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FOR GUN SAFETY | SUPPORT FUND

October 20, 2025

By electronic submission to www.regulations.gov

Kira Gillespie
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U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Re: RIN 1105-AB78
Docket No: OAG 191: Comment on Notice of Proposed Rulemaking on Application for Relief From Disabilities Imposed by Federal Laws With Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms

Dear Ms. Gillespie:

Everytown for Gun Safety Support Fund[1] ("Everytown") submits this comment in response to the July 22, 2025 Notice of Proposed Rulemaking ("NPRM") issued by the Department of Justice ("Department" or "DOJ") regarding the Department's Proposed Rule for granting relief under 18 U.S.C. § 925(c) from disabilities imposed by federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

As we noted in our comment letter of June 18, 2025, responding to the Department's Interim Final Rule on this matter, Everytown has concerns with the Department reestablishing a broad process for considering relief from disability applications and allowing convicted felons, domestic abusers, and other prohibited persons to rearm. According to the NPRM, the Department anticipates that a staggering one million prohibited persons will apply for § 925(c) relief just in the first year of a reestablished process.[2] We know from previous experience with firearm disability relief applications that an insufficiently thorough review process will result in dangerous people getting their hands on guns and threatening our communities. We saw this when the § 925(c) review process was in operation prior to Congress halting it in 1992, as individuals who were awarded relief were then subsequently arrested for crimes including attempted murder, criminal attempted rape, first degree sexual assault, and more.[3] This

[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.
[2] 90 Fed. Reg. 34400. The Department estimates that at least 20 million adults overall are prohibited persons who would be able to apply for relief under the Proposed Rule, with approximately one million applying in the first year.
[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, at p. 13.

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recidivism occurred even though prior to 1992 only approximately 1,000 applications per year were reviewed under the § 925(c) process.[4] Now the Department is anticipating receiving a million applications for relief in the first year of a reestablished process – more than 2,700 applications per day – which amplifies the risk that dangerous individuals will slip through cracks in the Department's review process and be permitted to rearm. As we stated in our previous comment, while we are not likely to agree on various areas of gun policy, we believe that Everytown, the Department, and the Trump Administration can all agree that it would be a disaster if the Department grants relief under § 925(c) to a prohibited person who then goes on to commit a violent crime or a mass shooting after having been allowed to rearm. It is incumbent upon the Department to avoid such scenarios.

While we reiterate our view that it would be safer for the country if the Department halted its push to reestablish the § 925(c) process and to open the floodgates for potentially dangerous applicants to rearm, we appreciate that the Department's Proposed Rule includes a number of key provisions and safeguards that we highlighted in our previous comment letter as essential to any credible relief from disability application and review process. These safeguards include criteria establishing that applicants convicted of certain offenses would be considered presumptively ineligible for relief or ineligible for a certain period of years; a requirement that reviewers consider all relevant circumstances when assessing an applicant's dangerousness; a requirement that applicants must provide key documentation as part of the application process; and a requirement that applicants notify local law enforcement before filing their application.

But there are additional critical steps that must at minimum be taken to make sure the Proposed Rule can work effectively to protect public safety. We discuss those steps below, and they include ensuring that dangerousness reviews and relief determinations are made through human judgment and not artificial intelligence; ensuring that victims, sentencing judges, prosecutors, probation and parole officers, and other key stakeholders with knowledge about an applicant's dangerousness are informed about applications with sufficient time to submit comments and have them considered by reviewers; ensuring that reviews are not time-limited or truncated or that any default approval of applications occurs; and clarifying the "extraordinary circumstances" standard that the Proposed Rule articulates, among other safeguards. It is imperative that the Department not begin processing the anticipated flood of § 925(c) applications without safeguards such as these firmly in place. The Department also should delay any full-scale rollout of a reestablished § 925(c) process until a pilot initiative involving a smaller number of applications can be conducted and evaluated in order to identify and address any flaws in the review process that endanger public safety and to make sure the process for notifying and receiving comments from chief law enforcement officers, victims, and other key stakeholders works effectively.

Congress halted the § 925(c) review process in 1992 because the process had put guns back in the hands of dangerous people. We believe there is no urgent need to reestablish the process, and that it will make American communities less safe if the Department neglects its traditional crime prevention and law enforcement focus in order to prioritize a broad initiative to let prohibited persons possess guns again. If the Department does reestablish the § 925(c)

[4] 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.").

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process, the burden squarely falls on the Department to ensure that harm does not result from its decision to rearm some percentage of the millions of felons, domestic abusers, and other prohibited persons who will apply for relief. There cannot be gaps or deficiencies in the application and review process, as such gaps run the risk of letting many potentially dangerous applicants slip through. And the Department would need to ensure that its safeguards are scrupulously followed, that corners are not cut, and that the review process is not circumvented or overridden under any circumstances. The risk of harm from § 925(c) restoration is real, as demonstrated by past experience, and if harm results, the Department will bear the responsibility.

I. Previous § 925(c) Awards of Relief Created Significant Risk for Public Safety, and if the Department Reestablishes the § 925(c) Review Process, the Department Must Ensure that Harm Does Not Result From Rearming Felons, Domestic Abusers, and Other Prohibited Persons.

