, starting with this IFR, is heading down a path where it might ignore decades of learned experience with firearm disability relief applications and establish a broad and cursory new process that runs the risk of rearming violent offenders and domestic abusers. Many of these individuals would pose a serious and deadly danger—to their spouses and children, to schools and workplaces, to their communities, and to themselves—if they were allowed to purchase and possess firearms; notably, this is precisely what happened the last time the federal government engaged in firearms rights restoration. We fear that the Department's contemplated new process will abandon the individualized dangerousness assessment that longstanding regulations required, that it will lack rigorous and common-sense safeguards to ensure thorough vetting, and that it will deny victims, law enforcement, prosecutors, sentencing judges, medical professionals, and others at risk of harm the opportunity to have their concerns heard and given due consideration before a prohibited

[1] Everytown for Gun Safety Support Fund is the education, research and litigation arm of Everytown for Gun Safety, the largest gun violence prevention organization in the country with nearly 11 million supporters and more than 700,000 donors. The Everytown Support Fund seeks to improve our understanding of the causes of gun violence and help to reduce it by conducting groundbreaking original research, developing evidence-based policies, communicating this knowledge to the American public, and advancing gun safety and gun violence prevention in communities and the courts.

person is re-armed. Further, we fear that the Department – which is currently seeking to significantly cut funding for federal law enforcement agencies and for violence prevention programs – will not have the resources necessary to ensure that a broad relief from disability process will credibly protect public safety.

While we are not likely to agree on various areas of gun policy, we are sure that Everytown, the Department, the American people, and President Trump for that matter, can all agree that it would be a disaster if the Department grants relief to a prohibited person who then goes on to commit a horrific violent crime or mass shooting after having been allowed to rearm. Because that is a meaningful possibility coming out of the process currently proposed, we are writing to ask the Department to not take that risk.

It would be far safer for the country if the Department halted its push to establish a new firearm disability relief program, as there are significant risks inherent in any process of restoring firearm rights to those who have lost them because of felony convictions, domestic violence offenses, or other conduct prohibited by federal law. For decades, ATF reviewed petitions for relief under 18 U.S.C. § 925(c) and its implementing regulation, 27 CFR § 178.144, and ATF conducted a thorough vetting process that resulted in many applicants not receiving relief because of the dangers they posed.[2] But even among those applicants who were awarded relief after careful, individualized scrutiny, there was a serious risk that those applicants would re-offend and cause harm. And those risks materialized. Reports show that individuals rearmed under ATF's § 925(c) review process were subsequently arrested for offenses including attempted murder, attempted rape, first degree sexual assault, abduction-kidnapping, child molestation, illegal firearms possession or carrying, drug trafficking, and more.[3] It was offenses like these, and the significant cost of manpower and resources that ATF was expending to process relief petitions, that prompted Congress to pass an appropriations restriction in 1992 halting the ATF § 925(c) restoration process and to consistently renew that restriction in subsequent appropriations laws for the next 30 years.[4] Simply put, Congress assessed that the risk was too great and the cost was too high to maintain a broad § 925(c) process for rearming prohibited persons. Any effort by the Department to disregard Congress' assessment and reestablish a broad § 925(c) process inevitably risks putting guns back in dangerous hands.

We recognize that the IFR represents a "first step" by the Department and is not a fully-formed proposal for reinstituting the § 925(c) process that Congress halted.[5] But even this "first step" is troubling – for one, because it appears to violate the appropriations law that has been in place since Fiscal Year 1994 that prevents funds made available by any act from being used to transfer the functions, missions or activities of ATF functions to other agencies.[6] Also,

---

[2] For example, according to the Congressional Research Service, ATF processed 22,969 applications for relief between 1968 and 1982 and restored firearm rights to 7,581 applicants. Congressional Research Service, "Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): FY2016 Appropriations," updated Dec. 30, 2015 (hereinafter Congressional Research Service report), at p. 16.

[3] Violence Policy Center, "Putting Guns Back Into Criminals' Hands: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws," May 1992 (hereinafter VPC Report), at p. 13.

[4] *See* 90 FR 13082 (March 20, 2025) ("Congressional reports also stated that judging whether applicants posed 'a danger to public safety' was 'a very difficult and subjective task," *id*,, and that 'too many felons. . . whose gun ownership rights were restored went on to commit crimes with firearms,' H.R. Rep. 104-183 (1996)").

[5] 90 FR 13083.

[6] *See* Congressional Research Service report, *supra* note 2, at p. 23.

the Department claims in the IFR that it wishes to "withdraw the moribund regulations governing individual applications to ATF for 18 U.S.C. 925(c) relief" so that the Department can have a "clean slate on which to build a new approach to implementing 18 U.S.C. 925(c) without the baggage of no-longer-necessary procedures."[7] But those withdrawn regulations in 27 CFR § 178.144 contained important provisions for obtaining necessary documentation and common-sense criteria for evaluating applications. The fact that the Department now calls such safeguards "moribund" and "no-longer-necessary" – and the fact that the Department has already awarded § 925(c) relief to 10 individuals without any apparent formalized process or safeguards in place at all[8] – raises legitimate fears about the path the Department is heading down.

We are heartened by the Department's statement in the IFR that, in the Department's perspective, § 925(c) is an appropriate avenue "to restore firearm rights to certain individuals who no longer warrant such disability based on a combination of the nature of their past criminal activity and their subsequent and current law-abiding behavior while screening out others for whom full restoration of firearm rights would not be appropriate" and "simultaneously ensuring that violent or dangerous individuals remain disabled from lawfully acquiring firearms."[9] In doing so, the Department itself has made clear that any credible restoration process it establishes must, at minimum: (1) provide individualized assessments; (2) scrutinize each individual applicant's past criminal activity as well as subsequent and current behavior; (3) not provide relief to those whose subsequent and current behavior is not law-abiding; (4) screen out those whose past criminal activity and subsequent and current behavior does not warrant restoration of rights; and (5) ensure that violent or dangerous individuals do not receive relief. In this comment, we expand upon these minimum requirements and discuss other important considerations for a reestablished § 925(c) process, such as the need to preserve key elements of 27 C.F.R. § 178.144 and the need to ensure as part of any restoration process that victims and others with knowledge about the applicant's history and circumstances receive notice of an applicant's relief petition and the opportunity to submit information for review. A sophisticated and individualized review process that meets the Department's own minimum criteria and that includes a heavy burden of proof for a prohibited person, and particularly for those with a history of violence, to demonstrate rehabilitation would be absolutely necessary to ensure that the Department is not unacceptably endangering public safety by creating the first federal process in over 30 years to rearm prohibited people under § 925(c).

