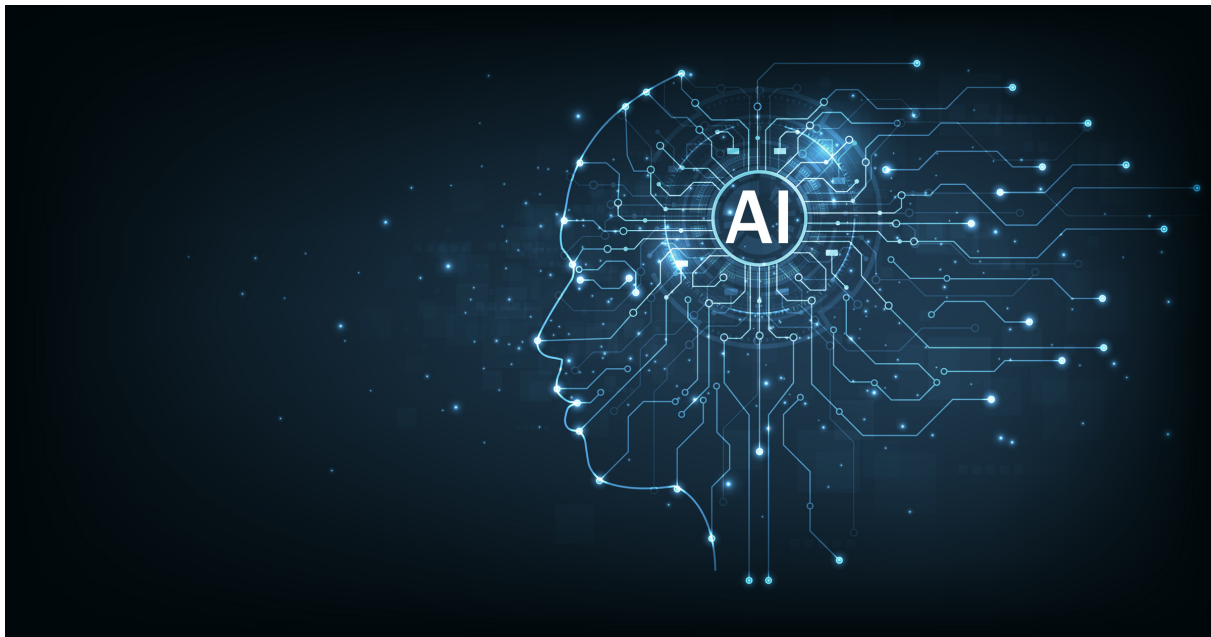# DOJ Reiterates Focus on Artificial Intelligence

February 29, 2024

Following President Biden's October 2023 Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, governmental agencies, including the Department of Justice (DOJ), have made artificial intelligence (AI) a top priority. Companies and individuals should take note.

Washington, D.C. (February 29, 2024) - Following President Biden's October 2023 Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, governmental agencies, including the Department of Justice (DOJ), have made artificial intelligence (AI) a top priority. Companies and individuals should take note.

On February 22, 2024, Attorney General (AG) Merrick Garland designated Jonathan Mayer to serve as the DOJ's first Chief Science and Technology Advisor and Chief AI Officer, a position mandated by Section 10.1(b) of Biden's Executive Order. As Chief AI Officer, Mayer will chair the DOJ's newly created Emerging Technology Board, which will coordinate and govern AI and other emerging technologies across the DOJ. Mayer has also been tasked with helping the DOJ strengthen its AI capacity by recruiting experts in the field.

Mayer will also serve as the DOJ's representative to an interagency council on AI. The council, to be chaired by the Office of Management and Budget director with representatives from 16 other agencies, will coordinate the development and use of AI in agencies' programs and operations. Mayer's views on AI and related issues could play a significant role in shaping government policy due to his ties to the administration, as he previously worked on then-Senator Kamala Harris' staff.

The DOJ is just the latest agency to demonstrate its interest in AI through hiring practices. For example, earlier in February, the Department of Homeland Security (DHS) announced its plan to hire 50 AI experts to create a DHS "AI Corps." Businesses should take note of these hirings, as they will allow these agencies to marshal additional resources to monitor the use and development of AI.

In addition to the hiring of Mayer, Deputy Attorney General Lisa O. Monaco announced the creation of "Justice AI" during remarks at a presentation at Oxford entitled "Promise and Peril of AI in Criminal Justice." Over the next six-months, Justice AI will bring in experts from numerous fields to help the DOJ "understand and prepare for how AI will affect the Department's mission and how to ensure we accelerate AI's potential for good while guarding against its risks." Justice AI will contribute to a report on AI and criminal justice to be delivered to President Biden in March. The contents of that report may help shape regulations, and businesses that utilize AI should consider submitting comments on proposed regulations.

Deputy AG Monaco also discussed DOJ views and policies on AI. Many DOJ policies discussed during her remarks mirror comments made by other agencies, including the Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau, at the FTC Tech Summit on AI. AG Monaco's remarks emphasized how there is no AI exception to the law, which has been a common point of emphasis across government. AG Monaco stated, "Discrimination using AI is still discrimination. Price fixing using AI is still price fixing. Identity theft using AI is still identity theft… Our laws will always apply." AG Monaco also emphasized the importance of not allowing AI to increase disparities or bias, which fits with one of the key focuses of the Biden Administration.

According to Deputy AG Monaco, the DOJ intends to not only police misuse of AI, but also plans to and is using AI to further its mission. She gave multiple examples of specific current uses, including AI being used to triage tips to the FBI. What might have taken dozens of employees hundreds of man hours can now be overseen by a handful of employees. Usage of AI to increase productivity as a force multiplier may enable the DOJ and other agencies to more effectively regulate businesses and catch issues that would previously have gone unnoticed. Finally, Deputy AG Monaco noted that the DOJ could seek "stiffer sentences for offenses made significantly more dangerous by the misuse of AI."

Recent developments at the DOJ show the government's strong interest in AI, including investigating potential crimes associated with its misuse. While companies can profit from opportunities associated with the ongoing development of AI, they also face legal risks associated with the federal government's increased focus on deterring AI-related wrongdoing. **Lewis Brisbois'**

attorneys are available to assist clients with any questions regarding the DOJ, FTC, and other agencies on AI.

For more information on this development, contact the authors of this alert. Visit our Artificial Intelligence Task Force page, Government Affairs & Public Policy page, or our Government Investigations & White Collar Defense page to learn more about our capabilities in this area.

Authors:

Sean Shecter, Partner

Daron Watts, Partner

John L. Gregg, Associate