



GUN OWNERS OF AMERICA

THE ONLY NO-COMPROMISE GUN LOBBY IN WASHINGTON

RE: Revising Definitions of “Adjudicated as a Mental Defective” & “Committed to a Mental Institution”

ADDRESSED TO

Office of Regulatory Affairs

Bureau of Alcohol, Tobacco, Firearms and Explosives

U.S. Department of Justice

Washington, DC 20226

SUBMITTED BY

Gun Owners of America
Gun Owners Foundation

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GOA & GOF COMMENTS TO ATF ON THE “ADJUDICATED AS A MENTAL DEFECTIVE” NPRM

GOA FEDERAL AFFAIRS | FORMAL COMMENTS ON RIN 1140-AB04 · 91 FED. REG. 25166 (MAY 8, 2026)

Re: Revising Definitions of “Adjudicated as a Mental Defective” and “Committed to a Mental Institution” (RIN 1140-AB04)

DOJ RULEMAKING

On May 8, 2026, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) published a notice of proposed rulemaking to “update the [regulatory] definitions of ‘adjudicated as a mental defective’ and ‘committed to a mental institution’” under the Gun Control Act of 1968 (“GCA”). 91 Fed. Reg. 25166, 25166 (May 8, 2026) (“NPRM”).¹ The GCA prohibits individuals who have been “adjudicated as a mental defective” or “committed to a mental institution” from possessing firearms or ammunition. 18 U.S.C. § 922(g)(4). However, ATF’s current definitions of these statutory terms “are not a correct interpretation of the statute in all respects.” NPRM at 25168. The NPRM acknowledges that ATF’s current definitions are both “overbroad” and “also fail to properly distinguish between” each other. *Id.* Thus, the NPRM proposes to clarify that “adjudicated as a mental defective” describes “specifically those individuals who, as a result of a serious global intellectual deficit, cannot responsibly handle firearms,” but not those “individuals who present solely with isolated functional deficits, such as the inability to manage their government benefits....” *Id.* Finally, the NPRM proposes to “more explicitly distinguish the ‘adjudicated as a mental defective’ and ‘committed to a mental institution’ prongs” of the statutory prohibition. *Id.* The NPRM seeks public comment by August 6, 2026 on “the clarity of this proposed rule and how it may be made easier to understand, as well as on ATF’s proposal regarding moving certain components of the ‘adjudicated as a mental defective’ definition to the definition of ‘committed to a mental institution.’” *Id.* at 25185.

IDENTITY OF COMMENTERS

Gun Owners of America, Inc. (“GOA”) is a California non-stock corporation headquartered in Springfield, Virginia. Organized as a nonprofit membership organization under Section 501(c)(4) of the Internal Revenue Code, GOA was founded in 1976 with the mission to preserve, protect, and defend the Second Amendment rights of gun owners. Today, GOA represents the interests of more than two million members and supporters nationwide, and routinely lobbies and litigates to vindicate the right to keep and bear arms throughout the country.

Gun Owners Foundation (“GOF”) is a Virginia non-stock corporation headquartered in Springfield, Virginia. GOF is a nonprofit legal defense and educational foundation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Supported by a national donor base, GOF provides essential legal services and educational resources to the firearms community. Its activities include

1. See <https://www.govinfo.gov/content/pkg/FR-2026-05-08/pdf/2026-09156.pdf>.

strategic litigation and administrative advocacy, including the submission of comments such as these intended to safeguard the enumerated right of the people to keep and bear arms.

GOA and GOF have a direct interest in this rulemaking, which affects the rights of countless Americans, including some GOA and GOF members and supporters, to keep and bear arms. For years, GOA and GOF have opposed the federal government's theory that a person's apparent need for aid in the management of their financial affairs somehow rendered them a "mental defective" under the GCA.² Under this theory, federal agencies have unconstitutionally disarmed hundreds of thousands of military veterans and recipients of public benefits across several decades. GOA's lobbying efforts were instrumental in securing a recent congressional appropriations ban against this practice in 2024. For instance, the Department of Veterans Affairs is now blocked from "report[ing] to [the National Instant Criminal Background Check System ('NICS')] a veteran deemed incompetent and assigned a fiduciary without a court ruling that the veteran is a danger to themselves or others." NPRM at 25169.

