



RECOMMENDED ACTION MEMO

Agency: Department of Justice; Bureau of Alcohol, Tobacco, Firearms, and Explosives
Topic: ATF Domestic Violence Special Agents
Date: November 2020

Recommendation: Ensure there is a domestic violence special agent in each of ATF's 25 field divisions.

I. Summary

Description of recommended executive action

Every year, millions of Americans report intimate partner violence (IPV).¹ Firearm access makes this violence particularly deadly, posing a serious threat to victims: domestic violence assaults involving a gun are 12 times more likely to result in death than those involving other weapons or bodily force.² While domestic violence touches all groups, 85% of IPV victims are women.³ An abuser's mere access to a firearm makes it five times more likely that a woman will be killed.⁴

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the main federal agency responsible for overseeing the gun industry, works to stem the flow of firearms to prohibited possessors, including those convicted of a felony⁵ or qualifying misdemeanor domestic violence offense⁶ and those subject to a qualifying protection order.⁷

In order to enhance ATF's law enforcement and regulatory efforts and focus agency resources on limiting the supply of firearms to domestic abusers, the next administration should ensure there is a domestic violence specialist in each of its 25 field divisions. This domestic violence specialist should be a special agent and would coordinate domestic violence enforcement efforts across the agency, serve as a point of contact for domestic violence advocacy organizations within their division, and work with local law enforcement to target gun traffickers and implement protocols that ensure the surrender of guns by prohibited abusers.

¹ Centers for Disease Control and Prevention, "Preventing Intimate Partner Violence," 2018, <https://web.archive.org/web/20190804084444/https://www.cdc.gov/ViolencePrevention/pdf/IPV-FactSheet.pdf>

² Linda E. Saltzman, "Weapon Involvement and Injury Outcomes in Family and Intimate Assaults," *JAMA* 267, no. 22 (1992): 3043–3047.

³ Emory University School of Medicine, "Domestic Violence/Intimate Partner Violence Facts," accessed October 1, 2020, <http://psychiatry.emory.edu/niaproject/resources/dv-facts.html>.

⁴ J.C. Campbell, "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study," *American Journal of Public Health* 93, no.7 (2003): 1089–1097.

⁵ 18 U.S.C. 922(g)(1).

⁶ 18 U.S.C. 922(g)(9).

⁷ 18 U.S.C. 922(g)(8).

Overview of process and enactment

The attorney general is responsible for enforcing the Gun Control Act (GCA), including the law's domestic violence provisions.⁸ The attorney general has delegated that responsibility to the director of the ATF, subject to the direction of the attorney general and the deputy attorney general.⁹ Congress has provided the ATF budget authority to expend "necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives"¹⁰ in order to carry out its mission. As such, appointing domestic violence special agents is within the authority of ATF, and the agency may use existing funding to carry out such appointments.¹¹

II. Current state

The intersection of domestic violence and firearms

In the US, more than 10 million adults experience domestic violence each year.¹² While domestic violence touches all groups, 85% of domestic violence victims are women,¹³ and about one in four women in the US report experiencing some form of sexual or physical violence or stalking by an intimate partner in their lifetime.¹⁴

The biggest definable group of female murder victims consists of those killed by intimate partners: one study found that between 1976 and 2005, 30% of female murder victims were killed by intimate partners, while only 5% of male murder victims were killed by an intimate partner.¹⁵ More recent data confirms this fact: between 2003 and 2012, 33.7% of homicides of women resulted from intimate partner violence.¹⁶

Firearm access makes domestic violence far more lethal. Domestic violence assaults involving a gun are 12 times more likely to result in death than those involving other weapons or bodily

⁸ 18 U.S.C. § 44.

⁹ 28 CFR § 0.130(a).

¹⁰ Consolidated Appropriations Act of 2020, Pub. L. No. 116-93.

¹¹ See e.g., ATF, "FY19 Congressional Budget Submission," February 2018, <https://www.atf.gov/file/147951/download>.

¹² National Coalition Against Domestic Violence, "Domestic Violence Fact Sheet," accessed October 1, 2020, https://assets.speakcdn.com/assets/2497/domestic_violence-2020080709350855.pdf?1596828650457.

¹³ Emory, *supra* note 3.

