

Dispossession of Firearms: Caught in the Crossfire of Legal Impossibility

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Agenda

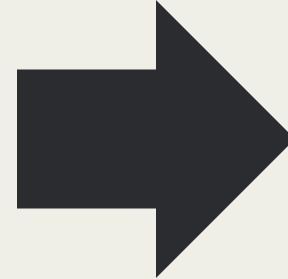
- 18 U.S.C. § 922(g)
- History of Regulation
- “Possession” and Due Process
- Proposed Solutions



(GCA) 18 U.S.C. § 922(g)

(g) It shall be unlawful for any person—

- (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance . . . ;
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien . . . ;
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that . . .
(B) restrains such person from harassing, stalking, or threatening . . . ; or
- (9) who has been convicted in any court of a misdemeanor crime of domestic violence,
to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce



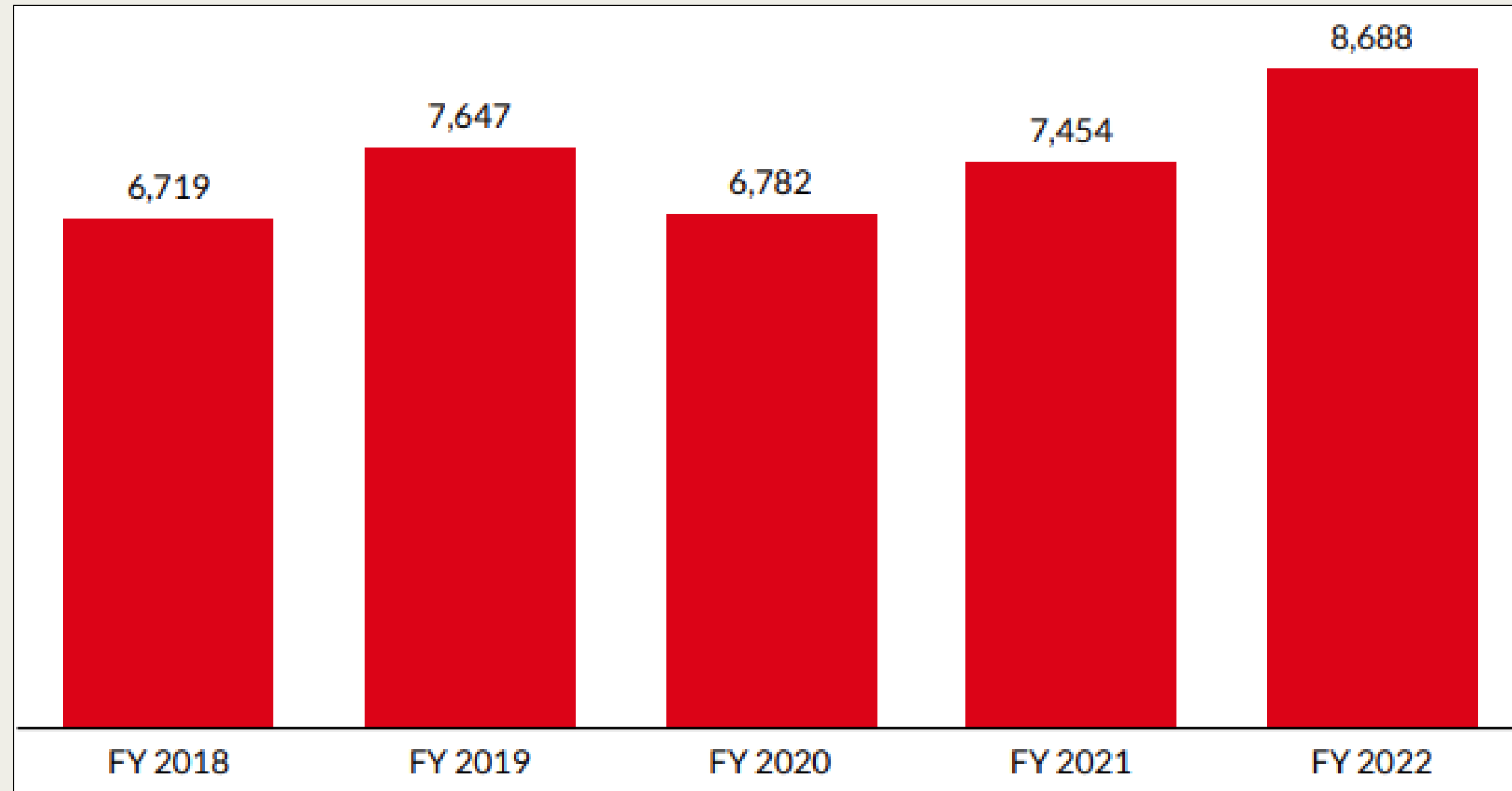
Classes

1. 1 Year+ in Prison
2. Fugitives
3. Drug Users / Addicts
4. Involuntary Commitments for Mental Disorders
5. Illegal Entrants to the US
6. Dishonorable Discharge form the Military