The statutory standard for relief under § 925(c) sets a high bar, providing that no relief from federal firearms disability can be granted to an applicant unless the Attorney General has considered "the circumstances regarding the disability" and "the applicant's record and reputation" and the applicant has "established to [the Attorney General's] satisfaction" both that the 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."[5] However, even with this high statutory threshold, the § 925(c) relief from disability review process that was in operation under the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") from 1968 until its Congressionally-directed halt in 1992 created a significant risk of restoring access to firearms to prohibited persons who were dangerous.[6] As the Department noted in its NPRM, "[o]ne 1992 study found that, out of 100 randomly selected felons to whom ATF granted relief, five had been convicted for felony sexual assault, 11 for burglary, 13 for distribution of narcotics, and 4 for homicide."[7] The NPRM also acknowledged that "too many . . . felons whose gun ownership rights were restored went on to commit crimes with firearms."[8] One analysis reported that among applicants granted § 925(c) relief between 1985 and 1989, "[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."[9] These situations occurred even though ATF prior to 1992 had been dedicating extensive time and resources to conduct interviews and research on each applicant, with more than 40 reviewers handling approximately 1,000 applications per year, with relief being awarded to only one in three applicants.[10]

The harms that resulted from the shortcomings in the § 925(c) restoration process prompted Congress to enact a statutory provision in 1992 blocking ATF from spending

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[5] 18 U.S.C. § 925(c).
[6] For a more detailed discussion of this issue, see Part I of our previous comment letter.
[7] 90 Fed. Reg. 34395.
[8] *Id*.
[9] Violence Policy Center, "Putting Guns Back Into Criminals' Hands: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws," *supra* note 3, at p. 13.
[10] The New York Times, "How Your Tax Dollars Arm Felons," *supra* note 4 ("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.").

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appropriated funds on investigating or acting upon § 925(c) applications.[11] As the Senate Committee on Appropriations noted in its Committee Report about this appropriations restriction:

> 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.[12]

Congress subsequently renewed this appropriations restriction annually under both Democratic and Republican-controlled Congresses and administrations, as further research about the risks of criminal recidivism reaffirmed the dangers of restoring firearms access to prohibited persons.[13]

In March 2025, the Department issued its Interim Final Rule announcing its intent to withdraw both the Department's delegation of authority to ATF to adjudicate applications for relief under § 925(c) as well as longstanding ATF regulations for administering the review process, and to restart processing of § 925(c) applications elsewhere within the Department.[14] However, as we noted in our previous comment letter, the risks and dangers that Congress first recognized in the § 925(c) restoration process in 1992 remain present today. If the Department proceeds with reestablishing the § 925(c) process, the burden of addressing those risks and

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

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

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

[14] 90 Fed. Reg. 13080. We reiterate the concern expressed in our previous comment letter that the legality of any new grant of relief awarded by the Department may be called into question and subject to challenge because of the conflict between the Department's actions and laws Congress has enacted that prevent appropriated funds made available by any act from being used to transfer ATF functions, missions, or activities to other agencies. (*See, e.g.*, Treasury, Postal Service, and General Government Appropriations Act, 1994; P.L. 103-123, 107 Stat. 1226 (Oct. 28, 1993), providing 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."). The use of Department funds to withdraw the delegation of § 925(c) review authority to ATF and to restart § 925(c) activities elsewhere within the Department arguably run afoul of this appropriations restriction that Congress enacted, especially because Congress knew about the delegation of § 925(c) review authority to ATF at the time that Congress first enacted the language restricting any transfer of ATF functions, missions, or activities. As we noted in our previous comment, a court could reasonably conclude that, in order to effectuate the withdrawal of delegation of § 925(c) authority from ATF and move the § 925(c) review process to the Office of the Pardon Attorney, 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, missions or activities. And, at minimum, the issue is likely to result in litigation over the precise boundaries of the Department's authority in light of the appropriations restrictions that Congress enacted, which could cast a cloud over the validity of any relief awarded under § 925(c).

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dangers and ensuring that innocent people are not harmed by rearmed prohibited persons falls squarely on the Department.

II. The Review Process Laid Out in the Proposed Rule Includes Several Key Measures to Protect Public Safety, but Additional Critical Safeguards Are Needed.

We appreciate that the Department in its NPRM recognizes that operating a § 925(c) review process that allows convicted felons, domestic abusers, and other prohibited persons to rearm creates a significant risk of harm. As the NPRM notes, the Department's previous experience with relief from disability applications resulted in situations where "applicants received relief even after committing violent and serious felonies" and "'too many . . . felons whose gun ownership rights were restored went on to commit crimes with firearms.'"[15] The NRPM correctly states that any restarted § 925(c) process must "ensur[e] that violent or dangerous persons remain subject to the prohibitions in the Gun Control Act."[16]

With an overwhelming one million applications expected in the first year and the Department anticipating that it will have a modest contingent of 50 full-time equivalent (FTE) staff available to review applications[17] (only 10 FTEs more than the complement of ATF staff who reviewed 1,000 § 925(c) applications per year prior to 1992 – an era when relief was still too often awarded to individuals who proved dangerous), there are necessary steps that must be taken to make a review process credible, administrable, and effective at protecting public safety. For example, the Department sensibly recognizes that unless there are extraordinary circumstances, applicants with certain histories of prohibited conduct should be presumptively denied relief under § 925(c)'s high bar given the risk of dangerousness associated with such conduct and the need to focus reviewer time and resources on applications where grants of relief under § 925(c)'s threshold are most plausible. Similarly, the Department acknowledges that applicants must provide complete and accurate documentation to reviewers so they can assess all the information relevant to an applicant's dangerousness (50 reviewers cannot reasonably be expected to locate and compile such information themselves for each of one million applicants).

