



June 18, 2025

Via Federal eRulemaking Portal

The Honorable Pamela Bondi
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Re: Withdrawing the Attorney General's Delegation of Authority, 90 Fed. Reg. 13080 (Mar. 20, 2025), Docket No. OLP-179, AG Order No. 6212-2025, RIN 1105-AB78

Dear Attorney General Bondi:

The undersigned State Attorneys General of New Jersey, New York, Delaware, California, Connecticut, Hawai'i, Illinois, Maryland, Michigan, Minnesota, Nevada, North Carolina, Oregon, Rhode Island, Vermont, and Washington write in response to the interim final rule ("IFR") entitled "Withdrawing the Attorney General's Delegation of Authority," 90 Fed. Reg. 13080 (Mar. 20, 2025). We urge the Department of Justice ("Department") to carefully consider available evidence from the States' experience with firearms rights restoration to inform its future actions implementing the relief-from-disabilities provisions of 18 U.S.C. § 925(c) ("Section 925(c)").

States bear primary responsibility for protecting the health and safety of the public and have a substantial interest in curbing gun violence. In working towards that goal, many of our states have achieved historic lows in gun violence in recent years.¹ As part of their efforts to reduce gun violence, States have implemented measures that regulate the possession and use of firearms by individuals who pose a risk to public safety. While there

¹ See, e.g., Press Release, Off. of Governor Phil Murphy, *Governor Murphy, Lt. Governor Way, Attorney General Matt Platkin, First Assistant Attorney General Lyndsay Ruotolo, and NJSP Colonel Callahan Announce Historic Low in Gun Violence* (Jan. 8, 2025), <https://tinyurl.com/3av64498>; Press Release, Off. of Governor Kathy Hochul, *Safer Streets: Governor Hochul Announces Statewide Shootings Fall Another 9% as State Continues to Experience Record Low Gun Violence* (May 27, 2025), <https://tinyurl.com/mr7bc2zz>; Press Release, Del. Dep't of Just., *AG Jennings, Law Enforcement Leaders Announce Record Low Violent Crime Rates* (Jan. 29, 2024), <https://tinyurl.com/yp98rdcz>.

is no constitutional requirement that mandates any particular form of firearms rights restoration by states or the federal government, as a policy matter, we believe that our residents' lives should not be defined by the worst mistakes of their pasts. We also routinely witness how statutory restrictions on firearm possession, such as those contemplated by 18 U.S.C. § 922(g) and by state law, serve important public safety functions. Many of our States have first-hand experience balancing these principles in our state-led processes. We would thus like to call your attention to the lessons we have learned in our experience as sovereigns.

Any procedures to restore access to firearms must include safeguards designed to keep firearms out of the hands of those who remain likely to pose a danger to themselves or others if armed²—a determination that must be made upon careful, individualized examination of relevant evidence and must be based on transparent criteria. Those safeguards are necessary to give effect to Congress's mandate in Section 925(c) that relief may be granted only when “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 the public safety and that the granting of relief would not be contrary to the public interest.”

To that end, we offer this comment for the Department's consideration.

I. The Section 922(g) and Comparable State Disqualifiers Are Essential to Public Safety and Effectuate the Gun Control Act's Mandate.

Congress enacted the Gun Control Act (“Act”), 18 U.S.C. § 921 *et seq.*, “to curb ‘lawlessness and violent crime’” in part by “prohibit[ing] ‘categories of presumptively dangerous persons from transporting or receiving firearms.’”³ In particular, the disqualifiers listed under Section 922(g) of the Act serve that vital public safety interest by “seek[ing] to keep ‘guns out of the hands of criminals,’”⁴ and others “who might be expected to misuse them,”⁵ or who are “not legally entitled to possess [guns] because of age, criminal background, or incompetency.”⁶ In

² For the avoidance of doubt, the States do not take the position via this letter that rights restorations processes, such as those embodied in 18 U.S.C. § 925(c), are necessary for state and federal categorical prohibitions on ownerships to survive constitutional scrutiny.

