



**U.S. Department of Justice**

United States Marshals Service

*Office of Professional Responsibility*

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*Washington, DC 20530-0001*

November 12, 2024

MEMORANDUM TO: Hampton Dellinger, Special Counsel

THRU: Bradley Weinsheimer  
Office of the Deputy Attorney General

FROM: [REDACTED] [REDACTED]  
Assistant Director

SUBJECT: United States Marshals Service Supplemental Response to Office  
of Special Counsel File Number DI-24-000141

In response to the Special Counsel's concerns regarding aspects of the Department of Justice response to the subject investigation, the United States Marshals Service (USMS) respectfully submits the following supplemental response:

- **In asserting that it is complying with OSHA rules, DOJ relies on its “understanding” of an OSHA letter from 2018 provided to a different agency (Veterans Affairs) about a different firearms training program.** The United States Marshals Service is fully compliant with OSHA rules related to a hearing conservation program by way of our published hearing conservation policy and the fact that USMS personnel are provided, and mandated to use, personal protective equipment while conducting firearms training. This personal protective equipment attenuates the noise of indoor and outdoor firearms training below the action level of 85dBA, measured as an 8-hour time weighted average. As stated in our initial response, the USMS refers to the study conducted by the Department of Homeland Security, Federal Law Enforcement Training Center, which verified the personal protective equipment (PPE) required at FLETC, which has been adopted by the USMS as our minimum PPE standard, successfully protects our employees from harmful noise during firearms training. Specific reference is made to the table on page 6, right most column titled “OSHA Estimated Employee Exposure (TWA-PPE)” which shows the use of PPE attenuated the noise to 65dBA or less as an 8hour time weighted average or 20dBA below the action level prescribed by OSHA. The reference to the 2018 OSHA interpretation letter was in the context of OSHA's acknowledgment that a hearing conservation program is not required unless workers are exposed at or above an action level of 85 dBA, measured as an 8-hour

time weighted average as required by the Noise standard. The fact that the OSHA letter was about a different firearms training program (Veterans Affairs) does not make its premise inapplicable to the USMS since the guidance focused on the ability to reduce the noise level below the actionable level in the OSHA regulations. The actionable noise levels are determined by standard, not disparately based on the agency involved. Accordingly, USMS can rely on the guidance to another agency from the OSHA interpretation letter.

- **The 2018 OSHA letter discusses annual weapons firing training while the USMS training takes place two times per year.** Each time a USMS employee conducts firearms training, the mandated use of personal protective equipment attenuates the noise below the 85 dBA action level. The fact that the USMS conducts such training more frequently than the agency noted in the OSHA letter does not obviate its applicability to the actionable level. The actionable level would apply each time weapons training occurs.
- **In the time since the 2018 letter, OSHA has issued the USMS firearms training program multiple citations related to hearing safety rules.** OSHA's own dosimetry test report in Manhattan confirmed the noise levels did not meet the threshold for exposure. The "Protected TWA's" for the five employees on the range during the OSHA visit to Manhattan were all below the 85dBA threshold. The OSHA test results in Detroit made no reference to the "Protected TWA", just the unprotected TWA's which does not account for the use of PPE by our employees. As stated in our original report, the USMS is not aware of any dosimetry data from North Carolina or Nevada that supports a violation.

Should you require any additional information, please contact me [REDACTED] or Assistant Director [REDACTED] Human Resources Division, [REDACTED].

cc: The Honorable Michael E. Horowitz, DOJ Ins