GOA and GOF submit these comments to ensure that ATF's regulation complies with the statutory text and protects gun owners from future abuse.

SUMMARY OF COMMENTS

While correcting known defects in existing regulations is a laudable goal, this NPRM only creates more. Federal law disarms anyone "who has been adjudicated as a mental *defective*," a narrow category of persons with severe, permanent intellectual disabilities – not just a mental *illness*. Even so, the NPRM claims that people *with* mental illnesses can be disarmed under the statute, provided they have been found to require certain legal guardianships. But the NPRM's proposed guardianship standard is hopelessly vague and fails to account for the nuances in the many sorts of guardianships recognized under the laws of each state. And more fundamentally, it rests on a faulty premise – that "mental defectiveness" reaches mere "mental illness." Contemporaneous American authorities beg to differ.

The NPRM also fails to correct a nearly 30-year-old regulatory error. For decades, ATF has claimed that an "adjudication" of mental defectiveness in fact can include a "determination" by a "board, commission, or other lawful authority." But at the time of the GCA's enactment, "adjudication" was universally understood to mean a *judicial decree* by a *court*, not an administrative *determination* by a *bureaucrat*. Since then, Congress has only confirmed that understanding, going so far as to explicitly spell out that an "adjudication" requires an "order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others." The NPRM entirely fails to realize its conflict with this overwhelming weight of legal authority.

All told, while the NPRM takes steps to walk back some of more flagrant abuses of recent decades, the regulation it proposes still bears little resemblance to the statutory text, continuing to expand it far beyond what Congress enacted and intended.

2. See, e.g., <https://www.gunowners.org/na11112021/>; <https://www.gunowners.org/a-social-security-gun-ban-part-2/>.

COMMENTS ON PROPOSED RULE

A. The NPRM Expands the Statutory Definition of Mental Defective, Creates Ambiguous Standards, Conflicts with Virtually All Precedent, and Invites Absurd Results.

As the NPRM correctly recognizes, “federal law does not prohibit the possession of firearms by individuals who are simply ‘afflicted with mental illness.’” NPRM at 25169. As ATF explains, one federal appellate court refused to “read into this criminal statute an intent” by Congress to disarm such a broad swath of persons, “which could cover over 23% of the adult population.” *Id.* at 25169, 25172 (citation omitted). Rather, the term “adjudicated as a mental defective” has a far narrower meaning.

As GOA explained more than a decade ago in comments submitted to the Social Security Administration, “the term ‘mental defective’ [was] historically designed to encompass a relatively narrow field of persons understood to be ‘imbeciles’ (i.e., those with severe, permanent intellectual disabilities).”³ Consistent with Commenters’ view, contemporaneous dictionary definitions defined “mental defect” as “gross ignorance or imbecility...” Black’s Law Dictionary 1137 (4th ed. 1968); accord NPRM at 25172 (“descending on a scale of ‘morosity, imbecility, and idiocy’” (quoting Webster’s Dictionary (1935))). As the NPRM describes it, such a condition is “existing from birth or from an early age.” NPRM at 25172.

In contrast, the term “mental defective” was never intended to apply to anyone suffering from a “mental illness,” or one who “[l]acks the mental capacity to contract or manage his own affairs.” 27 C.F.R. § 478.11. Indeed, until 1973, *homosexuality* was considered to be a mental illness by the American Psychological Association.⁴ Yet as the NPRM acknowledges, this is the way ATF and other federal agencies have interpreted the statute for years, so as to disarm “individuals who have narrow functional deficits, such as the inability only to manage financial benefits.” NPRM at 25168. For instance, over the course of several decades, the Department of Veterans Affairs disarmed nearly 300,000 veterans simply for having been assigned fiduciaries to manage their VA benefits. See NPRM at 25169. Many Social Security recipients suffered similar prohibitions. See *id.* Of course, as the NPRM admits, such determinations are “insufficient, standing alone,” to disarm Americans under the statute. *Id.*