³ *United States v. Jackson*, 110 F.4th 1120, 1128 (8th Cir. 2024) (first quoting *Huddleston v. United States*, 415 U.S. 814, 824 (1974); and then quoting *Lewis v. United States*, 445 U.S. 55, 64 (1980)).

⁴ *Bondi v. Vanderstok*, 604 U.S. ____ (2025) (slip op. at 2) (citation omitted).

⁵ *United States v. Schnur*, 684 F. Supp. 3d 522, 535 n.10 (S.D. Miss. 2023) (quoting *Dickerson v. New Banner Inst., Inc.*, 460 U.S. 103, 119 (1983)); *see also Cassity v. United States*, 521 F.2d 1320, 1322 (6th Cir. 1975) (“In enacting the gun control provisions of the Omnibus Crime Control and Safe Streets Act of 1968, Congress was clearly concerned with limiting the availability of firearms to persons who Congress had reason to believe constituted a greater threat to the general welfare of the community than does the public generally.”).

⁶ *Huddleston*, 415 U.S. at 824 (quoting S. Rep. No. 1501, 90th Cong., 2d Sess., 22 (1968)); *Barrett v. United States*, 423 U.S. 212, 218 (1976) (“The very structure of the Gun Control Act demonstrates that Congress . . . sought broadly to keep firearms away from the persons Congress classified as potentially irresponsible and dangerous.”); *see also Mai v. United States*, 952 F.3d

adopting that approach, Congress acted consistently with a robust historical tradition of firearms regulation by restricting firearms possession by violent or dangerous individuals through the categorical disabilities codified in Section 922(g).⁷ Likewise, States have well-established and effective state laws that impose firearms disabilities to protect public safety by restricting the possession of firearms by categories of likely dangerous persons. Those efforts are key to advance the States' paramount interests in "the suppression of violent crime and vindication of its victims."⁸

The coexistence of well-functioning federal and state disability regimes operating in parallel tracks is necessary because "[u]nder our federal system, the 'States possess primary authority for defining and enforcing the criminal law'"⁹ while, at the same time, Congress enacted the Act "to keep guns away from all offenders who, the Federal Government feared, might cause harm, even if those persons were not deemed dangerous by States."¹⁰ In recognition of those dual roles, the Act aims "to assist the States in the regulation of firearms by strengthening Federal controls," and "to enhance, and not to supersede the efforts of the States."¹¹

In enacting Section 925(c), Congress also recognized that despite the salience of its legislative judgment that individuals who fall into Section 922(g)'s prohibition presumptively pose threats to public safety, a sovereign may also choose to establish a system where certain individuals may overcome those prohibitions if they can establish that they no longer pose such risks. At bottom, the revitalization of a federal mechanism under Section 925(c) of the Act to restore firearms rights to those whose circumstances no longer warrant disqualification should not undercut the overall congressional mandate to ensure that "violent and dangerous individuals remain disabled from lawfully acquiring firearms."¹² And it does not need to. Although Congress previously chose to defund the Section 925(c) restoration process as administered by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") as one approach to protect public

1106, 1116 (9th Cir. 2020) (quoting *Dickerson*, 460 U.S. at 112) ("In enacting § 922(g)(4) and related restrictions, 'Congress sought to . . . keep guns out of the hands of those who have demonstrated that they may not be trusted to possess a firearm without becoming a threat to society.'").

⁷ *E.g.*, *Rahimi v. United States*, 602 U.S. 680, 700 (2024) ("Our tradition of firearm regulation allows the Government to disarm individuals who present a credible threat to the physical safety of others."); *Antonyuk v. James*, 120 F.4th 941, 985 (2d Cir. 2024) ("The denial of a license to an individual deemed likely to pose . . . a danger [to oneself or others] would clearly fall within the historical tradition of preventing dangerous individuals from carrying guns."), *cert. denied*, ___ S. Ct. ___, 2025 WL 1020368 (Mem.) (Apr. 7, 2025).

⁸ *United States v. Morrison*, 529 U.S. 598, 618 (2000).