Bottom line, there are millions of individuals today who are rightly prohibited by longstanding federal law from possessing firearms,[10] and the Administration seeks to give those individuals the opportunity to arm themselves again. We urge the Administration and the Department to recognize that this effort—even if it is executed carefully and diligently—poses significant risks to public safety. We know from past experience that the § 925(c) relief from disability process will *in fact* lead to rearming dangerous individuals who will *in fact* go on to commit violent offenses. When Congress effectively ended this process in 1992, it noted at the time that reviewing restoration petitions "is a very difficult and subjective task which could have devastating consequences for innocent citizens if the wrong decision is made."[11] With this IFR,

---

[7] 90 FR 13083.
[8] 90 FR 17835 (April 29, 2025).
[9] 90 FR 13082-3 (emphasis added).
[10] *See* FBI, "Active Entries in the NICS Indices as of December 31, 2024," viewed on June 3, 2025.
[11] S. Rep. No. 353, 102d Cong., 2d Sess. 19-20 (1992).

the Department now risks jeopardizing the life and safety of these innocent citizens, and we urge the Department to proceed with extreme caution.

If the Department does proceed with establishing a new, broad restoration of rights process under § 925(c), the Department must at minimum ensure that its process does not rearm dangerous individuals who are at risk of reoffending and endangering our communities. Individualized reviews, rigorous safeguards, and significant resources, time, and hard work would be needed to establish and administer a credible restoration process that preserves public safety – and the consequences of inadequate vetting will be owned by the Department and the Trump Administration. This is a perilous path the Department is heading down, and we urge the Department not to neglect its traditional crime prevention and law enforcement focus in order to prioritize a broad initiative to let convicted felons and domestic abusers possess guns again. That agenda will make American communities less safe.

I. The Department's Historical Experience with § 925(c) Relief Petitions Shows the Risks of Rearming Felons, Domestic Abusers, and Other Prohibited Persons.

A. The 18 U.S.C. § 925(c) process has historically fallen short in ensuring that rearmed prohibited persons do not endanger public safety.

The § 925(c) relief from disability statute was first created in 1968, and the history of its use over the next several decades shows the complexity and peril of restoring firearms possession eligibility to those who have been prohibited under federal law.

Federal law prohibits individuals who meet certain criteria from possessing firearms because of the danger such persons pose to themselves, others, or public safety. A number of these statutory prohibitors are for statuses that are temporary, such as prohibitions for those who are in fugitive status, those who are unlawful users of or addicted to controlled substances, those who are unlawfully in the United States, and those who are subject to a domestic violence restraining order. Once a person no longer falls within that temporary status, they are no longer prohibited from firearm possession. Other statutory prohibitors are not temporary; they involve conduct or circumstances which are of such gravity that Congress identified only limited circumstances in which the prohibition on firearms possession would expire or no longer apply. This list of prohibitions covers those who have been convicted of certain crimes punishable by imprisonment for a term exceeding one year,[12] those who have been adjudicated as a "mental defective" or committed to a mental institution, those who have been dishonorably discharged from the Armed Forces or who have renounced their citizenship, and those who have been convicted of certain domestic violence crimes against certain individuals.[13]

---

[12] The definition of "crime punishable by imprisonment for a term exceeding one year" in 18 U.S.C. § 921(a)(20) provides certain exceptions, which include antitrust violations and convictions which have been expunged or set aside or for which a person has been pardoned or had civil rights restored, unless such pardon, expungement or restoration of civil rights expressly provides that the person may not possess firearms.

[13] 18 U.S.C. § 921(a)(33) defines "misdemeanor crime of domestic violence" and provides, in (B)(ii), that "[a] person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms." Also, 18 U.S.C. § 921(a)(33)(C) provides in part that "in the case of a person who has not more than 1 conviction of a misdemeanor crime of domestic violence against an individual in a

In June 1968, Congress enacted 18 U.S.C. § 925(c), which at that time applied to one category of prohibited persons: "a person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or the National Firearms Act)."[14] Section § 925(c) initially provided that such prohibited persons could apply to the Secretary of the Treasury (who at the time had relevant jurisdiction) for relief from their firearm disability, which could be awarded "if it is established to [the Secretary's] satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to conduct his operations in an unlawful manner, and that the granting of the relief would not be contrary to the public interest."[15] In October 1968, Congress amended this § 925(c) standard to provide that relief could be granted "if it is established to [the Secretary's] satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of relief would not be contrary to the public interest."[16] Section 925(c) was later amended to expand its applicability to all prohibited persons, to allow applicants who are denied relief to seek judicial review of the denial in federal district court, and to transfer jurisdiction from the Treasury Department to the Department of Justice.[17]

In December 1968, implementing regulations were first issued for § 925(c) at what is now 27 C.F.R. § 178.144.[18] In 1975, the authority to adjudicate relief applications under § 925(c) was delegated by the Secretary of the Treasury to the Director of ATF who had expertise on firearms laws, and the delegation of authority was renewed by the Attorney General when ATF was moved to the Department of Justice in 2003.[19] In 1988, ATF revised § 925(c)'s implementing regulations after the Firearms Owner's Protection Act of 1986 (FOPA) had made all prohibited persons eligible to apply for § 925(c) relief. The revised regulations identified specific types of documentation that an applicant would need to provide, and put in place guidance and criteria indicating whether the Director would find that a particular applicant will not be likely to act in a manner dangerous to public safety and when relief would not be contrary to the public interest.[20] As discussed further in Part II below, the documentation requirements, guidance and criteria contained in the 1988 regulations provided important and common-sense safeguards that aimed to help ensure that relief was not awarded to applicants who were likely to be dangerous, especially after the applicant pool had been significantly broadened by FOPA. And in carrying out its review process pursuant to these regulations, ATF dedicated extensive time and resources to vetting applicants; according to the Department, ATF "had a practice of