Yet in the same breath in which ATF acknowledges that “federal law does not prohibit the possession of firearms by individuals who are simply ‘afflicted with mental illness’” (NPRM at 25169), the NPRM proposes to establish a regime which does just that – disarming *some* (just not *all*) persons with mental illnesses, but only if their illness is *significant enough* to meet various vague and arbitrary standards ATF establishes. In so doing, the NPRM conflicts with virtually all legal authority, and will create perverse results, disarming all manner of individuals who are not mentally defective and who clearly pose no danger to others. *Cf. United States v. Rahimi*, 602 U.S. 680, 700 (2024) (“the Second Amendment right may only be burdened once a defendant has been found to pose a credible threat to the physical safety of others”).

3. <https://lawandfreedom.com/wordpress/wp-content/uploads/2016/07/GOA-GOF-Comments-to-SSA-final.pdf> at 3.

4. https://pages.uoregon.edu/eherman/teaching/texts/DSM-II_Homosexuality_Revision.pdf.

B. Despite Admitting the GCA Does Not Permit Disarmament of Those with “Mental Illness,” the NPRM Nevertheless Proposes to Disarm Some Persons with Mental Illness, Utilizing Vague and Ambiguous Standards.

Promising to remedy the current problematic state of affairs, the NPRM purports to walk back the existing regime which, as discussed, operates to disarm anyone “‘afflicted with mental illness.’” NPRM at 25169. Unfortunately, though, the NPRM misses wide of the mark, adopting in large part the same type of regime that it decries. Under the NPRM, instead of disarming for any “mental illness,” ATF now proposes to disarm on the basis of what can be called ‘mental illness *plus*.’ To that end, the NPRM proposes a rule whereby a person is considered “adjudicated as a mental defective” if he “had a guardian appointed ... because of a[] ... mental illness.” NPRM at 25186 (emphasis added). As ATF explains it, a “mental illness qualifies under ‘mental defective’ *only when the mental illness is so severe that a person require [sic] guardianship.*” *Id.* at 25168 n.4 (emphasis added). But this is no solution at all, because the NPRM *still proposes to disarm on the basis of mental illness*. Indeed, even by limiting disarmament to those who have a guardian “because of” a “mental illness,” the NPRM continues to disarm on the basis of “mental illness” alone. That is unacceptable.

To be sure, the NPRM attempts to limit the impact of its mental illness + guardianship standard, promising that “a person who is appointed a *temporary* guardian because of a *temporary* physical disability, or who is appointed a fiduciary *solely* because they need assistance managing their *financial affairs*, would not be ‘adjudicated as a mental defective.’” NPRM at 25177 (emphases added). According to ATF, this would prevent disarmament of those who “require a temporary fiduciary ... due to a temporary physical condition,” or those “who need assistance in a single functional area (e.g., managing money)....” *Id.* To that end, the proposed regulation would clarify that “[a]n intellectual disability does not exist solely because an individual has had a temporary guardian appointed due to a transient physical disability or because an individual has had a fiduciary appointed solely to assist with managing their financial affairs.”⁵ *Id.* at 25187. Likewise, ATF promises that disarmament would kick in only “when a mental illness becomes severe enough to warrant a judicial appointment of a guardian.” *Id.* at 25175.