⁹ *United States v. Lopez*, 514 U.S. 549, 561 n.3 (1995) (quoting *Brecht v. Abrahamson*, 507 U.S. 619, 635 (1993)).

¹⁰ *Caron v. United States*, 524 U.S. 308, 315 (1998).

¹¹ *Oefinger v. Zimmerman*, 601 F. Supp. 405, 412 (W.D. Pa. 1984).

¹² 90 Fed. Reg. at 13082.

safety,¹³ our experience at the state level confirms that it is possible to reconcile protecting the public from gun violence with meaningful avenues for relief from firearms disabilities.

We trust that, as promised in the IFR, the implementation of Section 925(c) relief “will not have substantial direct effects” or “federalism implications” on the States’ counterpart measures that are designed to deter individuals posing a danger to public safety from possessing firearms.¹⁴ We discuss the lessons we have learned from our state-run programs below.

II. The States Have Substantial and Diverse Experience in Providing Mechanisms for State Relief from Firearms Disabilities.

Many States have longstanding processes to afford relief from firearms disabilities to eligible individuals, which in some cases carry direct consequences for purposes of federal disqualification under Section 922(g). Notably, the Act itself provides relief outside the Section 925(c) process through a provision that permits individuals previously disqualified due to a conviction to report that they do not have a disqualifying conviction if they successfully availed themselves of pardons, expungements, and relief-granting state processes.¹⁵ Further, Congress incentivized the creation of additional state avenues for relief when it enacted the NICS Improvement Amendments Act of 2007 (“NIAA”), P.L. 110–80, § 105, which, as a precondition for grant eligibility, requires States to establish procedures to allow persons with disabilities based on mental health adjudications or involuntary commitments to a mental institution to obtain relief from such disabilities for purposes of Section 922(g).¹⁶ Thirty-three States, including many of the undersigned, currently have state mental health disability relief programs that qualify under NIAA.¹⁷

As laboratories of democracy, States have adopted a variety of policies in light of local circumstances and legislative priorities. States have different processes and nomenclature for relief from firearms disabilities, including expungements, executive pardons, and certificates of good conduct or certificates of relief from disabilities.¹⁸ For some States, the application is made to a

¹³ See 90 Fed. Reg. at 13082; *see also* *Logan v. United States*, 552 U.S. 23, 28 n.1 (2007) (“The relief provision [18 U.S.C. § 925(c)] has been rendered inoperative, however, for Congress has repeatedly barred the Attorney General from using appropriated funds ‘to investigate or act upon [relief] applications.’”).

¹⁴ 90 Fed. Reg. at 13083–84.

¹⁵ See 18 U.S.C. § 921(a)(20) (“Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter.”); *id.* § 921(a)(33)(B)(ii) (same for misdemeanor crimes of violence).

¹⁶ See 34 U.S.C. § 40915; *see generally* Bureau of Alcohol, Tobacco, Firearms & Explosives, NICS Improvement Amendments Act of 2007, <https://tinyurl.com/3nephz6n> (last visited June 10, 2025).

¹⁷ *Id.*

¹⁸ See, e.g., Del. Code Ann. tit. 11, §§ 4361–4364; *id.* § 1448A(l); N.J. Stat. Ann. §§ 2C:52-1 *et seq.*; *id.* §§ 30:4-80.8–.10; N.Y. Correct. L. §§ 700, *et seq.* (McKinney); N.Y. Mental Hyg. L. § 13.09(g) (McKinney).

court, while for others, an administrative body or a law enforcement agency is the first step. We encourage the Department to review such policies.

While the details of each State's process vary, our overall experience teaches that any process adopted by the Department to implement the Section 925(c) relief process must include robust safeguards designed to prevent rearming individuals who still pose a likely danger to self or others if rearmed.

A. Implementation of the Section 925(c) Relief Process Must Include Safeguards to Prevent Rearming Violent or Dangerous Individuals.