---

dating relationship, and is not otherwise prohibited under this chapter, the person shall not be disqualified from shipping, transport, possession, receipt, or purchase of a firearm under this chapter if 5 years have elapsed from the later of the judgment of conviction or the completion of the person's custodial or supervisory sentence, if any, and the person has not subsequently been convicted of another such offense, a misdemeanor under Federal, State, Tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, or any other offense that would disqualify the person under section 922(g)."

[14] Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, 82 Stat. 197 (June 19, 1968).

[15] *Id*.

[16] Gun Control Act of 1968, Public Law 90-618, 82 Stat. 1213 (Oct. 22, 1968) (emphasis added).

[17] Firearm Owners Protection Act, Public Law 99-308, 100 Stat. 459 (May 19, 1986); Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135 (Nov. 25, 2002).

[18] *See* 33 FR 18555, 18572 (Dec. 14, 1968).

[19] 40 FR 16835 (Apr. 15, 1975); 68 FR 3744 (Jan.24, 2003).

[20] 53 FR 10506 (March 31, 1988).

conducting extensive field investigations. It interviewed the applicant, his references, probation officer, employers, neighbors, and friends."[21] In the late 1980s and early 1990s, ATF was dedicating over 40 staff to reviewing approximately 1,000 petitions per year, and was granting relief to about one-third of those petitions.[22]

Notwithstanding the additional process steps and safeguards that had been formalized into regulations in 1988, by the early 1990s it had become widely recognized that the § 925(c) process ran a significant risk of rearming prohibited individuals who were likely to be dangerous in the future. The Violence Policy Center (VPC) issued a report in 1992 based on information obtained from ATF through the Freedom of Information Act (FOIA).[23] Through FOIA, the VPC was able to obtain a sample list of 100 cases from a specified time period in which applicants who had been convicted of a felony had been granted relief from disabilities. The VPC found that of those 100 sample applicants who had been allowed under the ATF § 925(c) process to rearm, one had committed manslaughter with a firearm, two had been convicted of rape, one had been convicted of sexual assault, two had been convicted of sexual abuse of a child, three had been convicted of homicide involving driving while intoxicated, five had been convicted of robbery, 17 had committed drug distribution or possession offenses, and eight had committed firearm violations, among other offenses.[24] Many of the details of these offenses, as summarized in the VPC report, were horrifying.[25] But despite these offenses, ATF had granted the applicant relief in each of those cases.

The Violence Policy Center also noted in its report that ATF estimated that, of those applicants granted relief between 1985 and 1989, 47 went on to again commit crimes.[26] The VPC report noted that "[r]ecidivist crimes that those granted relief were subsequently arrested for included: attempted murder; criminal attempted rape; first degree sexual assault; abduction-kidnapping; child molestation, illegal possession and sale of a machine gun; trafficking in cocaine, LSD, and PCP, and illegal firearms possession or carrying."[27] Thus, even with ATF dedicating more than 40 staff to conducting a thorough interview and research process

---

[21] Petition for a Writ of Certiorari by the Solicitor General of the United States Theodore Olson, *United States v. Bean*, at p. 14 (Nov. 2001).

[22] The New York Times, "How Your Tax Dollars Arm Felons," July 27, 1992 ("Applications now run about 1,000 per year; a third gain approval. Since they aren't treated casually, the B.A.T.F. employs more than 40 people to evaluate them."). The exact number of firearms relief applications that have been considered under § 925(c) is unclear. According to information provided by ATF to the Congressional Research Service, ATF "processed 22,969 applications for relief between 1968 and 1982, restoring firearms privileges to 7,581 applicants and denying restoration to 4,251 applicants. (Congressional Research Service report, *supra* note 2, at p. 16). ATF also reported during Congressional hearing testimony that a total of 5,680 firearms restorations were granted between FY 1981 and February 1992. (Treasury, Postal Service, and Gen. Gov't Appropriations for Fiscal Year 1993, Hearings Before the Subcomm. on the Treasury, Postal Service, and Gen. Gov't Appropriations of the House Comm. on Appropriations, 102d Cong., pt. 1, at 993-94 (1992)).

[23] VPC Report, *supra* note 3.

[24] *Id*. at pp. 22-25.

[25] *E.g.*, "The applicant, while drunk, had raped and sodomized a woman who had been baby-sitting for a friend of the applicant." "Applicant had robbed a clerk at a K-Mart department store of $5,740 using a loaded .38 caliber revolver." "Applicant and two other individuals attacked a service station attendant, beating him with an iron bar." *Id*. at pp. 41-43.

[26] *Id*. at p. 13. In a later report issued in 2000, the VPC identified at least 69 applicants who had been granted relief under § 925(c) between 1985 and 1992 and who had later been rearrested for crimes. *See* Violence Policy Center, "Guns for Felons: How the NRA Works to Rearm Criminals," March 2000, at p. 6.

[27] VPC Report *supra* note 3, at p. 13.

on each applicant, and even with a rate of awarding relief to only one in three applicants, individuals who were granted relief under § 925(c) still proved to be dangerous to public safety.