We appreciate that the Proposed Rule includes these and several other key measures that the NPRM identifies as critical to help "ensure that those granted relief are, in fact, 'not likely to act in a manner dangerous to public safety' and that granting such relief would "not be contrary to the public interest," and we commend the Department for incorporating such measures into the Proposed Rule.[18] But there are additional critical safeguards that the Proposed Rule does not address, such as ensuring that human judgment and not artificial intelligence make determinations about an applicant's dangerousness and suitability for relief. In the sections below we discuss several of the key provisions in the Proposed Rule and offer suggestions for refining those provisions in order to effectively protect public safety.

A. The Proposed Rule contains sensible provisions on presumptive denial of relief for certain applications, but the list of offenses subject to the presumption is underinclusive and the Department must clarify what kinds of "extraordinary circumstances" might serve to rebut the presumption.

[15] 90 Fed. Reg. 34395.
[16] *Id*.
[17] 90 Fed. Reg. 34399.
[18] 90 Fed. Reg. 34396.

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The Proposed Rule sensibly establishes that relief applications submitted by persons convicted of certain offenses or subject to certain prohibitors "will presumptively result in a denial of relief," with applicants having the opportunity to rebut that presumption upon a showing of "extraordinary circumstances."[19] The NPRM notes that this presumption is appropriately based on the risk of recidivism posed by such applicants, and that establishing such a presumption "ensur[es] that government resources are focused primarily on persons who could plausibly make the dangerousness and public interest showings necessary for relief under the statute."[20] Under the Proposed Rule, applications that qualify for such presumptive denial of relief include applications submitted by persons who are prohibited because they have been convicted of certain felony offenses (from a list of offenses the Department selected because the offenses are clearly associated with dangerousness), persons who are required to register as a sex offender, persons who are currently serving a sentence of imprisonment or who are on any form of supervision as part of a criminal sentence, and persons who are prohibited under 18 U.S.C. §§ 922(g)(2), (g)(3), (g)(5) or (g)(8).

The Proposed Rule further establishes that applications submitted by certain other prohibited persons will be subject to a presumption of denial for a period of ten or five years, with applicants again having the opportunity to rebut the presumption upon a showing of "extraordinary circumstances." The ten-year time period of presumptive denial applies to applicants who have been convicted of or served part of a sentence for certain crimes involving domestic violence or distribution of controlled substances, as well as those who, at any point within ten years of a domestic violence conviction, have been arrested or have engaged in behavior demonstrating continued propensity for violence. The five-year time period of presumptive denial applies to applicants who have been convicted of or served part of a sentence for any other felony offense.

As we explained in Part II.D of our previous comment, the Proposed Rule's approach to presumptive disqualifications is supported by precedent and will help increase efficiency and promote consistency in the handling of applications while still providing each applicant with an individualized review and an opportunity to rebut the presumption. Also, the Proposed Rule's time-limited presumptions are sensible and will enable reviewers to assess whether the applicants have demonstrated good behavior for a period of time after completion of their sentence and thus will not be likely to act in a manner dangerous to public safety if awarded relief. However, the Proposed Rule's approach to these presumptions should be further refined in two critical ways.

- Expanding the list of offenses: First, the list of offenses that qualify for presumptive denial under the Proposed Rule is underinclusive and should be expanded to include felony convictions for treason, seditious conspiracy, advocating overthrow of government, hate crime offenses, and trespassing onto restricted buildings or grounds or otherwise engaging in conduct that violates 18 U.S.C. § 1752. Individuals convicted of such offenses are likely to be dangerous and should bear the burden of establishing both their current and future non-dangerousness in order to overcome a presumption of denied relief. And while such offenses should rightly be included on the list of default presumptions that are not time-limited, they should at the very least be included on the list of time-limited presumptions. We also note that while the list of offenses currently subject to default

[19] 90 Fed. Reg. 34396.
[20] 90 Fed. Reg. 34399.

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presumptions in the Proposed Rule is underinclusive and should be broadened, the list should at minimum serve as a floor and the Department should reject entreaties to subtract offenses from the list. Removing offenses from this list after the Department has already identified those offenses in the Proposed Rule as associated with dangerousness would clearly send a wrong signal and would potentially enable individuals who are a threat to public safety to slip through the review process and be awarded relief.