7. Renunciation of Citizenship
8. Restraining Orders
9. Domestic Violence Convictions

Proposed Solution

1. 14-Day Statutory Grace Period
2. Rebuttable Presumption Against Future Possessory Interests for Acquisitions Without Consideration

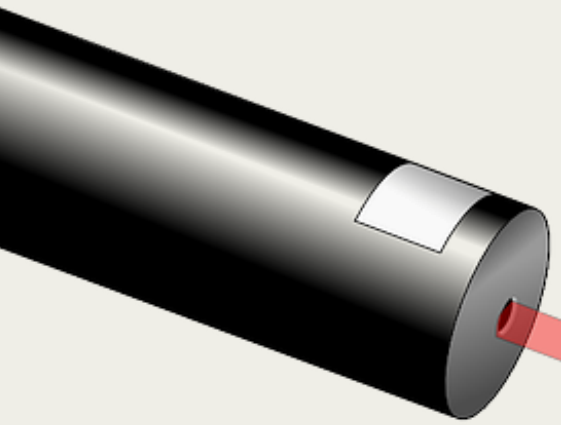
United States Sentencing Commission



Convictions for § 922(g) Violations

Meet George and Charles

- Residents of Texas
- Gun Owners
- Laser Incident



Federal Regulation of Firearms

Mailing of Firearms Act of 1927 (MFA)

- First successful federal criminal regulation
- Prohibited shipping concealable firearms
- Only applied to firearms shipped through the USPS

National Firearms Act of 1934 (NFA)

- First comprehensive firearm regulation
- Imposed heavy taxes on making or transferring firearms

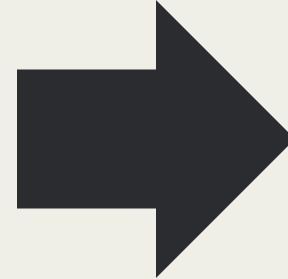
Federal Firearms Act of 1938 (FFA)

- First actual restrictions on the sale, transportation, or receipt of firearms
- Created classes of persons