B. Congress imposed appropriations restrictions on § 925(c) because of the high risks and costs of the process.

In 1992, reports about the results of the § 925(c) restoration process motivated Congress to enact statutory language restricting ATF from spending appropriated funds on investigating or acting upon applications for § 925(c) relief—immediately suspending all federal work to approve the rearming of people who were prohibited under the law.[28] The Senate Committee on Appropriations Report for this appropriations restriction stated the rationale as follows:

> After ATF agents spend many hours investigating a particular applicant they must determine whether or not that applicant is still a danger to public safety. This is a very difficult and subjective task which could have devastating consequences for innocent citizens if the wrong decision is made. The Committee believes that the approximately 40 man-years spent annually to investigate and act upon these investigations and applications would be better utilized to crack down on violent crime.[29]

Congress subsequently began renewing this appropriations restriction in each year's annual appropriations bills. As the House Committee on Appropriations explained in its Committee Report in 1995:

> For the fourth consecutive year, the Committee has added bill language prohibiting the use of Federal funds to process applications for relief from Federal firearms disabilities….We have learned sadly that too many of these felons whose gun ownership rights were restored went on to commit violent crimes with firearms. There is no reason to spend the Government's time or taxpayer's money to restore a convicted felon's right to own a firearm.[30]

Congress has continued to maintain this appropriations restriction on the § 925(c) process every year up to the present day, under both Republican and Democratic administrations and under both Republican- and Democratic-controlled Congresses.[31] Since 1992, research has

---

[28] Treasury, Postal Service, and General Government Appropriations Act, 1993, Pub. L. No. 102-393, 106 Stat. 1732.

[29] S. Rep. No. 353, 102d Cong., 2d Sess. 19-20 (1992).

[30] H.R. Rep. No. 183, 104th Cong., 1st Sess. 15 (1995).

[31] While Congress has maintained the appropriations restriction on the § 925(c) process since 1992, Congress has been aware that there are other avenues by which persons prohibited from gun possession have been able to seek relief. Other processes for relief include that disqualifying convictions can be expunged or set aside, or prohibited persons can be pardoned or have civil rights processes restored. Note also that beginning in Fiscal Year 1994, Congress has annually enacted an appropriations restriction in ATF's salaries and expenses account that provides that "no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments. (Treasury, Postal Service, and General Government Appropriations Act, 1994; P.L. 103-123, 107 Stat. 1226 (Oct. 28, 1993)); *see also* Congressional Research Service report, *supra* note 2, at p. 23. The language is clear that no funds made available by any act may be used to transfer ATF functions, missions, or activities to another agency or Department. The Department's attempt to withdraw via regulation the delegation of authority for ATF to implement § 925(c) uses Department funds to transfer ATF "functions, missions, or activities" outside of ATF, and a court may well find such

further clarified the serious risks and dangers presented when individuals with a criminal history are subsequently able to possess firearms. For example, a 1998 study reaffirmed that those with previous criminal offenses (not even necessarily felony offenses) were more likely to be dangerous in the future.[32] The study showed those with at least one prior misdemeanor conviction were over seven times more likely to be charged with a new offense after purchasing a handgun than those with no prior criminal history, and were almost five times as likely to be charged with new offenses involving violence or firearms.[33] Conversely, another study published in 2018 found that there is a 23% reduction in rates of intimate partner homicide when individuals convicted of violent misdemeanors (not felony offenses, and not necessarily domestic violence misdemeanors) are prohibited from accessing firearms.[34] A United States Sentencing Commission (USSC) study in 2019 found that federal firearm offenders "generally recidivated at a higher rate, recidivated more quickly following release into the community, and continued to recidivate later in life than non-firearms offenders."[35] The USSC study found that among federal firearms offenders released in 2005, 68.1% went on to be rearrested for a new crime during the eight-year follow-period, and the most common charge among those who were rearrested was assault (29%).[36] The Violence Policy Center also issued a report in 2000 further discussing specific instances where applicants had received relief from disability under the pre-1992 § 925(c) process and had later gone on to commit new offenses.[37] Studies such as these show the elevated risks of firearm violence associated with those convicted of any offense, and particularly those convicted of domestic violence or firearms offenses.

The risks and dangers that Congress in 1992 recognized in the § 925(c) restoration process remain present today. The review work was arduous when the Department dedicated a sizable ATF workforce to conduct it prior to 1992, and still it was yielding dangerous results. If the Department moves forward with reestablishing the § 925(c) process, the burden of addressing those risks and dangers and ensuring that innocent people are not harmed by rearmed prohibited persons will fall squarely on the Department.

---

regulatory action to violate the appropriations restriction that Congress enacted—especially because Congress had long known about the delegation of § 925(c) review authority to ATF at the time that Congress enacted the language restricting transfer of ATF functions. A court could also reasonably conclude that in order to effectuate the withdrawal of the delegation of § 925(c) authority to ATF and to allow § 925(c) activities to restart elsewhere within the Department, Congress would have to pass a new law superseding the appropriations restriction that prevents the use of funds made available by "any Act" to transfer ATF functions. At minimum, this issue is likely to result in litigation over the precise boundaries of the Department's authority in light of the Congressional funding restrictions, which could cast a cloud over the award of any relief under § 925(c) until the litigation is resolved.

[32] Garen J. Wintemute, *et al*., "Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity Among Authorized Purchasers of Handguns." JAMA 280, no. 24 (Dec. 23, 1998) at pp. 2083–87.

[33] *Id*.

[34] April Zeoli, *et al*., "Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations With Intimate Partner Homicide," American Journal of Epidemiology, Volume 187, Issue 11 (Nov. 1, 2018).

[35] Matthew J. Iaconetti, Tracey Kyckelhahn, and Mari McGilton, "Recidivism Among Federal Firearms Offenders" (United States Sentencing Commission, June 2019), at p. 4.

[36] *Id*.

[37] Violence Policy Center, "Guns for Felons: How the NRA Works to Rearm Criminals," March 2000, *supra* note 26.

II. To Credibly Ensure Public Safety, Any Rights Restoration Process Must Have Individualized Reviews and Rigorous Safeguards.

