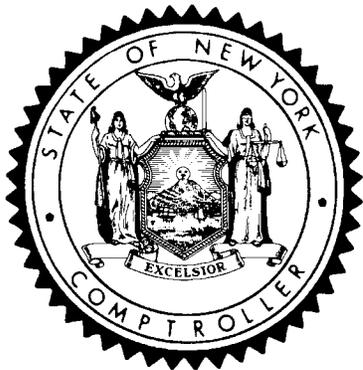


State of New York
Office of the State Comptroller
Division of Management Audit
and State Financial Services

DEPARTMENT OF MOTOR VEHICLES

UNINSURED VEHICLES

REPORT 98-S-4



H. Carl McCall
Comptroller



State of New York Office of the State Comptroller

Division of Management Audit and State Financial Services

Report 98-S-4

Mr. Richard E. Jackson, Jr.
Commissioner
Department of Motor Vehicles
Swan Street Building, Empire State Plaza
Albany, NY 12228

Dear Mr. Jackson:

The following is our report on the effectiveness of actions taken by the Department of Motor Vehicles to ensure that vehicles registered in the State of New York are covered by liability insurance.

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. We list major contributors to this report in Appendix A.

*Office of the State Comptroller
Division of Management Audit
and State Financial Services*

April 14, 2000

Executive Summary

Department of Motor Vehicles Uninsured Vehicles

Scope of Audit

The Department of Motor Vehicles (DMV) promotes safety on the streets and highways of New York State by licensing drivers, registering motor vehicles, and providing other related services. In fiscal year 1998-99, DMV had a budget of about \$121 million and employed approximately 3,400 people. It licensed about 10.5 million drivers in 1998. The Vehicle and Traffic Law (Law) requires all of the approximately 10 million motor vehicles registered in the State to be covered by liability insurance, and requires insurance companies to formally notify DMV within 30 days after insurance coverage on a vehicle is terminated. The names of the companies that do not notify DMV of such terminations can be referred by DMV to the State Insurance Department (SID) which may impose penalties on them. The State has an interest in seeing that the owners of uninsured vehicles are identified and that the Law is enforced. New York vehicle owners pay among the highest insurance premiums in the nation. Reducing the number of uninsured drivers on the State's roads should make them safer and lead to a reduction in auto insurance rates.

In light of changes in the Law passed in 1998, DMV officials are undertaking a major program to upgrade the Department's automated information systems. Officials anticipate that they will be phasing in technology improvements during the year 2000.

We audited the effectiveness of DMV's efforts during the period of January 1, 1997 through May 29, 1998, to ensure that vehicles registered in New York State are covered by liability insurance. Our audit addressed the following questions:

- ! Does DMV take necessary actions to identify the owners of uninsured vehicles and to follow-up with them on a timely basis?
- ! Does DMV have an effective process for identifying and referring to SID the names of insurance companies that do not properly report terminations of insurance coverage?
- ! How can the problems identified in this report be addressed in the new system design?

Audit Observations and Conclusions

We found that DMV does not take all necessary actions to identify the owners of uninsured vehicles and to follow-up with them on a timely basis. DMV officials need to implement procedures to enable them to determine whether companies selling vehicle liability insurance to New York residents are providing DMV with correct and timely data regarding terminated

policies. We found that many companies do not report insurance terminations, and others often report them late or inaccurately, compromising the ability of DMV and law enforcement officials who rely on DMV data to deal effectively and promptly with owners of uninsured vehicles.

Based on our review of records maintained by DMV and SID, we identified 80 companies that sold vehicle liability policies totaling about \$77 million during 1997, yet had reported no terminations to DMV that year. We found that DMV has no system for determining whether companies that terminate policies actually report them to DMV. This problem could be remedied if DMV obtained a master list from SID of companies authorized to write vehicle liability insurance, then followed up periodically with the non-reporting companies. (See pp. 5-7)

In addition, we determined that 208 of the 231 insurance companies that did report terminations in 1997 did not always notify DMV within 30 days, as required. DMV has the authority to refer noncompliant insurance companies to SID, for possible sanction. However, DMV has no formal criteria for identifying companies that should be referred to SID. DMV needs to develop and implement formal criteria for identifying companies whose performance is unacceptable and worthy of referral to SID. (See pp. 9-12)

The Law also requires uninsured-vehicle owners to surrender their license plates and registration certificates, and authorizes DMV to suspend the driver's license of any owner who does not do so within 90 days after that insurance coverage ended. The late notifications of policy terminations by insurance companies can impede DMV's efforts to enforce the Law. For the calendar year 1997, we identified 17,908 cases in which DMV did not send out timely warning notices (i.e., within 90 days). In fact, more than 4,400 of the 17,908 notices were mailed 180 days or more after the insurance coverage ended. DMV needs to take timely action to suspend the licenses of vehicle registrants who do not surrender the license plates of uninsured vehicles within 90 days of the termination of insurance. (See pp. 9-10)

DMV officials should consider how the problems identified in this report can be addressed in the new system design they anticipate will be phased-in during the year 2000.

Comments of DMV Officials

DMV officials state that the report does not identify any new issues that they were not aware of prior to the audit and that they are being addressed as part of the new system. We are pleased with the direction they are taking and hope that this report adds value in consideration of the depth and extent of the problems identified. Some problems, however, are due to inefficient relationships and protocols, and may not be simply addressed by the new system implementation.

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Introduction

Background

The Department of Motor Vehicles (DMV or Department) promotes safety on the streets and highways of New York State (State) by licensing drivers, registering motor vehicles, and providing other related services. The Department operates from its central headquarters in Albany and in three other regional offices throughout the State. In fiscal year 1998-99, DMV had a budget of about \$121 million and employed approximately 3,400 people.

The State's Vehicle and Traffic Law (Law) requires all motor vehicles registered in the State to be accompanied by proof of liability insurance, which is to be maintained throughout the registration period. According to this Law, owners run the risk of fines and possible imprisonment if a police officer finds them operating an uninsured vehicle. Operation of the insurance enforcement program is the responsibility of the Department's Insurance Service Bureau.