The States' experience confirms that a disability relief process works best when it includes reasonable substantive standards and evidentiary requirements, clear and transparent procedural standards, notice to affected parties, and offense and application-specific review. While the Department may make categorical determinations regarding those whose criminal offense history makes them presumptively ineligible for relief, where individuals are eligible for review, the Department should assess all relevant evidence from the application. Implementing these safeguards is central to providing relief in the way authorized by Congress, which, as noted, is deemed appropriate only when "the applicant will not be likely to act in a manner dangerous to the public safety and that the granting of relief would not be contrary to the public interest."¹⁹

i. Substantive Standards Governing Relief.

The Department's future implementation of the Section 925(c) relief process should include substantive standards governing eligibility to apply for relief. These threshold requirements should be well-calibrated to identify those categories of offenders who typically have high rates of recidivism²⁰ and/or whose conduct imposes a public safety threat of magnitude. In setting such standards, it is important to consult empirical data and law enforcement expertise.

In the States' experience and consistent with empirical data, some categories of individuals are more likely to recidivate and more likely to engage in future violent conduct, including (but not limited to): violent offenders, firearms offenders, convicted domestic abusers, persons subject to court orders prohibiting the possession of firearms (including intimate partner restraining orders as defined in 18 U.S.C. § 922(g)(8)), and persons convicted of stalking offenses.²¹ For disqualified

¹⁹ 18 U.S.C. § 925(c).

²⁰ See U.S. Sentencing Comm'n, *Recidivism Among Federal Violent Offenders* 3 (Jan. 2019) (finding that violent offenders recidivated at a higher rate (i.e., 63.8%) than non-violent offenders (i.e., 39.8%)); U.S. Sentencing Comm'n, *Recidivism Among Firearms Offenders* 4 (June 2019) (finding that firearms offenders recidivated at a higher rate (i.e., 68.1%) than non-firearms offenders (i.e., 46.3%)).

²¹ See *supra* note 20; J. Sugarmann & K. Rand, *Putting Guns Back Into Criminals' Hands: 100 Case Studies of Felons Granted Relief From Disability Under Federal Firearms Laws* 13 (1992) ("Recidivist crimes that those granted [Section 925(c)] relief were subsequently arrested for included: attempted murder; criminal attempted rape; first degree sexual assault; abduction-

individuals in some of these categories—including those who have committed the most serious crimes such as murder, sexual assault, aggravated assault, and felony crimes of child abuse and domestic violence—the Department should consider applying a presumption of ineligibility for firearms rights restoration because the risk that someone who has committed one of these crimes will again act in a manner dangerous to public safety is simply too high.²² If the Department chooses that approach, if any individualized review is made available for presumptively ineligible applicants, such review should carefully scrutinize “the circumstances regarding the disability”²³ via evidence showing the applicant lacks a future risk of violence or misuse of firearms.

Additional offense-specific considerations may be advisable in the Department’s review of other disqualification categories, too. For example, because of the special risks posed to the victims, the inquiry for those convicted of domestic violence or stalking offenses could include whether the applicant has recently engaged in conduct that heightens the risk of domestic violence lethality, including: (1) threats to the victim or their loved ones; (2) use of illegal drugs; (3) problem drinking; (4) threatening or attempting suicide; or (5) contacting the victim without their consent.²⁴ And, as discussed below, even for categories of individuals for whom population-based data suggest a lower public safety risk, best practices suggest that each applicant should bear the burden of demonstrating why the disqualifying conduct should no longer bar them from accessing firearms in light of personal circumstances.²⁵

kidnapping; child molestation; illegal possession and sale of a machine gun; trafficking in cocaine, LSD, and PCP; and illegal firearms possession or carrying.”); U.S. Dep’t of Just., *Recidivism of Prisoners Released in 34 States in 2012: A 5-Year Follow-Up Period 2 (2012-2017)* (About 1 in 4 prisoners released in 2012 across 34 states were serving time for a violent offense within 5 years); N.J. Cts., *2021 and 2022 Probation Recidivism Annual Report* 25 (Jan. 2024) (reporting a 52.5% recidivism rate for domestic violence caseloads and a 52.8% recidivism rate for mental health caseloads in 2018); Angela Eke et al., *Predictors of Recidivism by Stalkers: A Nine-year Follow-up of Police Contacts*, *Behavioral Sciences & the Law* 29: 271–83 (2011) (finding that 56% of offenders were charged for new stalking related offenses and 33% for violent recidivism).