In other words, the NPRM no longer will disarm for any mental illness. And that is a good thing. Even still, the NPRM will disarm if a “mental illness” is “*severe enough*” to qualify. If it is *long enough* lasting to not be transient. If the guardianship is *enduring enough* not to be “temporary.” And if it is *broad enough* in scope beyond “financial affairs.” But this gobbledygook language is hopelessly vague and ambiguous. In fact, it sounds a lot like ATF’s indeterminate Biden-era rule on pistol braces. See *Mock v. Garland*, 2024 U.S. Dist. LEXIS 105230, at *11 (N.D. Tex. June 13, 2024) (“the Final Rule’s standards are impermissibly vague”); *FRAC v. Garland*, 112 F.4th 507, 521 (8th Cir. 2024) (“ATF ‘has articulated no standard whatsoever”). The Administrative Procedure Act prohibits such ambiguity and, in any case, the statute does not allow for disarmament based on mental illness alone.

5. These are the NPRM’s only exceptions. Although the NPRM’s preamble promises that “[m]ental defectiveness does not encompass an otherwise responsible person ... who requires assistance in a *single functional area* (e.g., managing money),” that guarantee is not borne out in the text of the proposed regulation, which contains no “e.g.” Rather, “financial assistance” is the *only* “functional area” listed. Under the actual proposed regulatory text, a person with a guardian for a “single functional area” – such as medical decisions – would be disarmed. See *Wyo. Outdoor Council v. U.S. Forest Serv.*, 165 F.3d 43, 53 (D.C. Cir. 1999) (“language in the preamble of a regulation is not controlling over the language of the regulation itself”); see also *Texas v. Ctrs. for Medicare & Medicaid Servs.*, 805 F. Supp. 3d 734, 745 (E.D. Tex. 2025) (“language in a rule’s preamble is not binding”).

C. Legal Authorities Confirm Commenters' Narrow View of "Mental Defective" and Undermine the NPRM's Expansive Attempt to Disarm for Mental Illness.

The NPRM asserts that ATF's new standard (mental illness + guardianship) stems from the notion that "'mental defective,' as it was understood in the early- to mid-twentieth century, had a core and a periphery." NPRM at 25173. As ATF explains it, "[t]he core of the term was a person who had significant intellectual disabilities, generally beginning from birth or an early age," while "[a]t the periphery, the term sometimes applied to those with mental illnesses ... requir[ing] guardianship to manage [one's] own affairs." *Id.* But this is nonsense – a made-up framework that is unsupported by the very historical tradition on which the NPRM claims to be based.

To start, the NPRM embraces the Eighth Circuit's decision in *United States v. Hansel*, 474 F.2d 1120 (8th Cir. 1973). As the NPRM explains, *Hansel* is one of the few judicial opinions to undertake a meaningful analysis of the GCA's phrase "adjudicated as a mental defective." NPRM at 25171. But no part of *Hansel* supports the NPRM's construct (mental illness + guardianship). Rather, every aspect of *Hansel* supports Commenters' far narrower understanding of mental defectiveness. Indeed, as the NPRM concedes, *Hansel* held that merely having a "mental illness[] *would not qualify* as mentally defective...." *Id.* at 25171 (emphasis added). *Hansel*, in turn, relied on Webster's 1935 Dictionary, which equated mental defectiveness with "moronity, imbecility, and idiocy" (*id.* at 25171-72), and the Encyclopedia Britannica, which discussed mental defectiveness as "intellectual retardation ... existing from birth or from an early age." *Id.* at 25172.

As the NPRM then notes, a number of additional domestic sources confirm this understanding. See NPRM at 25172 (DSM II, explaining that "mental deficiencies" meant "mental retardation"); (1954 Kentucky, "defect in mental development at birth, or at an early age"); (1955 New Mexico, "mentally underdeveloped or faultily developed, or mentally backward or retarded"); (1957 North Carolina, person whose "mental development is ... retarded"). Each one of these sources align with Commenters' view that that "mental defective[ness]" means significant intellectual or developmental disability – not simply having a "mental illness," even a permanent or serious one.