All insurance companies that intend to sell vehicle insurance policies in New York State must be licensed by the State Insurance Department (SID). Article VI, Section 313.2(a), of the Law requires insurance companies to notify DMV not later than 30 days after the effective date of a cancellation or other termination of an insurance policy. If the company does not comply with the Law, DMV has the authority to refer it to SID for sanction.

In calendar year 1998, DMV reported that New York State had about 10.5 million licensed drivers, and approximately 10.1 million registered vehicles. About 47 percent of these registered vehicles were located in New York City, Long Island, and Rockland and Westchester counties. In the same year, these vehicles had 306,646 reportable accidents (vehicle-related events that result in a fatality, an injury, or property damage in excess of \$1,000), including 2,505 that involved uninsured vehicles. (The reportable accidents involving uninsured vehicles in the four previous calendar years of 1997, 1996, 1995, and 1994 were 7,212, 13,884, 6,530, and 10,675, respectively.) According to the latest DMV statistics available, in 1998, 31,029 drivers were convicted of operating an uninsured vehicle.

About \$7.9 billion in annual premiums is currently paid by 6 million private passenger automobile policy holders in New York to insure their vehicles. In recent years, New York residents have paid among the

highest premiums in the nation for such insurance. Moreover, in the period 1990-1996, the premiums they pay have increased at a faster rate than the national average. Reducing the number of uninsured drivers on the State's roads should make them safer and lead to a reduction in auto insurance rates.

Audit Scope, Objectives, and Methodology

The objectives of this performance audit were to determine the effectiveness of the Department's efforts to identify and take appropriate actions against owners of uninsured vehicles registered in New York State. We also evaluated the effectiveness of the process followed by DMV when it refers to SID the names of insurance companies that do not make proper reports of insurance coverage terminations. Our audit, which excluded vehicles for hire and motorcycles, covered the period from January 1, 1997 through May 29, 1998.

To accomplish our objectives, we reviewed relevant laws, rules, regulations, policies, procedures, logs of information received by DMV from the insurance companies, information provided by SID to identify insurance companies licensed in the State, and other documents. We interviewed appropriate DMV, SID, State Police, and insurance company officials. We also sent questionnaires to the 15 most-highly-populated states to learn what their motor vehicle offices do to reduce the number of uninsured vehicles in their states.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the Department which are included within our audit scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing management's estimates, judgments, and decisions. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We used a risk-based approach to select activities for audit. We therefore focus our audit efforts on those activities we have identified through a preliminary survey as having the greatest chance for needing improvement. So, by design, we use finite audit resources to identify where and how to make improvements. Thus, we devote little audit effort to reviewing

operations that may be efficient or effective. As a result, our audit reports are prepared on an “exception basis.” This report, therefore, highlights those areas needing improvement and does not focus on activities that may be functioning properly.

**Response of
Department of
Motor Vehicles
Officials to Audit**

A draft copy of this report was provided to DMV officials for their review and comment. DMV officials state that the report does not identify any new issues that they were not aware of prior to the audit and that they are being addressed as part of the new system. We are pleased with the direction they are taking and would hope that this report adds value to them in consideration of the depth and extent of the problems which will reportedly be addressed in their new system. Some problems, however, are due to inefficient relationships and protocols. This may not be simply addressed by the new system implementation. DMV officials’ comments have been considered in preparing this report and are included as Appendix B.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Motor Vehicles shall report to the Governor, the State Comptroller, and 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 therefor.

Reporting of Policy Terminations by Insurance Companies

To register a vehicle in New York State, an owner must show proof of liability insurance. Article VI of the Vehicle and Traffic Law (Law) requires insurance companies to formally notify DMV within 30 days after the liability insurance on a vehicle is terminated. Although SID reported that 365 insurance companies had issued such policies in New York State during the calendar year 1997, DMV's Quality Control Unit (QCU) records indicated that just 231 of those companies had reported insurance terminations during that year. DMV and SID officials advised us that 54 of the 134 companies that did not report any terminations had merged with another company, had used a parent company to report terminations, or had stopped selling vehicle liability insurance; therefore, they were not required to report. However, the remaining 80 companies, which wrote policies totaling about \$77 million during 1997, had reported no terminations to DMV. Annual sales of vehicle insurance by 20 of these companies had exceeded \$1 million each - - altogether, about \$66.5 million in 1997 (see Exhibit A). The highest non-reporting company in this group sold nearly \$13.8 million of vehicle insurance in that year.

DMV does not have a process for determining whether companies that terminate policies during the year actually report the terminations to the Department. Thus, DMV officials are unable to identify companies that do not report terminations, but should have. Under the Law in effect during our audit period, companies have to report only if there are terminations. This problem could be remedied if DMV obtained a master list of companies that are licensed by SID to write vehicle liability insurance and then periodically followed up with the companies that are not reporting terminations. DMV could also consider requiring companies to report even if they have no terminations.

DMV officials might want to consider adopting the type of procedure described by New Jersey officials in their response to our survey questionnaire: Insurance companies selling policies to New Jersey residents are required to report current policy holders to the state on a monthly basis. Once this data has been logged and screened, it is matched to a file of vehicle registrations so that uninsured vehicles can be identified on a timely basis.

DMV officials indicated that they are aware of the potential that there are non-filers. However, they concluded that the risk is low and that their limited resources are best utilized addressing the annual volume of errant

termination transactions received from established reporting insurers. We disagree with DMV's conclusion. We have identified 80 companies, which wrote policies totaling about \$77 million during 1997, that had reported no terminations to DMV. Since DMV does not have a process to determine if companies are non-filers, we believe that DMV has no basis to conclude that the risk is low.

Regulations established by the DMV Commissioner also require insurance companies to use a "unique identification number," issued by DMV, when they report policy terminations. We identified nine insurance companies that lacked the required three-digit identification number. Three of these were affiliated with a group of insurers, and each of the three companies reported the collection of more than \$77 million in vehicle insurance premiums in 1997. The remaining six companies reported far less in premium collections, with none receiving more than \$141,000 in 1997. DMV officials acknowledged that none of the nine companies had the required ID number, but advised us that the three affiliated companies "probably" reported policy terminations under the number of a related company. DMV further explained that four of the other six companies had never applied for an ID number; one company's application was incomplete; and the remaining company was subsequently issued an ID number in June 1998. To help ensure that affiliated companies comply with the requirement of reporting policy terminations, DMV should issue a separate ID number to each company.