¹⁴ Sharon G. Smith et al., "National Intimate Partner and Sexual Violence Survey 2015 Data Brief – Updated Release," National Center for Injury Prevention and Control, November 2018, <https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>.

¹⁵ Jacqueline Campbell, et al., "Intimate Partner Homicide: Review and Implications of Research and Policy," *Trauma, Violence & Abuse* Vol 8, no. 3 (2007), 246.

¹⁶ Arkadi Gerney and Chelsea Parsons, "Women Under the Gun," Center for American Progress, June 18, 2014, <https://www.americanprogress.org/issues/guns-crime/reports/2014/06/18/91998/women-under-the-gun/>.

force.¹⁷ As a result, an abuser’s mere access to a firearm makes it five times more likely that a woman will be killed.¹⁸ The scope of this violence is enormous: nearly one million women alive today in the US have reported being shot or shot at by intimate partners, and 4.5 million women have reported being threatened with a gun.¹⁹

With our high rates of firearm-related domestic violence, the US is the most dangerous country in the developed world when it comes to women and guns. Women in the US are 21 times more likely to be killed with a gun than women in other high-income countries.²⁰

The COVID-19 pandemic has accelerated these devastating trends. According to the Center for American Progress, “stay-at-home orders essential to slowing the spread of the virus, coupled with the economic and health stressors caused by the pandemic, have forced [domestic violence] survivors already at risk of domestic abuse into even more vulnerable and dangerous positions.”²¹ While the piecemeal nature of data reporting by states and localities makes it difficult to paint an accurate picture of the prevalence and severity of IPV overall, available fragmented data from counties across the country indicate that almost every state has reported increases in IPV.²²

Federal and state law regarding armed domestic abusers

At the federal level, the GCA prohibits domestic abusers from possessing firearms. Amended in 1994 and 1996, the GCA makes it a federal crime to, *inter alia*:

- Possess a firearm and/or ammunition while subject to a qualifying protection order²³
- Possess a firearm and/or ammunition after a conviction of a qualifying misdemeanor crime of domestic violence²⁴
- Possess a firearm and/or ammunition after a conviction of a felony²⁵

The GCA defines a “misdemeanor crime of domestic violence” as: (1) a federal, state, local, tribal or territorial offense that is a misdemeanor under federal, state or tribal law; (2) that has

¹⁷ Linda E. Saltzman, et al., “Weapon Involvement and Injury Outcomes in Family and Intimate Assaults,” *JAMA* 267, no. 22 (1992): 3043–3047.

¹⁸ Campbell, *supra* note 4.

¹⁹ Everytown for Gun Safety, “Guns and Violence Against Women,” October 17, 2019, 4, <https://everytownresearch.org/report/guns-and-violence-against-women-americas-uniquely-lethal-intimate-partner-violence-problem/>.

²⁰ Erin Grinshteyn and David Hemenway, “Violent Death Rates in the US Compared to Those of the Other High-income Countries,” *Preventive Medicine* 123 (2019): 20–26.

²¹ Osub Ahmed and Robin Bleiweis, “Ensuring Domestic Violence Survivors’ Safety,” Center for American Progress, August 10, 2020, <https://www.americanprogress.org/issues/women/reports/2020/08/10/489068/ensuring-domestic-violence-survivors-safety/>.

²² *Id.*

²³ 18 U.S.C. 922(g)(8).

²⁴ 18 U.S.C. 922(g)(9).

²⁵ 18 U.S.C. 922(g)(1).

the element of the use or attempted use of physical force, or the threatened use of a deadly weapon; and at the time the offense was committed, the defendant was a current or former spouse, parent, or guardian of the victim, a person with whom the victim shared a child, a person who was cohabitating with the victim as a spouse, parent, or guardian, or a person who was similarly situated to a spouse, parents, or guardian of the victim.²⁶ Under the Lautenberg Amendment, 18 U.S.C. § 922(g)(9), violation of this prohibition is a federal offense punishable by up to ten years imprisonment.²⁷

While the GCA sets out categories of prohibited possessors, it does not provide a standard mechanism regarding firearm surrender. The Violence Against Women Act of 2005 (VAWA), the other major federal law criminalizing domestic violence, also does not provide a standard mechanism regarding firearm surrender. While VAWA requires states and local governments to notify domestic violence offenders of federal firearm prohibitions and any applicable laws, it does not require them to establish a procedure for ensuring that abusers are required to surrender any firearms in their possession once they become prohibited under federal or state law.²⁸

