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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

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# **Collection and Use of the Motor Vehicle Law Enforcement Fee**

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**Department of Financial Services  
Division of Criminal Justice Services  
Division of State Police**

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Report 2012-S-2

July 2013

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## Executive Summary

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### Purpose

To determine whether the Department of Financial Services (Department) has collected, accounted for and distributed all Fee revenue due to the State and whether the Division of Criminal Justice Services (Division) and the Division of State Police (State Police) have ensured that such revenue was spent appropriately. The audit covers from April 1, 2008 through March 31, 2012.

### Background

New York State collects the Motor Vehicle Law Enforcement Fee (Fee) on each automobile insured in the State. The Fee is collected by the insurance companies and remitted to the Department. Between April 2008 and March 2012, insurance carriers remitted \$384.8 million to the Department. About \$18.8 million was deposited into a fund for the Division and the remaining \$366 million was deposited into a fund for the State Police. The Division funds grants to assist law enforcement agencies such as police departments and district attorney's offices to combat motor vehicle theft and insurance fraud. The State Police uses Fee revenue to fund its Auto Theft Unit (ATU) and to detect and reduce motor vehicle theft and insurance fraud.

### Key Findings

- The Department properly collected, accounted for and distributed Fee revenue. However, the Department could better ensure that all Fees are remitted by the insurance companies.
- Division employees visit grantees to monitor how they are using funds, but do not review documentation supporting payment requests and reported performance measures. The Division has completed only seven audits of seven grantees and as of March 2012, the last one was done in October 2008.
- Despite the growth in Fee monies collected, the ATU is not fully staffed and since 2008 the unit has not purchased any new equipment. According to the State Police Annual Motor Vehicle Enforcement Reports, ATU has done fewer investigations resulting in fewer arrests and the recovery of fewer stolen vehicles over the period January 1, 2008 to December 31, 2011.

### Key Recommendations

- The Division should train and require Office staff to verify source documents when they visit grantees to confirm expenses and verify performance measures.
- The State Police should ensure that Fee revenue in the allocation plan is used for the stated purpose and changes to the plan and the reason why are documented.

### Other Related Audits/Reports of Interest

[Division of State Police, Division of Criminal Justice Services and Insurance Department: Administration of the Motor Vehicle Law Enforcement Fee \(2003-S-19\)](#)

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**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

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Mr. Michael C. Green  
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Dear Superintendents Lawsky and D'Amico and Executive Deputy Commissioner Green:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of Department of Financial Services, Division of Criminal Justice Services and Division of State Police entitled *Collection and Use of the Motor Vehicle Law Enforcement Fee*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

## Background

Chapter 55 of the Laws of 1992 enacted the New York State Motor Vehicle Law Enforcement Fee. The Fee pertains to vehicles registered to operate on public roadways in the State. (Some vehicles such as motor cycles and specialty vehicles are excluded.) The Fee is reflected in the cost of motor vehicle insurance policies and is collected by insurance companies when customers pay premiums. On a monthly basis, insurance companies remit the Fee to the Department of Financial Services (Department). The Fee was initially set at \$1 per year per registered vehicle and then increased in 2003 to \$5 and in 2009 to \$10 per year. The Fee is \$5 if the insurance policy is for six months or less.

In 1994, the State enacted Article 36-A of the Executive Law to establish the New York Motor Vehicle Theft and Insurance Fund Prevention Demonstration Program (Program). The Program uses Fee revenue to reduce motor vehicle theft and insurance fraud. The Department is required to take steps to ensure that insurance company rates are reduced to reflect Program savings. In addition, the Department has authority to audit insurance companies. The Department uses the standards set by the National Association of Insurance Commissioners when conducting such audits.

Under the Program, each year the first \$4.7 million in Fee revenue goes to the Division of Criminal Justice Services (Division) and the remaining revenue goes to the Division of State Police (State Police). In addition, Article 6 of the State Finance Law directs the State Police to spend the first \$9.1 million of Fee revenue on operating expenses including, but not limited to, costs related to reducing auto theft and insurance fraud. Any additional amounts available can be used for State Police operating expenses. The Division and the State Police maintain funds to account for their respective Fee revenue. The State Division of the Budget must provide approval for the Division and the State Police to expend monies from these funds. For State fiscal years 2008-09 through 2011-12, Fees collected and deposited with the Division and with State Police total \$384,820,412 as shown in the following table.