Recommendation

1. Obtain from SID periodically a master list of all companies licensed to write vehicle liability insurance policies in New York State that also indicates which of those companies are actively writing policies. Then:
 - ! Compare this with the list of companies that have reported terminations of coverage, and contact the remaining companies to determine their reasons for not reporting.
 - ! Identify and issue a DMV identification number to any company licensed by SID to write automobile insurance that does not already have a number.

(DMV officials indicate that they will be able to identify those companies that are not in compliance with reporting requirements through mechanisms that will be part of the new Insurance Information and Enforcement System that they will be phasing in during the year 2000.)

Timeliness of Policy Termination Reporting

We determined that just 23 of the 231 insurance companies reporting terminations to DMV always reported within the 30-day requirement during 1997. We identified 23 companies that had filed more than half of their terminations late that year. According to DMV records, nine of these companies had less than 100 terminations filed late, while the other 14 insurance companies had from 102 to more than 7,400 terminations filed late during 1997. The following table summarizes the rates of late filings DMV reported to SID for 1997:

Number of Companies Filing Terminations Late	Percentage of Terminations Filed Late (Late Filings/Total Filings)	Terminations Filed Late for the Indicated Number of Companies	Range of Terminations Filed Late
7	70%+	15,483	3 - 7,403
7	60-69%	3,077	11 - 2,415
9	50-59%	3,894	2 - 1,717
15	40-49%	14,999	8 - 5,462
22	30-39%	11,923	3 - 4,524
53	20-29%	39,102	1 - 6,020
69	10-19%	111,105	2 - 26,599
26	1-9%	51,570	1 - 10,933
<u>208</u>		<u>251,153</u>	

The late notifications of policy terminations by insurance companies can impede DMV's efforts to enforce the Law. Specifically, Section 318 of the Law authorizes DMV to suspend the driver's license of any vehicle registrant who does not surrender the license plate of the uninsured vehicle within 90 days of the insurance termination. When DMV receives a notice of policy termination from an insurance company, the Department sends a "first-inquiry letter" to the vehicle's owner to determine whether the motorist has obtained coverage from another company. However, due mainly to delays in the data provided by the insurance companies, DMV did not always issue first-inquiry letters timely, and consequently, may not have required owners to surrender their license plates and registration certificates timely after their insurance coverage ended.

We identified 17,908 cases during 1997 in which DMV did not send out first-inquiry letters until more than 90 days after the policies were terminated, as summarized in the following table:

Days after Policy Termination	Number of 1ST Inquiry Letters Mailed
91-120	7,651
121-150	3,416
151-181	2,430
< 181	4,411
Total	<u>17,908</u>

In each of these instances, DMV officials began to communicate with the owners at a time when they should already have been taking steps to suspend the owners' driver licenses, if the vehicles in question were not insured.

In addition, through annual and periodic reports, DMV informs SID about companies that file late, but it does not give SID recommendations for sanctioning them. This referral listing could include recommendations of the companies that should be sanctioned. (DMV officials indicated in response to our draft report that in the past they did make recommendations to SID.) DMV officials provided us with a list of 65 companies they referred to SID in 1997. We noted that none of the 65 companies listed was sanctioned by SID in 1997. We also found that DMV has no formal criteria for identifying companies that should be included on the referral list. We compared the list of 65 companies referred to SID with the 23 companies that filed more than 50 percent of their termination notices late. We observed that just 4 of the 23 had been included among the 65 companies DMV referred to SID. We believe DMV needs to establish clear criteria for selecting companies for referral, as well as procedures for documenting the selection process.

DMV officials advised us that they consider other factors, such as the extent of non-reporting and the percentage of "unresolved no-hits" and edit errors (discussed later in this report), when they determine which companies to refer to SID. We acknowledge that all factors should be considered in determining which companies should be referred. However, we found inconsistencies in the companies referred. DMV needs to standardize the criteria used for identifying companies whose performance is unacceptable.

We also found that just one DMV employee is responsible for both identifying companies whose reporting is deficient and referring them to SID. This employee performs functions within this process that may be in violation of internal control procedures regarding the separation of duties. In essence, this employee controls the entire process of identifying and referring

insurance companies to SID for what could result in large financial penalties. Specifically, this employee is responsible for:

- ! compiling data and preparing an annual report on insurance companies' compliance with the 30-day reporting requirement;
- ! communicating with noncompliant insurance companies about their failure to meet the 30-day requirement; and
- ! preparing a list of companies for referral to SID.

DMV has not established a supervisory review/approval process that applies to this employee's referrals and recommendations. As a result, he has complete control over which companies DMV refers to SID. Within the past four years, based on this employee's recommendations, SID sanctioned just one company in 1996 and three others in 1998. The first company paid SID a financial penalty of \$301,400; the other three paid \$3,064, \$47,699, and \$128,122. Without both formal criteria and direct supervisory oversight, there is considerable risk that DMV may not be appropriately referring insurance companies to SID for the necessary review and punitive actions. (DMV officials indicated in response to our draft report that, "the Director of the Insurance Services Bureau was continually informed as to performance monitoring activities, the referral process and the outcomes of those referrals.")

Under the current process, DMV relies almost exclusively on insurance companies to identify and report vehicles that they are no longer insuring. If insurance companies do not file terminations, as prescribed by the Law, DMV has no other way to identify uninsured vehicles before they are involved in an accident. In addition, a company could claim that it had no policy terminations to report during a specific period even though it had actually terminated coverage of certain vehicles. The Department should consider establishing procedures for determining whether companies that do not report terminations (or claim they had no terminations), in fact, do not have terminations.

