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DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 009-2026]

Privacy Act of 1974; Implementation

AGENCY: Office of the Pardon Attorney, United States Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Notice section of today's Federal Register, the Office of the Pardon Attorney (PARDON), a component within the United States Department of Justice (DOJ or Department), has published a notice of a new system of records, Firearms Rights Restoration Electronic Records Database (FRRERD), JUSTICE/OPA-002. In this notice of proposed rulemaking, PARDON proposes to exempt this system of records from certain provisions of the Privacy Act in order to safeguard confidential information compiled at various stages of the criminal law enforcement process; and compiled for the purpose of ensuring the integrity of the adjudicatory process involving eligibility and suitability determinations concerning the restoration of an applicant's federal firearms rights pursuant to 18 U.S.C. § 925(c) and 28 CFR 107.1 *et seq*. For the reasons provided below, the Department proposes to amend its Privacy Act regulations by establishing an exemption for records in this system from certain provisions of the Privacy Act. Public comment is invited.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments by any of the following methods:

- E-mail: *privacy.compliance@usdoj.gov*. To ensure proper handling, please reference the CPCLO Order No. in the subject line of the message.
- Fax: 202-307-0693.

- Mail: U.S. Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, Two Constitution Square (2CON), 145 N Street, NE, Suite 8W.300, Washington, DC 20530. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes. To ensure proper handling, please reference the CPCLO Order No. in your correspondence.
- Federal eRulemaking Portal: *http://www.regulations.gov*. When submitting comments electronically, you must include the CPCLO Order No. in the subject box. Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Daylight Savings Time on the day the comment period closes because *http://www.regulations.gov* terminates the public's ability to submit comments at that time. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received.

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Department's public docket. If your comments contain personal identifying information that you do not want to be posted online and made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also identify all personal identifying information that you do not want posted online or made available in the public docket, identifying the information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business

information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, that comment may be withheld from the public docket in whole or in part.

Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the "FOR FURTHER INFORMATION CONTACT" paragraph, below.

FOR FURTHER INFORMATION CONTACT: Kira Gillespie, Deputy Pardon Attorney, Office of the Pardon Attorney, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530.

SUPPLEMENTARY INFORMATION:

I. Background

Federal law prohibits several categories of persons from "possess[ing] in or affecting commerce, any firearm or ammunition." 18 U.S.C. § 922(g). It also provides that any "person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Attorney General for relief from th[at] disabilit[y]" and that "the Attorney General may grant such relief if it is established to his satisfaction 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." 18 U.S.C. § 925(c). In February 2025, the President issued Executive Order 14206, reaffirming the nation's commitment to "[t]he Second Amendment [as] an indispensable safeguard of security and liberty," and directed that "the Attorney General shall examine all orders, regulations, guidance, plans, international agreements, and other actions of executive departments and agencies (agencies) to assess any ongoing infringements of the Second Amendment rights of our citizens[.]"

In connection with the Executive Order 14206 review, the Attorney General identified the process under 18 U.S.C. § 925(c), as one meriting attention. Prior to March 2025, the process was handled by the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"). However, since 1992, Congress has restricted the ATF from expending its appropriated funds to conduct section 925(c) investigations, rendering ATF's relief from disabilities program unusable. In March 2025, the Attorney General issued an interim final rule withdrawing the delegation of authority to ATF to administer section 925(c). *See Withdrawing the Attorney General's Delegation of Authority,* 90 FR 13080 (Mar. 20, 2025). A notice of proposed rulemaking followed in July 2025 that announced specific requirements regarding the means through which an individual should apply for relief, as well as detailed guidance regarding the review and adjudication of section 925(c) applications. *See Application for Relief From Disabilities Imposed by Federal Laws With Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms*, 90 Fed. Reg. 34394 (Jul. 22, 2025). In August 2026, following public comment, a final rule providing detailed guidance regarding the application, review and adjudication of this application process was issued. *See Application for Relief From Disabilities Imposed by Federal Laws with Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms*, 91 Fed. Reg. 54054 (Aug. 20, 2026).

The FRRERD is a new system of records established in the Office of the Pardon Attorney with the principal purpose of collecting, storing, and maintaining the personally identifiable information (PII) of applicants seeking the restoration of their federal firearms rights. The system will leverage an existing information system and technology – the Federal Bureau of Investigation's (FBI) Electronic Departmental Order (eDO) service, which resides within the FBI's Next Generation Identification (NGI) system (JUSTICE/FBI-009, 84 Fed. Reg. 54182 (Oct. 9, 2019)) – to maintain records in

connection with federal firearms rights restoration applications. The eDO and NGI will also host the FRRERD where the records will be maintained. The responsibility for the FRRERD system of records will belong to PARDON, who will receive, track, and adjudicate applications to restore federal firearms rights. Further, PARDON will initiate the necessary investigations concerning these applications and prepare recommendations for the Attorney General to determine if, pursuant to 18 U.S.C. § 925(c), relief from disability is warranted. PARDON will also act as a liaison to the public to respond to inquiries about the process to restore federal firearms rights.

