



Gun Owners of America
The Only No-Compromise Gun Lobby in Washington

RE: Firearm Records Retention Periods (RIN 1140-AA95)

ADDRESSED TO
**Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice**

SUBMITTED BY
**Gun Owners of America
Gun Owners Foundation**

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Re: *Firearm Records Retention Periods (RIN 1140-AA95)*

DOJ RULEMAKING

On May 6, 2026, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) published a notice of proposed rulemaking, seeking to amend the “records retention periods for federal firearms licensees’ (“FFLs” or “licensees”) acquisition and disposition (“A&D”) records, and the retention period for records the National Tracing Center (“NTC”) receives.” 91 Fed. Reg. 24413, 24413 (May 6, 2026) (“NPRM”).¹ Specifically, the NPRM proposes that both sets of “these records be retained for a specific period rather than indefinitely, and [ATF] is considering either 20 or 30 years for the specified period.” *Id.* Importantly, under the NPRM, these periods would not run concurrently. Rather, any retention period would reset once ATF receives these “out-of-business” (“OOB”) records from closed FFLs, and so the NPRM proposes that “NTC retain[] OOB records ... no longer than 20 years [or 30 years] *from the date it receives the records.*” *Id.* at 24419 (emphasis added). The NPRM seeks public comment by August 4, 2026 on “the clarity of th[e] proposed rule and how it may be made easier to understand,” as well as “the costs or benefits of the proposed rule and ... the appropriate methodology and data for calculating those costs and benefits.” *Id.* at 24413, 24422.

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 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 will affect the personal privacy and related exercise of Second Amendment rights not only of GOA and GOF’s members and supporters but, indeed, all gun owners nationwide. GOA and GOF are plaintiffs in *Morehouse Enterprises, LLC v. BATFE*, No. 3:22-cv-00116-PDW-ARS (D.N.D.),² an ongoing statutory and constitutional challenge to the Biden-era ATF’s omnibus “frame or receiver” rulemaking. See Definition of “Frame or Receiver” and Identification of Firearms, 87 Fed. Reg. 24652 (Apr. 26, 2022).³ That rulemaking unlawfully and unconstitutionally required, *inter alia*, that FFLs retain sensitive records of gun owners’ firearm transactions *indefinitely* – an increase from the prior-existing retention timeframe of 20 years. As GOA

reported in 2022,⁴ ATF's widespread collection of OOB records has resulted in the creation of a digitized and searchable registry of American gun owners – something Congress expressly banned in 1986. Thus, ATF's 2022 mandate that FFLs keep their records forever naturally caused ATF to collect more OOB records than it previously did, in violation of the Firearms Owners' Protection Act. Accordingly, GOA and GOF submit these comments to ensure that ATF's much-needed reversal of that Biden-era infringement not only *comports* with federal law and the Second Amendment to the U.S. Constitution, but also *remedies* the damage to gun owners' privacy that already has been done.

INTRODUCTION

The federal regulation of firearm businesses is a modern invention, dating only to 1938 originally and, in its current form, to the 1968 passage of the Gun Control Act ("GCA"). Since 1968, the GCA has contemplated FFL maintenance of business records, but without actually *requiring* that any specific records be maintained. Rather, the GCA provides only that each FFL "shall maintain *such records* of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, *as the Attorney General may by regulations prescribe.*" 18 U.S.C. § 923(g)(1)(A) (emphases added). But if the Attorney General (now ATF) exercises that statutory option and requires FFLs to maintain certain records, the GCA's provisions then become mandatory. And if an FFL's "discontinuance of ... business is absolute," the GCA provides that OOB "records ... *shall be delivered* within thirty days after the business discontinuance" to ATF. *Id.* § 923(g)(4) (emphasis added). But like with FFL records, the GCA does not *require* that ATF retain OOB records for any period of time (nor do existing regulations).