But the NPRM does not stop there. Even though all *domestic* sources confirm Commenters' view that "mental defectiveness" is narrow and applies only to lifelong severe, permanent intellectual disabilities, the NPRM turns to *foreign* statutes enacted *decades* before the GCA. For example, the NPRM cites New Zealand's 1911 Mental Defectives Act, which far more expansively defined the concept of "mentally defective persons" to include those whose "mental condition requires oversight, or control for his own good or in the public interest," and who are "incapable of managing themselves or their affairs." NPRM at 25173. The NPRM likewise references statutes from the United Kingdom and Canada – as if non-contemporaneous laws from notoriously anti-gun jurisdictions have something to say about *this* nation's Gun Control Act of 1968. They do not.

Nevertheless, ignoring all of the *American* law it had just established – which uniformly demonstrates that "mental defective[ness]" is narrow, and equates with significant intellectual or developmental disability from birth or young age – the NPRM deduces a series of principles which do not follow from its authorities. First, the NPRM claims that the term "mental defective" includes both a "core" and a "periphery." NPRM at 25173. Second, the NPRM claims that the term is not limited to lifelong

deficiencies identified near birth, but “could also apply to *those who acquired such infirmities later due to age or disease, such as those who acquired intellectual deficits because of dementia, stroke, or other permanent physical causes.*” *Id.* (emphases added). And third, the NPRM claims that, “[a]t the periphery, the term *sometimes applied to those with mental illnesses*, where those illnesses were of a permanent or chronic nature and were severe enough that the person *required guardianship* to manage his own affairs.” *Id.* (emphasis added). But none of these precepts finds any support in the historical sources ATF compiled. Rather, the NPRM’s attempt to disarm based on mental illness is supported only by the existing regulation – the one that the NPRM purports to fix.

At bottom, then, ATF’s concept of mental defectiveness based on mental illness is invented from whole cloth. As the NPRM admits, the statute says nothing about “mental illness.” And historical sources confirm virtually uniformly that mental defectiveness is a condition arising at birth or early age, involving marked subnormal intelligence and mental faculties, demonstrated by profound developmental and intellectual impairments. Mental defectiveness is much different than mere mental illness, even if severe, or a physical or mental condition that arises later in life.

D. The NPRM’s ‘Mental Illness + Guardianship’ Framework Ignores the Many Nuances of Guardianship, and Creates Absurd Results.

There are numerous practical problems with the NPRM’s broad inclusion of “mental illness” in its definition of a “mental defective,” with exceptions only for purportedly “transient” conditions or those involving only so-called “financial affairs.” NPRM at 25187. For starters, the legal concept of guardianship has a broad range of applications, which vary with the laws of each state. The Commonwealth of Virginia, for example, allows for guardianships based on *physical* disabilities, entirely unrelated to any *mental* deficiency. See Va. Code § 64.2-2000 (defining “incapacitated person” based on functional deficits). Indeed, Virginia courts authorize medical treatment not only when a person is “incapable of *making* an informed decision on his own behalf ... due to a ... *mental* disorder,” but also when “the person is ... incapable of *communicating* such a decision due to a *physical* ... disorder.” Va. Code § 37.2-1101 (emphases added). For example, a person with permanent aphasia might have trouble communicating orally and/or through writing, and thus need a guardian to help with medical decisions – although remaining otherwise mentally competent and physically sound, perfectly able to engage in self-defense in the home. Yet under the NPRM, such a person seemingly would be disarmed.

As noted, the NPRM attempts to limit the fallout of its inclusion of “mental illness” within “mental defective,” by claiming that disarmament will occur only for mental illness that “require[s] the appointment of a guardian,” but not if such condition is “transient” or involves only the mere “inability to manage [one’s] government benefits or other financial assets.” NPRM at 25174. But these are not two sides of a coin. Rather, some guardianships are of limited duration. For example, Virginia regulations define the term “guardian” as “includ[ing] a ‘limited guardian’ or a ‘temporary guardian.’ The powers and duties of the guardian are defined by the court and are limited to matters within the areas in which the person in need of a guardian has been determined to be incapacitated.” 22 VAC 30-100-10. Many guardianships are subject to periodic review. Many are limited in scope, such as to the making of health decisions. In fact, some people continue to live on their own despite having a guardian.