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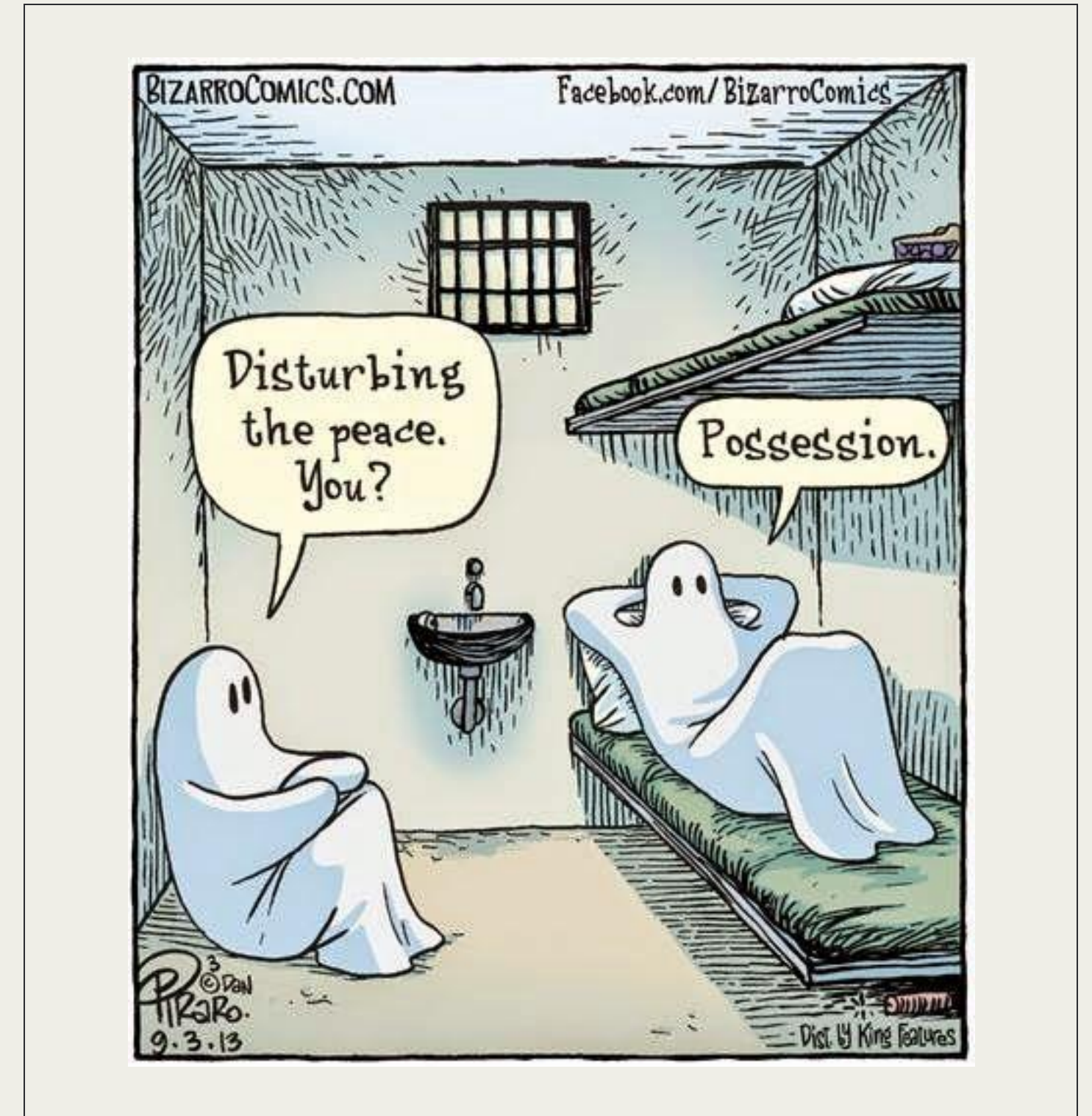


Classes

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Possession

- Actual Possession
 - Direct Control
- Constructive Possession
 - Power and Intent to Control



Henderson v. United States, 575 U.S. 622 (2015).

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“§922(g) would prevent Henderson from disposing of his firearms even in ways that guarantee he never uses them again, solely because he played a part in selecting their transferee. He could not, for example, place those guns in a secure trust for distribution to his children after his death. He could not sell them to someone halfway around the world. He could not even donate them to a law enforcement agency. Results of that kind would do nothing to advance §922(g)’s purpose.”

Due Process

- Notice of Government Action
- Opportunity to be Heard



Proposed Solution

1. 14-Day Statutory Grace Period
2. Rebuttable Presumption Against Future Possessory Interests for Acquisitions Without Consideration

14-Day Statutory Grace Period

- Allows limited time to manage interests via:
 - Place in Trust
 - Sell
 - Otherwise Dispossess