One record that ATF has required FFLs to maintain is the "Firearms Transaction Record," or ATF Form 4473.⁵ This form is completed each time a person purchases or otherwise receives a firearm from a federally licensed dealer, and it contains the recipient's identifying information, including their name and address, as well as the transacted firearm's make, model, caliber, serial number, and more. As ATF explained in 1985, these transaction records "allow[] the Government to trace the ownership of firearms...." Retention of Firearms Transaction Records, 50 Fed. Reg. 26702, 26702 (June 28, 1985).⁶ Thus, while these records might have some utility in criminal investigations, the countervailing risk to gun owners' privacy – not to mention the risk of governmental abuse – is clear. Indeed, once ATF obtains OOB records, it gains possession of the *who*, *what*, *where*, and *when* of American gun ownership – nationwide. That reality was bad enough when OOB records were maintained on paper, and later in microfiche. But as GOA has previously reported,⁷ ATF now has scanned and digitized OOB records, turning them into searchable form. And with the modern advent of artificial intelligence, it does not take a vivid imagination to predict how such records could be weaponized against American gun owners.

Following the GCA's 1968 enactment, ATF initially required that FFLs maintain transaction records indefinitely. Then, in 1985, ATF reduced the FFL retention timeframe to 20 years, citing mounting recordkeeping costs and the diminishing law-enforcement returns of aging records. See 50 Fed. Reg. at 26702-03. And the following year, Congress codified ATF's then-current 20-year retention timeframe as an upper regulatory limit in the Firearms Owners' Protection Act ("FOPA"), directing that:

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. [18 U.S.C. § 926(a).]

Thus, from 1985 onwards, 20-year record retention became the industry norm.

That all changed in 2022. Ignoring the FOPA's clear mandate, the previous administration directed ATF to reimplement permanent record retention. See 87 Fed. Reg. at 24732. The Biden ATF's rationale was entirely pretextual. Citing "advancements in electronic scanning and storage technology," "reduced costs of storing firearm transaction records," and alleged "public safety benefits of ensuring ... tracing," ATF dismissed the public's overwhelmingly negative comments and simply "reverse[d]" its 1985 rulemaking. *Id.* at 24667. And rather than addressing Congress's 1986 ban on new systems of registration head on, ATF summarily asserted that it was "already restricted by law from creating any such registry, and this rule d[id] not create one." *Id.* at 24690.

Of course, Biden White House officials saw indefinite OOB retention as a key step towards universal firearms registration. As the Biden White House admitted in 2023, its mission was "to move as close to universal background checks as possible"⁸ by routing as many firearm transactions through licensed dealers as it could, all to generate paper trails that FFLs could *never* destroy.⁹ The idea was that these records, once transferred to ATF upon inevitable business closure, would contain *decades* of data on American gun owners, including their names and addresses, together with the makes, models, and quantities of the firearms they purchased – in other words, a *gun and gun owner registry*, ready to aid any future attempts at firearm confiscation.

GOA and GOF challenged this Biden registration scheme in court – specifically the "requirement that dealers maintain records in excess of 20 years, and subsequently transfer them to the ATF out-of-business records center...." Complaint for Declaratory and Injunctive Relief ¶1686, *Morehouse Enters., LLC v. BATFE*, No. 3:23-cv-00129-PDW-ARS (D.N.D. July 5, 2022), ECF No. 1. That challenge remains pending, and it is stayed pending the outcome of this NPRM.

SUMMARY OF COMMENTS

Commenters welcome ATF's efforts to roll back the indefinite OOB record retention timeframe. But merely reducing the Biden-era infringement is not nearly enough. Nor is simply restoring the status quo that existed prior to Biden's infringement. Gun owners expect forward progress, and the NPRM offers none. But there are ways to fix it. First, ATF should nix from consideration any retention period exceeding 20 years. Indeed, the NPRM's 30-year proposal violates federal law on its face, and would lead to a continuation of Commenters' legal challenge in *Morehouse*. Second, not even the NPRM's 20-year timeframe makes any logical sense. ATF's data points in precisely the opposite direction as that taken by the NPRM, and there is a surprising consensus from across the political spectrum that a retention period of just 10 or 15 years would allow effective tracing of crime guns. Plus, a shorter time period would clearly better protect gun owners' privacy. Third, OOB records should be subject to *one* timeframe – not two. If the NPRM's decades-long retention period resets the moment ATF takes custody of OOB records – turning 30 years into as long as 60 – that means ATF will amass *generations'* worth of data on American gun owners. Fourth, the NPRM fails to consider the grave