In our survey of other states' motor vehicle departments, we learned of a novel approach Illinois takes to help identify uninsured vehicles. According to Illinois' law, the Illinois Vehicle Services Department must mail questionnaires to a random sample of owners of registered vehicles in the state, asking each person to confirm that their vehicle was insured on a specific date by providing the name of the insurance provider and the number of the policy covering the vehicle. The owner must respond with the required information within 30 days; if there is no response or if the response

is incomplete or indicates that the vehicle was not insured on the date specified on the questionnaire, the owner is notified by mail that their license plate will be suspended within 45 days unless they provide evidence of insurance for the specific verification date. To help determine the extent to which certain vehicles are not insured, DMV could, as resources permit, perform such a test, on a sample basis, with policy holders of companies that do not report terminations or claim they had no terminations during a specific period.

Recommendations

2. Develop and implement written criteria for identifying insurance companies to be referred to SID for consideration of sanction or other actions, as deemed appropriate.

(DMV officials indicated they will be requesting the establishment of an analytical unit to monitor and review company performance, and to clarify and refine the criteria for making referrals.)

3. Redistribute the job functions of the single employee currently responsible for identifying and reporting noncompliant insurance companies to SID. At a minimum, implement adequate supervisory oversight and approval of the review and referral process.

(DMV officials responded that they recognize that one individual can not effectively perform this task. They anticipate the new system will provide informational reports to facilitate the monitoring process, and they will be requesting the establishment of a unit to dedicate to this function.)

Recommendations (Cont'd)

4. Develop a process for determining whether companies have properly reported vehicles they no longer insure. For example, consider surveying periodically the owners of vehicles (selected on a sample basis) of companies that have not submitted policy termination information to DMV over a specific time period, asking each owner to confirm and document that their vehicle was insured on a specific date.

(DMV officials indicated that communications with those motorists with registered vehicles for which there has been no insurance reporting activity over a period of time is planned as part of the verification process in the new system.)

Processing Companies' Data Submissions

As noted previously in this report, late termination data reporting by the insurance companies was the principal reason DMV was sometimes unable to send timely first-inquiry notices to motorists whose vehicles may have become uninsured. However, it is also possible that DMV did not send first-inquiry letters timely because the policy-termination data received from the insurance companies, which is usually submitted in computer tape form, had not been promptly entered into DMV's automated vehicle registration files. We tried to determine whether DMV staff had made timely updates to the registration file. However, DMV officials advised us that they do not maintain records of the date and time the terminations from insurance companies are entered in the system. Consequently, we could not analyze the timeliness of DMV's termination processing or verify that DMV had processed all of the tapes submitted by the insurance companies. To help ensure that the registration file is updated properly with insurance company data, we believe DMV should maintain a log, or build one into their new system, that lists both the receipts of all data submitted by the companies (noting the day of receipt), and the day the data was integrated with DMV's registration files.

We also noted a disparity between the number of insurance companies that provided information to DMV and the number contained on DMV's computerized vehicle registration file system. DMV's Quality Control Unit (QCU) logs listed 231 insurance companies that had submitted termination data tapes to DMV, but just 226 companies were processed against the DMV's registration system. We found just 220 companies in both the QCU logs and the registration files. Thus, 11 companies were listed in QCU logs that were not found in the registration system. Conversely, we identified six companies in the registration system that were not listed on the QCU logs. This disparity suggests that DMV may not have run all termination data tapes submitted by the insurance companies against the registration file.

To identify vehicles that are no longer insured, DMV must compare policy-termination data received from the insurance companies with records in its computerized vehicle registration file. However, according to DMV's 1997 Company Performance Report, 258,780 (11.4 percent) of the 2,273,563 termination reports it received from insurance companies could not be used for such comparison. Of this unusable population, 242,419 represented "unresolved no-hits," or termination transactions that could not be matched up with an existing record on the registration files. DMV officials explained that the remaining 16,361 termination transactions were problematic because the companies' data submissions contained missing or invalid information (edit errors).

DMV's procedure is to return such unusable submissions to the insurance companies for correction. DMV officials advised us that they expect companies to return corrected information in a timely manner. But DMV has not established a system for determining which of the returned submissions were corrected and resubmitted, how long it took insurance companies to resubmit corrected information, or whether they were resubmitted at all. Consequently, DMV could not determine when or how many of the 258,780 unusable submissions have been resubmitted and processed; they may represent uninsured vehicles.

DMV officials also advised us that their current computer system was designed in the mid-1980s, when management determined that the software needed to track errors and no-hits would be too expensive to design and implement. However, they added that in light of changes in the Vehicle and Traffic Law passed in 1998, they are undertaking a major program to upgrade the Department's automated information operations, including the installation of a new computer system. The new system, called the Insurance Information and Enforcement System (IIES), will include the ability to account for and resolve edit errors and no-hits. DMV officials anticipate that they will begin phasing in the technology improvements during the year 2000.

DMV officials should make every effort now to consider how the many problems identified in this report can be addressed and incorporated into the new system design.

Recommendations

5. Recommendation deleted.
6. Maintain logs that indicate when tapes of policy-termination data are received from insurance companies and when their contents are integrated with DMV registration files.

Recommendations (Cont'd)

(DMV officials indicate that this information will be received via electronic data interchange in the new system.)

Auditors' Comments: Until the new system is implemented, DMV should maintain a control document to ensure that all tapes submitted by the more than 200 insurers are run timely, and thereby, help DMV to take the required actions with potentially uninsured motorists in the most timely manner.)

7. Track the status of unusable termination submissions returned to the insurance companies for correction. Require the companies to return the corrected information on a timely basis.

(DMV officials agree with this recommendation. They indicate that a new tracking system is planned to assign numbers to the submissions.)

8. Consider how the problems identified in the report can be addressed and incorporated into the new IIES design.

(DMV officials indicate the report addressed issues that they had been aware of prior to the audit. They further indicate they are already incorporating these improvements in the new system design.)

Auditors' Comments: DMV officials did not share such issues with us prior to or during our audit, nor did they share how improvements to the system would be addressed. We are encouraged they will be incorporated into the new system design.)