State Fiscal Year	Amount of Fees Deposited		Total Fees Deposited
	Division Fund	State Police Fund	
2008-09	\$4,700,000	\$57,417,174	\$62,117,174
2009-10	4,700,000	79,998,418	84,698,418
2010-11	4,700,000	114,557,853	119,257,853
2011-12	4,700,000	114,046,967	118,746,967
<b>Total</b>	<b>\$18,800,000</b>	<b>\$366,020,412</b>	<b>\$384,820,412</b>

The Division uses Fee revenue to provide grants to law enforcement agencies such as local police departments and district attorneys' offices. These entities use the funds to assist their efforts in combating motor vehicle theft and insurance fraud. The Division awards the grants based on various factors, including the frequency of motor vehicle theft and insurance fraud in the grantees'

geographic area. According to the Division, \$18,064,691 was spent on awards to grantees for the period April 1, 2008 to March 31, 2012 and \$698,733 was spent on Program administration over this period. The Division's Office of Program Development and Funding (Office) oversees the Program. The Office reviews grantee quarterly reports showing the fiscal status of the grants and the progress achieved against performance measures specified in grant contracts. Office staff also conducts site visits at the grantees to augment the review of reports.

Each year, the State Police must develop a spending plan for the \$9.1 million. Over the three year period ended March 31, 2012, the State Police allocated only \$9.6 million to its Auto Theft Unit (ATU). The ATU is the lead State entity for detecting and reducing motor vehicle theft and insurance fraud in the State. In addition, the ATU supports law enforcement efforts and local and county police agencies by responding to requests for assistance in undercover work, developing cases and training. The ATU has six offices located throughout the State and has 20 authorized full time investigators. In the State fiscal year ended March 31, 2012, the ATU used about \$2.2 million of Fee revenue for personal services to support the New York State Police Information Network (NYSPIN) which the State Police views as a critical tool for detection and reduction of auto theft. Annually, the Superintendent of the State Police must provide a report to the Governor showing the results of its auto theft prevention activities. The report shows the funds allocated for this purpose; the number of employees assigned; and the numbers of resulting arrests, convictions, and vehicles recovered.

The State's enacted budget for 2012-13 provided authority for the Division of the Budget to transfer \$64.8 million from the Motor Vehicle Theft and Insurance Fraud Prevention Fund, which receives funds from the Fee, to the General Fund. Any funds transferred under such authority are intended to be used for state operations purposes of the State Police. Tracking the use of such funds for anti-theft programs or other specific purposes will be difficult, as a result of such transfers.

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# Audit Findings and Recommendations

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## Collection of the Fee by the Department

One risk that the Department must protect against is the underreporting of Fees from insurance companies. To address this risk, the Department primarily relies on the following:

- annual reports submitted and certified by the insurance companies,
- independent audit reports received from each insurance company, and
- analyses comparing monthly insurance company reports to insurance company annual reports.

Department officials explained that there is no authoritative, independent source to help them verify underreporting of amounts due. In addition, they stated that there is no allocation of Fee revenue that supports the cost of verification of reporting. However, there is still some opportunity for improvement. For example, the Department compared the annual 2010 reporting of Fee revenue for a sample of 90 insurance companies to the monthly 2010 reporting for these companies and identified variances of at least 10 percent for 11 companies. While each company provided an explanation for the variance, the Department did not require the companies to provide supporting analyses demonstrating that the correct Fee revenues were collected. Moreover, when we selected a sample of 100 companies for review of their 2010 or 2011 reporting, we found 24 with variances of at least 10 percent between the annual report totals of Fee collections and the sum of monthly reporting. These error rates further support the need for requesting insurance companies to provide supporting analyses when the sum of monthly Fee reporting for a given year varies substantially from the totals for the comparable annual reporting.