national security risks of maintaining a centralized registry of American gun owners – the Constitution’s last line of defense against foreign aggression and domestic tyranny. Fifth, the NPRM ignores the “shall not be infringed” mandate in the Second Amendment entirely. Applying the Amendment’s textual and historical framework here, it is clear that the pervasive collection and storage of gun owner information has no relevant historical analogue. Sixth, nothing is stopping ATF from destroying OOB records now – and it should, even before finalizing the NPRM into a final rule.

COMMENTS ON PROPOSED RULE

I. Adoption of Any Record Retention Timeframe in Excess of 20 Years Is a Nonstarter. It Would Violate the Firearms Owners’ Protection Act and Fail to Moot GOA’s Morehouse Lawsuit.

The NPRM proposes that OOB records “be retained for a specific period rather than indefinitely, and is considering either 20 or 30 years for the specified period.” NPRM at 24413. But if ATF were to adopt an OOB retention period that is even one day in excess of 20 years, it would run headlong into the FOPA’s plain text and allow Commenters’ pending legal challenge to proceed.

Indeed, federal law provides that “[n]o such rule or regulation prescribed after the date of the enactment of the [FOPA] may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States....” 18 U.S.C. § 926(a). Biden’s 2022 infringement was just such a “regulation,” requiring an additional “portion of the contents of [FFL] records” – those older than 20 years – “be ... transferred to” ATF, whereas they previously could be destroyed by FFLs. Commenters made precisely this argument in *Morehouse Enterprises, LLC v. BATFE*, No. 3:22-cv-00116-PDW-ARS (D.N.D.), ongoing litigation that challenges ATF’s “requirement that dealers maintain records in excess of 20 years....” Complaint ¶686, ECF No. 1.

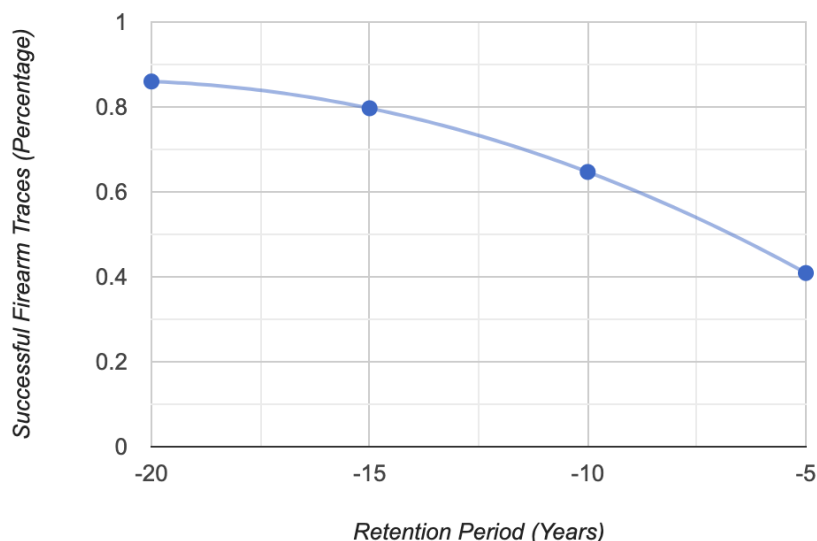
Of course, a 2026 ATF “rule or regulation” requiring “transfer[] to a [U.S.] facility” of 20-year-old or older OOB “records required to be maintained” clearly postdates the FOPA’s “date of enactment” by decades. Accordingly, “[n]o such rule or regulation ... may require” what ATF proposes. Only the 1985 rulemaking establishing a 20-year OOB retention period remains in effect, having predated the FOPA’s enactment by a year. Thus, should ATF exceed its FOPA-capped 20-year OOB retention period, ATF will remain subject to GOA’s ongoing *Morehouse* litigation. Any consideration of an OOB retention period greater than 20 years is a nonstarter and must be rejected for that reason alone.