²² See *Zherka v. Bondi*, No. 22-1108, 2025 WL 1618440, at *18–19 (2d Cir. June 9, 2025) (finding that Congress’s “longstanding power to disarm dangerous categories of persons” allows, consistent with the Second Amendment, “class-wide, status-based disarmament” for those that “Congress perceives . . . as dangerous.”).

²³ 18 U.S.C. 925(c).

²⁴ See, e.g., Jacquelyn C. Campbell, Daniel W. Webster & Nancy Glass, *The Danger Assessment: Validation of a Lethality Risk Assessment Instrument for Intimate Partner Femicide*, J. Interpersonal Violence (July 30, 2008), available at <https://tinyurl.com/bdz8awk6> (describing examples of conduct which heighten the risk of domestic violence lethality).

²⁵ See, e.g., *In re Pet. for Expungement of Crim. Rec. Belonging to T.O.*, 242 A.3d 842, 848 (N.J. 2021) (“Individuals who apply for expungement have an initial burden to satisfy the requirements of the expungement statute”); *Heath v. State*, 983 A.2d 77, 80 (Del. 2009) (“Applicants seeking a recommendation from the Board must fulfill several statutory requirements and establish that they no longer threaten the public.”); *State v. Hamilton*, 565 P.3d 595, 600 (Wash. Ct. App. 2025) (“In some circumstances, a person with disqualifying convictions may petition the convicting court to

Although each State's process is implemented differently, the most effective programs include evidence-based applicant eligibility requirements and, for those who are eligible to apply, require that they demonstrate that they no longer warrant restrictions on possessing firearms because they no longer pose a likely danger if armed. The Department's renewed approach to implementing Section 925(c) should likewise incorporate substantive and evidentiary guardrails, especially for those convicted of crimes with relatively high recidivism rates, in order to screen out those for whom full restoration of firearm rights would not be appropriate—and to allow for more impactful violent crime prevention and public safety efforts.

ii. **Procedural Standards Requiring Offense and Application-Specific Evaluation of All Relevant Evidence of an Applicant's Recidivism Risk.**

Section 925(c) requires the person seeking to be relieved from Section 922(g) disabilities to “make [an] application to the Attorney General for relief” and to “establish[] to [the Attorney General's] satisfaction that” the applicant meets the Section 925(c) standard. In turn, that requires a showing that “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.”²⁶ Thus, individual applicants bear the burden of both applying for and demonstrating that they should be granted relief under Section 925(c) from the disabilities imposed by Section 922(g).

Consistent with that standard, the Department should implement clear procedural standards, including those that: (1) require the prohibited person to submit an application and evidence of rehabilitation, consistent with Congress' decision that the prohibited person bear the burden of showing eligibility for relief from disabilities; (2) establish a panel of experts from the fields of law enforcement, mental health, criminology, and victims' services to review the applications and evidence; (3) require submission and evaluation of specific evidence provided by the applicant that is probative of that individual's fitness to possess firearms;²⁷ and (4) create

have their firearm rights restored upon compliance with certain conditions.”); N.J. Stat. Ann. §§ 2C:52-7 to -8; 430 Ill. Comp. Stat. 65/10(c) (four-part standard must be “established by the applicant to the court's or the Board's satisfaction”); 12 R.I. Gen. Laws § 12-1.3-3(b)(2) (court may order expungement if it finds “[t]hat the petitioner's rehabilitation has been attained to the court's satisfaction and the expungement of the records of his or her conviction is consistent with the public interest.”); *Certificate of Relief from Disabilities – Certificate of Good Conduct Application and Instructions*, N.Y.S. Dep't of Corrs. & Cmty. Supervision at 6, <https://tinyurl.com/3uwx5xju>.