Most states expressly authorize law enforcement to remove firearms when they are discovered in the possession of a person who is prohibited from possessing them.²⁹ However, only seven states provide a statutory process for the relinquishment of firearms by all people convicted of firearm-prohibiting crimes,³⁰ while fifteen states require all individuals convicted of domestic violence crimes to relinquish their firearms after conviction.³¹ Efforts to address the lack of relinquishment protocols have yielded positive results. For example, laws requiring abusers to turn in guns upon being prohibited from possessing them are linked to a 16% reduction in intimate partner gun homicides.³²

ATF domestic violence enforcement

The ATF operates primarily through two components: criminal enforcement and industry operations. The criminal enforcement component is responsible for criminal law enforcement investigations and is composed of special agents and investigative support staff. The industry operations component is the ATF's regulatory enforcement component and is composed of industry operations investigators (IOIs) and support specialists.

²⁶ 18 U.S.C. § 921(a)(33)(A).

²⁷ ATF, "Misdemeanor Crimes of Domestic Violence and Federal Firearms Prohibitions," September 2011, <https://www.atf.gov/file/58786/download>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Giffords Law Center, "Firearm Relinquishment," accessed October 1, 2020, <https://lawcenter.giffords.org/gun-laws/policy-areas/who-can-have-a-gun/disarming-prohibited-people/>.

³¹ *Id.*

³² Giffords Law Center, "Domestic Violence & Firearms," accessed October 1, 2020, <https://lawcenter.giffords.org/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/>.

The bulk of ATF resources are dedicated to its law enforcement work—specifically on its gun trafficking and drug trafficking efforts. ATF special agents outnumber IOIs who conduct gun dealer inspections by 3-to-1,³³ and roughly 80%³⁴ of the agency’s budget is devoted to law enforcement operations. In 2018, the ATF initiated more than 35,000 criminal investigations related to guns and referred more than 16,000 individual defendants to prosecutors for potential prosecution.³⁵

The vast majority of the ATF’s criminal enforcement and industry operations are conducted through the agency’s field divisions. The ATF has 25 field divisions across the country, with field staff making up approximately 70% of its workforce as of 2013.³⁶ These field divisions are overseen by the Office of Field Operations, which consists of an assistant director, three regional deputy assistant directors, one deputy assistant director for operations, and one deputy assistant director for programs.³⁷ As ATF’s largest directorate, the Office of Field Operations is tasked with providing strategic direction for each field division and overseeing all criminal investigative activities across the bureau.³⁸

Each field division is led by a special agent in charge and has a director of industry operations and an assistant special agent in charge to provide mission guidance in accordance with each jurisdiction’s priorities.³⁹ Each of the 25 field divisions also include multiple criminal enforcement field offices and one Crime Gun Intelligence Center, led by a special agent referred to as a group supervisor, as well as several industry operations field offices led by a special IOI referred to as an area supervisor.⁴⁰

ATF strategy for its field divisions is informed by an intelligence-driven model called “frontline,” which uses evidence-based analysis to understand the realities of the violent crime environment for each field division’s specific jurisdiction, and deploys resources accordingly to most effectively reduce violent crime in that geography.⁴¹ Frontline data is sourced from the National Tracing Center, Violent Crime Analysis Branch; High Intensity Drug Trafficking Areas; state and

³³ ATF, “Fact Sheet - Staffing and Budget,” May 2019, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-staffing-and-budget>.

³⁴ ATF, “Congressional Budget Submission: Fiscal Year 2020,” March 2019, <https://www.justice.gov/jmd/page/file/1144651/download>.

³⁵ ATF, “Fact Sheet - Facts and Figures for Fiscal Year 2019,” June 2020, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2018>.

³⁶ United States Government Accountability Office, “Bureau of Alcohol, Tobacco Firearms, and Explosives: Enhancing Data Collection Could Improve Management of Investigations,” June 2014, <https://www.gao.gov/assets/670/664514.pdf>.

³⁷ Office of the Inspector General, “Review of the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ Implementation of the Frontline Initiative,” U.S. Department of Justice, February 2019, <https://oig.justice.gov/reports/2019/e1902.pdf>.