II. Because Seemingly All Agree that the Proposed Timeframes Are Unnecessarily Long, the Final Rule Should Adopt a Much Shorter Record Retention Period.

When ATF first considered a 20-year retention period in 1985, it observed that such a timeframe would still allow some “86% of [firearm] traces [to] be made,” while the loss of ATF’s ability to trace the remaining “14% ... c[ould] be justified by the reduction in cost of the paperwork burden.” 50 Fed. Reg. at 26703. Other retention periods offered different trace success rates. As ATF observed:

With a retention period of five years; we would lose the ability to trace 59.1% of the firearms; with a period of 10 years, we would lose 35.3%; and with a period of 15 years, we would lose the ability to trace 20.3% of the requested traces. [*Id.*]

In other words, ATF's own study shows that trace success falls off dramatically after about 15 years:



But even trace success does not necessarily correlate with solved crimes or criminal convictions. ATF has released “no data to show how many trace requests lead to an arrest or a conviction.”¹⁰ Indeed, ATF certified to 52 members of the House of Representatives that:

The NTC [or National Tracing Center] has no ability to determine the successful prosecution of hundreds of thousands of crime gun traces it completes annually, nor does it have any way to link a trace for a specific prosecution for a particular year.¹¹

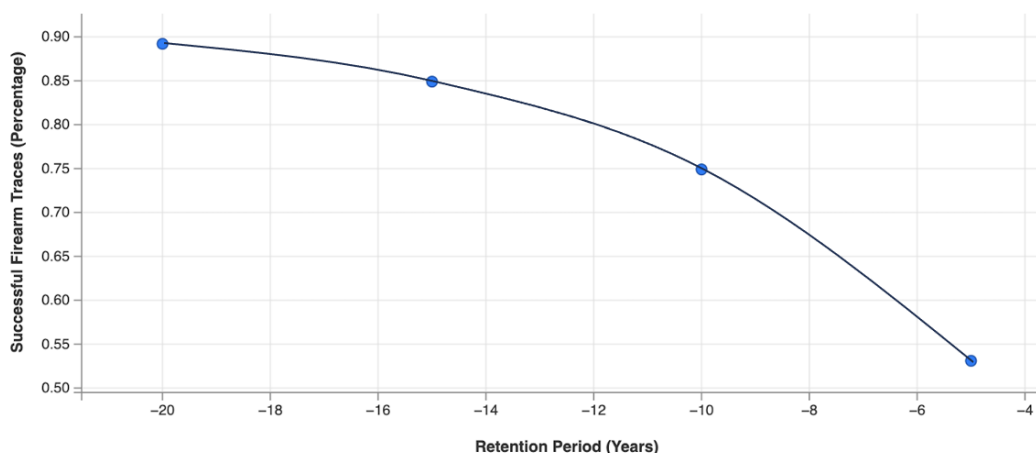
Rather, all a trace accomplishes is identifying “who first purchased a gun – not the owner when it was used in a crime.”¹² If anything, the *older* an OOB record is, the *less* likely it is that it reflects the firearm's current owner. Americans buy and sell firearms all the time, and the same firearm may change hands repeatedly over the years. ATF can hardly justify keeping *nearly a billion* gun owner records for decades on end without evidence that tracing these much older firearms leads to actual success in criminal cases.¹³ ATF has presented no such data in 1985, in 2022, or in the NPRM.

Rather, ATF's 1985 data confirmed the law-enforcement viability of sub-20-year retention periods, which still enable the vast majority of trace requests to be completed. A 10-year retention period, for example, would have lost only the ability to trace 35.3% of firearms, or approximately one third. 50 Fed. Reg. at 26703. Ironically, the anti-gun Giffords group has urged ATF to adopt a 10-year retention period for records of multiple handgun sales, on the theory that doing so would “align with the average time before a gun is recovered after use in a crime.”¹⁴ Thus, it would seem that Giffords would have little reason to object to a similar retention period for other transaction records.