For example, someone might need permanent help in areas more extensive than merely managing finances, and yet still be perfectly capable of self-defense. Take an elderly person who, due to gradual mental decline, requires a permanent guardian due to difficulty engaging in complex discussions and decisionmaking about medical treatment, or having trouble with taking the correct medications at the proper interval. But although such person hardly has reached “the functional capability equivalent to that of a person with an intellectual disability” – i.e., “a full-scale IQ score of 45 or below” (NPRM at 25187) – they presumably would be disarmed by the NPRM.

The NPRM also fails to account for the reality that guardianships are often of limited scope. For example, Virginia Code § 64.2-2000 provides expressly that “[a] finding that a person is incapacitated shall not be construed as a finding that the person lacks the capacity to understand the act of voting ... unless the court order ... specifically provides otherwise.” Thus, a person may have a guardian *yet retain their right to vote* – but the NPRM would *take away their right to keep and bear arms*. To the contrary, in many states guardianships presume that a person *retains his or her rights* to the maximum extent possible, despite the guardianship. See Miss. Code Ann. § 93-20-301(2) (“The court shall grant to a guardian only those powers necessitated by the limitations and demonstrated needs of the ward and must enter orders that will encourage the development of the ward’s maximum self-determination and independence.”).

The NPRM is also not entirely clear as to whether a disarmament on the basis of “mental illness” as a “mental defective” will be permanent. Under Commenters’ more limited view of the statute, mental defectiveness is a lifelong, structural condition, which presents at or near birth. Yet the NPRM takes the expansive view that mental defectiveness can include mental illness and that such illness can arise at any age – slowly and over time. To be sure, the NPRM’s preamble claims that “the rule proposes to make clear that ... the condition affecting a person’s intellectual capabilities must be permanent.” NPRM at 25175. And thus, the proposed regulation contains an exception for a purported “transient physical disability.” *Id.* at 25187. But it is hardly clear what counts as “permanent” versus “transient,” or where ATF will draw this invisible line. It is often impossible to tell whether a given condition – such as a stroke – will cause “transient” or “permanent” effects. And while conditions such as bipolar disorder and schizophrenia are *permanent* – and may be serious enough to lead to appointment of a guardian, at least for a time – they are often *treatable* with medication.⁶ Unsurprisingly, the NPRM provides no guidance as to how to make these complex determinations, even though they will control whether a person keeps or loses Second Amendment rights.

Likewise, the NPRM lists “stroke” as a purportedly “permanent physical” condition – but apparently not a “mental illness” – nevertheless justifying disarmament if a guardian is appointed. NPRM at 25173. But that is hardly the case. Many people who suffer strokes – even severe ones – are able to successfully rehabilitate and recover some, much, or all of their prior mental and physical abilities.⁷ Yet the NPRM seems to envision disarming them all, should they at any time have a guardian appointed. The proposed regulation also includes “dementia” as a “permanent physical condition,” provided it has “reached” a

6. See <https://www.mayoclinic.org/diseases-conditions/bipolar-disorder/diagnosis-treatment/drc-20355961>; <https://www.mayoclinic.org/diseases-conditions/schizophrenia/diagnosis-treatment/drc-20354449>.

7. <https://www.nm.org/conditions-and-care-areas/neurosciences/comprehensive-stroke-centers/life-after-stroke>; see also <https://biausa.org/public-affairs/public-awareness/news/fetterman-stroke> (discussing Senator John Fetterman’s recovery after a stroke).

certain stage – whatever that is. NPRM at 25186. But while dementia currently is often viewed as progressive and incurable, there are always promising new treatments being tested, and no guarantee the condition will not be treatable – if not reversible – in the near future.

The NPRM neither acknowledges nor engages with any of these nuances, and so ATF must return to the drawing board.