In our view, there is no compelling need to restart the § 925(c) process and to prioritize the Department's attention and resources on giving convicted felons and domestic abusers the opportunity to rearm. There are significant risks of harm under the § 925(c) process that would require extensive time, manpower, and investigative resources to mitigate, and those resources would come at the expense of other Department priorities such as preventing and solving violent crimes. But if the Department is going to go down the path of seeking to reestablish the § 925(c) process, the Department must at minimum: (1) follow the law (including any limits on the Department's authority under Congress's appropriations restrictions); (2) follow the guidance that the Department itself laid out in the IFR; (3) learn lessons from past experience with restoration procedures and from experience in the states; and (4) incorporate meaningful safeguards into the process such as requiring applicants to provide relevant documentation, giving victims, law enforcement and other relevant parties notice of relief petitions and the opportunity to submit evidence, and setting evidentiary thresholds that reduce the risk that violent or dangerous individuals will end up receiving relief.

Section 925(c)'s text sets out a baseline of statutorily-prescribed considerations and determinations for the review process, providing that no relief may be granted to an applicant unless the Attorney General (or her designee) has considered "the circumstances regarding the disability" and "the applicant's record and reputation" and has determined to the Attorney General's satisfaction that the applicant "will not be likely to act in a manner dangerous to public safety" and "that the granting of relief would not be contrary to the public interest."[38] But to turn this baseline into a fully-operational process that ensures public safety, there is significant work that the Department must do to flesh out substantive and procedural details and fill in the "clean slate" that the Department has created for itself by issuing the IFR and withdrawing existing regulatory provisions in 27 C.F.R. § 478.144. In its IFR, the Department has already identified certain key details, stating that it believes § 925(c) can serve as "an appropriate avenue to restore firearm rights" if the following conditions are met:

- the process must only provide relief to "certain individuals who no longer warrant such disability," meaning that determinations must be made on an individual basis after taking into account the specific circumstances of each applicant's disability;
- the determination that an individual no longer warrants disability must be "based on a combination of the nature of their past criminal activity and their subsequent and current law-abiding behavior," meaning that such past activity and subsequent and current behavior must be reviewed and evaluated for each individual;
- the process must not provide relief for individuals whose "subsequent and current" behavior is not "law-abiding," since the Department has made clear that only "subsequent and current law-abiding behavior" would warrant relief from disability;

[38] 18 U.S.C. § 925(c).

- the process must "screen[ ] out others for whom full restoration of firearm rights would not be appropriate" because of those individuals' past criminal activity or their subsequent and current behavior; and

- the process must "simultaneously ensur[e] that violent or dangerous individuals remain disabled from lawfully acquiring firearms," thus drawing a clear line against awarding relief to any individuals assessed to be violent or dangerous.[39]

By laying out these conditions in the IFR, the Department has helpfully made clear certain steps and standards that any reestablished restoration process must, at a bare minimum, follow. We elaborate on these conditions below, while noting that they would only suffice to protect public safety if the Department diligently implemented and followed them.

A. Any relief from disability application must be reviewed and considered on an individualized basis.

As a threshold matter, any petition review process under § 925(c) must be individualized. Pursuant to § 925(c)'s text, every person seeking relief must submit an application and each applicant's specific circumstances, record and reputation must be reviewed so that the Attorney General can make § 925(c)'s statutory evaluation of whether that particular applicant "will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest." A case-by-case review specific to the individual applicant is also essential to meet the conditions the Department laid out in the IFR, such as making sure that the process screens out those whose subsequent and current behavior is not law-abiding or does not warrant relief and ensuring that relief is not awarded to violent or dangerous individuals. These individualized reviews should be conducted by qualified, impartial reviewers who have experience in conducting investigations and who abide by strict conflict of interest rules. We note that requiring an individualized review for each applicant is not controversial; even the National Rifle Association, in discussing the Department's IFR, acknowledged that "[i]t is important to remember that petitions under the new rule will be considered on a case-by-case basis. This is not a broad amnesty for violent convicts to rearm themselves."[40]

In keeping with the need for an individualized review process, the Department cannot cut corners and bypass the hard work of conducting case-by-case reviews. This means there can be:

- no batch processing of petitions whereby applicants are placed into categories and relief is awarded to all applicants in a certain category without an individualized review and assessment of each applicant;

- no automatic restoration after a number of years for applicants who fall within a certain prohibited category without an individualized review of the applicant's circumstances, record and reputation including the individual's past activity and subsequent and current behavior;

[39] 90 FR 13082-3.
[40] National Rifle Association - Institute for Legislative Action, "Trump Administration Revives Federal Firearm Rights Restoration Provision," March 21, 2025.

- no reliance on artificial intelligence to substitute for reviews and determinations conducted by humans, as A.I. cannot exercise the judgment necessary to decide whether a prohibited person is likely to act in a manner dangerous to public safety;

- no ignoring the perspectives of those who were impacted by a specific applicant's prohibited conduct, such as victims, law enforcement, sentencing judges, parole officers, family members, and others who have information about the applicant's history, subsequent and current behavior, and dangerousness;

- no provision for default or automatic approval of applications that have been pending for a certain period of time; and

- no assigning massive numbers of petitions for review to a small number of Department staff with unrealistic fixed deadlines that preclude reviews from being thorough. (Remember that prior to 1992, ATF was dedicating 40 staff to reviewing approximately 1,000 petitions per year.[41] And even when ATF was devoting such extensive resources and time to conducting thorough investigations of each individual applicant, there were individuals who slipped through the cracks and ended up committing crimes and endangering public safety after being awarded relief. The Department will invite mistakes and harmful consequences if the Department relies on an insufficient number of staff to complete a large number of reviews with inadequate time.)

Failure to apply the above standards for § 925(c) reviews could lead to catastrophic results. Every convicted felon, domestic violence offender, and other prohibited person who applies for relief can pose a serious danger and risk of harm if they are awarded relief inappropriately, and the Department bears the burden of making sure that does not happen and will be responsible if it does.

B. Requiring applicants to supply appropriate documentation and providing victims, law enforcement, and other relevant stakeholders with timely notice and the opportunity to comment are necessary steps to ensure adequate information is available about each applicant's past criminal activity, subsequent and current behavior, and dangerousness.