²⁶ 18 U.S.C. § 925(c).

²⁷ *Id.* The prior protocol governing the ATF's administration of Section 925(c) relief applications also required evidence to that effect and the requirement should be reinstated in this new iteration of the Section 925(c) program. See 27 C.F.R. § 478.144(c)(1)–(8) (including, inter alia, written statement from three references; employment, medical, military, and criminal records; and records relating to expungement or rights restoration).

processes to notify victims and state and local law enforcement of the application for restoration of rights, as well as any subsequent decision on that application.

The States' experience enforcing state-led firearms restoration processes illustrates that individuated, evidence-based relief—often requiring judicial determinations—can effectively reduce future risk of violence or firearm misuse.²⁸ Those processes generally require applicants to provide, among other things, circumstantial evidence of the applicant's rehabilitation and reputation, such as subsequent employment history, character since completing a sentence, certification(s), and/or personal references; the applicant's prior and subsequent history, including relief application rejections, arrests, and/or indictments; information about the disqualifying event, such as the indictment, judgment of conviction, restraining order, civil commitment order, and/or other protective order that led to the disqualification; and signed consent forms for record requests.²⁹

²⁸ See, e.g., Ariz. Rev. Stat. Ann. § 13-908; Cal. Pen. Code § 4852.13(a); Conn. Gen. Stat. § 45a-100; Del. Code Ann. tit. 11, § 1448A(l); 430 Ill. Comp. Stat. Ann. § 65/10; Mich. Comp. Laws §§ 750.224f(2) and (4); Minn. Stat. § 609.165; N.C. Gen. Stat. § 14-4.15.4; Or. Rev. Stat. § 166.274; Wash. Rev. Code § 9.41.041, .047.

²⁹ See, e.g., Ariz. R. Crim. P. 30.2(a) (requiring information regarding the offense and the applicant's biographical information); Cal. Pen. Code § 4852.1(a) (permitting, "as it deems necessary," a court to require production of "all records and reports relating to the petitioner and the crime of which he or she was convicted."); *id.* § 4852.12(a) (permitting investigation into, among other things, "the conduct of the petitioner during the period of rehabilitation."); Del. Code Ann. tit. 11, §§ 1448A(l)(2)(a)–(d) (requiring consideration of evidence including "[t]he circumstances regarding the firearms or projectile weapons disabilities," "the petitioner's record, which must include, at a minimum, the petitioner's mental health record," the petitioner's "[c]riminal history records," and "[t]he petitioner's reputation as evidenced through character witness statements, testimony, or other character evidence."); Conn. Gen. Stat. § 45a-100(b) (requiring, among other things, psychiatric history, criminal history, and/or evidence of the petitioner's reputation); 430 Ill. Comp. Stat. Ann. 65/10(c)(2) (considering, among other things, criminal history and reputation); Mich. Comp. Laws § 28.424 (considering applicant's record and reputation); N.C. Gen. Stat. § 14-415.4(f) (providing that "[t]he burden is on the petitioner to establish by a preponderance of the evidence that the petitioner is qualified to receive the restoration under subsection (d) of this section and that the petitioner is not disqualified under subsection (e) of this section."); N.J. Stat. Ann. §§ 2C:52-7, -8 (requiring the petitioner's date of birth, date of arrests, the offense(s) convicted of, the original indictment, and other information); N.M. Stat. Ann. § 34-9-19(D) (requiring that copies of the petition seeking relief from mental disqualifiers "shall be served upon the office of the attorney general and upon all parties to the proceeding resulting in a court order"); Nev. Bd. of Pardons, Criteria and Application Instructions (considering among other things, the applicant's character since completing a sentence, financial and employment stability, responsibility toward family, reputation in the community, participation in community service, charitable or other meritorious activities); Wash. Rev. Code § 9.41.041 (verifying criminal history and background information); Wis. Stat. Ann. § 941.29(8) ("In any action or proceeding regarding this determination, the person has the burden of proving by a