- Clarifying "extraordinary circumstances": Second, the Proposed Rule should provide clarification and guidance regarding the "extraordinary circumstances" that could potentially overcome the presumption. A credible showing of "extraordinary circumstances" under the Proposed Rule should require that an applicant must provide clear and convincing evidence that the applicant has been rehabilitated since engaging in prohibited conduct and is both currently not dangerous and that the applicant does not have a likelihood of future violence.[21] The Department should also make clear that the "extraordinary circumstances" standard is not met if: (1) the applicant has been arrested or convicted since their prohibiting event; (2) the applicant has ever threatened to use violence or attempted to use violence toward any person; (3) the applicant currently uses controlled substances or abuses alcohol; (4) the applicant has a mental health condition that impairs judgment; (5) the applicant has obtained or attempted to obtain a firearm while being prohibited by law from doing so; or (6) credible evidence has been submitted by law enforcement or by others who know the applicant indicating that the applicant would pose a danger if rearmed. Additionally, the Department must make clear that factors such as an applicant's celebrity status or political connections shall not count as "extraordinary circumstances," as such criteria have no bearing on an applicant's dangerousness or the threat the applicant may pose to public safety. In short, the Department should make clear that "extraordinary circumstances" are rare and are reserved for truly extraordinary applicants whose circumstances both at the time of the prohibiting conduct and since clearly and convincingly demonstrate that the applicant is not currently dangerous or likely to be dangerous in the future.

B. The Proposed Rule appropriately requires applicants to submit documentation that is critical for an effective review process, but there are several gaps in the Proposed Rule's documentation requirements that must be filled.

After the Firearms Owners Protection Act of 1986 (FOPA) expanded eligibility for § 925(c) relief to all prohibited persons, ATF in 1988 updated § 925(c)'s implementing regulations to require applicants seeking relief to provide detailed documentation as part of their application

[21] Various states such as North Dakota, Oregon, and West Virginia require that clear and convincing evidence be presented for an applicant to receive relief from disability. *See, e.g.*, 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.").

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package. The Proposed Rule appropriately retains these documentation requirements in order to allow for an effective process to review and assess an applicant's dangerousness and the risk the applicant poses to to public safety, with the NPRM acknowledging that "[t]he information requested in the application is necessary for the Attorney General to make [a relief from disability] determination."[22] For example, under the Proposed Rule, as under the post-FOPA regulations, applicants must submit copies of key court documents and/or mental health records relevant to the applicant's prohibiting offense or mental health adjudication/commitment, as well as statements from three non-family references who know the applicant and can attest to the applicants' character, reputation, and suitability for relief. The Proposed Rule also appropriately requires applicants to attest under penalty of perjury that the documentation provided in the application is complete, true, and correct.

It is both common sense and, indeed, necessary under a credible § 925(c) review process for the burden to be placed on prohibited persons to gather and provide complete documentation establishing that the person is no longer likely to act in a manner dangerous to public safety, rather than placing the burden on reviewers to hunt for such documentation. Given the Department's estimate that one million applicants will seek relief in the first year under the Proposed Rule, it would be wildly impractical for reviewers to have to search for, locate, request copies of, compile, and verify such documentation for each applicant within a reasonable timeframe. However, there are several gaps in the Proposed Rule's documentation requirements that should be addressed.

- First, the Proposed Rule should require applicants to disclose whether the applicant has previously applied for § 925(c) relief or for relief under a comparable state relief from disability process, and if so, to provide the application date, result, and a copy of any such previous application materials. This information is clearly relevant to a review of the applicant, but the Proposed Rule does not explicitly require that an applicant provide it.
- Second, the Proposed Rule should specifically provide that reviewers can request records from an independent psychological evaluation or a substance abuse evaluation of an applicant and that applicants must affirmatively provide any such records if they exist. Again, this information is clearly relevant for a review under the § 925(c) standard but the Proposed Rule does not specifically address it.
- Third, the Proposed Rule should specifically require an applicant to affirmatively disclose whether or not the applicant is currently required to register under the Sex Offender Registration and Notification Act (SORNA) or a comparable sex offender registration statute, as such a registration requirement can prompt a presumptive denial of an application under the Proposed Rule.
- Finally, the Proposed Rule should require applicants not only to affirm that the applicant has notified the chief law enforcement officer of the applicant's locality about the application, but also to provide the name and contact information of the applicant's chief law enforcement officer and provide in their application package a copy of all documentation that the applicant provided the chief law enforcement officer as part of this notification process as well as the date such notification was provided. In the next section, we discuss additional

[22] 90 Fed. Reg. 34401 (emphasis added).

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important changes that should be made to the Proposed Rule's notification process for chief law enforcement officers.

C. The Proposed Rule's process for notifying the chief law enforcement officer in the applicant's locality and obtaining information from the chief law enforcement officer and other relevant stakeholders must be strengthened and refined.

