



Office of the Deputy Attorney General
Washington, D.C. 20530

December 6, 2024

The Honorable Carlton W. Reeves, Chair
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002

Dear Judge Reeves:

As the Sentencing Commission considers publishing proposed guideline amendments for public comment, I write with updates on two fast-developing issues identified as top priorities in the Department's July 15, 2024 letter to the Commission: machinegun conversion devices (MCDs) and artificial intelligence.¹

First, I would like to provide the latest information on the accelerating proliferation of MCDs and the steps that the Department is taking to address the grave dangers that they pose to law-enforcement officers and the public at large. For example, these devices—the very possession of which is illegal under federal law—turn a semi-automatic rifle or handgun into a fully automatic machinegun. As we previously informed the Commission, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) collected 1,556 MCDs in 2021, 570% more MCDs than it collected in 2017.² Since then, MCDs have only continued to proliferate, with 5,318 MCDs recovered by or reported to ATF through November 2024,³ an increase of more than 200% over all MCDs recovered during 2021.

Unsurprisingly, as MCDs proliferate, the average number of shots fired in shooting incidents increases. We mentioned in our July 2024 letter that a public-safety technology company recorded 75,444 rounds of automatic gunfire in 127 cities during 2022, a nearly 50% increase from just one year before. We recently received corrected and updated information from that company reflecting that they recorded 99,782 rounds of automatic gunfire in those cities during 2022—and that they recorded 137,267 rounds of automatic gunfire in those same 127 cities during 2023.

¹ Letter from Scott A.C. Meisler to Hon. Carlton W. Reeves, Chair (July 15, 2024), at https://www.ussc.gov/sites/default/files/pdf/amendment-process/public-comment/202407/89FR48029_public-comment_R.pdf#page=129.

² *Id.* at 3.

³ MCDs are reportable to ATF through its eTrace firearms tracing system. These reported MCDs likely account for only a fraction of the MCDs recovered by law enforcement.

The Department has taken several important steps to address this problem in the months since our July 15 letter. In September 2024, I issued a directive that establishes a Department-wide standing committee to combat MCD proliferation.⁴ That committee, co-chaired by an ATF executive and the U.S. Attorney for the Western District of Oklahoma, is researching and preparing recommendations on effective enforcement, research, and policy initiatives to combat the proliferation of MCDs. I have also directed every U.S. Attorney's Office across the country to work with local stakeholders to develop district-specific enforcement strategies; ordered federal law enforcement agencies to improve tracking of seized MCDs; and directed ATF to create, maintain, and disseminate an MCD-intelligence bulletin to be disseminated across the Department. Because many MCDs are made with 3D printers, on the same day that I issued the directive, the Department hosted its first-ever conference with the additive-manufacturing industry to bring together representatives from industry, academia, and law enforcement to discuss possible technological solutions to the 3D printing of MCDs.⁵ Additionally, President Biden issued an Executive Order establishing an interagency Emerging Firearms Threats Task Force charged with assessing the risk of, and reporting on strategies to combat, MCD proliferation and the spread of undetectable or unserialized 3D-printed firearms.⁶

I am confident that these measures are steps in the right direction and will help us stem the tide of MCD proliferation. But for such measures to be truly effective, offenders who use, possess, or traffic in these devices must face punishments that are commensurate with the gravity and dangerousness of their crimes—and that are sufficient to incapacitate and deter these offenders. I therefore urge the Commission to give its most careful consideration to the proposals in our July 2024 letter for amending the primary firearms guideline (§2K2.1) to ensure that it provides adequate sentencing ranges for crimes involving MCDs and other highly dangerous weapons.⁷

Second, the Department's July 2024 letter highlighted the promise and perils of powerful artificial intelligence (AI) tools, which are increasingly available to individuals and businesses.⁸ Since that letter, at my direction,⁹ the Department's Criminal Division has amended the criteria

⁴ Memorandum on Combatting Illegal Machine Gun Conversion Devices through Enhanced Enforcement, Training, and Intelligence Sharing (September 6, 2024), at <https://www.justice.gov/dag/media/1366606/dl>.

⁵ U.S. Dep't of Justice, Office of Public Affairs, *Justice Department Hosts Convening with Additive Manufacturing Industry and Others on Combating the Production of Unlawful Machinegun Conversion Devices*, at <https://www.justice.gov/opa/video/justice-department-hosts-convening-additive-manufacturing-industry-and-others-combating>.

⁶ The White House, *Executive Order on Combatting Emerging Firearms Threats and Improving School-Based Active Shooter Drills* (September 26, 2024), at <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/09/26/executive-order-on-combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills/>.

⁷ Letter from Scott A.C. Meisler to Hon. Carlton W. Reeves, Chair, *supra* n.1, at 1-4.

⁸ *Id.* at 12-13.

⁹ Keynote Remarks at the American Bar Association's 39th National Institute on White Collar Crime (March 7, 2024), at <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-monaco-delivers-keynote-remarks-american-bar-associations>.

that prosecutors use in assessing corporate compliance programs to incorporate how companies account for the risks presented by AI and other disruptive technologies.¹⁰

Given the rapid advancement and adoption of AI technology, I urge the Commission to get ahead of the issue—not to wait until criminals expose gaps in the guidelines applicable to misusing AI. The Department proposed one potential guidelines amendment in our July 2024 letter: a Chapter 3 enhancement that would increase penalties for individuals who leverage AI to plan or commit illicit activities or to avoid detection. I respectfully submit that the Commission should also consider how risks associated with AI and other emerging technologies should figure into assessments of effective compliance programs, an important factor in determining corporate sentences and establishing appropriate financial penalties under Chapter Eight of the Guidelines (§§8B2.1, 8C2.5(f), and 8C2.8(11)).

We greatly appreciate the consideration that you have already given to the Department's requests, and we deeply value the opportunity to continue in our historical collaboration with you in updating and improving the Sentencing Guidelines.

Sincerely,



Lisa O. Monaco
Deputy Attorney General

¹⁰ U.S. Dep't of Justice, Criminal Division, *Evaluation of Corporate Compliance Programs* (September 2024 update), at <https://www.justice.gov/criminal/criminal-fraud/page/file/937501/dl>.