**INSURANCE COMPANIES WITH REPORTED PREMIUMS OF
MORE THAN \$1 MILLION
THAT REPORTED NO TERMINATIONS TO DMV
FOR THE CALENDAR YEAR 1997**

DMV CODE	INSURANCE COMPANY	PREMIUMS
358	United States Fire Insurance Co.	\$13,774,241*
111	Empire Fire and Marine Insurance Co.	\$7,195,345*
648	Citizens Insurance Co. of America	\$5,620,897*
087	Commerce & Industry Insurance Co.	\$5,542,789*
115	Coregis Insurance Co.	\$4,143,632
264	Acceleration National Insurance Co.	\$3,966,955*
095	American Alternative Insurance Corporation	\$3,611,270
698	Titan Indemnity Co.	\$2,985,527
138	GAN National Insurance Co.	\$2,909,007
433	Gulf Insurance Co.	\$2,372,650
637	Northland Insurance Co.	\$1,896,029
042	American Central Insurance Co.	\$1,844,036*
338	Tokio Marine and Fire Insurance Co. Ltd.	\$1,759,155
316	Selective Way Insurance Co.	\$1,625,230
378	Yasuda Fire & Marine Insurance Co. of America	\$1,522,508
026	American Hardware Mutual Insurance Co.	\$1,402,345*
681	Genesis Insurance Co.	\$1,152,294
374	Wausau Business Insurance Co.	\$1,142,847*
487	Cigna Insurance Co.	\$1,037,436*
263	Old Republic Insurance Co.	\$1,009,077*
TOTAL		\$66,513,270

Source: New York State Insurance Department (SID). SID requires companies selling insurance in New York State to report annually the amounts of premiums received, categorized according to type of insurance. For specific companies, we verified the classification of the premiums reported, on a judgmental basis, with representatives of those companies.

* Some of these amounts may include premiums that were paid to insure for-hire vehicles; however, such information was not available.

Major Contributors to This Report

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STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES
EMPIRE STATE PLAZA
ALBANY NEW YORK 12228

RICHARD E. JACKSON, JR.
COMMISSIONER

GREGORY J. KLINE
DEPUTY COMMISSIONER
FOR ADMINISTRATION

July 6, 1999

Mr. Frank J. Houston
Audit Director
State of New York
Office of the State Comptroller
Division of Management Audit & State Financial Services
270 Broadway, 19th Floor
New York, NY 10007

Dear Mr. Houston:

Attached is this agency's response to the draft audit report (98-S-4), the effectiveness of actions taken by the Department of Motor Vehicles to ensure that vehicles registered in the State of New York are covered by liability insurance.

If you have any questions, please feel free to contact Marcel Chevalier on (518) 474-0881.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Kline', with a long horizontal flourish extending to the right.

Gregory J. Kline
Deputy Commissioner

GJK:bj
Attachment



40% Pre-Consumer Content, 10% Post Consumer Content

**Department of Motor Vehicles
Response to OSC Audit Report 98-S-4
June 1999**

DMV Executive Summary

On March 31, 1998, DMV met with representatives from the Office of the State Comptroller (OSC) who indicated that they were going to conduct an audit of DMV's uninsured operation programs. At that meeting, DMV representatives explained that a major project to reengineer the FS Certification Program system was about to begin as a result of Chapter 678 of the Laws of 1997. The FS Certification Program is authorized by Article VI of the Vehicle and Traffic Law (V&T) and Commissioner Regulations Part 34 (CR Part 34), and is the program that governs the reporting requirements of New York State insurance companies. DMV representatives indicated that there were a number of improvements already targeted for review as implementation of the above-noted legislation proceeded, and that the conduct of an audit of the current program was ill-timed.

OSC representatives expressed a desire to proceed on the basis that their audit at this time could assist DMV in identifying improvement areas. Knowing the complexity of the current program, DMV felt that such knowledge would be impossible to acquire in the short time-frame of the audit.

Upon completion of the audit, it is DMV's opinion that OSC Report 98-S-4 does not identify any new issues that DMV was not aware of prior to the audit and that were not being addressed as part of the aforementioned reengineering project.

*
**Note
1**

Additionally, the following points should be noted:

- DMV's new database system that is planned to be implemented on January 1, 2000 will result in improved effectiveness and efficiency of DMV's insurance programs, and will result in increased compliance with New York's compulsory insurance laws thereby reducing the uninsured motorist population.
- Report 98-S-4 does not adequately demonstrate that there were companies that should in fact have filed terminations with DMV but did not. The conclusions regarding Exhibit A are not supported by the Report, and are a misleading representation regarding the noncompliance of companies.

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*See State Comptroller's Notes, Appendix C

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- The statement in the Report that the audit did not include for hire vehicles, motorcycles, and other vehicles excluded from the reporting requirements of V&T Article VI/CR Part 34 is not clear, since premiums reflected on Exhibit A may include coverage for these vehicles.
 - DMV does have a system for determining late filing performance of companies, and has established criteria for evaluating overall compliance. Statistical information on late filing performance was provided to SID. Additional notification consisted of copies to SID of correspondence sent to a company on all identified performance deficiencies, and copies of the company's response.
 - The Report does not indicate how many, if any, of the 17,908 motorists receiving the late letters were ultimately subject to a license suspension. It should also be noted that this volume of letters represents 1.5% of the total letters sent as a result of termination filing. DMV's position is that all appropriate actions are taken to ensure that program sanctions are imposed.
 - DMV's position is that the suggestion that the Illinois program is more effective than New York's in identifying uninsured motorists is invalid. Illinois does not require proof of insurance at the time of registration, and the Report does not state whether Illinois has a termination filing program. If not, then an individual who responds to the Illinois survey can immediately cancel their insurance after submitting the appropriate proof to the state to avoid suspension.
 - The conclusion that only 4 of the 23 companies identified in the Report as filing more than half of their terminations late were referred to SID is incorrect. This statement does not consider that all late filing information for 1997 was provided to SID.

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The new insurance database program mandated by Chapter 678 of the Laws of 1997 as amended by Chapter 509 of the Laws of 1998 (effective July 29, 1998) is referenced herein as the Insurance Information and Enforcement System (IIES). The following system elements were planned for inclusion in the IIESystem by DMV independent of this audit:

- Implementation of IIES will begin with the transmittal via electronic data interchange (EDI) by all companies authorized by DMV to issue insurance identification cards (ID) of their "book of business", or "initial load" (i.e., all insured vehicles registered in New York);
- All required transactions, including terminations and "adds" (new insurance coverage), will be routinely transmitted via EDI;
- The registrant on the registration record will be contacted to verify coverage where there is no posting to that registration record of an "initial load" transaction or of a subsequent "add" by an insurance company;

*See State Comptroller's Notes, Appendix C

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- Management information system (MIS) reports will be designed to facilitate monitoring of individual insurance company performance.

