



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Jerrold Nadler
U.S. House of Representatives
Washington, DC 20515

Dear Representative Nadler:

This responds to your letter to the Attorney General and Director Steven Dettelbach, dated October 19, 2022, regarding guidance on applicability of ATF's "Frame or Receiver" Final Rule. We are sending identical responses to the other Members who joined your letter, and we apologize for our delay in responding.

We share your view that there is no higher priority than keeping the American people safe. As Attorney General Garland has said, the Department "is doubling down on the fight to protect our communities from violent crime, and from the gun violence that often drives it."¹ To do so, the Department has developed "anti-violent crime strategies [that] are tailored to the needs of, and are developed by and in partnership with, individual communities"²—including implementing evidence-based enforcement priorities, building community trust, and investing in prevention and intervention programs.³ To reduce violent crime, the Department recognizes the importance of collaborating with our state, local, Tribal, and territorial counterparts, especially because the drivers of violence vary from location to location and change over time.⁴

In implementing our violent crime reduction strategy, the Department is focused on gun violence prevention. For example, unserialized privately made firearms (PMF), commonly known as "ghost guns," are a rapidly growing contributor to violent crime. From January 2016 through December 2021, law enforcement recovered approximately 45,240 unserialized PMFs from potential crime scenes, including unserialized PMFs connected with 692 homicides or attempted homicides. We have seen an alarming rise in trace submissions involving PMFs that indicate the increased demand for them. Specifically, the number of suspected PMFs recovered

¹ Attorney General, *Remarks at Meeting with President Biden and Members of New York Gun Violence Strategic Partnership* (Feb. 3, 2022), available at www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-meeting-president-biden-and-members.

² *Id.*

³ See Department, *Violent Crime Reduction Efforts Fact Sheet* (May 2021), available at www.justice.gov/file/1468221/download#:~:text=In%20May%202021%2C%20the%20Department,is%20often%20at%20its%20core.

⁴ *Id.*

by law enforcement agencies and submitted to ATF for tracing increased by over 1,000 percent between 2016 and 2021, from 1,758 to 19,344.⁵

To address this alarming trend, the Department announced in February 2022 additional steps designed to help disrupt violent crime, including the creation of a National Ghost Gun Enforcement Initiative. Through the initiative, the Department has equipped federal, state, local, Tribal, and territorial law enforcement and prosecutors with the tools and expertise needed to prevent unserialized PMFs from being used to commit crimes. For example, ATF designated a PMF coordinator in each ATF field division to serve as a resource for law enforcement and prosecutors with questions involving unmarked firearms used in crimes. In addition, each U.S. Attorney's Office (USAO) has designated an Assistant U.S. Attorney to serve as a Ghost Gun Specialist for its district, with the goal of developing a cadre of prosecutors across the country who are knowledgeable about technical and legal issues related to unserialized PMFs. These efforts have already resulted in a number of key prosecutions for offenses involving PMFs, such as:

- *United States v. Cody Pfetscher*: On May 10, 2022, the USAO for the Southern District of Indiana, together with ATF and local law enforcement, secured a 78-month prison sentence for a defendant who, after shooting his girlfriend, was found to illegally possess four unregistered, 3D-printed smooth-bore pistols—a category of firearm that must be registered in the National Firearms Registration and Transfer Record.⁶
- *United States v. Samuel Snader, et al.*: On January 5, 2022, the USAO for the Middle District of Pennsylvania, together with ATF and other federal law enforcement, indicted two men for conspiracy to manufacture and deal firearms, and manufacturing and dealing firearms without a license. In total, Snader and Colon allegedly manufactured and sold, without the required federal license, at least 28 PMFs and obtained approximately \$27,600 as a result of the offenses.⁷
- *United States v. Travis Schlotterbeck*: On November 17, 2022, the USAO for the Central District of California, together with ATF, secured the conviction of two men who operated an illegal business that built and sold unserialized AR-15-type PMFs by, among other things, obtaining firearm parts, arranging those parts to be machined for use in building completed firearms, and then selling the finished firearms without any serial numbers or manufacturer markings for about \$1,500 to \$2,000 per firearm.⁸

⁵ ATF, *National Firearms Commerce and Trafficking Assessment: Firearms in Commerce*, at 39, available at <https://www.atf.gov/firearms/docs/report/national-firearms-commerce-and-trafficking-assessment-firearms-commerce-volume/download>.

⁶ See ATF Press Release, *Evansville Felon Sentenced to Six and a Half Years in Federal Prison for Firearm and Drug Offenses, Including Illegal Possession of 3D Printed "Ghost Guns," and Methamphetamine Trafficking* (May 10, 2022), available at www.atf.gov/news/pr/evansville-felon-sentenced-six-and-half-years-federal-prison-firearm-and-drug-offenses.

⁷ See MDPA Press Release, *Two Men Indicted For Manufacturing And Selling 28 Ghost Guns* (Jan. 12, 2022), available at <https://www.justice.gov/usa-o-mdpa/pr/two-men-indicted-manufacturing-and-selling-28-ghost-guns>.

⁸ See ATF Press Release, *Southern California Men Plead Guilty in Scheme to Manufacture and Sell AR-15-Type 'Ghost Guns'* (Jul. 15, 2022), available at www.atf.gov/news/pr/southern-california-men-plead-guilty-scheme-manufacture-and-sell-ar-15-type-ghost-guns.