Any reestablished § 925(c) process must also ensure that the Department has the documentation necessary to evaluate the circumstances of each applicant's prohibiting conduct, the applicant's subsequent and current behavior and reputation, and the applicant's likelihood of dangerousness if rearmed. The revised regulations in 27 § CFR 478.144 that the Department issued in 1988 included common-sense requirements that an applicant provide basic and essential documents as part of their application package. The Department should preserve these documentation requirements in any reestablished process, including the following requirements:

- The applicant must give written consent for the Department to obtain copies of records such as the applicant's medical history and criminal record and to receive statements regarding the applicant's background, including records, statements and information concerning employment, medical history, military service and criminal record;[42]

[41] The New York Times, "How Your Tax Dollars Arm Felons," July 27, 1992, *supra* note 22.
[42] 27 C.F.R. § 478.144(c)(2).

- An applicant who is under indictment must provide a copy of the indictment;[43]
- An applicant who had been convicted of a felony must provide a copy of the indictment, the judgment of conviction or record of any plea, and records of any pardon, expunction, or other record indicating that the conviction was rendered nugatory or civil rights were restored;[44]
- An applicant who had been adjudicated a mental defective or was committed to a mental institution must provide a copy of the order making the adjudication or commitment as well as any petition that sought to have the applicant adjudicated or committed, any medical records reflecting the applicant's diagnoses or reasons for commitment, and any order or finding showing the applicant's discharge from commitment, restoration of mental competency or restoration of rights;[45]
- An applicant who had been dishonorably discharged from the Armed Forces must provide a copy of the applicant's summary of service record, charge sheet, and final court martial order;[46]
- An applicant who renounced his or her citizenship must provide a copy of the formal renunciation;[47]
- An applicant who was convicted of a misdemeanor crime of domestic violence must provide a copy of the indictment, the judgment of conviction or record of any plea, and records of any pardon, expunction, or other record indicating that the conviction was rendered nugatory or civil rights were restored;[48] and
- Each applicant must provide written statements from at least three references who are not related to the applicant and who have known the applicant for at least three years recommending the granting of relief.[49]

In addition, the Department should make clear in any reestablished process that the reviewer can request records from an independent psychological evaluation or a substance abuse evaluation of an applicant prior to making an assessment of dangerousness or determination whether to award relief.

Further, it is imperative that any reestablished § 925(c) process ensure that notification about a filing of a petition for relief is provided to the applicant's victims, prosecutors, law enforcement, sentencing judges, probation or parole officers, medical professionals, and other affected parties such as family members, and that those stakeholders be given the opportunity to submit a statement or evidence and have it be considered before any grant of relief. This type of outreach was part of the pre-1992 ATF evaluation process in which ATF investigators carefully evaluated the applicant's reputation, and such notice is essential in order for the Department to

[43] 27 C.F.R. § 478.144(c)(3).
[44] 27 C.F.R. § 478.144(c)(4).
[45] 27 C.F.R. § 478.144(c)(5).
[46] 27 C.F.R. § 478.144(c)(6).
[47] 27 C.F.R. § 478.144(c)(7).
[48] 27 C.F.R. § 478.144(c)(8).
[49] 27 C.F.R. § 478.144(c)(1).

obtain information about the circumstances of the applicant's prohibiting conduct, the applicant's subsequent and current behavior and whether or not it has been law-abiding, and the applicant's likelihood of dangerousness. The Department should require each applicant to identify, as part of his or her application: appropriate identified victims of any offense the applicant committed; relevant law enforcement agencies that were involved in the case underlying the prohibition as well as in all of the jurisdictions in which the person has resided since; prosecutors and judges for an underlying offense; any relevant medical or mental health professionals who had been involved in any adjudication of mental defectiveness or commitment; and any probation, parole or court officers or others who may have information about any subsequent conduct by the applicant that was not law-abiding. The Department should then standardize a notification process that informs those parties that the applicant has filed a petition for relief and gives the parties an opportunity to submit comments or evidence. There is precedent for such standardized notification both at the federal level, where the Department notifies relevant local law enforcement of attempted lie-and-try gun purchases pursuant to the NICS Denial Notification Act,[50] as well as under laws in various states that ensure notification to relevant stakeholders and an opportunity to comment before restoration of state firearm rights.[51]

In short, the Department must not rearm prohibited persons without assembling the necessary documentation about the applicant as well as giving timely notice and an opportunity for those who were victims of the applicant's prohibited conduct, those who were involved in the adjudication of the conduct, those who have overseen the applicant's subsequent and current behavior, and those who might be at risk of future harm, to provide information and evidence to the Department for consideration before any relief is awarded. These process steps would require time and resources, but they are essential to minimizing the risk that the § 925(c) process would put guns back in the hands of violent or dangerous prohibited persons.

C. The Department should establish a clear and convincing standard for evidence to demonstrate that the applicant has been law-abiding and is not likely to be violent or dangerous.

In order to meet the Department's condition of ensuring that violent or dangerous individuals remain disabled from firearm possession, the Department should also establish as part of any relief process that the evidence presented by an applicant seeking relief must be clear and convincing in showing that the applicant is currently law-abiding and is not likely to be violent or dangerous if granted relief. Given the risk of harm that can be caused when prohibited persons are inappropriately awarded relief, a lower evidentiary threshold, such as a preponderance threshold, would not be adequate to ensure proper vetting of applicants for dangerousness. A requirement of clear and convincing evidence has been in place in various

[50] *See* 18 U.S.C. § 925B.