ATF's 2026 data provides only further confirmation. Indeed, current data provides better evidence for a shorter retention period than ATF's 1985 data. The NPRM acknowledges that “the age of the firearms being traced *is predominantly less than five years old*, followed by those aged between five and ten years, 10 to 15 years, and 15 to 20 years. After 20 years, firearms are generally traced less frequently....” NPRM at 24420 (emphasis added). In fact, “ATF records indicate that the number of OOB traces utilizing records over 20 years old has decreased steadily since 2011,” from 39 percent at that time to 21 percent in 2024 and 20 percent in 2025. *Id.* at 24419. In other words, “[t]he

difference ... between the 20- and 30-year retention periods appears to be marginal,” and *not even a 20-year period is necessary to successfully trace the vast majority of crime guns*. *Id.* at 24421. Rather than insist on either of these periods, ATF should follow the data and adopt a significantly shorter timeframe.

Tables 4 and 5 of the NPRM are particularly illuminating. For 2024, the NPRM reports that, given a total number of 464,325 successful traces, a 20-year retention period would allow NTC to complete 89.2 percent of traces (414,405), while a 15-year retention period would allow NTC to complete 84.9 percent of traces (394,353), a 10-year retention period would allow NTC to complete 74.9 percent of traces (347,983), and a 5-year retention period would allow NTC to complete 53.1 percent of traces (246,592). NPRM at 24420. In other words, given a 10-year timeframe, a whopping *three quarters* of trace requests could be completed. **And with a 15-year retention period, that number would be 84.9 percent – virtually identical to the 86 percent of completed traces that ATF deemed sufficient in 1985:**



ATF’s own data therefore demonstrates the arbitrariness of the NPRM’s 20- and 30-year retention proposals. Again, in 1985, ATF found a 20-year retention timeframe perfectly acceptable because “86% of the traces could be made.” 50 Fed. Reg. at 26703. Now, almost that exact proportion (84.9%) could be made using a 15-year timeframe. In other words, even utilizing the same metric as in 1985, ATF’s own data points to 15 years – not 20-30. Yet at no point does the NPRM explain why that success rate is no longer satisfactory. Nor does the NPRM consider that, since ATF’s 1985 rulemaking, and with the subsequent enactment of the FOPA, the importance of protecting gun owners’ privacy has only grown in analytical weight, warranting perhaps an even lower acceptable success rate today. See 18 U.S.C. § 926(a); NPRM at 24419 (seeking to “alleviate concerns that ATF might have established or will establish a registry of firearms, firearms owners, or firearms transactions”). And yet the NPRM gives none of these concerns – including Congress’s purpose in enacting the FOPA – any weight at all. Of course, “an agency rule would be arbitrary and capricious if the agency ... entirely failed to consider an important aspect of the problem, [or] offered an explanation for its decision that runs counter to the evidence before the agency...” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). Insisting on a 20- or 30-year retention period when the data demonstrates its obsolescence is definitionally arbitrary and capricious. Indeed, ATF’s data points one way – to 15 years – and yet ATF proposes to move in the opposite direction – to as much as 30 years.

That sort of reasoning violates the APA. See *Genuine Parts Co. v. EPA*, 890 F.3d 304, 307 (2018) (“The problem is that the diagrams appear to contradict the agency’s position,” and so “EPA ‘entirely failed to consider’ ... evidence that runs counter to the agency’s decision” and thus “is arbitrary and capricious.”); *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962) (agency must articulate a “rational connection between the facts found and the choice made”).

III. ATF’s Receipt of Out-of-Business Records Should Not ‘Reset the Clock’ on Record Destruction.

Alarming, the NPRM “propos[es] to limit the period NTC retains OOB records to no longer than 20 years [or 30 years] *from the date it receives the records.*” NPRM at 24419 (emphasis added). But assuming two separate 20-year retention periods for FFLs *and* ATF, that would mean some OOB records could be kept for *up to 40 years or more* – 20 years or more at the FFL, which then goes out of business, plus another 20 years or more at ATF’s OOB records center. And if the NPRM’s 30-year periods go into effect, that number skyrockets to 60 years – a ridiculous proposition.

