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Marshal Renzulli's Statement Regarding the Applicability of the Freedom of Information Law (F.O.I.L.) to New York City Marshals

Please be advised that, as a New York City Marshal, I am not subject to the precepts of the Freedom of Information Law. This is because, as a New York City Marshal, I am an enforcement officer of and for the New York City Civil Court. See New York City Civil Court Act (hereinafter "CCA") Article 16, §§1609(1)(a), 1609(1)(b). As the New York State and City Courts are exempt from the dictates of the Freedom of Information Law (see below), New York City Marshals are also, by operation of law, exempt from those dictates.

Pursuant to the New York State Public Officers Law (hereinafter "POL"), an "[a]gency" subject to the Freedom of Information Law (hereinafter "FOIL") includes an "office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, *except the judiciary* or the state legislature." POL Article 6, §86(3) (emphasis added). "Judiciary means the courts of the state, including any municipal or district court, whether or not of record." POL Article 6, §86(1). The New York City Civil Court is "a single city-wide court" that is "a part of the unified court system for the state, and a court of

record with such power and jurisdiction as are herein or elsewhere provided by law.” CCA Article 1, §102.

New York City Marshals are indisputably Officers of the New York City Civil Court system. As noted above, Marshals are enforcement officers of and for the New York City Civil Court. See CCA Article 16, §§1609(1)(a), 1609(1)(b). The Appellate Divisions of the First and Second Judicial Departments of the New York State Supreme Court are responsible for promulgating “rules and regulations concerning performance of official duties of marshals.” CCA Article 16, §1609(2). Additionally, the two Appellate Divisions are responsible for prescribing the manner in which I, as a New York City Marshal, maintain my records, and those records are deemed to “be open to inspection by the appellate division and such officers or employees of the court, or other persons, agencies or officials, as may be designated by the appellate division.” CCA Article 16, §1609(1)(a).

Furthermore, as it is clear that, as a New York City Marshal, I am not – and was, apparently, never contemplated to be – subject to FOIL, no procedures for appeal of a denial of a FOIL request by a New York City Marshal have been promulgated by the Committee on Open Government pursuant to POL Article 6, §89(4)(a). However, in the event that any party believes that there is persuasive legal precedent and/or statutory authority for the proposition that I am, in fact, as a New York City Marshal, subject to FOIL, they may present their argument to me. I will give full, fair and impartial consideration to any assertion to that effect.