The Department should also require the reviewing authority to consider other relevant evidence probative of the applicant's risk of violence or future firearm misuse, which can include the passage of time since the disqualifying event that triggered the disability; and the nature of the underlying disqualifying event, such as whether it involved violence, sex offenses, spousal or child abuse, fraud or falsification, the evasion of justice, or the unlawful use or possession of a firearm.³⁰

Although the States believe that the use of technology may be beneficial in particular circumstances to optimize government processes, the decisions involved in this process have profound implications for public safety, and require individualized consideration by qualified officials, not automation. Any review process that primarily or substantially relied on automation would run afoul of statutory requirements that the Attorney General reach her own educated conclusions about each application, including that she must consider "the circumstances regarding the disability," the "applicant's record and reputation," and the "public interest;" the requirement that the evidence must be "established to h[er] satisfaction;" and the requirement that she provide public notice of any decision to restore an individual's firearm rights and her "reasons therefor."³¹

Finally, prior to providing relief to an applicant, the Department should provide notification to victims and other interested parties, including state and local law enforcement agencies, in order to meaningfully consider the public interest. Several States employ comparable notice provisions to apprise interested parties, particularly representatives of the public interest, of pending applications for relief from firearms disabilities.³² This is particularly

preponderance of the evidence that he or she is not likely to act in a manner dangerous to public safety.").

³⁰ See, e.g., N.C. Gen. Stat. § 14-4.15.4(e)(1)–(10) (requiring that "[t]he court shall deny the petition to restore the firearms rights of any petitioner if the court finds [that] any of" several disqualifiers requiring denial of the petition apply, including whether the petitioner has a civil no-contact order, is a fugitive from justice, is an unlawful user of narcotics, or is under indictment for a felony.).

³¹ 18 U.S.C. § 925(c).

³² See, e.g., Ariz. R. Crim. P. 30.2 and 30.3 (the court must send a copy of the application to the applicable prosecuting agency or attorney general, and the prosecuting agency must provide the victim with notice of the application if the victim has requested post-conviction notice); Conn. Gen. Stat. § 54-124a(j)(2)-3a (requiring an "attempt to identify and notify any victim of the offense that is the subject of the pardon application."); Del. Code Ann. tit. 11, § 4361 ("Upon the application of any convicted felon for a pardon, the Board shall notify the Superior Court and the Attorney General of such application. The Attorney General in cooperation with the Superior Court shall send notice of such application to each person who was a victim or witness of the offense for which the felon was convicted, that the felon has applied for a pardon."); 430 Ill. Comp. Stat. Ann. § 65/10(c)(0.05) (requiring in certain circumstances that "the State's Attorney [be] served with a written copy of the petition at least 30 days before any such hearing in the circuit court" and be "afforded an opportunity to present evidence and object to the petition."); N.C. Gen. Stat. 14-4.15.4(f) (requiring notice of hearing on petition to local district attorney); N.J. Stat. Ann. § 30:4-80.9 (requiring, for mental health expungements, that applicants serve "upon the medical director

important for categories of offenses where recidivism risk is particularly high, even if information available to the Department has led the applicant to clear an individualized risk assessment. In the case of disabilities stemming from crimes involving domestic violence or stalking, providing notice to victims and local law enforcement is crucial because it allows victims to provide information that would be helpful to consider for Section 925(c) purposes, but more importantly, it allows victims to modify any safety plans to reflect the fact that their abuser may now have access to a deadly weapon, and it gives notice to local law enforcement that they need to take necessary precautions and measures to enhance the victims' safety.³³ These requirements would improve ensuring that "the granting of relief would not be contrary to the public interest."³⁴

