



**NEW YORK CITY COUNCIL
COMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

**TESTIMONY OF JOCELYN E. STRAUBER
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**CONCERNING THE NEW YORK CITY DEPARTMENT OF INVESTIGATION'S
OVERSIGHT ROLE REGARDING THE CITY MARSHALS**

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Good morning. My name is Jocelyn Strauber and I serve as the Commissioner of the Department of Investigation (“DOI”). Thank you, Chair Brewer and members of the Committee on Oversight and Investigations for the opportunity to discuss with you DOI’s oversight role of the New York City Marshals.

As I will explain, DOI’s authority and oversight of the City Marshals is conferred by State law, through delegation by the First and Second Judicial Departments of the Appellate Division. DOI is thereby authorized to supervise the marshals, which includes the investigation of their conduct and activities, and the issuance of procedures for performing their official duties. The Appellate Division retains a role in DOI’s oversight of City Marshals and must be notified of, and in some instances approve, DOI’s directives to the marshals. DOI’s authority does not extend to substantially affecting, or delaying, the court orders that marshals are tasked with executing. Today I will describe the scope of our authority with respect to the marshals as well as their roles and responsibilities.

The Genesis of DOI’s Oversight and the Role of City Marshals

What are the City Marshals?

New York City Marshals are officers of the New York City Civil Court tasked with enforcing the orders issued by that court. They are not DOI or City employees and they operate their businesses independently of the City. State law vests supervisory and disciplinary authority over the marshals in the State Appellate Division for the First and Second Judicial Departments; those bodies have delegated their day-to-day authority over the marshals to the Department of Investigation, mainly through the two Joint Administrative Orders 453 and 456, which generally define DOI’s authority. I have attached those to my testimony today.

Pursuant to State law, City Marshals are appointed by the Mayor for five-year terms. The law allows the Mayor to appoint up to 83 marshals; there are 28 City Marshals at present.

The Mayor’s Committee on City Marshals handles the marshal appointment process. The Committee consists of 15 members; six selected by the Mayor, six chosen by the Appellate Division, and three selected by law school deans in New York City. The Committee establishes criteria for City Marshal appointments, recruits candidates for that office and, after vetting candidates, recommends appointments and reappointments to the Mayor.

DOI’s Role

Starting with the appointments’ process, DOI provides administrative support to the Mayor’s Committee on City Marshals. That includes receiving and reviewing applications and resumes, organizing interviews with applicants, conducting background investigations of candidates, preparing reports of a marshal’s history in office, and preparing letters of recommendation from the Committee for the Mayor’s review.

DOI’s oversight of City Marshals commenced in its present form in 1968, when the Appellate Division for the First and Second Judicial Departments delegated some of their supervisory powers with respect to the Marshals to the Department of Investigation. In the mid-1970s, the courts issued the two Joint Administrative Orders I mentioned earlier and which you have copies of, formally setting forth DOI’s supervisory powers, including the power to investigate the marshals’ activities and impose discipline where warranted, examine their books and records, direct them with respect to maintenance of official records, and issue procedures for performing their official duties.

As part of its supervision of marshals, DOI has issued numerous directives concerning standards for marshals' official conduct and for the maintenance of official books and records. For example, DOI has issued directives to marshals on issues such as maintaining a year-to-date count of completed evictions, possessions, and ejectments, and the existence of the 2019 Housing Stability and Tenant Protection Act, which introduced a 14-day notice of eviction rule requiring marshals to serve a notice of eviction to tenants and then wait 14 days before executing an eviction warrant, among many others. DOI is required to provide copies of these directives to the Appellate Division, and they are deemed approved unless the Appellate Division nullifies them.

DOI has also prepared a "Handbook of Regulations," which was last updated in 2013, sets forth DOI's directives to the marshals through the years, and is publicly available on our website. The regulations developed by DOI generally relate to marshals' official conduct, discipline, record keeping, and the execution of evictions and levies. DOI is completing an updated version of the handbook to reflect statutory changes that have been made over the past decade, as well as adding to the Handbook the DOI directives that have been issued to marshals since 2013. The Handbook of Regulations must be reviewed and approved by the Appellate Division, as well as any "substantial policy changes" therein, if any.

DOI carries out its oversight authority through its Bureau of City Marshals, a four-person unit within DOI consisting of a Director, investigator, auditor, and administrative assistant. The unit reports to DOI's General Counsel. In addition to the responsibilities described above, DOI's Bureau of City Marshals engages with the Civil Court regularly with respect to matters of eviction, seeking clarification of eviction orders when necessary to ensure marshals are following the rules, and assisting the Court with decisions regarding City-wide eviction suspensions due to weather or other extraordinary circumstances, such as the Covid-19 pandemic. DOI's primary role in these matters is to convey to the marshals the directives imposed by the courts. DOI also shares that information with the public, via DOI's public website.

DOI's Bureau of City Marshals also conducts investigations into allegations concerning marshals' conduct. Those investigations have resulted in discipline ranging from informal warning letters, letters of admonition, and letters of stipulation. The Bureau receives complaints from members of the public, including individuals subject to eviction. Investigations of a marshal's conduct are handled like any DOI investigation -- we may review relevant documentation, collect evidence, including where available video or photographic evidence and interview witnesses, among other investigative steps, depending on the nature of the matter, and follow the facts as we do in every case.

DOI has authority to impose penalties including suspension of a marshal's badge, monetary fine, forfeiture of fees collected, and removal from office. DOI cannot make unilateral decisions regarding removal of a marshal and must file charges with the Appellate Division regarding these matters. DOI must also make the Appellate Division aware of any stipulations entered against a marshal, such as a stipulation ending in a marshals' resignation.