In our previous comment letter, we urged that any reestablished § 925(c) process must ensure that timely notification about the filing of a relief application is provided to key stakeholders with knowledge about the applicant's potential dangerousness, such as victims of the applicant's conduct, law enforcement, prosecutors, sentencing judges, probation or parole officers, medical professionals, and other affected parties such as family members. Further, we urged that those stakeholders be given the opportunity to submit a statement or evidence regarding the applicant and that such information be considered by reviewers before any decision is made whether to grant relief. We appreciate that the Proposed Rule directs applicants to affirm as part of their application that the applicant "[h]as notified, through an appropriate form, the chief law enforcement officer of the location in which the applicant is located that the applicant is seeking relief," and we also appreciate that the Proposed Rule states that the relevant information for the Attorney General to consider when making determinations for relief include "[a]ny information provided by the chief law enforcement officer of the locality in which the applicant is located, including victim impact statements."[23]

However, it is not adequate that, under the Proposed Rule, chief law enforcement officers merely "serve as a conduit for other individuals to submit relevant information about the applicant" and may submit comments to the Department within 14 days of notification.[24] It is imperative that the Proposed Rule make changes to alleviate the logistical burdens and costs that this conduit arrangement would impose on chief law enforcement officers, and that the Proposed Rule give victims and other stakeholders with relevant information guaranteed timely notice and a more credible opportunity to provide relevant information about applicants. Further, there should be an explicit presumption of denial for applications where the chief law enforcement officer objects to an award of relief, rather than such objection merely being considered as relevant information under the rule. Simply put, the notification process and "conduit" arrangement as currently structured in the Proposed Rule are not sufficiently workable for chief law enforcement officers and are not fair to victims and other stakeholders who may have critical information about an applicant's dangerousness but may not receive notice or an opportunity to comment.

There are several changes the Department can make to address these concerns and improve the administrability of this arrangement. First, the Proposed Rule can require applicants to identify and provide current contact information in their application not only for the chief law enforcement officer in the applicant's current locality, but also for: (1) the chief law enforcement officer of <u>any</u> agency that has arrested the applicant or in a jurisdiction in which the applicant engaged in prohibiting conduct; (2) the prosecuting office involved in any prosecution of the applicant; (3) the sentencing judge in any case in which the applicant was sentenced; (4) the lead probation or parole officer that supervised the applicant, if applicable; and (5) any judge, authority, or medical official who oversaw an adjudication or commitment of the applicant for

[23] 90 Fed. Reg. 34403-4.
[24] 90 Fed. Reg. 34398.

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mental illness. Then, upon receiving an application, the Department can use a standardized process to contact each of these persons with electronic notification (email/text), notifying them that the applicant has filed a § 925(c) relief petition and informing them how they may submit information regarding the applicant for the Department's consideration. If contact information initially provided by the applicant turns out to be incorrect, the Department should inform the applicant that the applicant must either provide corrected contact information to the Department or else the applicant himself or herself must provide such notification directly to the relevant person, obtain proof of receipt, and attest to the Department under penalty of perjury that the notification was received. Each person who receives such notification should have at minimum the same 14 days that the Proposed Rule currently provides to chief law enforcement officers to submit information about the applicant, and if the chief law enforcement officer or other notified stakeholder objects to an award of relief to an applicant, there should be a presumption of denial of relief for the application that could be overcome if the applicant demonstrates extraordinary circumstances. Such an arrangement would avoid the unworkable burden that the Proposed Rule's current structure puts on chief law enforcement officers to identify and notify these important stakeholders within a tight timeframe (especially in large jurisdictions where a significant number of the anticipated one million § 925(c) applicants may currently reside).

With respect to victims of an applicant's conduct, such as victims of a domestic violence offense, individuals who obtained a domestic violence restraining order against an applicant, or victims or family members of a violent crime committed by an applicant, it would be inappropriate and potentially dangerous for an applicant to be directed to locate current contact information for such victims in order to provide the Department with the contact information. However, applicants should be required to disclose as part of their application package the identity of such victims and family members both to the Department and to the chief law enforcement officer of the applicant's current locality, and the Department reviewer and chief law enforcement officer should be obligated under the Proposed Rule to coordinate with one another to make all reasonable efforts to locate, contact, and notify such victims and to provide them with at least 14 days after such notification to provide any information or concerns regarding the applicant. It is imperative that victims be afforded such an opportunity, as such victims may be most at risk of harm if a dangerous applicant is awarded § 925(c) relief and is able to rearm and reoffend.

We note that there is considerable precedent the Department could look to for providing standardized notifications to relevant stakeholders and victims, including at the federal level (such as the process by which the Department notifies relevant local law enforcement of attempted lie-and-try gun purchases pursuant to the NICS Denial Notification Act),[25] 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.[26] The Department should also conduct a small-scale pilot initiative to test this notification and stakeholder consultation process and make sure it works appropriately before restarting any full-scale § 925(c) process involving a flood of applicants. Bottom line, in order to minimize the risk that the § 925(c) process would put guns back in the hands of violent or dangerous prohibited persons, it is essential to provide

[25] *See* 18 U.S.C. § 925B.

[26] *See* June 18, 2025 comment letter submitted by 16 state attorneys general regarding the Department's interim final rule, at footnote 32 (listing numerous state notice provisions to apprise interested parties, including law enforcement, prosecutors, and victims, of pending applications for relief from firearms disabilities).

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stakeholders who were victims of the applicant's prohibited conduct, who were involved in the investigation, prosecution or adjudication of the conduct, who have overseen the applicant's subsequent and current behavior, and who might be at risk of future harm with fair notice and opportunity to provide relevant information to the Department.

D. The Proposed Rule appropriately directs reviewers to consider all of the relevant circumstances regarding an applicant's request for relief.