Also, we analyzed the annual Fee revenue for 401 companies that submitted Fee revenue between April 1, 2008 and March 31, 2012. We found 50 companies whose Fee revenue was less than a prior year submission by at least \$5,000 and 50 percent. For example, one company submitted approximately \$1.1 million in Fees for 2009-10, but no Fees in 2010-11. Another company submitted over \$811,000 in 2010-11, but only \$103,655 in 2011-12. Also, we noted that 12 companies sold approximately \$10.3 million of motor vehicle insurance in 2011, but did not submit any Fee revenue for this period. We conclude that the Department ought to perform tests such as these and then obtain supporting analysis and documentation that reasonably assures that insurance companies are correctly reporting and remitting Fee collections.

## Recommendations

### To the Department:

1. Perform additional analytical tests such as the ones discussed in the report to determine whether insurance companies are correctly identifying, reporting and submitting Fee revenue. Follow up by requiring appropriate documentation to support any explanation provided for

exceptions that have been noted.

2. The recommendation has been deleted.

## Monitoring Grants Awarded by the Division

While the Division's Office for Program Development and Funding (Office) does visit grantees and does review reports to assess fiscal activity and performance results, there generally is no verification that the reported information agrees with supporting documentation at the grantee level. When we visited seven grantees, we found two that were not complying with requirements regarding recording employee time spent working on grants. One grantee employee worked on both grant and non grant activities but did not track time spent on each. While the grantee recorded \$105,251 of the total salary of \$186,866 earned over three program years as pertaining to the Division grant, there was no documentation to substantiate that this was accurate. At another grantee entity, 100 percent of an employee's salary of \$194,697 for three program years was included in the Division grant even though the employee reportedly worked to some extent on non grant activity. Another grantee reported that documentation supporting \$10,031 of overtime charged to a Division grant was destroyed by water. We referred this matter to Division officials for follow up. In addition, at the seven grantees we visited, we found inaccuracies in the reporting of 34 of 110 cases involving motor vehicle theft. For example, 23 cases were missing conviction documentation to support reported performance and 11 cases were portrayed as motor vehicle thefts when the cases also involved other charges and, therefore, should have been reported elsewhere in the grantee report.

In responding to these matters, Division officials commented that Office employees are grant managers and the Division's Office of Internal Audit and Compliance (Internal Audit) is primarily responsible for examining documentation in support of expenses. However, Internal Audit has conducted limited grantee auditing in recent years (seven grantees) and as of March 2012, the last one was October 2008 primarily because Internal Audit lacks resources and is directed to focus on other areas deemed to be higher priority. Also, Division officials reported that they are awaiting approval for revisions to a monitoring tool that is used when visiting grantees.

## Recommendations

### To the Division:

3. Remind grantees of need to properly document grant expenditures including payroll expenses for those employees who work part time on grants.
4. Train and require Office staff to verify source documents when they visit grantees to confirm expenses and verify performance.
5. Provide guidance to grantees regarding the correct reporting of cases that entail other crimes in addition to auto theft.

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## Expenditures by State Police

### *Staff and Resources for the ATU*

Despite the growth in Fee revenue in recent years, we noted that the State Police has performed fewer investigations resulting in fewer arrests and fewer recoveries of stolen vehicles based on information contained in the State Police Annual Motor Vehicle Enforcement Reports for the four calendar years ending December 31, 2011. For example, over this period of time, ATU investigations declined 61 percent and arrests and vehicle recoveries both declined 64 percent. At the same time, we noted that the ATU has only staffed 14 of 20 authorized investigator staff positions and has not purchased any new equipment for the unit since 2008, though ATU staff informed us that some equipment currently available for surveillance and undercover work is obsolete and cannot be used during an investigation.

In addition, not all of the \$9.1 million of Fee revenue that State Police allocated to use for auto theft and insurance fraud detection each year is being used according to the allocation plan. In fiscal year 2010-2011, the State Police used \$1.2 million of Fee revenue for information technology consultant services and another \$150,000 for vehicles, computer equipment and office rent in support of the Governor's security detail even though these expenses were not in the approved allocation plan for Fee revenue. In addition, no documentation was provided to support changes to the allocation plan that would authorize these uses of Fee revenue.