³⁸ GAO *supra* note 36.

³⁹ OIG *supra* note 37.

⁴⁰ *Id.*

⁴¹ ATF, “Fact Sheet - Frontline,” May 2018, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-frontline>.

local agencies; criminal histories; and confidential informant debriefs, all of which can inform investigations and responses to crimes involving domestic violence.

One specific service offered at designated field divisions is the ATF Victim/Witness Assistance Program (VWAP). The VWAP helps ensure victims of federal crimes investigated by the ATF have access to service, assistance, and protections after suffering physical, financial, or emotional trauma.⁴² Services offered as part of the program include:⁴³

- Guidance and referrals for the best emergency medical and social services
- Guidance and referrals to counseling, treatment, and other support programs
- Legal and criminal case updates and
- Reasonable protection from a suspected offender or the accused

These services and protections are sanctioned by the Victim Rights and Restitution Act (VRRRA),⁴⁴ the Crime Victims' Rights Act of 2004 (CVRA),⁴⁵ and the Victims of Crime Act of 1984.⁴⁶ VWAP specialists train ATF agents to better support victims, and regional victim/witness specialists (RVWS) are stationed at designated field divisions throughout the country to offer more focused, regional support.⁴⁷

VWAP specialists field incoming calls from victims, but the efficacy of this service varies between field divisions. Some VWAP specialists are difficult to reach, and most can only provide general recommendations to help victims develop safety plans, or refer them to work with local law enforcement. VWAP specialists do not connect victims directly to ATF field division agents or local law enforcement officials; instead, they often serve as a firewall between victims and field divisions.

Trump administration efforts

In June 2019, Attorney General William Barr established a working group of US attorneys focused on prosecuting domestic abusers for illegal firearms possession.⁴⁸ The Domestic Violence Working Group consists of nine US attorneys from across the country.⁴⁹ The group shares best practices for prosecuting federal domestic violence crimes and provides guidance on how to collaborate with local law enforcement agencies and nonprofits.

⁴² ATF, "Victim/Witness Assistance Program," May 2020, <https://www.atf.gov/contact/victimwitness-assistance-program>.

⁴³ *Id.*

⁴⁴ 34 U.S.C. § 20141 (formerly 42 U.S.C. § 10607).

⁴⁵ 18 U.S.C. § 3771.

⁴⁶ P.L. 98-473, Title II, Chapter XIV, Victims of Crime Act of 1984, October 12, 1984, 98 Stat. 2170. VOCA is codified at 34 U.S.C. § 20101 et seq.

⁴⁷ VWAP *supra* note 42.

⁴⁸ Kerry Shaw, "New DOJ Effort Targets Domestic Abusers," The Trace, June 11, 2019, <https://www.thetrace.org/2019/06/doj-us-attorneys-domestic-violence-guns/>.

⁴⁹ *Id.*

Erin Nealy Cox, US Attorney for the Northern District of Texas, chairs the working group. Her office leads the country in domestic violence prosecutions.⁵⁰ In 2018, Cox's office prosecuted 23 people with prior misdemeanor domestic violence convictions.⁵¹ Just four years earlier, only 23 individuals in the entire country were prosecuted under the same federal statute.⁵²

III. Proposed action

Substance of proposed action

In order to enhance the ATF's law enforcement and regulatory efforts and focus agency resources on limiting the supply of firearms to domestic abusers, the next administration should ensure there is a domestic violence specialist in each of the ATF's 25 field divisions. These domestic violence specialists should serve as ATF special agents and coordinate domestic violence enforcement efforts across the agency, serve as a point of contact for domestic violence advocacy organizations within their division, and work with the US Attorneys' Offices and local law enforcement to implement protocols that ensure the surrender of guns by prohibited abusers and the prosecution of those who violate the law by possessing guns despite a domestic violence conviction or restraining order. In particular, domestic violence special agents would be responsible for the following:

- Work with local law enforcement to improve states' existing firearm relinquishment protocols. Most states expressly authorize law enforcement to remove firearms discovered in the possession of a person who is prohibited from possessing them.⁵³ However, only seven states provide a statutory process for the relinquishment of firearms by all people convicted of firearm-prohibiting crimes,⁵⁴ while fifteen states require all individuals convicted of domestic violence crimes to relinquish their firearms after conviction.⁵⁵ Of these, three states expressly require all prohibited criminal defendants to provide proof of compliance to courts or law enforcement, verifying that they relinquished their guns after conviction: California, Connecticut, and Nevada.⁵⁶

Given this patchwork system of statutory processes and relinquishment requirements, an ATF domestic violence special agent should help develop rapid response teams with local agencies. These rapid response teams—in conjunction with the ATF domestic violence special agent—should be tasked with screening domestic violence cases more

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Giffords Law Center *supra* note 30.