The NPRM states that "the Attorney General's decision whether to grant relief will be based on all the relevant circumstances," and the Proposed Rule specifies that "all information submitted as part of the application and all other relevant information" should be considered when assessing an applicant's dangerousness and determining whether to grant relief.[27] As the NPRM explains, this approach is needed to effectively assess an applicant's dangerousness and potential future risk to public safety, and is preferable to applying a "blindered approach that looks only at the facts that led to the applicant's federal firearm disability."[28] The NPRM provides valuable examples of why considering all relevant circumstances is important to a dangerousness determination, noting that: (1) "an applicant whose only disqualification under section 922(g) is a decades-old, comparatively minor nonviolent felony may still present a danger to others if, for example, he has a recent history of drug use, threatening behavior, or mental health issues"; (2) "[r]epeat arrests may also indicate a higher likelihood of recidivism, even if the applicant is not ultimately convicted of additional crimes"; and (3) "convictions that are not disqualifying under section 922(g) may still indicate that the applicant is a danger to others or is at a higher risk of recidivism."[29] The text of the Proposed Rule also makes clear that "all other relevant information" should be considered by the Attorney General when making a determination whether to award relief, and the text identifies numerous specific types of information that should be considered.[30] This directive to consider all relevant circumstances and information before awarding relief is a sensible and a necessary safeguard to help ensure that dangerous applicants do not slip through the cracks, and we urge that it not be weakened as the Proposed Rule is revised.

E. The Proposed Rule must clarify that relief may only be awarded after individualized reviews and determinations based on human judgment, not based on artificial intelligence.

We appreciate the Proposed Rule's recognition that the § 925(c) relief from disability process requires an individualized review process. As the NPRM correctly notes, "Congress, in exacting section 925(c), recognized that a subset of persons subject to the Gun Control Act may be able to make an individualized showing both that they 'will not be likely to act in a manner dangerous to public safety' if allowed to possess firearms and that granting relief from federal firearms disabilities 'would not be contrary to the public interest.'"[31] 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

[27] 90 Fed. Reg. 34398 and 34404.
[28] 90 Fed. Reg. 34398.
[29] *Id*.
[30] 90 Fed. Reg. 34404.
[31] 90 Fed. Reg. 34395 (emphasis added).

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dangerous to public safety and that the granting of the relief would not be contrary to the public interest." As we noted in our previous comment letter, requiring an individualized review for each applicant is not controversial, with even the National Rifle Association acknowledging after the Department announced its Interim Final Rule 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."[32]

While the Proposed Rule does make clear that its reestablished § 925(c) process requires an individualized review, e.g., by requiring applicants to provide documentation about their individual circumstances and by obligating the Attorney General to make determinations based on the individual applicant's circumstances, the Department must also clearly indicate that human judgment and decisionmaking must be employed throughout the application review process to determine whether individual applications meet § 925(c)'s statutory standard. Any final rule must clearly state that artificial intelligence (AI) will not be used to supplant human review of application materials and that AI will not be used to make determinations about an applicant's dangerousness or whether granting relief to that applicant would be contrary to the public interest.

We note that the Department's Fiscal Year 2026 Budget Request sought funding for a case management system for § 925(c) relief applications and stated that this requested funding seeks to "leverage technological advancements" to "minimize the manual review of applications for restoration."[33] While AI may provide utility for such purposes as determining if an applicant's application includes all the required documentation, verifying that copies of documents provided by applicants are true copies and that contact information is correct, and confirming whether applicants have properly notified chief law enforcement officers and other appropriate stakeholders, AI must not supplant human review and evaluation of application documents. Most importantly, no grant of relief should be awarded without human judgment making the individualized determination that relief is appropriate after human review of an applicant's full documentation and circumstances. In the same way that our justice system and mental health system would not rely upon AI to make decisions about whether or not a person should be deemed prohibited from access to firearms, the Department likewise should not rely upon AI to make decisions about whether such a prohibited person should be awarded relief from that prohibition. The Proposed Rule must make this crystal clear, especially as reviewers may come under pressure to cut corners and rely on AI to help review the massive expected intake of one million applications in the first year.

F. Providing adequate resources and time for reviewing applications is essential to ensuring that awards of relief under § 925(c) do not rearm dangerous people and threaten public safety.

As we noted in our previous comment letter, we have strong concerns whether the Department would have the resources necessary to ensure that a broad relief from disability process will credibly protect public safety. Already this year, the Department has requested significant funding cuts to federal law enforcement agencies and to violence prevention programs, and with federal law enforcement resources already under strain because of these

[32] National Rifle Association - Institute for Legislative Action, "Trump Administration Revives Federal Firearm Rights Restoration Provision," March 21, 2025.
[33] Department of Justice Fiscal Year 2026 Budget Request at p. 94.