Rebuttable Presumption Against Future Possessory Interests

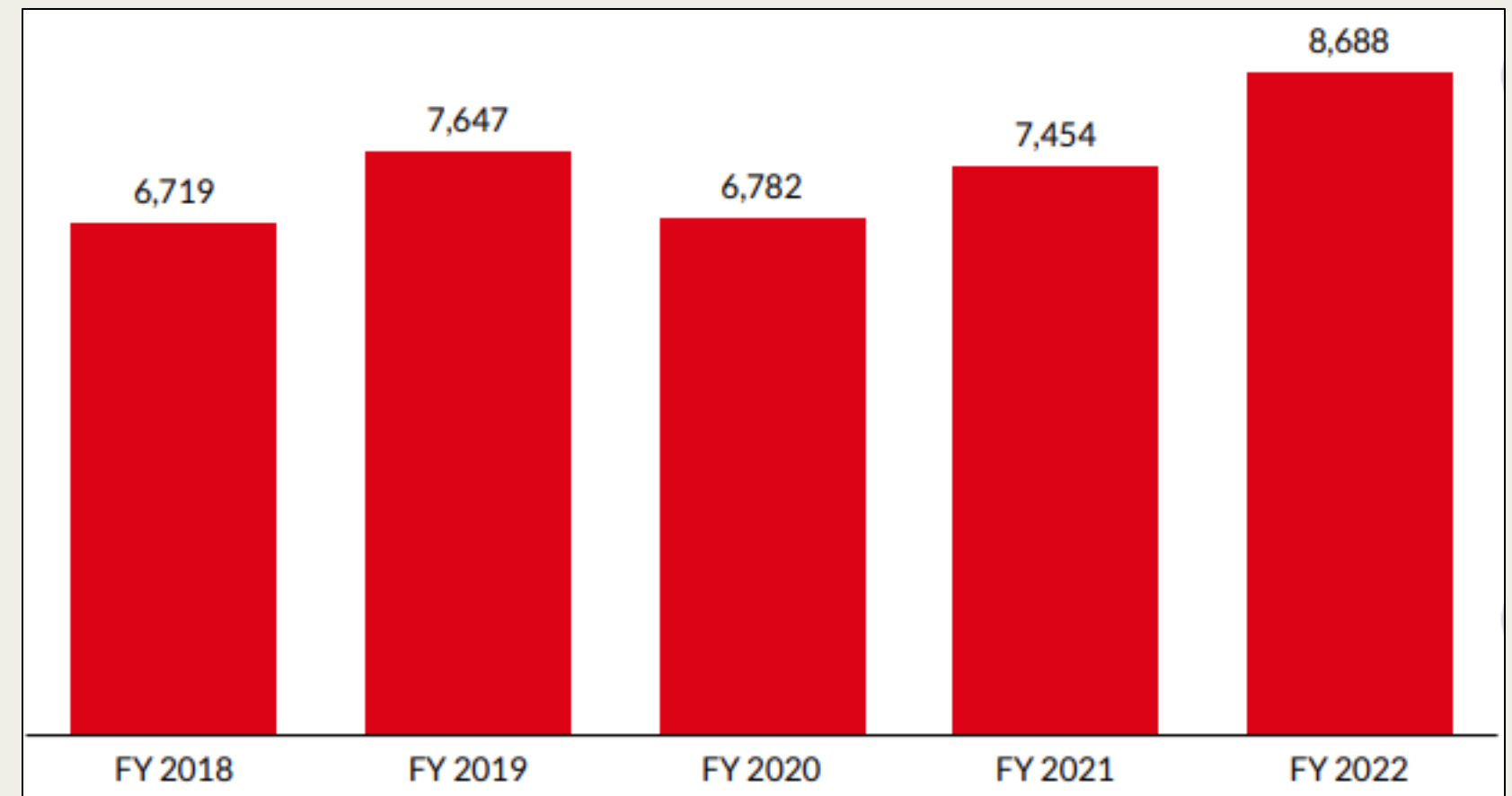
- Acquisitions without consideration, such as:
 - Community Property
 - Inheritance

Public Policy Considerations

- Incentivize compliance
- Attempts to address:
 - Arbitrary and Inequitable Enforcement
- Harms to families by leading to worse outcomes in:
 - Education
 - Family Wealth Building
 - Career Progression

Summary

1. 14-Day Statutory Grace Period
2. Rebuttable Presumption Against Future Possessory Interests for Acquisitions Without Consideration



Convictions for § 922(g) Violations