In response to our preliminary findings, State Police officials stated that the Division of the Budget required State agencies to keep their expenditures flat due to the State's fiscal condition. In addition State Police officials informed us that while Investigators in the ATU have retired, been promoted or transferred, the State Police has not hired new troopers and, as a result, vacancies have remained unfilled. However, officials also added that two additional investigators were assigned to the ATU in October 2012 and that additional troopers had been hired and were in training. They added that surveillance equipment is available upon request in central supply for use by the ATU.

## Recommendations

### **To the State Police:**

6. Ensure that Fee revenue in the allocation plan is used for the stated purpose and any changes to the allocation plan and the reasons why are documented.
7. Ensure that the staffing and equipment resource needs of the ATU are identified and met consistent with Fee revenues that are available and authorized to spend.

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## Audit Scope and Methodology

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We audited whether the Department has collected, accounted for and distributed all Fee revenue due to the State and whether the Division and the State Police have ensured that such revenue was spent appropriately. Our audit covers the period April 1, 2008 through March 31, 2012.

To accomplish our objective at the Department, we reviewed laws, interviewed Department officials and reviewed records related to the collection of the Fee. We also selected a judgmental sample of deposits based on amount and date and reviewed the documentation supporting the deposit and that the Fee revenue was deposited into the proper bank accounts. We also reviewed the documentation to support other activities related to the collection and oversight of the Fee, including annual reports and monthly reports submitted by insurance companies, correspondence with insurance companies, and reports and analyses completed by the Department.

At the Division, we reviewed laws, interviewed Division officials and reviewed documentation related to the overall Program and to individual grants. We selected a judgmental sample of seven grantees; based on the amount of money received, number of grants awarded during our audit period and the type of grantee (law enforcement agency or district attorney's office). We visited those seven grantees, where we reviewed records supporting grant related expenditures and reported performance measures, including payroll records and overtime slips, invoices, travel vouchers, and case files.

At the State Police, we reviewed laws, and interviewed State Police officials. We reviewed documentation related to Fee expenditures, verified equipment purchases and reviewed case files. We also met with Investigators at the five of the six ATU locations. We reviewed documentation supporting the allocation plan and actual expenditures of the \$9.1 million in Fee revenue directed to motor vehicle theft and motor vehicle insurance fraud reduction.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

## Authority

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This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

## Reporting Requirements

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A draft copy of this report was provided to officials at all three agencies for their review and comment. The Division and State Police generally agreed with our recommendations and indicated steps they have taken or will take to implement them. Department officials disagreed with our findings and recommendations. The three agency responses were considered in preparing this final report and are attached in their entirety to this report. In addition, we have included State Comptroller's Comments at the end of this report to address statements made in the Department's response.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Superintendent of the Division of State Police, the Commissioner of the Division of Criminal Justice Services and the Superintendent of the Department of Financial Services shall each report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

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## Contributors to This Report

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## Division of State Government Accountability

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### Vision

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# Agency Comments - Department of Financial Services



NEW YORK STATE  
DEPARTMENT of  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

April 26, 2013

Ms. Carmen Maldonado  
Audit Director  
Office of the State Comptroller  
110 State Street, 11<sup>th</sup> Floor  
Albany, New York 12236

Re: Audit Report 2012-S-2  
Motor Vehicle Law Enforcement Fee ("MVLEF" or "Fee")

Dear Ms. Maldonado:

I write on behalf of the Department of Financial Services ("DFS" or the "Department") in response to the two audit findings ("AF"s) concerning DFS that the Office of the State Comptroller ("OSC") sets forth in the above-referenced audit report dated March 27, 2013 ("Report"). Each AF is quoted below and followed by the Department's response to it. For the reasons set forth below, the Department believes that neither AF should be included in the final Report.

1. Additional Test for Verification of Fees

AF 1:

*Perform additional analytical tests such as the one discussed in the report to determine whether insurance companies are correctly identifying, reporting and submitting Fee revenue. Follow up by requiring appropriate documentation to support any explanation provided for exceptions that have been noted.*

DFS Response:

The "analytical test" that the Report recommends DFS conduct is the comparison of an insurer's annual Fee revenue to the company's prior year annual Fee revenue. OSC suggests that the Department add such testing to its current practice of comparing selected insurer monthly Fee revenue reports to the insurers' annual Fee revenue report.