Since 2019, DOI has received 550 complaints, conducted 30 investigations, and taken disciplinary action against 11 marshals, including a disciplinary stipulation in November 2019 that resulted in a marshal's resignation.

DOI's public website provides information about the marshals' responsibility to execute evictions and collect money judgments, as well as DOI's oversight role.

What the City Marshals Do

As officers of the Civil Court, marshals primarily enforce court orders, including warrants of eviction, collections of money judgments, and utility meter seizures -- when a utility company, such as Con Edison

or National Grid, has received a judgment to reclaim their meter from customers who have failed to pay their bills.

Marshals participate in the Boot-Tow program for the City Department of Finance (“DOF”) enforcing judgments for the City’s Parking Violations Bureau by placing a boot on vehicles for seizure due to nonpayment of violations, including parking tickets and camera violations. Marshals also conduct vehicle auctions of towed vehicles that have not been reclaimed and that have outstanding judgments. DOF promulgates a Standard Operating Procedures manual, which includes the rules and regulations under which participating marshals operate in the Boot-Tow program. Some marshals also enforce the collection of Environmental Control Board fines on behalf of DOF. Marshals do not serve summonses.

Marshals can be hired by private litigants to enforce judgments issued in their cases and are paid by those litigants. DOF and the New York City Housing Authority also hire City Marshals to execute judgments. Marshals’ fees are set by State law and specific to the services that they provide. By law, marshals retain five percent of any money they collect on court-ordered judgments. The marshals are required to remit an annual assessment fee to New York City consisting of \$1,500 plus 4.5 percent of their gross income. Over the past five fiscal years, those annual assessments have brought in nearly \$6.2 million to New York City’s revenue base.

Marshals perform some of the same functions as the New York City Sheriff’s Office, whose staff are City employees under the umbrella of the City’s Department of Finance. The City’s Sheriff Office can enforce eviction orders of both the Supreme and Civil Courts, whereas the marshals can only enforce eviction orders of the Civil Courts. The fees for City Marshals and the City Sheriff are the same; the City Sheriff’s fees also are set by State law.

It is important to note that DOI does not direct work to the marshals and does not and cannot influence how many and what type of orders the marshals enforce. The nature and quantity of a marshal’s work is based on those who hire them.

Each marshal annually submits to DOI their fees and their yearly financial statement, a month-by-month summary of all sums collected and disbursed by the marshal and a statistical summary of the marshal’s official activities in the preceding calendar year. The Bureau of City Marshals audits those financial statements and reviews any requests for any unclaimed funds, which are generally funds where, for instance, an employer garnishes more wages than the debt requires, or a car has been sold at an auction for more than the outstanding judgment.

Marshals’ Role in Evictions

As I mentioned, City Marshals are authorized to carry out eviction orders issued by the Civil Court, which is where most eviction cases are brought in New York City. The City Sheriff also is authorized to carry out Civil Court eviction orders and private landlords, DOF, or NYCHA can hire a City Marshal or the Sheriff to carry out an eviction order. DOI plays no role in this decision.

Pursuant to State law, when a City Marshal is asked to carry out an eviction, that marshal must first request that the court issue a Warrant of Eviction. After a warrant is issued, but before it is executed, the marshal must serve the tenant with a Notice of Eviction and wait 14 days to execute the warrant – that is, to carry out an eviction. In cases where a tenant would like to delay an eviction, their recourse is to move for a stay on the warrant of eviction in Housing Court. Alternatively, a tenant can communicate with their landlord to request additional time before an eviction, a determination left to the landlord’s discretion.

DOI does not have the authority to delay an eviction or otherwise control the timing of an eviction. One exception to that rule is the limited circumstance when a referral to Adult Protective Services (“APS”)

is warranted. Pursuant to the Marshals' Handbook, before conducting a residential eviction, a marshal must find out whether the resident of the apartment is unable to take care of themselves, such as a disabled, elderly, or infirm adult. If so, the marshal must notify DOI, which then notifies APS. Again, by State law, the eviction is then delayed for two weeks during which time APS assesses the tenant's needs and eligibility for services. APS can also make requests to DOI to have a marshal delay an eviction of an APS client. Since 2019, DOI has processed approximately 11,000 of these APS referrals. There are no other circumstances of which DOI is aware that result in the automatic delay of an eviction, with the exception of severe weather events or other extraordinary circumstances that can result in a suspension of City-wide evictions, such as occurred during the pandemic.

DOI understands the critical and sensitive nature of evictions and is discussing with APS whether there are any other proactive steps that DOI and APS can take, consistent with applicable State law, to ensure all tenants facing eviction who need social services are captured through the existing APS referral procedure.

Evictions executed by City Marshals are searchable as part of an online, public portal that is updated by City Marshals and exists both on DOI's website and on the City's Open Data website. In 2023, there were 13,521 evictions executed by City Marshals in the five boroughs.

Marshals' Role in Collecting Money Judgments

A City Marshal and the City Sheriff's Office can collect on a money judgment order. Both can execute money judgments from the New York State Supreme and Family courts. To collect on a money judgment a City Marshal must be given a court document called an execution, which can be provided by an attorney or the court clerk. This document provides the marshal with legal authority to enforce the judgment and collect an individual's income, money or other personal property.

To begin the collection process, City Marshals must mail a notice of execution to the judgment debtor, informing him or her of the obligation to pay the judgment. Again, State statutes dictate exactly how a money judgment can be collected and what can be collected and City Marshals are bound by these statutes. Certain property such as welfare and social security payments, household furniture and appliances, and a resident's security deposit held by a landlord or utility company is exempt from collection under the law.

Conclusion

I hope this testimony sheds light on an extremely complex area that impacts New Yorkers at very critical and emotional moments in their lives, and also provides some fundamental information as to the law governing City Marshals and DOI's oversight.

I am happy to take any questions you may have.