Additionally, DMV will be requesting the establishment of an analytical unit to be responsible to the Director of the Insurance Services Bureau for the monitoring and review of company performance. Prior to and ongoing with the establishment of this unit will be clarification and refinement of the criteria to be used in evaluating compliance with reporting requirements.

Reporting of Policy Terminations by Insurance Companies

OSC Recommendation:

1. Obtain from SID periodically a master list of all companies licensed to write vehicle liability insurance policies in New York State that also indicates which of those companies are actively writing policies. Then:
 - Compare this with the list of companies that have reported terminations of coverage, and contact the remaining companies to determine their reasons for not reporting.
 - Identify and issue a DMV identification number to any company licensed by SID to write automobile insurance that does not already have a number.

DMV Response:

DMV's position is that the Report does not adequately demonstrate that there were companies that should in fact have filed terminations with DMV but did not. Consequently, the recommendation that DMV should compare their list with SID's, and should issue a 3-digit code to all SID-licensed companies is not warranted by the information presented in the Report. Even though a company reported premium revenue, it cannot be concluded that such company should have filed terminations.

DMV is aware of the need to confirm that all companies that are required to file terminations actually do so. DMV will identify those companies that are not in compliance with reporting requirements through mechanisms such as the verification processes that will be part of the new IIESystem.

Also, new companies will be required to prove that they have the necessary electronic transmission capability of the new IIES before they will be assigned a 3-digit DMV code. This is primarily necessitated by the inclusion in the new program of the requirement to report new business (i.e., "adds") within 14 days in the first year, and within 7 days in the second and subsequent years. Therefore, no company will be able to issue an ID card for vehicle registration purposes before being assigned a 3-digit

DMV, and is then issued a 3-digit code will have thus indicated a serious intent to do business under V&T Article VI/CR Part 34. DMV can then monitor that company for filing performance. This should negate the recommendation to assign such a code to all companies licensed by SID to write auto liability coverage. In fact, to do so would add unnecessary confusion to the monitoring process. Through the EDI filing process and the planned method for assigning a 3-digit code, DMV will be able to identify all companies that truly may fall under the reporting requirements.

Discussion:

Report 98-S-4, page 4, indicates that 365 insurance companies issued liability policies during 1997. However, the Report does not specify how many of these had a 3-digit code assignment. Most importantly, it does not state how many actually wrote policies for liability coverage for those vehicles governed by reporting requirements. A company authorized by the State Insurance Department (SID) to write a particular type of coverage may or may not actually write policies for that coverage in any given year.

In reviewing insurance company performance, DMV was aware of the potential that there were non-filers. However, DMV also knew that several major companies were reporting newer companies within their group under another of the company's codes, that certain companies were writing liability coverage for motorcycles or other excluded vehicles, and that certain companies who had begun writing liability policies had not yet encountered any terminations. Additionally, if an insurance company is the company of record and fails to properly file an insurance termination, they are obligated to pay all third party costs in the event that vehicle is involved in an accident.

Therefore, based on the level of resources available at the time, a management decision was made to first address the annual volume of more than 300,000 Unresolved No-Hit Exceptions and Edit Errors that were occurring with established reporting insurers. Considering an average premium of \$1,000 and a 300,000 volume, the known problem DMV targeted represented potential premiums in excess of \$300 million. An example of the results achieved through this focus was a 50% reduction of total edit errors and a 23% reduction in unresolved no-hits between FY 96-97 and 97-98, including 100% elimination of 16,000 annual edit errors by one company, alone.

Therefore, it should be noted that:

- Not all companies licensed by SID to write auto liability insurance actually issue policies for vehicles covered under V&T Article VI/CR Part 34. That is, motorcycles, all-terrain vehicles, snowmobiles, for-hire and municipal vehicles insured pursuant to V&T Article VIII, and fire and police vehicles are excluded from current reporting requirements.

- A company must secure a 3-digit code if they intend to write liability coverage for a vehicle that will be registered in New York State. A company does not need to be assigned a code if their insured vehicles are not going to be registered in this State.
- Any vehicle, insured by an insurance company that does not have a 3-digit code, cannot be registered in New York since all applications for registration must include an insurance ID card on which the insurer's name and 3-digit code are indicated [V&T 312-1(a), CR Part 32].
- CR Part 34 excludes filings for the termination of one vehicle from a multi-vehicle policy, and for vehicles on policies in force for 6 months or longer where the policy is not renewed. The latter exclusion is also in V&T Article VI.
- If no vehicle is registered, no termination for vehicle liability is required to be filed with DMV by the insurer.

The statement on page 2 of the Report that the audit excluded for hire vehicles and motorcycles is not clear. Note the following information relative to the companies listed on Exhibit A:

- According to SID, the following companies write "for hire" vehicle policies, which are excluded from current reporting requirements. Although these companies do also write commercial auto policies, Exhibit A does not distinguish how much, if any, of the 1997 reported premiums were for policies for those vehicles governed by the reporting requirements of V&T Article VI/CR Part 34.

Company Name	Premiums from Exhibit A
U.S. Fire Ins. Co.	\$13,774,241
Empire Fire & Marine Ins. Co.	7,195,345
Citizens Ins. Co. of America	5,620,897
Commerce & Industry Ins. Co.	5,542,789
Acceleration Nat. Ins. Co.	3,966,955
American Central Ins. Co.: this company is grouped with Commercial Union Midwest (331) and Northern Assurance of America (252), and is part of the CGU (General Accident Group).	1,844,036
American Hardware Mutual Ins. Co.	1,402,345
Wausau Business Ins. Co.	1,142,847
CIGNA Ins. Co.	1,037,436
Old Republic Ins. Co.	1,009,077
Total (Premiums From Exhibit A)	\$42,535,968.00

- SID indicates that the following three companies write predominantly motorcycle policies. These companies orally informed DMV that in 1997, they did not write policies governed by DMV's reporting requirements.