DFS believes that running the proposed test as a supplemental measure might aid in the monitoring, reporting and collecting of Fees. However, adding this test is of limited utility because its results are not reliably indicative of insurer wrongdoing.

\*  
Comment  
1

There are many reasons for a fluctuation in the number of cars registered from one year to the next and thus in the quantity of Fees collected year over year. An insurance company may transfer a book of business to a different company or may decide to run off existing business. A decline in the number of an insurer's registered vehicles noted by OSC in the Report was due to the company's implementation of a withdrawal plan approved by the Department. Each of these events would cause a decline in the number of cars registered in the year following the event, but none of the events would be attributable to an insurer's failure to collect or remit Fees.

The Department's current process of comparing monthly to annual Fee reports is effective and efficient, but if the OSC insists on the additional step of comparing annual Fee submissions year over year, then the Department is willing to do so. In addition, the Department will implement procedures to require appropriate documentation from insurers to support insurer explanations or exceptions.

## 2. Correlation Between Fees and Insurance Losses Avoided

### AF 2:

*Work with insurance companies to ascertain the changes in loss experience for auto thefts and insurance fraud that are attributable to the administration of the Fee.*

### DFS Response:

This finding rests on the assumption that declines in loss experience can reliably be attributed to a particular causal factor, such as Fees collected, or combination of factors. Yet the Department is unaware of a way to demonstrate a traceable causal correlation between Fee dollars spent and insurance losses avoided, nor has OSC suggested one. Without such a causal connection, neither the Department nor insurers can precisely gauge – in quantitative terms – the Fees' direct impact on insurance rates.

As explained in the Report, the Fees are deposited into a fund and disbursed in the form of grants to the State Police Auto Theft Unit, district attorney offices, police departments, and other law enforcement agencies. When an insurance company observes a reduction in theft and fraud activity in its loss experience, the insurer cannot directly attribute, dollar for dollar, the drop in fraud or theft to the grants that were awarded to law enforcement agencies.

However, despite the inability to establish a direct causal connection between better loss experience and awarded grants, the Department ensures that insurance rates take into account reduction in insurance fraud and vehicle theft activity, and therefore complies with the Insurance Law.

The statute that governs collection of the Fee is New York Insurance Law § 2348. In relevant part, § 2348 provides: "[i]n the review and approval of rate filings . . . the superintendent shall take steps appropriate to ensure that the rates of each insurer

* Comment 2
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\* See State Comptroller's Comments, page 20.

reflect the insurer's savings resulting from reduced theft and fraud" produced by Fee supported programs.

Contrary to OSC's implication, the Department does not need to establish conclusively that expenditure of Fees results in reduced loss experience from fraud and theft. Taking very seriously its obligation to implement § 2348, DFS employs available resources to plug the information gap. Grants awarded to combat auto theft and insurance fraud affect general loss trends among insurance carriers. And the Department carefully examines several independent data sources to confirm that requested rate changes are in line with those documented trends. In this regard, the Department performs an independent actuarial analysis for each insurer's rate application. In addition, the Department uses several sources of indirect evidence to estimate the Fund's impact on rate setting. Such verification enables the Department "to ensure that the rates of each insurer reflect the insurer's savings resulting from reduced theft and fraud," and thereby fulfills the statutory mandate by protecting consumers from unjustified and excessive rate increases.

* Comment 2
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For example, an insurance company's loss data for comprehensive perils coverage may indicate an increase or decrease in auto theft.<sup>1</sup> Similarly, an insurer's loss data for personal injury coverage (*e.g.*, a demonstrable rise or fall in frequency of medical claim filings) may indicate an increase or decrease in fraudulent activity. But examination of the insurers' loss indicators constitutes only one element of the Department's rate setting analysis.

After the Department examines an insurer's reported claims experience, it then cross checks that submission against independent trending data. That industry-wide baseline information provides a comparative tool with which DFS can better contextualize and evaluate a particular rate request.