II. Privacy Act Exemption

The Privacy Act allows Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including those that provide individuals with a right to request access to and amendment of records about the individual. If an agency intends to exempt a particular system of records, it must first issue a rulemaking pursuant to 5 U.S.C. 553(b)(1)–(3), (c), and (e). This proposed rule explains why exemptions are being claimed for this system of records, and it invites public comment, which the Department will consider before the issuance of a final rule implementing the exemptions.

The Department proposes to modify its regulations at 28 CFR part 16 to incorporate the Privacy Act exemptions for this new system of records, Firearms Rights Restoration Electronic Records Database (FRRERD), JUSTICE/OPA-002. The Department proposes to exempt this new system of records because most of the records in this system contain criminal law enforcement sensitive information and certain requirements of the Privacy Act may interfere with the effective execution of these activities. The Privacy Act, pursuant to 5 U.S.C. 552a(j)(2), authorizes agencies with a principal law enforcement function pertaining to the enforcement of criminal laws (including activities of prosecutors, courts, correctional, probation, pardon or parole

authorities) to claim an exemption for systems of records that contain information identifying criminal offenders and alleged offenders, information compiled for the purpose of criminal investigation, or reports compiled for the purpose of criminal law enforcement proceedings. Additionally, pursuant to 5 U.S.C. 552a(k)(2), agencies may exempt a system of records from certain provisions of the Privacy Act if the system contains investigatory material compiled for law enforcement purposes, other than materials within the scope of 5 U.S.C. 552a(j)(2). The Department proposes this exemption because most of the records in this system relate to law enforcement activities, and as a result, notice, access, amendment, and disclosure (to include accounting for those records) to an individual, as well as certain record-keeping requirements, would reveal confidential information concerning the nature and scope of the firearms restoration adjudicatory process, undermine the ability to have candid communications among officials concerned with making recommendations to the Attorney General, and disclose the identity and personal characteristics of persons who furnished information to the Government under an express or implied promise of confidentiality. The Department is proposing to claim exemptions from several provisions of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2) and 552a(k)(2), to prevent the harms articulated in this rule from occurring. Records in this system of records are only exempt from the Privacy Act to the extent the purposes underlying the exemption pertain to the record. A notice of a new system of records, Firearms Rights Restoration Electronic Records Database (FRRERD), JUSTICE/OPA-002, will be published in this issue of the Federal Register.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563–Regulatory Review

In accordance with 5 U.S.C. 552a(j) and 552a(k), this proposed action is subject to formal rulemaking procedures by giving interested persons an opportunity to participate in the rulemaking process “through submission of written data, views, or

arguments," pursuant to 5 U.S.C. 553. This proposed rulemaking intends to exempt this system of records from certain provisions of the Privacy Act to safeguard confidential criminal law enforcement information; and ensure the integrity of the adjudicatory process involving eligibility and suitability determinations concerning the restoration of an applicant's federal firearms rights pursuant to 18 U.S.C. § 925(c). The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Information and Regulatory Affairs within the Office of Management and Budget pursuant to Executive Order 12866.

B. Regulatory Flexibility Act

This proposed rule will only impact Privacy Act-protected records, which are personal and generally do not apply to an individual's entrepreneurial capacity, subject to limited exceptions. Accordingly, the Chief Privacy and Civil Liberties Officer, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E– Congressional Review Act)

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, 5 U.S.C. 801 *et seq.*, requires the Department to comply with small entity requests for information and advice about compliance with statutes and regulations within the Department's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in "FOR FURTHER INFORMATION CONTACT" paragraph, above. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at *https://www.sba.gov/advocacy.* This

proposed rule is not a major rule as defined by 5 U.S.C. 804 of the Congressional Review Act.

D. Executive Order 13132–Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Executive Order 12988–Civil Justice Reform

This proposed regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

F. Executive Order 13175–Consultation and Coordination with Indian Tribal Governments

This proposed rule will have no implications for Indian Tribal governments. More specifically, it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Therefore, the formal consultation requirements of Executive Order 13175 do not apply.

Nevertheless, two listening sessions were held with tribal authorities regarding the maintenance of tribal records in the system, specifically about the evaluation of risks to public safety from applicants based on information collected from the tribe regarding prior convictions and current status. These listening sessions were conducted in conjunction with Justice Department's Office of Tribal Justice.

G. Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000, as adjusted for inflation, or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), requires the Department to consider the impact of paperwork and other information collection burdens imposed on the public. This proposed rule would call for a new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3521. As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection for submission to the Department.

Title: Application for Restoration of Federal Firearms Rights

OMB Control Number: 1123-0017

Summary of the Collection of Information: Under 18 U.S.C. § 925(c), the Attorney General may grant relief to individuals who are prohibited under federal law from possessing and engaging in certain activities with respect to firearms and ammunition. Section 925(c) thus provides a mechanism for the Attorney General to relieve otherwise-prohibited persons from federal firearm disabilities if they can show that they are likely to possess firearms safely, while ensuring that violent and dangerous

persons remain subject to the prohibitions in the Gun Control Act. The information collected will be that necessary to establish eligibility for relief under 18 U.S.C. § 925(c), including personal, financial, health, and criminal history information about the applicant.