[51] *See, e.g.*, 430 ILCS 65/10(c)(0.05) (providing that in a proceeding where a person is seeking relief from a firearms prohibition in circuit court, the State's Attorney must be served with a written copy of the petition at least 30 days before any hearing in the circuit court and must be afforded the opportunity to present evidence and object to the petition.); MT Code Ann. 45-8-314(2)(c)-(d) (requiring a person seeking to restore the right to purchase firearms to, at the time of filing an application, mail a copy to the county attorney and county sheriff who may file a written objection with the court); N.H. Rev. Stat. § 651:5(IX) (providing that when an applicant files a petition for annulment of criminal records, "The court shall provide a copy of the petition to the prosecutor of the underlying offense and permit them to be heard regarding the interest of justice in regard to the petition.").

states such as North Dakota, Oregon, and West Virginia, and is the appropriate standard to demonstrate that federal relief is appropriate and warranted.[52]

The Department should also retain the provision in the longstanding ATF regulations providing that an applicant who has been adjudicated a mental defective or committed to a mental institution will not be granted relief unless, in addition to the Department's individualized review and determination that § 925(c)'s statutory standards have been met, the applicant has been determined by a court or other lawful authority to have been restored to mental competency or to no longer be suffering from a mental disorder, and to have had all rights restored.[53] Department employees conducting § 925(c) reviews are unlikely to have a professional background or expertise in evaluating mental health status, and the Attorney General should ensure that established mental health restoration processes have taken place when determining whether a § 925(c) applicant who was prohibited because of an adjudication of mental defectiveness or commitment to a mental institution is no longer suffering from a mental disorder that makes the applicant dangerous.

D. The Department should establish criteria that presumptively screens out those for whom relief would not be appropriate, though each applicant would still receive an individualized review.

In laying out procedures for a renewed § 925(c) review process, there is precedent for the Department to establish criteria that could be used to presumptively screen out individuals for whom relief would not be appropriate, though each applicant would still need to receive an individualized review in which a presumption could be overcome.[54] The Department could establish criteria for rebuttable presumptions when it comes to assessing a § 925(c) applicant's dangerousness and the risk of restoration to the public interest. The Department should make clear that if an applicant fails any of those criteria, the default will be that the applicant must remain prohibited, and the applicant would have to make an extraordinary showing of current and future non-dangerousness in order to obtain relief. This is perhaps the most critical substantive piece of standards-setting in the whole review process—ensuring, for example, that in the vast majority of cases individuals who committed violent crimes and individuals whose prohibitions only came into place recently cannot rearm. The use of such presumptions could help increase efficiency and promote consistency in the handling of applications, though, of

[52] N.D. Cent. Code, § 62.1-02-01.1(2) ("The district court may restore the right of an individual to possess a firearm if the court determines, by clear and convincing evidence, that all of the following circumstances exist….(d) The individual's record and reputation are such that the individual is not likely to act in a manner dangerous to the safety of others."); Or. Rev. Stat. Ann. § 166.274(7) ("If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner."); W. Va. Code § 61-7-7(f) ("Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the country in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law.").

[53] 27 C.F.R. § 478.144(e).

[54] For example, the Department has issued regulations in 27 C.F.R. § 478.13 establishing rebuttable presumptions for whether or not a gun seller is engaged in the business of dealing firearms and whether the seller has the intent to predominantly earn a profit.

course, each applicant would still need to receive an individualized review in which presumptions could be rebutted. Relevant criteria for presumptions should include the following:

- Violent offenses: Applicants who committed a violent prohibiting offense (either a felony or a domestic violence misdemeanor offense) should be considered presumptively dangerous and ineligible for relief unless the applicant can provide clear and convincing evidence of current and future non-dangerousness to overcome that presumption.

- Repeat offenders: Applicants who have committed multiple offenses, and particularly multiple prohibiting offenses, should be considered presumptively dangerous and ineligible for relief and likewise should be required to provide clear and convincing evidence of current and future non-dangerousness to overcome that presumption. (Notably, there are states whose restoration processes distinguish between first-time and repeat offenders, such as in North Carolina where applications for firearm rights restoration are limited to first-time offenders who committed a single nonviolent felony.[55])

- Offenses involving firearms: Applicants who petition for relief from a prohibition based on the applicant's illegal possession of a firearm or use or threatened use of a firearm for violence, or who have subsequently been arrested, charged, or convicted for firearm-related offenses, should also be considered presumptively dangerous and ineligible for relief unless the applicant can establish their current and future non-dangerousness by clear and convincing evidence.

- Short duration between offenses and applications: Applicants who petition for relief within a short duration of time after their offense, the end of their sentence, or the commission of a subsequent offense should be presumptively considered ineligible for relief because the time period does not provide enough of a basis to assess if the person is currently law-abiding and no longer a danger. The duration should be calculated from the later of the date of last conviction or the completion of a prison sentence for the offense. For example, petitions filed within five years of a misdemeanor domestic violence offense or within 15 years of a felony offense, or petitions filed within three years of a subsequent offense committed after the prohibiting offense, should be considered presumptively ineligible for relief unless the applicant can demonstrate by clear and convincing evidence that the applicant is now law-abiding and no longer a danger. (Numerous states impose waiting periods before an applicant can even apply for restoration, though in this case, the duration would not be a bar to an applicant filing a petition but rather would create a presumption against relief that could be rebutted during the individualized review.[56]) The Department should also consider petitions presumptively ineligible if they are filed less than two years after the applicant has been discharged from parole or probation, in keeping with the pre-existing regulation in 27 C.F.R. § 478.144(d).

[55] N.C. Gen. Stat. § 14-415.4.

[56] *See, e.g.*, IN Code § 35-47-4-7(b) ("Not earlier than five years after the date of conviction, a person who has been convicted of a crime of domestic violence may petition the court for restoration of the person's right to possess a firearm."); 430 ILCS 65/10(c)(1) (permitting an applicant who was convicted of a forcible felony to petition the circuit court for relief if the applicant establishes that "at least 20 years have passed since the end of any period of imprisonment imposed in relation to that conviction.").

- Subsequent arrests, acts of violence, mental health episodes, or substance abuse after the prohibiting conduct: If an applicant has been arrested, indicted for, or convicted of an act of violence, has had a mental health episode, or has demonstrated addiction to a controlled substance in the time period subsequent to the applicant's prohibiting conduct, the applicant should be considered presumptively non-law-abiding or dangerous and thus ineligible for relief, though again the presumption could be rebutted by clear and convincing evidence of current and future non-dangerousness.