If that is not a federal registry of *generations* of American gun owners, it is difficult to say what would be. Given that an American cannot even purchase a handgun from a dealer until age 21 (see 18 U.S.C. § 922(b)(1)), coupled with potentially *60 years or more* until records of that sale are destroyed, many gun owners will not live to see the day where the government does not retain records of their firearm purchases. To avoid these risks, ATF should adopt *one* timeframe for both FFLs and ATF. Ideally, that timeframe would be zero years – the position supported by GOA and the only standard consistent with the Second Amendment’s command that the right to keep and bear arms “shall not be infringed.” But if the retention period is 20 years, an OOB record that is 15 years old at the time ATF receives it should have at most 5 years in ATF custody before ATF must destroy it. Certainly, ATF has offered no reasoned justification as to why *consecutive* time periods should be adopted. See *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 43 (“we may not supply a reasoned basis for the agency’s action that the agency itself has not given”).

IV. The Proposed Rule Fails to Consider the National Security Implications of Centralized Government Storage of Gun Owner Data.

Just two years prior to the FOPA’s enactment, the 1984 film “Red Dawn” released to great commercial success. In one scene depicting a Soviet-backed invasion of the United States, invading Nicaraguan troops were instructed to “[g]o to the sporting goods store” and “[f]rom the files, obtain form 4473,” which “w[ould] contain descriptions of weapons and lists of private ownership” for confiscation.¹⁵ Just as is the case now, the 1980s American public widely understood that FFL recordkeeping requirements established a de facto registry of gun owners. In fact, some commenters on ATF’s 1985 rulemaking expressed “fears that the recordkeeping will be used as a data base for future firearms registration.” 50 Fed. Reg. at 26702.

However unlikely, a Red Dawn-style ground invasion exemplifies the sort of risks inherent in collecting and storing gun owners’ names and addresses in firearm transaction records. But other forms of attack are far more likely. For instance, foreign adversaries may have an interest in collecting intelligence on the United States’ defense capabilities. That could include the capabilities of the United States’ own citizen militia.¹⁶ Indeed, the Chinese Communist Party already has been caught operating secret “police stations” within the United States for the purpose of attacking dissidents.¹⁷ It

stands to reason that foreign actors also would attempt to infiltrate government agencies – ATF included. No doubt, a digitized record of every commercial gun sale in the country would be valuable to this nation’s adversaries, for any number of reasons. Thus, ATF should consider and factor into its rulemaking the national security risks of centralizing data on gun owners’ personal property and whereabouts, particularly in light of recent breaches of governmental data.¹⁸ Indeed, gun owners’ privacy concerns – and the risks of inadvertent or intentional breach – have only exacerbated since ATF began digitizing transaction records in 2006.

V. Decades-Long Retention of Firearm Records Violates the Second Amendment as Originally Understood.

In February 2025, President Trump pledged to “protect the Second Amendment rights of all Americans.”¹⁹ Yet at no point does the NPRM make any mention of the Second Amendment. See *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 43 (“an agency rule would be arbitrary and capricious if the agency ... entirely failed to consider an important aspect of the problem”). But without protection from firearm *registration* – the obvious (and historical) precursor to firearm *confiscation* – the Second Amendment remains at serious risk.

Indeed, this inevitable pattern – that “registration leads to confiscation” – has played out time and again in the history of other nations – “Stalin’s atrocities, the killing fields of Cambodia, the Holocaust, to name but a few.” *Silveira v. Lockyer*, 328 F.3d 567, 569 (9th Cir. 2003) (Kozinski, J., dissenting from denial of rehearing en banc). In fact, British attempts at gun confiscation provided the spark to the Revolutionary War.²⁰ And even in the modern United States, the registration-confiscation pipeline continues to rear its ugly head.²¹ As recently as December 2025, anti-gun House Representative Ilhan Omar stated that it was “important ... to create a registry so we know where the guns are.”²² Of course, her next step was a mandatory “buyback program,” also known as gun confiscation.