⁵⁵ *Id.*

⁵⁶ *Supra* note 4. See also, Katherine A. Vittes et al., "Removing Guns from Batterers: Findings from a Pilot Survey of Domestic Violence Restraining Order Recipients in California," Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health (2015), 603.

quickly, issuing warrants, and seizing weapons from abusers, in accordance with state and municipal laws. In order to protect victims or potential victims of domestic abuse more effectively, in accordance with local laws, these rapid response teams could be modeled similarly to a program developed by the Kings County police department in Washington State. This local program, called the Regional Domestic Violence Firearms Enforcement Unit, fast-tracks screening cases and responds to domestic violence protection orders and Extreme Risk Protection Orders (ERPOs) with greater levels of coordination. Since its establishment in 2017, police and prosecutors in Kings County have quadrupled the number of guns seized from accused abusers.⁵⁷

- Improve NICS data compliance for DV-related issues in their jurisdiction. The Federal Bureau of Investigation (FBI) estimates that, on average, nearly 3,000 individuals pass a NICS background check when they would otherwise be prohibited from purchasing a firearm because of incomplete state-level data.⁵⁸ Because the NICS database receives state-level convictions, mental health adjudications, and other records on a voluntary basis, many states' records are incomplete, allowing some domestic abusers to slip through the cracks and purchase a firearm regardless of their history. ATF domestic violence special agents would work with local law enforcement officials and agencies to implement more robust record-keeping systems and ensure accurate reporting into the NICS database for all cases of domestic violence in their jurisdiction.
- Ensure all “delayed denial” referrals related to domestic violence are investigated. Though 90% of background checks conducted through the NICS provide an answer in under two minutes, about 10% of cases require further investigation and review by FBI agents. Many of these cases involve individuals prohibited from purchasing or possessing firearms because of a domestic violence misdemeanor conviction or restraining order.⁵⁹ Under federal law, if the FBI or state agency cannot complete that investigation and make a final determination within three days, the gun dealer may transfer the firearm, unless state law provides otherwise.⁶⁰ The FBI can continue to research a transaction for potentially prohibiting information for up to 90 days even after a gun sale proceeds without a completed background check. However, after 90 days, all information related to the transaction must be destroyed to comply with federal record retention requirements.⁶¹ In practice, to ensure compliance with this destruction of records requirement, NICS is programmed to purge records of unresolved transactions

⁵⁷ Chirs Ingalis, “New Rapid Response Team Disarms Accused Abusers,” King 5 NBC Affiliate, February 2018, <https://www.king5.com/article/news/local/new-rapid-response-team-disarms-accused-abusers/281-515919133>.

⁵⁸ Giffords Law Center, “NICS & Reporting Procedures,” accessed October 1, 2020, https://giffords.org/lawcenter/gun-laws/policy-areas/background-checks/nics-reporting-procedures/#footnote_3_5613.

⁵⁹ Giffords Law Center, “Fixing the Default Proceed Flaw,” May 2018, <https://giffords.org/wp-content/uploads/2018/05/lawcenter-Default-Proceeds-Factsheet-Giffords-Law-Center.pdf>.

⁶⁰ 18 U.S.C. § 922(t)(1)(B)(ii). States can establish their own firearm laws, such as additional prohibiting categories or additional time frames for completing checks before a dealer may transfer the firearm.