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proposed cuts, the Department must ensure that restarting the process of processing § 925(c) relief applications does not further divert resources from preventing, investigating, and prosecuting crimes. As the NPRM noted, a key reason why Congress in 1992 halted the § 925(c) review process was because the process was diverting resources that would be better utilized in fighting crime.[34]

We appreciate that the Proposed Rule includes an application fee to help cover the costs of a reestablished § 925(c) review process, with the fee level initially set at $20 per application and revisited every two years. The NPRM indicates that the Department would adjust the fee amount as necessary to cover the cost of processing applications, which is a sensible approach. One change the Department should consider: the NPRM suggested that indigent applicants could request a waiver or modification of the application fee, and objective criteria for such a waiver or modification should be provided. Objective criteria would be valuable for planning purposes as such waiver requests, if granted, would deplete resources available for conducting reviews. Additional objective clarity of waiver criteria is also warranted because without it, the Department could end up having to devote significant time and attention simply to considering and deciding fee waiver/modification requests.

In addition to ensuring that any reestablished § 925(c) review process makes adequate staffing and resources available to diligently conduct reviews, the process must also not cut corners on allowing sufficient time for reviewers to conduct a diligent review of each applicant who might be successfully awarded relief. This requires several refinements to the Proposed Rule.

- First, the Proposed Rule should explicitly state that the review process will not allow for batch processing of applications whereby applicants are placed into categories and relief is then awarded to all applicants in a certain category without an individualized review and assessment of each applicant. Individualized reviews are necessary under the § 925(c) statutory standard and cannot be bypassed merely to save time.
- Second, the Proposed Rule must clearly state that there will be no default or presumptive awards of relief to any applicants simply because their application has been pending for a certain period of time. Prohibited persons must not be able to receive relief from their prohibition unless their individualized circumstances have affirmatively met the statutory § 925(c) standard for relief.
- Third, the burden for correcting deficient applications should properly rest with the applicant. We appreciate that the Proposed Rule retains a sensible provision from the post-FOPA regulations directing that the Department will provide applicants with notice of an incomplete or improperly-executed application and that if the applicant does not amend and correct the application within 30 days, the Department will consider the application abandoned. This provision strikes a proper balance between giving applicants a fair chance at making their case for relief while avoiding having Department reviewers dedicate significant time and attention to incomplete or deficient applications.
- Finally, we agree with the Proposed Rule's approach establishing a presumptive denial for applicants who previously submitted an application within the past five years when that

[34] 90 Fed. Reg. 34395.

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application was denied (with such presumption extending indefinitely for previous applications that were denied because of certain serious criminal offenses in the applicant's record). This presumption, which like the Proposed Rule's other presumptions can be overcome upon a showing of extraordinary circumstances by the applicant, will help Department reviewers manage their time more efficiently by avoiding the prospect of repeat applications filed in rapid succession by previously-denied applicants. The Department's approach here properly balances administrability with providing a fair process for applicants.

G. Formalized transparency, quality control of reviews, and record retention are needed for a credible § 925(c) process.

A credible § 925(c) process must also have formalized transparency measures, quality control standards for reviews, and record retention provisions. With respect to transparency, the Proposed Rule appropriately includes provisions directing the Department to publish a notification in the Federal Register any time relief is awarded under § 925(c), as the statute requires that such notification be provided and that it include both the name of each person granted relief as well as "the reasons therefor." The Proposed Rule should clarify that the "reasons therefor" published in the Federal Register must identify the grounds on which the person who has been awarded relief was previously prohibited, and must indicate if the applicant established "extraordinary circumstances" that overcame a presumption of denial. If relief is awarded, the Department should also notify the chief law enforcement officer identified in the application as well as any victims or other stakeholders who submitted comments to the Department regarding the application, using the contact information provided to the Department during the review process.

Additionally, while the NPRM indicates that 50 FTEs will be allocated to conducting § 925(c) reviews, it does not indicate whether these employees would have additional responsibilities within the Department or the Office of the Pardon Attorney. The Department should clarify that any employees conducting § 925(c) reviews must be qualified and impartial, should have prior experience in conducting investigations, and must abide by strict conflict of interest rules, particularly if they might also work on other Department matters.

The Department should also ensure that records are carefully retained for an appropriate time period with respect to application materials as well as the review and determination process used for each applicant. This is important both for litigation purposes, as § 925(c) provides applicants the opportunity to file a petition in federal district court for judicial review of a denied application, as well as for purposes of evaluating potential changes or discrepancies in applications filed by repeat applicants.

H. Other matters.

There are several other aspects of the Proposed Rule that we briefly address below.

- First, we note that the Proposed Rule retains, in substantially similar form, longstanding regulations implementing the provision in § 925(c) that allows federal firearms licensees (including corporations) to apply for relief from disability. While the Proposed Rule's provisions on licensee applications are generally noncontroversial, there is one inconsistency worth noting. Whereas the previous regulation provided that when a § 925(c) licensee application is denied, "any application for renewal of license filed by the licensee during the

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pendency of the application for removal of disabilities shall be denied by the Director of Industry Operations," the proposed new 28 CFR § 107.1(i)(4) changes this to say that "any application for renewal of license filed by the licensee during the pendency of the application for removal of disabilities shall be denied by the Attorney General."[35] This change is noteworthy because the proposed new 28 CFR § 107.1(i)(1) acknowledges that license renewal applications are considered by ATF, and thus it would be logical for paragraph (4) of the proposed 28 CFR § 107.1(i) to say that ATF also shall deny the renewal applications. We hope and expect that ATF will continue to handle applications for renewal of licenses, and that this change in regulatory text is not a surreptitious attempt to eliminate or alter ATF's role, or the ATF Director of Industry Operations' role, in handling such renewals.