Although ATF naturally objects to the characterization,²³ there is no doubt that ATF’s searchable database of a *billion* transaction records constitutes a federal registry of gun owners. ATF’s records bear every one of the hallmarks of a registry – personally identifying information, physical locations, and detailed firearm specifications. For this reason, Members of Congress have introduced the No REGISTRY Rights Act, which would “delete all existing firearm transaction records, dismantling the current database.”²⁴ See *also* NPRM at 24418-19 (citing the same).

Unsurprisingly, there is no historical tradition of requiring firearm registration in the United States. As then-Judge Kavanaugh explained in *Heller v. District of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011), “registration of lawfully possessed guns is not ‘longstanding.’ Registration ... has not been traditionally required in the United States and, indeed, remains highly unusual today....” *Id.* at 1291 (Kavanaugh, J., dissenting). ATF’s current system of record retention is something the Founders never intended, and it violates the Second Amendment’s command that the right to keep and bear arms “shall not be infringed.” As originally understood, the Second Amendment does not permit the federal government to maintain these kinds of firearm ownership records. To the extent that ATF insists on maintaining its OOB infringement, it certainly should not adopt a document retention period that is *longer* than it was before.

VI. ATF Does Not Need Permission to Delete Out-of-Business Records, and It Should Begin Doing So Immediately.

Aside from the GCA's requirement that any records prescribed by regulation be delivered to ATF upon business discontinuance, the GCA contains no provisions directing that ATF *must* maintain those records, or maintain them for any period of time. Likewise, the GCA does not prohibit ATF from destroying those records currently in its custody. The same is true for congressional appropriations that previously required ATF to convert paper records to microfilm,²⁵ and later, to convert microfilm records to a digital format.²⁶ Accordingly, the only provisions of federal law governing ATF's retention of out-of-business records, 44 U.S.C. § 3301 *et seq.*, permit the destruction of out-of-business records subject to compliance with federal recordkeeping requirements.

In other words, nothing is stopping ATF, working together with the Administration, from beginning to protect gun owners' privacy *now*, and should do so before a final rule is promulgated. And ATF urgently should – decades' worth of unlawfully and unconstitutionally obtained records are now in ATF's custody, and time is ticking to begin "alleviat[ing] concerns that ATF might have established or will establish a registry of firearms, firearms owners, or firearms transactions." NPRM at 24419. Government records on retention schedules are routinely destroyed, and OOB records should be no exception. No proposed regulation is needed to do *that*.

CONCLUSION

Ideally, ATF's record retention period should be zero years – a number that the GCA permits and the Constitution requires. But if "the most pro-Second Amendment" administration in history²⁷ insists on enforcing atextual and ahistorical recordkeeping requirements, then it should at least move the OOB ball towards the right endzone. Thus, consistent with President Trump's pro-Second Amendment policies, ATF's own research on the matter, and even anti-gun organizations' prior proposals, ATF should adopt an OOB retention period of much *less than* 20 years. ATF's own data points in that direction, undermining the lengthy, unlawful, and unconstitutional retention periods ATF has proposed in the NPRM. Gun owners expect forward progress, not merely a reversal of Biden-era infringements.

ENDNOTES

¹ See <https://www.govinfo.gov/content/pkg/FR-2026-05-06/pdf/2026-08929.pdf>.

² See <https://www.courtlistener.com/docket/63571760/morehouse-enterprises-llc-v-bureau-of-alcohol-tobacco-firearms-and/>.

³ See <https://www.govinfo.gov/content/pkg/FR-2022-04-26/pdf/2022-08026.pdf>.

⁴ See Aidan Johnston, *ATF's Illegal Gun Owner Registry*, GOA (May 2022), <https://tinyurl.com/5crif76m>.

⁵ See <https://www.atf.gov/media/18646/download>.

⁶ See https://archives.federalregister.gov/issue_slice/1985/6/28/26702-26707.pdf.

⁷ See Johnston, *supra*.

⁸ *FACT SHEET: Biden-Harris Administration Takes Another Life-Saving Step to Keep Guns Out of Dangerous Hands*, White House (Aug. 31, 2023), <https://tinyurl.com/5hcer36d>.

