



April 22, 2020

Bob Ferguson
Attorney General of Washington
PO Box 40100
Olympia WA 98504-0100
(360) 753-6200

Re: Your Letter Respecting Defense Distributed

Dear Attorney General Ferguson,

I write you today on behalf of Firearms Policy Coalition, a fiercely non-partisan nonprofit organization that promotes individual liberty and sound public policy through litigation, research, education, grassroots outreach, and direct advocacy. I write to you to express my concern for your recent letter to Secretary Pompeo and Attorney General Barr.

As you are no doubt aware—and as you surely appreciate as a lawyer who has sworn an oath to uphold the Constitution more than once—the right to free expression was of tantamount importance to the Founders. So much so that it was enumerated first in our Bill of Rights, ahead of the similarly important rights of the people to be secure in their persons against unlawful force recognized in the Second and Fourth Amendments.

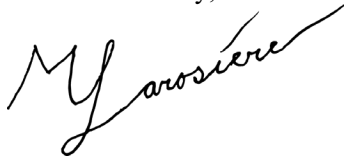
I understand you are concerned with “undetectable” firearms. The dubious veracity of these concerns aside, we cannot ignore the fundamental rights of the people. STL, OBJ, and other 3D model files are just that—models. Digital, three-dimensional renditions of a solid form of mass. Models are as expressive as any other form of visual art, and the Supreme Court has already recognized that “the creation and dissemination of information are speech within the meaning of the First Amendment.” *Sorrel v. IMS Health Inc.*, 564 U.S. 522, 570 (2011). Indeed, “[i]f the acts of ‘disclosing’ and ‘publishing’ information do not constitute speech, it is hard to imagine what does fall within that category, as distinct from the category of expressive conduct.” *Bartnicki v. Vopper*, 532 U.S. 514, 527 (2001).

I am sure you’re also aware that content-based prior restraints on speech merit strict scrutiny. I also understand that a substantial thrust of your argument for what can, quite frankly, only be described as censorship of the entire internet for fear of plastic guns rests on an interpretation of the International Traffic in Arms Regulations (ITAR). As someone who has navigated ITAR professionally, I can sympathize with misreading the statute. Something I feel you may have done, as certainly you would never embrace a reading of ITAR so tortured as to render it a content-based prior restraint on speech, and thus be “presumptively invalid.” *R.A.V. v. City of St. Paul*, 505 U.S. 377, 383 (1992). Overturning ITAR, in whole or in part, is something I doubt we share a passion for, but I’d happily be proven wrong. Should that be the case—well played!

Perhaps you haven’t misread the statute, but rather are simply unaware of the expressive nature not only of 3D printable models generally, but of 3D firearm receivers. Please see attached an image of one such file, a gorgeous piece of what can only be called politically expressive modern art. One which manifests the sum total of all the elements of protected expression. In other words, a masterpiece.

For these reasons, and many more, I humbly request you correct your legal error, withdraw your support for censoring 3D models, and join me in publicly praising the heroes of our generation that worked tirelessly, without pay, to craft 3D printable files to distribute online all under the threat of persecution by your colleagues. Not for a dollar, but because they so love freedom and the people.

Sincerely,



Matthew Larosiere
Director of Legal Policy

ATTACHMENT 1 – AN UNQUESTIONABLE MASTERPIECE OF POLITICALLY EXPRESSIVE ART