B. Reinstating the Section 925(c) Process Will Require Adequate Resources.

There is no resource allocation discussed in the IFR,³⁵ but where public safety is at risk, fiscal corners should not be cut. Between 1985 and 1989, the ATF processed more than 6,000 applications, granting relief to about one third of those with cumulative costs exceeding \$17 million dollars.³⁶ Despite ATF's expenditure of significant resources, not all applicants prone to future criminal conduct were identified. One study found that, at least 47

of the institution or facility to which such person was committed or upon the party or parties who applied for the determination that the person be found to be a danger to himself, others, or property."); *id.* § 2C:52-10(a) (requiring service of petition "upon the Superintendent of State Police; the Attorney General; the county prosecutor of the county where the court is located," and others representing the public interest); N.Y. Correct. Law § 702 (McKinney) ("The court may, for the purpose of determining whether [a certificate of relief from disabilities] shall be issued, request its probation service to conduct an investigation of the applicant, or if the court has no probation service it may request the probation service of the county court for the county in which the court is located to conduct such investigation."); Wash. Rev. Code § 9.41.041(3)(c) (requiring notice to victim and/or persons subject to protective or no-contact orders against the petitioner); Nev. Admin. Code §§ 213.185, .187 (requiring notice to victims of the crimes for which clemency is sought).

³³ Dean G. Kilpatrick et al., U.S. Dep't of Just., *The Rights of Crime Victims—Does Legal Protection Make a Difference?* 2–4 (1998), <https://tinyurl.com/542nfb27> (explaining that "[p]erhaps the most fundamental right of a crime victim is the right to be kept informed," and that, without notice, victims cannot exercise their rights nor can they be heard in proceedings); *see also* 18 U.S.C. § 3771 (enumerating rights for crime victims in criminal proceedings, including "[t]he right to be reasonably protected from the accused" and "timely notice of any public court proceeding.").

³⁴ 18 U.S.C. § 925(c).

³⁵ Utterly absent from the IFR is an estimated cost by the federal government to implement the program. *See* 90 Fed. Reg. at 13083. The program cannot be run with zero resources, since 1992 when Congress prohibited spending on the process, the ATF was "unable to act on any application for such relief." *Id.* at 13082.

³⁶ *See* J. Sugarmann & K. Rand, *supra* note 21, at 2.

applicants (2.6% of those granted relief between 1985 to 1989) were subsequently re-arrested for violent crimes and weapons-related offenses.³⁷

Notwithstanding Congress's decades-long defunding of the Section 925(c) relief process,³⁸ the States' experience shows that administering an individualized restoration process in a manner that is not contrary to the public interest requires addressing the special public safety risks that inhere in firearms rights restorations. To accommodate these concerns, the Department should build systemic capacity to effectively query the broad range of records that may be relevant to arrive at a full picture of an applicant's fitness, and to adequately liaise with victims and state and local law enforcement. This requires sufficient staffing and state and local law enforcement cooperation.³⁹ As the Department endeavors to undertake that difficult and important task, it must invest adequate resources to ensure that felons and other disqualified individuals do not go on to commit additional crimes using firearms. In other words, Congress's criticism calls for more careful scrutiny of applications, not less. Accordingly, the States encourage the Attorney General to make provision to Congress for appropriations designed specifically to adequately fund and carry out this important work.

* * *

For the foregoing reasons, the States strongly recommend that the Department implement additional substantive and procedural guidelines that will ensure that the process for seeking Section 925(c) relief properly balances public safety and individual rights.

Sincerely,



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³⁷ *Id.* at 13 (listing re-arrest crimes including: attempted murder; first degree sexual assault; abduction/kidnapping; child molestation; illegal machine gun possession or sale; illegal firearms possession or carrying; and drug trafficking).

³⁸ 90 Fed. Reg. at 13082–83.

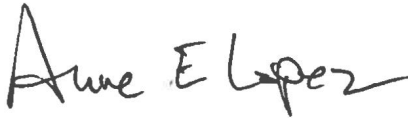
³⁹ *See, e.g.*, Bureau of Just. Stats., *NICS Act Record Improvement Program (NARIP): State Profiles*, <https://tinyurl.com/4tcebt5y> (last viewed June 10, 2025) (awarding \$257,596,075 to thirty-one states and three tribes between 2009 and 2024 for creating and maintaining record keeping systems, thus improving interstate record sharing capabilities for NICS).



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