FICO Insurance Co.	\$2,226,417
Nova Casualty Co.	1,625,360
American Reliable Ins. Co.	1,617,004
Total (Premiums From Exhibit A)	\$5,468,781

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- SID indicates that the following company also writes predominantly motorcycle policies.

Guidant Specialty	\$5,031,320
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- SID indicates that New York Municipal Insurance Reciprocal and New York Schools Insurance Reciprocal only insure municipalities and schools, respectively, so only those kinds of vehicles (e.g., fire engines and school buses) will be insured by them. Such vehicles are excluded from the current reporting requirements of V&T Article VI/CR Part 34.

New York Municipal Insurance Reciprocal	\$2,616,007
New York Schools Insurance Reciprocal	2,480,086
Total (Premiums From Exhibit A)	\$5,096,093

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Note
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- Also on Exhibit A:

Colonial Penn Franklin Ins. Co.: this company filed under DMV code 482. Therefore, although they did not file under their own code, they did in fact file terminations.	\$13,377,579
Metropolitan General Ins. Co.: this company filed under Metropolitan Property and Casualty's code of 211. Therefore, although they did not file under their own code, they did in fact file terminations..	\$3,415,219
Total (Premiums From Exhibit A)	\$16,792,798

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Note: Both of these companies began filing under their own code in the latter part of 1998.

In summary, it cannot be concluded that the companies noted on Exhibit A did in fact:

1. Issue auto liability policies for those vehicles included in the reporting requirements of V&T Article VI/CR Part 34; and
2. Issue policies for vehicles registered in New York; and

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3. Terminated or non-renewed a policy according to the stipulations in V&T Article VI/CR Part 34.

Timeliness of Policy Termination Reporting

OSC Recommendation:

2. Develop and implement written criteria for identifying insurance companies to be referred to SID for consideration of sanction or other actions, as deemed appropriate.

DMV Response:

Although initially DMV focused on late filing performance, DMV subsequently expanded its review for determining compliance. The following elements/criteria were incorporated into the process of determining a company's impact on program effectiveness and integrity:

- all facets of program compliance/non-compliance;
- an established hierarchy of non-compliance (based on overall performance/volumes), as follows:
 - * non-reporting, including large gaps in reporting;
 - * high percentage of Edit Errors and Unresolved No-Hit Exceptions;
 - * readily identifiable problems in complying with Technical Filing Specifications (review of internal Transaction Exceptions Report);
 - * no evidence of resubmission of corrected Unresolved No-Hit Exceptions;
 - * late filings.

DMV then corresponded directly with insurers, and initiated a meeting with the insurers in Albany. DMV required from insurers, in writing, full explanations, remediation plan and timetable. DMV copied SID on all DMV letters to insurer and on the insurer's response to DMV.

DMV's practices have evolved over time and as experience in monitoring companies was gained. We believe that our criteria and actions to date have effectively identified those companies whose overall performance and compliance was the most deficient.

However, as also noted previously in this response, DMV will be requesting the establishment of an analytical unit to be responsible for the monitoring and review of company performance, and for the continued process of clarification and refinement of the criteria to be used for determining company compliance with reporting requirements.

OSC Recommendation:

3. Redistribute the job functions of the single employee currently responsible for identifying and reporting noncompliant insurance companies to SID. At a minimum, implement adequate supervisory oversight and approval of the review and referral process.

DMV Response:

The organizational set-up of the monitoring process may not have been clearly conveyed during the audit. Although the monitoring of insurance company performance was the responsibility of one individual in the recent past, that individual was a mid-management level staff member. Additionally, the Director of the Insurance Services Bureau was continually informed as to performance monitoring activities, the referral process and the outcomes of those referrals. The Director provided day-to-day oversight as needed. Higher level executives were also kept apprised of these activities.

DMV recognizes that the task of monitoring the performance of all companies cannot be effectively accomplished by one individual. We anticipate the new IIESystem will provide us with informational reports to facilitate this monitoring process, and we will be requesting the establishment of a unit to dedicate to this function.

OSC Recommendation:

4. Develop a process for determining whether companies have properly reported vehicles they no longer insure. For example, consider surveying periodically the owners of vehicles (selected on a sample basis) of companies that have not submitted policy termination information to DMV over a specific time period, asking each owner to confirm and document that their vehicle was insured on a specific date.

DMV Response:

The basis and objective of this recommendation appears to be the same as for recommendation #1, although that recommendation focuses on a different mechanism to achieve the objective.

New York's FS Certification Program is now one of the most advanced in the nation, and will be further enhanced with the implementation of IIES. DMV's planned communications with motorists in the new program go well beyond the minimal impacts of a random survey. Communications with those motorists with registered vehicles for which there has been no insurance reporting activity over a particular period of time is planned as part of the verification processes in the IIESystem. Other verification processes (i.e., communications between DMV and insurance companies) will also be included in IIES.

Discussion:

The following comments relate to the text contained on pages 6 through 8 of the report:

1. It is not clear why this Report includes a reference to the Illinois program. During the audit, a meeting was held with OSC representatives in which this was discussed. DMV pointed out that Illinois does not even require proof of insurance at the time of registration, nor is it clear whether they even require termination filings to be posted to each registration record.

Unless a state who does random sampling also has a termination filing requirement, then the randomly sampled motorist can terminate insurance immediately after proving same to the state and the state may never be aware of it. Therefore, it is not clear how the conclusion was reached that Illinois' random surveying is a "more active approach to reducing the number of uninsured vehicles".

