

Steve Dettelbach
Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Ave NE
Washington, DC 20226

September 9, 2022

Dear Director Dettelbach:

Congratulations on becoming the second Senate-confirmed Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and the first since 2015. We trust under your leadership the ATF will strengthen its response to firearm-involved intimate partner violence.

As you know, domestic abusers, including abusive dating partners, regularly use firearms as tools by which to exert power and coercive control. They threaten to kill their victims, their victims' children, pets, family members, co-workers, community members, law enforcement officers, and themselves. An estimated 13.6% of American women and 5.9% of American men have been subjected to threats of firearm violence by an intimate partner.¹ Of the women subjected to firearm threats, 43% have been injured (shot, pistol-whipped, sexually assaulted, etc.) with a firearm.²

All too often, domestic abusers follow through on their threats. Most homicides of women are committed by intimate partners,³ and Black, Native, and Latina women face disproportionate rates of intimate partner homicide committed by abusers with firearms.⁴ After years of decline, intimate partner homicides are increasing, driven by an increase in intimate partner homicides committed with firearms (homicides committed by other means have continued to decrease).⁵ Federal law provides critical protections to victims and survivors of domestic violence by restricting certain adjudicated abusers' firearm access,⁶ but all too often, abusers evade these restrictions and illegally possess the firearms they use to threaten and to murder their victims.

The ATF's potential role in preventing intimate partner firearm homicides in partnership with state, tribal, and local law enforcement agencies is often underappreciated. The ATF has resources and capacity that small agencies often lack. Moreover, the ATF has the legal authority to intervene in cases in which law enforcement agencies in jurisdictions with weak laws pertaining to adjudicated abusers' firearm possession may not be able to. We hope under your leadership, the ATF will strengthen its involvement in protecting survivors from armed abusers by taking the actions described below.

Implementing the Violence Against Women Act

Title 11 of the Violence Against Women Act Reauthorization Act of 2022⁷ requires the ATF to designate a domestic violence point of contact at each ATF field office “in order to receive and expedite requests for assistance from State, Tribal, territorial and local law enforcement agencies responding to intimate partner violence cases . . .”⁸ This provision was based on feedback from law enforcement agencies and local programs that tried to contact the ATF to seek assistance with particularly dangerous armed abusers, but were unable to connect with anyone at the Bureau with the ability to help them.

In developing this provision of the Act, we envisioned a proactive role for these points of contact. In addition to receiving calls for assistance, we ask that the domestic violence points of contact actively build relationships with stakeholders within their geographic jurisdiction. This includes not only law enforcement stakeholders but also domestic violence programs, including domestic violence shelters and direct service providers, state and tribal domestic violence coalitions, and culturally specific organizations providing domestic violence services.

The domestic violence points of contact should educate stakeholders about the ATF’s role in disarming adjudicated abusers, including in jurisdictions that lack state, tribal, or local laws prohibiting firearm possession by adjudicated abusers and thus rely solely on the federal prohibitors, which must be enforced by federal agencies. They should also serve as liaisons between the ATF and stakeholders, including domestic violence programs and coalitions, and they should engage local programs to support survivors before, during, and after any ATF actions. Ideally, these points of contact would have expertise in domestic violence to ensure enforcement actions are grounded in a strong understanding of the dynamics of abuse and are responsive to the specific safety needs of victims and survivors.

Implementing the Bipartisan Safer Communities Act

The passage of the Bipartisan Safer Communities Act⁹ was a critical step in narrowing the dating loophole. However, the Act introduced new and undefined terms that require rulemaking to ensure the provisions pertaining to individuals convicted of a misdemeanor crime of domestic violence against someone with whom they have or have had a dating relationship are applied effectively and consistently nationwide. Organizations representing the domestic violence field sent a [letter](#) to the Department of Justice (DOJ) on July 12, 2022, requesting DOJ promulgate regulations and highlighting key areas such regulations should address.

We understand the ATF will be the agency responsible for promulgating these regulations, and we ask the agency to consider our recommendations. We also ask for the opportunity to discuss our recommendations with ATF staff as they are developing

the regulations to ensure they are responsive to the lived experiences of survivors of dating violence and that a conviction of a misdemeanor crime of domestic violence against a dating partner under state law triggers the federal prohibitor.

Appoint an ATF Special Advisor on Gender-Based Violence

Domestic violence and other forms of gender-based violence both overlap with the ATF's core functions and have unique dynamics that set them apart from most of the ATF's other work. Due to the escalatory nature of domestic violence, the heightened risk of homicide-suicide, and other factors, ATF investigation and enforcement actions against domestic abusers may need to differ from investigations and enforcement actions in other types of cases. Moreover, domestic violence and other forms of gender-based violence often co-occur with other crimes, including crimes the ATF may be investigating or to which the ATF may be responding, or domestic violence may be a precursor to other crimes. We recommend you appoint a special advisor on gender-based violence to ensure the ATF is equipped at all levels to appropriately respond to cases involving survivors of gender-based violence.

Intimate partner violence has impacts beyond the individual. In addition to direct victim impact, a ripple effect is felt by the familial unit and the community. We know survivors and their children continue to live or remain in contact with the person causing them harm for many reasons. This includes to prevent becoming homeless and to continue the flow of access to economic resources.

