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July 5, 2017

**VIA ELECTRONIC TRANSMISSION**

David Harlow  
Acting Director  
United States Marshals Service  
United States Department of Justice  
Washington, D.C. 20530

Dear Acting Director Harlow:

On March 10, 2015, a Deputy U.S. Marshal was shot and killed while participating in a high risk fugitive apprehension operation targeting a double-murder suspect in Baton Rouge, Louisiana. The After Action Review of the shooting cited multiple failures by the U.S. Marshals Service (USMS) task force to adhere to USMS policy and clear departures from the agency-approved standardized training for fugitive operations. According to information obtained by the Committee, it appears those mistakes may reasonably be traced to the agency's failure to properly implement its own training program.

In 2011, following the line-of-duty deaths of multiple deputies and task force officers, former Director Stacia Hylton established a group of subject matter experts, known as the Fugitive Risk Mitigation Assessment Team (FARMAT or the Team), to study risks associated with the agency's performance in apprehending violent fugitives. The Team's findings and analysis led to the creation of a "standardized tactical training program" for USMS operational employees and task force officers, known as the High Risk Fugitive Apprehension (HRFA) Training Program.<sup>1</sup>

The program would proceed in stages. First the experts would train other officers, and then those Tactical Training Officers (TTOs) would deploy the standardized

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<sup>1</sup> U.S. Marshals Service, Training Division – US Marshals Academy, Comprehensive Risk Mitigation Training Program (Aug. 2011) [hereinafter August Draft]; U.S. Marshals Service, Training Division – US Marshals Academy, Comprehensive risk Mitigation Training Program (Dec. 2011) at 2 [hereinafter Authorized Plan].

training throughout the agency. The program required the TTOs to meet specific criteria prior to selection, and then undergo additional training and certification. The criteria were developed by “Fugitive Apprehension Subject Matter Experts (SMEs).”<sup>2</sup> Based on an August draft of this plan, SME-recommended criteria included “5 or more years of consecutive violent fugitive apprehension experience.”<sup>3</sup>

However, the version of the plan later authorized in December 2011 claims—erroneously, according to a senior management official—that the SMEs actually recommended far less demanding criteria, including only “**three** or more years of consecutive fugitive apprehension experience, **and/or** lead instructor experience in law enforcement curriculum.”<sup>4</sup> Thus an instructor could teach high risk fugitive apprehension without having any experience in high risk fugitive apprehension, and without ever having attended high risk fugitive apprehension training.

Reportedly, that is exactly what happened when USMS began certifying Special Operations Group (SOG) deputies as TTOs without vetting them or subjecting them to the recommended criteria. Some of them reportedly had little fugitive operations experience and some have never attended the course they are to teach.

Agency leadership allegedly was warned repeatedly about the increased risk to operational personnel associated with un-vetted instructors and the breakdown in the standardization of fugitive apprehension training and techniques. Although leadership understood these points to be critical to the success of the training program, they did not heed the warnings. In 2013, then-Assistant Director William Snelson actually cited this need for continuity as justification for postponing the mandatory retirement of a former chief inspector involved in the program.<sup>5</sup> He wrote: “As the first portion of the HRFA training nears completion, it is important to *maintain continuity and standardization* in the next phase of the program.”<sup>6</sup> Inexplicably, the chief inspector was extended, but was transferred and allegedly never worked on the program again. The position reportedly was reprogrammed instead of being filled.

With un-vetted TTOs and a breakdown in the continuity of the program, regional and district task forces around the country reportedly are deploying different tactics. In some cases task forces reportedly are learning tactics that *increase*, rather than *mitigate*, the safety risks the training was designed to overcome. Leadership has been

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<sup>2</sup> *Id.* at 6.

<sup>3</sup> August Draft at 6.

<sup>4</sup> Authorized Plan at 6 (emphasis added).

<sup>5</sup> Memorandum from William D. Snelson, Assistant Director, Investigative Operations Division, U.S. Marshals Service to Katherine T. Mohan, Assistant Director, Human Resources Division, U.S. Marshals Service (Feb. 13, 2013).

<sup>6</sup> *Id.* (emphasis added).

warned that the risk was further aggravated by the lack of sufficient staff to oversee the training's deployment and correct mistakes.

All of these warnings to agency leadership about the breakdown of the program reportedly were given both before and after the Louisiana operation. Unfortunately, many of the operational steps stressed by agency policy and the HRFA training were not followed. For example, no operational plan was developed. USMS Standard Operating Procedures for Enforcement Operations requires a written pre-operational plan.<sup>7</sup> If there are time constraints, employees must at least use a checklist and communicate a verbal plan. No assignments were given to deputies ahead of time, and, although the district included a SOG deputy as a TTO, the district staff at the time had received "very little tactical training." The AAR also noted multiple additional departures from the training and standard operating procedures.

For the safety of other deputies and law enforcement officers involved in high risk fugitive operations, this event should be examined—in a transparent manner—in the larger context of the agency's own policies, practices, and reports. Those documents show that agency leadership sought expertise in fugitive apprehension operations to develop standardized training that would minimize risk. Experts developed that training and the criteria required to teach it. But the criteria was watered down, and instructors were chosen without proper vetting. Despite agency leadership's own recognition of the crucial importance of maintaining continuity in the training program, the same leadership did not fully support their own goals. Now, it appears that the program has not been implemented as designed, un-vetted instructors are not teaching the standard training, deputies are learning disparate techniques, and there is little oversight of what is actually taught and deployed in high risk fugitive operations. The result is more risk, not less, and the Louisiana operation appears to bear that out.

Additionally, according to USMS employees, the After Action Review of that operation has not been shared with agency leadership in the field or deputies for risk mitigation, despite the reported request of the previous head of the Training Division to do so. If true, any lessons gleaned from this horrific event are not being learned.

Accordingly, please provide detailed, written answers to the questions below by July 19, 2017. Please number your answers according to the corresponding questions.

1. How many employees have been certified as TTOs under the training program?
2. How many TTOs are SOG deputies?

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<sup>7</sup> United States Marshals Service, Enforcement Operations, Standard Operating Procedures (SOPs) (Revised Jan. 29, 2015) at IV.A.1.f.

3. Please describe in detail the vetting process actually used in selecting TTOs, including in selecting SOG deputies for TTO positions.
4. Has USMS leadership ever considered disbanding SOG? When?
5. Why were the qualifications for TTOs altered from August to December 2011?
  - a. Who made that decision?
  - b. Were any SMEs on high risk fugitive apprehension, including those involved in creating the HRFA training, consulted before that decision was made? Why or why not? If any were consulted, please identify them.
6. Why wasn't the position that the chief inspector AD Snelson requested an extension for filled?
7. Has the USMS made findings from the Louisiana operation available to leadership and operational personnel for risk mitigation? Why or why not?
8. Will the USMS make findings from this or other shooting incidents available to leadership and operational personnel for risk mitigation? Why or why not?

Thank you for your cooperation in this matter. Please contact DeLisa Lay of my Committee staff at (202) 224-5225 with any questions.

Sincerely,



Charles E. Grassley  
Chairman

cc: The Honorable Dianne Feinstein  
Ranking Member

The Honorable Michael E. Horowitz  
Inspector General  
U.S. Department of Justice

Adam Miles  
Acting Special Counsel  
Office of Special Counsel