E. The NPRM Perpetuates an Expansive, Atextual, and Ahistorical Definition of “Adjudication.”

Since 1968, federal law has prohibited anyone “who has been adjudicated as a mental defective” from possessing firearms or ammunition. 18 U.S.C. § 922(g)(4). At the time of the GCA’s 1968 enactment, “adjudication” meant one thing, and one thing only: “the entry of a decree by a court,” which “implies a hearing by a court, after notice, of legal evidence on the factual issue involved....” *Black’s Law Dictionary* 63 (4th ed. 1968). Likewise, “adjudge” and “adjudicate” were contemporaneously defined to mean “[t]o pass on judicially” and “[t]o settle in the exercise of judicial authority,” respectively. *Id.* And as the U.S. Supreme Court case cited in these dictionary definitions made clear, “this phrase cannot be satisfied by anything less than a formal, regular, and final judgment of the judicial tribunal, to which the matter is submitted, acting upon the acknowledged principles of law applicable to the circumstances of the case.” *United States v. Irwin*, 127 U.S. 125, 129 (1888). These definitions all contemplated *judicial* determinations made by *courts*.

In stark contrast to this uniform understanding at the time of the GCA’s enactment, ATF has taken a far more expansive approach to “adjudication” since 1997. Thus, current regulations provide that one may be “adjudicated as a mental defective” not only by a “court,” but also by a “board, commission, or other lawful authority....” 27 C.F.R. § 478.11. Rather than revisiting the issue, the NPRM retains this language verbatim. See NPRM at 25186-87.

But any entity *other than* a court cannot “adjudicate,” according to the GCA’s original meaning, and subsequent congressional enactments only confirm this understanding. Indeed, although “adjudication” may have taken on an expanded colloquial meaning following the rise of the modern administrative state, the NICS Improvement Amendments Act of 2007 specifically provided that its use of the phrase “adjudicated as a mental defective” shall “have the same meaning[] as in section 922(g)(4),” thereby incorporating and maintaining the 1968 meaning of the term. Pub. L. No. 110-180, 121 Stat. 2559, 2561. And if that was not clear enough, Congress has since specifically repudiated the Department of Veterans’ Affairs’ bureaucratic “adjudications” of veterans needing fiduciaries, explaining that the VA’s determinations shall not qualify as Section 922(g)(4) prohibitors “without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others.” Pub. L. No. 118-42, § 413, 138 Stat. 25, 65; see also Pub. L. No. 119-37, § 413, 139 Stat. 495, 626. In other words, Congress has *explicitly defined* what an “adjudication” requires, only for ATF to ignore it here.

The requirement that disarmament be conditioned upon individualized, judicial determination is also historically grounded. In *United States v. Rahimi*, 602 U.S. 680 (2024), the Supreme Court surveyed Founding-era “surety and going armed laws, which [uniformly] involved *judicial determinations* of whether a particular defendant likely would threaten or had threatened another with a weapon.” *Id.* at

699 (emphasis added). With these sorts of formal procedural protections in place since the late 18th century, it seems unlikely that the Framers would have approved of the NPRM's disarmament *by bureaucratic fiat*.

All told, the NPRM's allowing disarmament by any entity other than a judicial authority is at odds with statutory text, context, and historical tradition. ATF should amend the NPRM to correct this flagrant expansion of the statutory text, not perpetuate it by simply readopting the existing regulation. "Adjudication" has a specific meaning under the GCA, and in order to disarm a person under this prong of Section 922(g)(4), such adjudication must have been made by a *judicial authority*.

CONCLUSION

ATF must return to the drawing board. This NPRM expands Section 922(g)(4)'s firearm prohibitor far beyond what the statutory text allows. It admits that persons with "mental illness" are not "mentally defective," but then disarms them anyway. And it provides that not only "courts" can make such "adjudications," but also any government bureaucrat. Neither attempt to expand the Section 922(g)(4) is permissible, and neither is wise, as it will lead to the very sort of past harms that ATF promulgated the NPRM to rectify. ATF is limited to the statute Congress wrote, and it should promulgate a final rule that conforms to the text.

Respectfully submitted,



Erich M. Pratt

Senior Vice President

GUN OWNERS OF AMERICA