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2. The statement that DMV should provide SID with recommendations of sanctions first of all, assumes that such was not done. In fact, DMV in the past did make recommendations as to the severity of the monetary penalty that a particular company should be assessed. However, ultimately the decision as to whether to accept or modify the recommended amount rested with SID, as they are by Law authorized to sanction for deficient reporting performance. In October 1998, SID developed formulas to use in calculating penalties for those companies subject to Market Conduct review at that time. However, it is DMV's desire to pursue improving the monitoring process in a joint effort with SID.
3. The Report does not state the volume of terminations filed by each of the listed 23 companies identified as filing more than half of their terminations late during 1997. One example of why volume should be a factor is United Community Insurance. In 1995, this company had the highest percentage of late filings (96.43%), but that equated to a total of only 27 late terminations. The total volume of late filings was extremely small, and this company was also in liquidation. Therefore, it is DMV's position that such factors should be considered when determining whether to pursue sanctions, and in the prioritization of severity of non-compliance.
4. The Report also states that in 1997, DMV referred only four companies of the 23 that OSC found to have filed late terminations. This implies that the remaining 18 should have been referred because of the late terminations. It also implies that they were not referred.

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*See State Comptroller's Notes, Appendix C

Initial evaluation of program effectiveness by DMV did focus on timeliness of insurer reporting. Reports were developed, comprising 439 pages⁶ of statistical information, and were first provided to SID in March of 1996.

SID was actually provided with 1995, 1996 and 1997 late filing information on all insurers that report electronically. That is, all companies who filed late were initially referred to SID. The data provided to SID gave them an annual picture for each individual company -- individual company profiles -- as well as a compilation of late filing based on both the total volume of late filings and late filings as a percentage of termination filings. They were also copied on all correspondence sent to a company to advise that company of all their non-compliance performance. Therefore, we do not believe that the statement in the Report is accurate. In the final analysis, during this period SID established the criteria and made the decision as to which companies they should contact regarding late filing performance.

SID did pursue action, based on DMV's request, of two companies due to their late filing performance through 1995. This occurred during the first half of 1996. DMV's conclusion to pursue action against these two companies was based on the combined volume of late terminations and late terminations as a percentage of submitted terminations for calendar year 1995.

DMV does not believe that OSC representatives were able to gain sufficient knowledge about the total performance of any of the 18 companies as compared to all other companies to reach the implied conclusion that these companies warranted a SID market conduct review above all other companies. However, as discussed above, all late filing information for 1997 was provided to SID.

Timeliness of First-Inquiry Letters

OSC Recommendation:

5. Take appropriate action to suspend the driver's licenses of vehicle registrants who do not surrender the license plates of their uninsured vehicles within 90 days of the insurance termination, in compliance with Section 318 of the Vehicle and Traffic Law.

DMV Response:

We do not know how many, if any, of the 17,908 motorists receiving the late letters were ultimately subject to a license suspension. This volume of letters represents 1.5% of the total motorists contacted as a result of terminations filing. Therefore, we do not

* Note 2

believe this recommendation is warranted. DMV already takes all appropriate actions to ensure that program sanctions are imposed.

OSC Recommendation:

6. Maintain logs that indicate when tapes of policy termination data are received from insurance companies and when their contents are compared with DMV registration files.

DMV Response:

DMV already maintains logs of when tapes are received. After the tapes are run against the registration file, output reports reflect the date of tape submission as compared to the date the tape was run against the mainframe. Additionally, since filings in the new IESystem will be via EDI, this recommendation is no longer pertinent.

Discussion:

Report 98-S-4, page 9, discusses the impact of 17,908 letters that were not sent out in a timely manner. The Report does point out that the timeliness of letters is dependent on the timely filing of terminations by insurance companies, and also notes that the vehicles of these 17,908 motorists may not necessarily have been uninsured. It is not clear why the actual submission date by the insurance companies of the filing that generated the inquiry letter was not noted for each of these records, since the submission date of the filing is noted on each record.

The Report concludes that it is ultimately DMV's responsibility to insure timeliness of letters even where it is due to the non-timely filing by insurance companies. Here, and elsewhere in the Report, the fact that enforcement authority rests with SID appears to be overlooked, or at the least, minimized. As stated elsewhere in this response, DMV does not have direct enforcement authority over the insurance companies.

In 1997, 1,155,356 "first" letters were sent by DMV. Therefore, as noted above, the 17,908 letters noted in this section of the Report represent 1.5% of the total "first" letters sent.

It is not clear from the Report how the comparison between the number of companies noted as having submitted tapes and the number of companies found on the registration files was done. DMV has instituted procedures whereby we are assured that all tapes received in any given week are processed over the following weekend. Therefore, we believe that the lateness of the 17,908 letters was due to the lateness of filing by insurance companies. For example, the lateness in filing may have resulted from the monitoring process where a gap in the reporting pattern of a company was

identified. Depending on the date the identified company submitted the "missing" tapes, the termination dates on the tape may have been greater than 90 days prior to the submission of the tape to DMV.

Errant Termination Transactions

OSC Recommendation:

7. Track the status of unusable termination submissions returned to the insurance companies for correction. Require the companies to return the corrected information on a timely basis.

DMV Response:

As design of the IIESystem has progressed over the past several months, a tracking system has been planned that will assign a tracking number to these submissions.

OSC Recommendation:

8. Consider how the problems identified in the report can be addressed and incorporated into the new IIES design.

DMV Response:

This Report does not contain any issues that DMV was not aware of prior to the audit. DMV has been evaluating the current program for many years, and identifying those areas that require system improvements. With the implementation of Chapter 678 of the Laws of 1997 as amended by Chapter 509 of the Laws of 1998, DMV's goal was, and is, to incorporate them in the new IIESystem.

State Comptroller's Notes

1. We believe we provided DMV officials with information they did not have prior to our audit. In addition, we have identified some problems that are due to inefficient relationships and protocols that may not be simply addressed by the reengineering project. In all, we believe the audit has added value to DMV's operations.
2. Certain matters addressed in the draft report were revised or deleted from the final report. Therefore, some agency comments included in Appendix B may relate to matters no longer contained in this report.
3. As indicated in the report, DMV does inform the State Insurance Department (SID) about companies that file late, and referred 65 companies to SID in 1997. However, DMV needs to develop and implement standardized written criteria for identifying insurance companies to be referred to SID.
4. We did not audit Illinois' program and do not imply it is more effective than New York's. Rather, we cited Illinois' practice of identifying uninsured vehicles as a novel approach that DMV officials may want to consider, as resources permit.
5. The volume of terminations filed has been added to the final report.