⁹ Curiously, ATF has simultaneously admitted *and* denied that "universal" registration was the previous administration's endgame. Compare Revising Regulations Defining "Engaged in the Business" as a Dealer in Firearms, 91 Fed. Reg. 24424, 24426 (May 6, 2026) (noting "the Biden Administration began to approach a system of universal background checks through administrative regulation"), with *id.* at 24428 (claiming "[s]ome critics incorrectly suggested that the prior Administration used the EIB rule to try to establish 'universal background checks'"). Of course, "some critics" include the Trump White House, with which ATF appears to be at odds. See Russell T. Vought, *Major Discretionary Funding Changes*, Executive Office of the President (May 2, 2025),

- <https://tinyurl.com/5n86f5wv> at 19 (“The previous administration used the ATF to attack gun-owning Americans and undermine the Second Amendment by requiring near-universal background checks....”).
- 10 Natalie Moore, *Barely a Trace*, WBEZ (May 1, 2017), <https://interactive.wbez.org/everyotherhour/barely-a-trace/>.
- 11 https://www.gunowners.org/wp-content/uploads/Letter-Response-Rep.-Michael-Cloud-R-TX-51-x-GOP-co-signers_Federal-Gun-Registry-signed-letter.pdf.
- 12 Moore, *supra*.
- 13 Johnston, *supra*.
- 14 <https://files.giffords.org/wp-content/uploads/2020/11/Extend-ATF%E2%80%99s-retention-of-records-of-multiple-sales-of-firearms-so-that-they-are-deleted-after-ten-years-instead-of-two-years-1.pdf>.
- 15 <https://www.youtube.com/watch?v=Bmf415-A0wU>.
- 16 See *District of Columbia v. Heller*, 554 U.S. 570, 597 (2008) (“There are many reasons why the militia was thought to be ‘necessary to the security of a free State.’ ... First, of course, it is useful in repelling invasions and suppressing insurrections.”).
- 17 See Larry Neumeister & Eric Tucker, *Secret Chinese Police Station in New York Leads to Arrests*, AP (Apr. 17, 2023), <https://apnews.com/article/chinese-government-justice-department-new-york-police-transnational-repression-05624126f8e6cb00cf9ae3cb01767fa1>.
- 18 See, e.g., Jedidiah Bracy, *21.5 Million Breached in Second OPM Hack; Director Resigns*, IAPP (July 10, 2015), <https://iapp.org/news/a/21-5-million-breached-in-second-opm-hack>; Kelly Phillips Erb, *Treasury Cancels All Booz Allen Contracts over Leak of Billionaires’ Tax Data*, Forbes (Jan. 26, 2026), <https://www.forbes.com/sites/kellyphillipserb/2026/01/26/treasury-cancels-all-booz-allen-contracts-over-leak-of-billionaires-tax-data>.
- 19 <https://www.whitehouse.gov/presidential-actions/2025/02/protecting-second-amendment-rights/>.
- 20 <http://www.lawandfreedom.com/site/constitutional/DCvHellerAmicus.pdf>.
- 21 <https://reason.com/2013/12/11/how-government-officials-sealed-the-doom/>.
- 22 Ilhan Omar, posted by Gun Owners of America (@GunOwners), X (Dec. 1, 2025), <https://x.com/GunOwners/status/1995561688540840128> (video statement regarding firearm registration and buyback).
- 23 Responding to Senator Ted Cruz, then-nominee for ATF Director Robert Cekada recently claimed that “ATF does not have an illegal firearm registry,” and that “ATF maintains firearm transaction records in accordance with federal recordkeeping requirements enacted by Congress.” Response 1, *Questions of Senator Ted Cruz for Robert Cekada*, U.S. Senate Comm. on the Judiciary (Feb. 4, 2026), <https://tinyurl.com/4mxftaju>.
- 24 <https://cloud.house.gov/posts/release-Rep-Cloud-and-Sen-Risch-introduce-bill-to-block-federal-gun-registry>.
- 25 See Public Law 102–141, 105 Stat. 836 (1991).
- 26 See H.R. Rep. No. 108–792 (2004).
- 27 <https://www.facebook.com/reel/1448305209966131>; <https://x.com/AAGDhillon/status/1977148523838857499>.