In circumstances where a carrier's reported claims experience differs significantly from independent trending data, the Department has required carriers to modify their rate requests in favor of consumers. Thus, in the first half of 2012, there were 81 rate filings that the Department approved or acknowledged. In 10 of those 81 filings (approximately 12%), the Department granted lower rate increases than were requested because the carriers' factual support was not in keeping with prevailing loss trends. As a result, the Department took appropriate steps in the interest of consumer protection.

Not only is it unnecessary for the Department to show that expenditure of Fees directly causes reduced loss experience from fraud and theft in order to fulfill its statutory mandate, but also it would be impossible for anyone to prove conclusively that changes in loss experience for auto thefts and insurance fraud are attributable to Fee revenue. There are many reasons that loss experience for theft and fraud might decline. There could be a trend in New York of less auto theft and insurance fraud for economic or sociological reasons, unrelated to law enforcement. A downward trend could be attributable to increased efforts by insurers' special investigations units. The trend also

<sup>1</sup> In fact, loss data that DFS has received from carriers over time indicate a drop in car theft.

\* See State Comptroller's Comments, page 20.

could result from the expenditure of Fees, or it could result from some combination of factors. The Department is not aware of any method to determine which factor or factors are responsible for creating a downward loss trend, or what quantum of loss is attributable to each of the various possible trends. Making such a determination, therefore, should not be considered an "appropriate step" that the Department is required to take to comply with § 2348.

In implementing § 2348's directive, the Department is mindful to make effective use of relevant, *available* data. The OSC's recommendation to "work with insurers" is not a viable solution because, like DFS, insurers do not have the data necessary to establish a correlation between Fund dollars and insurance losses avoided. DFS is, however, open to any specific, feasible solutions OSC may suggest that would allow for the Department to calculate any direct correlation.

* Comment 2
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### 3. Conclusion

For the foregoing reasons, although DFS is willing to accept the suggestions made by OSC in AF 1, neither AF should be included in the final Report.

Very truly yours,



Lawrence Montle  
Director of Internal Audit

cc: Daniel S. Alter  
Robert H. Easton  
Jean Marie Cho

\* See State Comptroller's Comments, page 20.

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# Agency Comments - Division of Criminal Justice Services

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April 24, 2013

Carmen Maldonado  
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Office of the State Comptroller  
Division of State Government Accountability  
123 William Street - 21<sup>st</sup> Floor  
New York, NY 10038

Dear Ms. Maldonado:

Thank you for the opportunity to respond to the findings and recommendations included in your Draft Audit Report covering the results of your review of the Division of Criminal Justice Services (Division) administration over the Motor Vehicle Theft and Insurance Fund Prevention Demonstration Program.

For ease of review, listed below is the OSC draft recommendation followed by the Division's response.

**1. *Remind grantees of need to properly document grant expenditures including payroll expenses for those employees who work part-time on grants.***

The Division is developing a webinar to provide general training to all grantees covering the need to properly document grant expenditures. The training will also include examples of the types of documentation needed to appropriately support payroll expenses. In addition, all grantees will be encouraged to view this webinar each time a new contract is executed.

**2. *Train and require office staff to verify source documents when they visit grantees to confirm expenses and verify performance.***

The Division's Office of Program Development and Funding completed revisions to its grantee monitoring and site visit checklist and reviewed the updated checklist with staff in October 2012. The updated checklist includes steps that require office staff to verify the appropriateness of source documents that are used to support personal service costs and reported performance. All OPDF staff will be trained in the use of the checklist and the appropriateness of source documents.

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3. *Provide guidance to grantees regarding the correct reporting of cases that entail other crimes in addition to auto theft.*

The Special Conditions section for the Motor Vehicle Theft and Motor Vehicle Insurance Fraud Prevention Program (MVTIF) grants has been modified to more clearly reinforce that only eligible activities outlined in the Statewide Plans of Operation can be supported with motor vehicle funds. In addition, the Division included additional performance measures and reporting requirement for MVTIF contracts commencing January 1, 2013. These additional performance measures and reporting requirements will facilitate grantee reporting of cases that entail other crimes in addition to motor vehicle theft (e.g. criminal mischief, auto stripping) that were not being reported or were reported incorrectly.

Please contact Bob Wright at 518-485-5759 if you have any questions.