Schlotterbeck was sentenced to three months of incarceration, three years of supervised release, and a fine of \$50,000.⁹

- *United States v. Thomas Develin*: On October 20, 2022, the USAO for the Southern District of Ohio, together with ATF and local law enforcement, secured a guilty plea from a defendant—whose online activity revealed a large quantity of antisemitic, white nationalist, racist, and misogynistic content—for possession of homemade devices that convert semi-automatic AR-15 rifles and Glock-type pistols into fully automatic machine guns.¹⁰ Develin was sentenced to 71 months in prison.¹¹

Moreover, to help fight the proliferation of ghost guns used in crimes, on October 17, 2022, the Department asked the U.S. Sentencing Commission to adopt a four-level enhancement for firearm crimes involving ghost guns. On February 2, 2023, the Sentencing Commission voted to submit to Congress certain proposed amendments, including the four-level enhancement application to ghost guns.

Your letter specifically asks about partially complete frames or receivers. In April 2022, the Department finalized a rule—*Definition of “Frame or Receiver” and Identification of Firearms*¹²—to further curb the proliferation of unserialized PMFs.¹³ By modernizing the regulatory definitions of “firearm” and “frame or receiver,” the Department clarified that PMFs are subject to the same regulations as other firearms. Among other things, the regulatory definition makes clear that retailers need to run background checks to keep unserialized PMFs out of the hands of convicted felons and other prohibited purchasers, and it also establishes requirements for marking PMFs with serial numbers to help law enforcement trace guns used in a crime.¹⁴ Since this rule was finalized, ATF has discussed its impact in extensive Questions and Answers, open letters to federal firearms licensees, and an online tutorial.¹⁵

⁹ See Judgment and Probation/Commitment Order, *United States v. Schlotterbeck*, No. 2:19-cr-00343-GW (C.D. Cal. Nov 17, 2022) ECF No. 174.

¹⁰ See DOJ Press Release, *Columbus Man Pleads Guilty to Making and Selling ‘Ghost Guns’*, (Oct. 20, 2022), available at <https://www.justice.gov/usao-sdoh/pr/columbus-man-pleads-guilty-making-and-selling-ghost-guns..>

¹¹ See DOJ Press Release, *Former National Guard member who made antisemitic & violent statements online sentenced to nearly 6 years in prison for making, selling ‘ghost guns’*, (Feb. 28, 2023), available at <https://www.justice.gov/usao-sdoh/pr/former-national-guard-member-who-made-antisemitic-violent-statements-online-sentenced>

¹² See Federal Registry, *Definition of “Frame or Receiver” and Identification of Firearms* (Apr. 26, 2022), available at www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms.

¹³ See ATF Press Release, *Summary of Final Rule 2021R-05F* (Apr. 11, 2022), available at www.atf.gov/rules-and-regulations/definition-frame-or-receiver/summary.

¹⁴ See Department Press Release, *Justice Department Announces New Rule to Modernize Firearm Definitions: Rule Addresses ‘Ghost Gun’ Proliferation* (Apr. 11, 2022), available at www.justice.gov/opa/pr/justice-department-announces-new-rule-modernize-firearm-definitions.

¹⁵ See ATF Press Release, *Questions and Answers for Final Rule 2021R-05F* (Apr. 11, 2022), available at <https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>; ATF Open Letter, *Impact of Final Rule 2021-05F on Partially Complete AR-15/M-16 Type Receivers* (Sept. 27, 2022), available at <https://www.atf.gov/firearms/docs/open-letter/all-ffls-september-2022-impact-final-rule-2021-05f-partially-complete-ar/download>; ATF Public Safety Advisory (March 21, 2023), available at <https://www.atf.gov/firearms/docs/guide/public-safety-advisory-all-federal-firearms-licensees-and-firearm-parts/download>; ATF YouTube Channel, *Final Rule 2021R-05F-Definition of “Frame or Receiver” and*

On December 27, 2022, ATF published an open letter to federal firearms licensees regarding the application of the rule to partially complete Polymer80, Lone Wolf, and similar semiautomatic pistol frames.¹⁶ As explained in that letter, partially complete Polymer80 (known as “Poly80” or “P80” frames or blanks), Lone Wolf (known as “Freedom Wolf 80%” frames), and other similar striker-fired semiautomatic pistol frames, such as those sold within parts kits, are regulated by the Gun Control Act because they have reached a stage of manufacture where they “may readily be completed, assembled, restored, or otherwise converted” to a functional frame.¹⁷ The definition of “readily,” as the open letter further explains, applies to each classification of a partially complete frame or receiver under the rule. It applies whether the frame or receiver is sold alone or as part of a kit. As such, these partially complete pistol frames are “frames” and “firearms” as defined in the Gun Control Act and its implementing regulations, and therefore must be serialized and—when sold by a federal firearms licensee—subject to a background check.¹⁸

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Carlos Felipe Uriarte
Assistant Attorney General

Identification of Firearms (Aug. 26, 2022), available at

www.youtube.com/watch?v=q7XWhcx_Q3A&lc=Ugy9aX5b51gNYnBdWMp4AaABAg.

¹⁶ See ATF Final PMF Rule Webpage, *Open Letter to All Federal Firearms Licensees: Impact of Final Rule 2021-05F on Partially Complete Polymer80, Lone Wolf, and Similar Semiautomatic Pistol Frames* (Dec. 27, 2022), available at <https://www.atf.gov/rules-and-regulations/docs/open-letter/all-ffls-dec2022-open-letter-impact-final-rule-2021-05f/download>.

¹⁷ The U.S. District Court for the Northern District of Texas vacated the Final Rule. *Vanderstok v. Garland*, No. 4:22-00691 (N.D. Tex.). The U.S. Court of Appeals for the Fifth Circuit and the U.S. Supreme Court collectively stayed the district court’s vacatur in full pending further review, which is ongoing. *Vanderstok v. Garland*, No. 23-10718 (5th Cir.); *Vanderstok v. Garland*, No. 23A82 (U.S.).

¹⁸ This is true even without any associated templates, jigs, molds, equipment, tools, instructions, guides, or marketing materials.