- Failure to comply with terms of parole, probation, and other court-ordered requirements: An applicant whose subsequent behavior after a prohibiting offense included failure to comply with conditions of parole, probation or other court-ordered requirements should also be considered presumptively ineligible for relief, unless the applicant can provide clear and convincing evidence showing that the applicant is not likely to be dangerous.

- The applicant is prohibited from firearm possession under the law of the applicant's state: The governing ATF regulation which ATF used when considering relief petitions prior to the appropriations restriction in 1992 provided that "[r]elief will not be granted to an applicant who is prohibited from possessing all types of firearms by the law of the State where such applicant resides."[57] We recommend that this provision be retained, or at minimum be preserved as a presumption whereby an applicant would be considered presumptively ineligible upon applying for § 925(c) relief if the applicant was prohibited under the law of the applicant's state and the applicant had not attempted to pursue relief from the state prohibition, and the applicant would be precluded from receiving federal relief if the applicant was denied relief at the state level. Such a provision would motivate applicants to first exhaust all efforts to obtain relief from state law disabilities that would preclude the applicant from possessing guns even if the applicant received § 925(c) relief, thus conserving Department resources as well as giving Department reviewers the benefit of state-level assessments of the applicant's current and future dangerousness.

Such presumptions will help the Department "ensure…that violent and dangerous persons remain disabled from lawfully acquiring firearms."[58] The Department should also provide in any reestablished process a provision similar to 27 C.F.R. § 478.144(f), which provides that upon receipt of an incomplete or improperly executed application for relief, the applicant shall be notified of the deficiency in the application and given 30 days from notification to correct and return the application or else the application shall be considered as having been abandoned. A reestablished process could likewise provide that a re-application is presumptively ineligible for relief if it comes within a year of an abandoned application, or within three years of an application that is denied[59] (or after the denial is upheld by the courts, if the applicant appeals the denial to federal court).[60] These measures would facilitate administrability and avoid repeated successive petitions, while also providing fairness for applicants.

---

[57] 27 C.F.R. § 478.144(d).
[58] 90 FR 13082.
[59] For example, Minnesota law provides that if a petition for relief is denied, the person may not file another petition until three years have elapsed, unless the court provides permission for a sooner filing. Minn Stat. § 609.165 subd. 1d.
[60] Creating a waiting period between a denied application and the submission of a subsequent application would help the Department avoid repeat litigation from applicants regarding subsequent petitions.

E. The public must be informed about awards of relief.

Finally, as § 925(c)'s text makes clear, in any reestablished process there must continue to be public notification provided in the Federal Register whenever relief is granted, along with "the reasons therefor."[61] Such notification should include the date of conviction and court of conviction, as is the case under current regulations.[62]

F. Safeguards must be carefully followed with respect to each applicant.

Even the most carefully-designed § 925(c) process will not protect public safety or the public interest if the Department does not actually follow its own safeguards. Alarmingly, that appears to have been the case with the very first set of individuals to whom the Department has recently awarded § 925(c) relief.[63] One of those individuals – Mel Gibson, who was convicted of a prohibiting domestic violence offense after punching his child's mother and threatening her with a gun[64] – was awarded relief on March 31, 2025, reportedly without going through an individualized review to assess his background or likelihood of future violence.[65] In fact, according to public accounts, there was no meaningful scrutiny at all given to Mr. Gibson or the risks he might pose.[66] Thus, in its first test of administering a revitalized § 925(c) process in decades, the Department failed to take essential steps to ensure public safety and to follow the standards the Department itself laid out in the IFR. That is simply unacceptable and must not happen again.

III. Conclusion.

The IFR represented a first step by the Department toward reestablishing the § 925(c) process, and the Department should exercise much-needed caution before taking any next steps. We know from years of past experience that even when the § 925(c) process is administered carefully and diligently, it can put guns back in the hands of people who turn out to be violent and dangerous. If the Department restarts the § 925(c) process and enables thousands of convicted felons, domestic abusers, and other prohibited persons to possess guns again, history shows that we will see crimes committed by these formerly prohibited persons – and the Department will bear responsibility for any harm or threat to public safety that results.

Violent crime has decreased dramatically in the last few years, in large part because federal investments in law enforcement and violence prevention programs and strategies were working. Diverting attention and resources away from those programs to instead focus on

---

[61] 18 U.S.C. § 925(c).
[62] 27 C.F.R. § 478.144(g).
[63] 90 FR 17835 (April 29, 2025).
[64] Shan Li, "Mel Gibson pleads no contest in domestic abuse," Los Angeles Times, March 12, 2011.
[65] Shaila Dewan, "Mel Gibson's Gun Rights Were Taken Away After a Misdemeanor. Here's Why," The New York TImes, March 11, 2025 ("Ms. Oyer said she had provided a list of candidates for gun rights restoration who had undergone a thorough background investigation to assess their likelihood of future violence; Mr. Gibson had not….Ms. Oyer said in the interview that her concerns had nothing to do with politics, but with the safety risks of allowing someone with a record of domestic violence to own a gun.")
[66] *Id*. An official in the Deputy Attorney General's Office reportedly told the former Pardon Attorney that "Mel Gibson is a friend of the president and that should be justification enough." (Sarah Fitzpatrick and Ken Dilanian, "DOJ official says she was fired after opposing the restoration of Mel Gibson's gun rights," MSNBC, March 11, 2025).

rearming prohibited persons is misguided. And it would be even worse for the Department to create a broad new § 925(c) process that has inadequate vetting, insufficient safeguards, and the ability for individualized reviews and dangerousness assessments to be ignored or overridden by political considerations. At a minimum, we urge the Department not to move forward with restarting the § 925(c) process without implementing and following all of our recommended safeguards. Rearming convicted felons and domestic abusers runs a serious risk of making Americans less safe. We urge the Department to avoid such an outcome, for all of our sakes.

Thank you for your consideration of this comment.

Sincerely,

Nick Suplina
Senior Vice President for Law & Policy
Everytown for Gun Safety Support Fund