The ATF is known for its collaborative nature. As access to affordable housing and economic supports continue to be safety barriers for survivors, it is important for the ATF to work with other federal agency partners to understand how interventions can potentially impact survivors' decision making and safety. These partnerships should be facilitated by the special advisor on gender-based violence. By working with federal partner divisions such as the Department of Housing and Urban Development Office on Planning and Development and Department of Health and Human Services Administration for Children and Families in addition to the Office on Violence Against Women and the Office for Victims of Crime in the Department of Justice, the ATF can strengthen its trauma-informed response to gender-based violence and contribute to a government-wide approach to addressing gender-based violence.

Prioritize retrieving firearms erroneously transferred to prohibited abusers

Due to federal law requiring the Federal Bureau of Investigation (FBI) to complete firearms background checks within seventy-two hours, thousands of firearms annually are transferred in default proceed transactions to individuals who are legally prohibited

from possessing or receiving those firearms.¹⁰ The ATF is tasked with retrieving firearms from those prohibited people.

Every year, the domestic violence prohibitors are consistently among the top reasons the FBI refers default proceed transfers to prohibited persons to the ATF for retrieval.¹¹ Many jurisdictions have made significant progress in submitting complete records to the National Instant Criminal Background Check System (NICS) in recent years. However, many jurisdictions still struggle to submit misdemeanor domestic violence conviction records and domestic violence protective order records in a timely manner and including all of the information NICS needs to make a determination about whether a potential firearm recipient is legally prohibited from receiving a firearm.

An abuser's firearm purchase can be a sign of escalating violence. Timely retrieval of firearms transferred to prohibited adjudicated abusers is critical to protecting the safety of survivors. We ask that when NICS refers domestic violence cases to the ATF for retrieval, the ATF prioritizes these cases. We also ask the ATF to publish a report annually on the disposition of default proceed cases related to domestic violence and referred to the ATF for recovery.

Preventing racially-biased enforcement

As a community, we are acutely aware of the impact of over-policing on Communities of Color. We encourage the ATF to take all appropriate action to promote racial justice in enforcement actions and in the culture of the agency, including but not limited to fully implementing the [Executive Order on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety](#).

Preventing gender-biased enforcement

In May 2022, the Department of Justice released updated guidance to assist law enforcement agencies in identifying and preventing gender-bias, [Improving Law Enforcement Response to Sexual Assault and Domestic Violence by Identifying and Preventing Gender Bias](#). While not all the principles may be applicable to the ATF, we encourage the ATF to incorporate the relevant principles in the guidance into its policies, practices, and culture.

Congratulations, again, on your confirmation as ATF Director. We hope we can serve as a resource for the ATF during your tenure. Please contact Rachel Graber (rgrab@ncadv.org) with any questions.

Sincerely,

Esperanza United (*Formerly Casa de Esperanza National Latin @ Network*)

Futures Without Violence
Illinois Accountability Initiative
Jewish Women International
Legal Momentum, the Women's Legal Defense and Education Fund
National Coalition Against Domestic Violence
National Council of Jewish Women
National Domestic Violence Hotline
National Network to End Domestic Violence
National Resource Center on Domestic Violence
National Resource Center on Domestic Violence and Firearms
Ujima Inc., The National Center on Violence Against Women in the Black Community

¹ Adhia, A., Lyons, V. H., Moe, C. A., Rowhani-Rahbar, A., & Rivara, F. P. (2021). Nonfatal use of firearms in intimate partner violence: Result of a national survey. *Preventive Medicine*. <https://doi.org/10.1016/j.ypmed.2021.106500>

² Ibid.

³ Spencer, C. M. & Stith, S. M. (2020). Risk factors for male perpetration and female victimization of intimate partner homicide: A meta-analysis. *Trauma, Violence, & Abuse*, 21(3), 527-540. doi: 10.1177/1524838018781101

⁴ Petrosky, E., Blair, J. M., Betz, C. J., Fowler, K. A., Jack, S. P. D., & Lyons, B. H. (2017). Racial and ethnic differences in homicides of adult women and the role of intimate partner violence - United States, 2003 - 2014. *Morbidity and Mortality Weekly Report*, 66(28), 741-746. DOI: <http://dx.doi.org/10.15585/mmwr.mm6628a1>

⁵ Fridel, E. E. & Fox, J. A. (2019). Gender differences in patterns and trends in U.S. homicide, 1976-2017. *Violence and Gender*, 6(1), 27-36. doi: 10.1089/vio.2019.0005

⁶ 18 U.S.C. § 922(g)(8), (g)(9).

⁷ Division W of Pub.L. 117-103

⁸ 18 USC 925D(b)(3)

⁹ Pub.L. 117-159

¹⁰ Criminal Justice Services Division. (n.d.). *National instant criminal background check system (NICS) operations report: 2017*. Department of Justice, Federal Bureau of Investigation. <https://www.fbi.gov/file-repository/2017-nics-operations-report.pdf/view>; Criminal Justice Services Division. (n.d.). *National instant criminal background check system (NICS) section: 2018 operations report*. Department of Justice, Federal Bureau of Investigation. <https://www.fbi.gov/file-repository/2018-nics-operations-report.pdf/view>; Criminal Justice Services Division. (n.d.). *National instant criminal background check system (NICS) section: 2019 operations report*. Department of Justice, Federal Bureau of Investigation. <https://www.fbi.gov/file-repository/2019-nics-operations-report.pdf/view>; Criminal Justice Services Division. (n.d.). *National instant criminal background check system operational report 2020-2021*. Department of Justice, Federal Bureau of Investigation. <https://www.fbi.gov/file-repository/nics-2020-2021-operations-report.pdf/view>

¹¹ Ibid.