⁶¹ 28 C.F.R. § 25.9.

within 88 days. When the FBI makes a denial determination within this period (after three business days, but before 88 days), it is called a “delayed denial.” In delayed denial cases, the FBI determines if the firearm dealer transferred the firearm to the individual and, if so, refers the case to the ATF. In 2013, 16% of ATF investigations were related to delayed denials.⁶²

Project Guardian directs ATF members to coordinate with state and local law enforcement in the case of NICS denials related to mental health, but does not specify the need for increased coordination in the case of NICS denials related to cases of domestic abuse.⁶³ ATF domestic violence special agents would be charged with conducting more robust investigations and coordinating with local law enforcement in the case of delayed denials related to domestic violence.

- Serve as a dedicated point of contact to field VWAP calls related to domestic violence. The VWAP’s victim service hotline provides important infrastructure for domestic violence reduction efforts, but the program lacks dedicated federal law enforcement support to follow-up on calls. As a result, VWAP specialists often refer victims to local law enforcement with little to no federal follow-up or support. To better leverage VWAP’s infrastructure, ATF domestic violence special agents would serve as the point of contact for VWAP specialists in each of the ATF’s 25 field divisions. In particular, these special agents would be responsible for responding to all VWAP calls from public agencies and state domestic violence coalitions, and would work to bridge federal assistance with local law enforcement support to investigate gun crimes and trafficking related to domestic violence.
- Coordinate domestic violence enforcement efforts across the agency. Domestic violence special agents would coordinate to prioritize domestic violence-related enforcement efforts across the ATF. Several violence reduction programs housed in the ATF would benefit from a designated point person with expertise and focus on domestic violence.
 - *National Crime Gun Intelligence Centers (CGICs):* CGICs support local, multidisciplinary efforts to identify, disrupt, investigate, and prosecute perpetrators and sources of gun crimes through the analysis of crime gun evidence.⁶⁴ These efforts rely heavily on robust collaboration between the ATF, local police department, local crime laboratories, probation and parole officers, local police units, prosecuting attorneys, the US Attorney’s Office, crime analysts, community groups, and academic organizations. These efforts could be improved with an ATF specialist focused exclusively on domestic violence cases

⁶² OIG Frontline *supra* note 37.

⁶³ ATF, “Press Release: Attorney General Announces Launch of Project Guardian,” November 13, 2019, <https://www.atf.gov/news/pr/attorney-general-announces-launch-project-guardian-nationwide-strategic-plan-reduce-gun>.

⁶⁴ Crime Gun Intelligence Centers, “The National Crime Gun Intelligence Center Initiative,” accessed October 1, 2020, <https://crimegunintelcenters.org/>.

involving firearms. The specialists would ensure best investigatory practices are followed, best victim services administered, and thorough records kept to increase the efficacy of domestic violence reduction efforts.

- *Enhanced Enforcement Initiatives (EEIs)*: EEIs are used by the ATF to analyze criminal environments in areas experiencing disproportionately high levels of violent crimes, and to inform and implement an integrated law enforcement approach.⁶⁵ Domestic violence Special Agents would coordinate and lead on EEI efforts in each field division wherever high rates of domestic violence occur.
- Serve as a point of contact for domestic violence advocacy organizations. The domestic violence special agent should build strong relationships with domestic violence prevention advocates and service providers to develop a deep understanding of the particular needs and patterns related to domestic violence in their jurisdiction. Using this knowledge, the specialist should work with state and local agencies and ATF regional victim/witness specialists to identify federal resources that can fill service gaps for victims and provide greater levels of support for domestic violence investigations.

Process

As noted above, the ATF director has authority to appoint special agents as “necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives.”⁶⁶ As such, appointing domestic violence special agents to serve in each ATF field division is within the authority of the ATF, and the agency may use existing funding to carry out such appointments. To effectuate these appointments, the ATF director should direct all field divisions to designate a domestic violence specialist as a special agent. For those field divisions that do not currently employ a domestic violence specialist who can serve as a special agent, the ATF director should direct field divisions to identify existing budgetary authority and use it to hire a domestic violence specialist to fill a special agent position as available.

IV. Risk analysis

Legal vulnerability

There is little legal vulnerability in instituting this recommendation. Appointing a domestic violence specialist to serve as a special agent is within the ATF director’s legal authority. The appointment of domestic violence specialists also complies with the Appointments Clause of the US Constitution, which permits Congress to vest the ATF director with power to appoint “inferior officers.”

⁶⁵ ATF Frontline *supra* note 41.

⁶⁶ Consolidated Appropriations Act *supra* note 10.