Very truly yours,



Michael C. Green  
Executive Deputy Commissioner

cc: M. Bonacquist  
A. Strano  
B. Wright

# Agency Comments - Division of State Police



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JOSEPH A. D'AMICO  
SUPERINTENDENT

April 29, 2013

Ms. Carmen L. Maldonado  
Audit Director  
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Division of State Government Accountability  
123 William Street, 21<sup>st</sup> Floor  
New York, New York 10038

Dear Ms. Maldonado:

This letter will serve as the response of the Division of State Police (the "Division") to the draft *Collection and Use of Motor Vehicle Law Enforcement Fee Report 2012-S-2*, March 2013 (the "Report").

With respect to the specific recommendations to the Division of State Police, the Division offers the following:

**Recommendation # 6: Ensure that Fee revenue in the allocation plan is used for the stated purpose and any changes to the allocation plan are documented.**

The Division will take steps to ensure that any changes to the allocation plan are properly documented.

**Recommendation # 7: Ensure that the staffing and equipment resource needs of the ATU are identified and met consistent with Fee revenues that are available and authorized to spend.**

Since 2008, any Auto Theft Unit ("ATU") staffing vacancies that have not been filled are due to a higher than expected attrition rate and an unprecedented closure of Academy classes. From 2008 to 2011, there were no State Police Academy Classes. The absence of Academy graduates during that four-year gap was aggravated by attrition rates higher than forecasted. Approximately one-third of the State Police membership were eligible to retire and more retired than expected.

Nonetheless, Investigators from the Special Investigations Unit (housed in the same office space with ATU investigators statewide), have fulfilled the responsibilities of retired or transferred ATU members. Consequently, since 2008, the State Police has answered every law enforcement agencies' request for assistance with auto theft related matters. Additionally, the

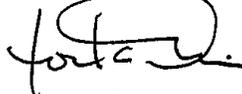
State Police expects to gradually restore staffing levels to the ATU, among other details, as two 2012 Academy classes are expected to graduate and enter the field by May 2013. Multiple Academy classes are expected to commence in fiscal year 2013. In fact, since the audit was completed, two (2) additional Investigators have been assigned to the ATU in White Plains, bringing the current statewide complement up to sixteen (16).

Nonetheless, Investigators from the Special Investigations Unit (housed in the same office space with ATU investigators statewide), have fulfilled the responsibilities of retired or transferred ATU members. Consequently, since 2008, the State Police has answered every law enforcement agencies' request for assistance with auto theft related matters. Additionally, the State Police expects to gradually restore staffing levels to the ATU, among other details, as two 2012 Academy classes are expected to graduate and enter the field by May 2013. Multiple Academy classes are expected to commence in fiscal year 2013. In fact, since the audit was completed, two (2) additional Investigators have been assigned to the ATU in White Plains, bringing the current statewide complement up to sixteen (16).

Regarding equipment, the Division has a mechanism by which obsolete equipment is removed from inventory and recycled or discarded. While the equipment observed during the audit is somewhat dated and not "state-of-the-art", it is functional and useful in achieving the mission of the ATU. Additionally, any equipment observed in an ATU office on a given day does not represent all of the equipment available. This equipment is part of a statewide electronics equipment "library" maintained in Albany by the New York State Police Electronic Surveillance Unit. The full array of equipment is available, upon request, for use by any State Police unit or another law enforcement agency in New York State.

Finally, I thank you and your auditors for their professionalism throughout the course of this audit.

Very truly yours,



Joseph D'Amico  
Superintendent

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## State Comptroller's Comments

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1. As the Department's response points out, the test might aid in the monitoring, reporting and collecting of Fees. That is precisely why we recommended it. We are not insistent on the implementation of our recommendation. While we believe it is worthwhile, management has the ultimate responsibility to determine what recommendations will be implemented and the reasons why and why not.

We also acknowledge that there are many reasons for a fluctuation in the number of cars registered from year to year and thus in the quantity of Fees collected. Our point is that documentation should be provided supporting an analysis of the fluctuations where warranted. We are pleased that the Department will implement procedures to require appropriate documentation.

2. Based on the agency response to the draft report, we have deleted from the final report our findings and related recommendation number 2 that pertained to the correlation between the Fee and the insurance losses avoided.