- Second, we note that there is a provision in the Proposed Rule making clear that the Attorney General retains the discretion to revoke relief granted to a person upon notice "if the Attorney General determines the person willfully subscribed as true any material matter which he does not believe to be true or willfully omitted requested information."[36] This limited revocation authority is appropriate and necessary to prevent applicants from willfully defrauding the § 925(c) process, and should not be weakened as the Proposed Rule is revised.

- Third, we appreciate that the Proposed Rule respects the principle of federalism and recognizes that any relief granted under a federal relief from disability process "will not extend to disabilities imposed by state law if the applicant is independently subject to any such state-law prohibition."[37] Under the Proposed Rule, prohibited persons may continue to avail themselves of existing state law procedures to seek pardons, expungements, or relief from disabilities, just as they do today. If the Department notifies an applicant that the applicant is receiving relief through the § 925(c) process, the Department should, as part of that notification, also inform the applicant that such relief does not affect any state prohibitions that may be applicable and that the applicant may still be barred by state law from firearm possession.

- Additionally, we appreciate that the Proposed Rule retains a provision from the longstanding post-FOPA regulations providing that an applicant who has been adjudicated a mental defective or committed to a mental institution will not be granted relief unless a court or other lawful authority has determined that the person has been restored to mental competency, and also that such an applicant must pursue a state relief-from-disability process for mental illness if the applicant was adjudicated or committed in a state that has established such a process.[38] Department employees conducting § 925(c) reviews are unlikely to have a professional background or expertise in evaluating mental health status, and the Proposed Rule appropriately ensures 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. We urge that this common sense provision not be modified.

[35] 90 Fed. Reg. 34404 (emphasis added).
[36] Proposed 28 CFR § 107.1(k), at 90 Fed. Reg. 34404.
[37] Proposed 28 CFR § 107.1(h), at 90 Fed. Reg. 34404.
[38] Proposed 28 CFR § 107.1(e), at 90 Fed. Reg. 34404.

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III. Rules and Safeguards Must Be Strictly Followed for Any § 925(c) Relief From Disability Process to Effectively Protect Public Safety.

Finally, we reiterate from our previous comment letter that it is critically important that each applicant under a reestablished § 925(c) process be subject to a full review on the merits and that the review process and safeguards not be bypassed or overridden for any applicant. It is unacceptable that on March 31, 2025, prior to even issuing the Proposed Rule, the Department awarded § 925(c) relief to Mel Gibson – who had been convicted of a prohibiting domestic violence offense after punching his child's mother and threatening her with a gun – reportedly without conducting an individualized review to consider the circumstances regarding Gibson's prohibiting offense, review his record, or assesses his dangerousness and likelihood of future violence.[39] There were no extraordinary circumstances identified in Mr. Gibson's case; to the contrary, according to public reports 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."[40] But presidential support for an applicant is no substitute for an affirmative determination by the Attorney General that the statutory § 925(c) threshold has been met. The § 925(c) process is not the same as the pardon power which is vested in the President, and the Department should not allow its review and decisionmaking process under § 925(c) to be overridden by the wishes of the President, particularly since § 925(c)'s text specifically directs the Attorney General to determine whether "the circumstances regarding the disability, 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 the relief would not be contrary to the public interest." There is serious risk to public safety when the Department awards relief without a review or process to someone with a record of domestic violence like Mr. Gibson's (not to mention that Gibson also has been described by the Anti-Defamation League as having a "history of fueling antisemitism and other forms of hate").[41] The Department, and the Attorney General, must not deviate from its own review processes and safeguards when considering applications for § 925(c) relief.

IV. Conclusion.

Violent crime has decreased dramatically in the last few years, in part because federal investments in law enforcement and violence prevention programs and strategies were working effectively. Diverting attention and resources away from those programs to instead focus on rearming prohibited persons through a reestablished § 925(c) process is risky and represents misguided priorities. And we know from previous experience that the § 925(c) process can put guns back in the hands of people who turn out to be violent and dangerous. With one million applicants expected within the first year and approximately 20 million prohibited persons overall eligible to apply, the Department bears a heavy burden to make sure that dangerous applicants do not slip through the cracks of a reestablished § 925(c) process. Rearming convicted felons and domestic abusers runs a serious risk of making Americans less safe, and at minimum we urge the

[39] Shan Li, "Mel Gibson pleads no contest in domestic abuse," Los Angeles Times, March 12, 2011; Shaila Dewan, "Mel Gibson's Gun Rights Were Taken Away After a Misdemeanor. Here's Why," The New York Times, March 11, 2025.
[40] 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.
[41] Press release, "Jewish Leaders Disgusted at Endymion's Choice of Mel Gibson, Applaud Endymion Leadership for Quick Action," Jan. 8, 2023.

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Department not to move forward with restarting the § 925(c) process without implementing all of our recommended safeguards and following them in every single case.

Thank you for your consideration of this comment.

Sincerely,



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

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