Need for Information: To determine if such relief should be granted to an individual, the Attorney General, by statute, must determine if "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." The information requested in the application is necessary for the Attorney General to make such a determination.

Proposed Use of Information: To allow the Attorney General to determine whether to grant restoration of firearms rights to applicants while ensuring safety of the public and that such a decision is not contrary to the public interest.

Description of the Respondents: Persons who are subject to disabilities under 18 U.S.C. 922(g) and who choose to make an application for relief pursuant to 18 U.S.C. 925(c).

Estimated Number of Respondents: 330,000 per year.

Frequency of Response: Once every five years until relief is granted.

Burden of Response: 65 minutes.

Application Fee: $30

List of Subjects in 28 CFR Part 16

Administrative practices and procedure, Courts, Freedom of information, Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940-2008, the Department proposes to amend 28 CFR part 16 as follows:

PART 16--PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 553; 28 U.S.C. 509, 510, 534; 31 U.S.C. 3711.

2. Section 16.79 is amended by adding revising paragraphs (c) and (d) as follows:

Subpart E – Exemption of Records Systems Under the Privacy Act

§ 16.79 [Amended]

* * * * *

(c) The following system of records is exempt from 5 U.S.C. 552a, subsections (c)(3) and (4); (d)(1), (2), (3), and (4); and (e)(1), (2), and (5): The Department of Justice, PARDON Firearms Rights Restoration Electronic Records Database, JUSTICE/OPA-002. These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k). Where DOJ determines that compliance would not appear to interfere with or adversely affect the purpose of this system to adjudicate applications to restore federal firearms rights and not interfere with law enforcement operations, the applicable exemption may be waived by the DOJ in its sole discretion.

(d) Exemptions from the particular subsections of the Privacy Act identified above are justified for the following reasons:

(1) From the subsection (c)(3) (accounting of disclosures) requirement that an accounting be made available to the named subject of a record because this system is exempt from the access provisions of subsection (d) of the Privacy Act and:

(i) The purpose of the creation and maintenance of the Firearms Rights Restoration Electronic Records Database, JUSTICE/OPA-002 is to enable PARDON to

receive, track, and adjudicate applications to restore federal firearms rights, initiate the necessary investigations concerning these applications, and prepare recommendations for the Attorney General, or designee, to determine if, pursuant to 18 U.S.C. § 925(c), relief from disability is warranted.

(ii) Release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the requester to obtain valuable information concerning the nature and scope of the firearms restoration adjudicatory process, undermine the ability to have candid communications among officials concerned with making recommendations to the Attorney General, and disclose the identity and personal characteristics of persons who furnished information to the Government under an express or implied promise of confidentiality. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record.

(2) From subsection (c)(4) (notice of amendment to record recipients) because this system is exempt from the access and amendment provisions of subsection (d) of the Privacy Act as well as the provision for making the accounting of disclosures available to an individual in subsection (c)(3).

(3) From subsections (d)(1), (2), (3), and (4) for the reasons stated in paragraph (d)(1) of this section and because these provisions concern individual access to and amendment of investigatory and adjudicatory records, compliance with which could compromise ongoing investigations; constitute unwarranted invasion of personal privacy of third parties; and compromise the integrity of the official adjudicatory record. Administrative due process could not be achieved by the ex parte “correction” of law enforcement and other evidentiary materials by the individual who is the subject thereof.

(4) From subsection (e)(1) (maintaining relevant and necessary information) for the reasons stated in paragraph (d)(1) of this section and because it is not always possible to know in advance what information is relevant and necessary for the investigation and

adjudication of applications and, in fact, a major tenet of the Firearms Rights Restoration Electronic Records Database program is that the relevance of certain information may not always be evident in the absence of the ability to correlate that information with other existing law enforcement data.

(5) From subsection (e)(2) (collect information directly from the subject) for the reasons stated in paragraph (d)(1) of this section and because application of this provision could present a serious impediment to efforts to fully investigate and adjudicate firearms rights restoration applications, which relies on information from a number of different sources.

(6) From subsection (e)(5) (maintaining accurate, relevant, timely, and complete records) for the reasons stated in paragraph (d)(1) of this section and because many of the records in this system are records contributed by other agencies and the restrictions imposed by (e)(5) would limit the utility of the system. While all data sources from federal agencies are required to ensure that information they share is relevant, timely, complete and accurate, exemption from this provision is warranted in order to reduce the administrative burden on PARDON to vouch for compliance with the provision by all data sources, including non-federal government agencies not subject to the requirements of the Privacy Act, and to encourage the sharing of information the significance of which may only become apparent when combined with other information in the system as necessary for the effective adjudication of eligibility and suitability for the restoration of federal firearms rights.

Dated: October 1, 2026.

Laurence E. Rothenberg,
Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

[FR Doc. 2026-20532 Filed: 10/6/2026 8:45 am; Publication Date: 10/7/2026]