

H. CARL McCALL  
STATE COMPTROLLER



A.E. SMITH STATE OFFICE BUILDING  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

July 16, 1999

Ms. Katherine N. Lapp  
Commissioner  
NYS Division of Criminal Justice Services  
Executive Park Tower, Stuyvesant Plaza  
Albany, NY 12203

Mr. Neil D. Levin  
Superintendent  
NYS Insurance Department  
Empire State Plaza  
Albany, NY 12257

Mr. James W. McMahon  
Superintendent  
NYS Division of State Police  
Building 22, State Campus  
Albany, NY 12226

Re: Report 99-F-15

Dear Ms. Lapp and Messrs. McMahon and Levin:

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 have reviewed the actions taken by officials of the Division of Criminal Justice Services (DCJS), Division of State Police (State Police), and the Insurance Department, as of June 24, 1999, to implement the recommendations contained in our audit report, *Administration of the Motor Vehicle Law Enforcement Fee* (Report 97-S-8). Our report, which was issued on February 3, 1998, examined whether: DCJS developed an effective program to help reduce, prevent and detect motor vehicle theft and insurance fraud; the State Police expended money on mandated activities and prepared the required program-related annual reports; and the Insurance Department established adequate controls over the fees collected.

**Background**

Since 1992, a fee of one dollar has been imposed on all motor vehicles insured in New York State. This fee is collected by the Insurance Department from insurance companies. According to State law, the fees from passenger vehicles are to be used to supplement the efforts of the State Police in reducing and prosecuting automobile theft, while the fees from all other

types of vehicles are to be used by DCJS to develop demonstration projects for reducing the incidence of automobile insurance fraud. Since the establishment of the fee (Fee) in 1992 through March 30, 1999, about \$68.9 million has been collected, of which about \$60.2 million has been expended, primarily by the State Police.

### **Summary Conclusions**

In our prior audit, we found that Fee revenues had not been used to supplement State Police funding, as intended, but had offset reductions in the funding available to the State Police. Moreover, it appeared that much of the revenue made available to the State Police had been used for activities that were not directly related to automobile theft. We also found that none of the Fee revenue made available to DCJS had been spent, because DCJS had not yet begun to develop the demonstration projects required by law. We also found that improvements were needed to provide assurance that all Fee revenues due from the insurance companies were received, recorded and deposited.

In our follow-up review, we found that some progress had been made, but much more needs to be done to help ensure that Fee revenues are used as intended. For example, DCJS has approved several demonstration project grants during the 1997-98 and 1998-99 fiscal years; however, only \$59,000 has been expended on these projects. We also note that the Insurance Department has begun to reconcile relevant insurer-provided, Fee-related data. However, no change has been made regarding the accounting for Fee monies expended by the State Police.

### **Summary of Status of Prior Audit Recommendations**

Of the three prior audit recommendations addressed to DCJS, one has been implemented and two have been partially implemented. Of the two recommendations addressed to the State Police, one has been implemented and one has not been implemented. Of the two recommendations addressed to the Insurance Department, one has been partially implemented and one has not been implemented.

### **Follow-up Observations**

#### **Recommendation 1**

*To DCJS: Continue to hold Board meetings in accordance with the governing legislation.*

Status - Implemented

Agency Action - Since our prior audit was issued in February 1998, the 12-member New York Motor Vehicle Theft and Insurance Fraud Board (Board), which was created within DCJS to oversee the program, has met a total of four times: in May, September and November 1998, and in May 1999. According to DCJS officials, the Board will continue to meet periodically.

**Recommendation 2**

*To DCJS: Implement the proposed action plan to use available funds for their intended purpose.*

Status - Partially Implemented

Agency Action - The Board has not yet developed a formal plan of operation as required by law. However, DCJS officials informed us that the Board is developing such a plan and is trying to identify those programs that are the most effective in reducing automobile theft and insurance fraud. In addition, the Board has been reviewing applications for funding of demonstration projects obtained through a request-for-proposal (RFP) process. The RFP indicates the program's goals and objectives and contains information on program eligibility. Since our prior audit, the Board has granted \$2.8 million in funds to 19 programs. However, as of March 30, 1999, only \$59,000 of that amount has been expended.

**Recommendation 3**

*To DCJS: Periodically monitor plan application to assess its effectiveness.*

Status - Partially Implemented

Agency Action - DCJS has implemented procedures to monitor grantees to assess recipient program effectiveness. The RFP process requires the applicant to specify the goals of the proposed project. In addition, the applicant must specify program objectives, the tasks required to complete the objectives, and a performance measure for each task in the program's work plan. DCJS also requires grantees to submit a quarterly progress report in which they are to supply data consistent with their work plans.

To assess DCJS' monitoring efforts, we reviewed documentation submitted by three grantees. We found they had submitted some quarterly reports late and in one case had not submitted a quarterly report as required. In addition, for two, we found information that should be contained in the quarterly reports was not provided or it did not contain the detail stipulated in the respective work plans.

**Recommendation 4**

*To the State Police: Develop an action plan for the allocation of Fee moneys and ensure that State Police recordkeeping systems accurately report how much of State Police Account funds are expended for activities relating to the detection, prosecution, or reduction of automobile theft.*

Status - Not Implemented

Agency Action - State Police officials stated that their position on this recommendation has not changed since our audit. They reiterated that the governing legislation stipulates that Fee moneys are available for the operational expenses of the State Police, including, but not limited to, the costs of activities relating to the detection, prosecution or reduction of automobile theft and related purposes. Therefore, without specific direction from the legislature, and the funding necessary to enhance their financial reporting capabilities, they do not intend to develop a cost accounting system to track the specific amounts expended on these activities.

#### **Recommendation 5**

*To the State Police: Ensure that all required annual reports are prepared and submitted to the Governor and Legislature by the mandated due dates.*

Status - Implemented

Agency Action - The State Police prepared a report dated April 1998, focusing on their 1996 calendar year operations, which contained required statistics on automobile thefts for 1996 and 1997. Due to a legislative amendment enacted subsequently to our audit, the State Police no longer are required to prepare an annual report.

#### **Recommendation 6**

*To the Insurance Department: Perform periodic reconciliations of the data included on insurers' monthly reports with that submitted in corresponding annual reports. Identify inconsistencies and ensure that the appropriate revenue collections are recorded.*

Status - Partially Implemented

Agency Action - The Insurance Department has performed such reconciliations for calendar years 1996 and 1997, but it has not yet followed up on discrepancies identified by those reconciliations.

#### **Recommendation 7**

*To the Insurance Department: Develop and implement procedures for periodic independent verification of the appropriateness of the Fees remitted by insurance companies.*

Status - Not Implemented

Agency Action - In their response to our audit, Insurance Department officials had stated that the reports available from the Department of Motor Vehicles could not provide them with the definitive data they needed to determine whether the appropriate Fee revenues were being

submitted by insurers. They had indicated that they would explore the viability of obtaining a report that could be used for this purpose. However, to date, there is no evidence that they have done so.

Major contributors to this report were Abraham Markowitz, Frank Patone, and Tom Kulzer.

We would appreciate your response to this report within 30 days, indicating any action planned or taken to address any unresolved matters discussed in this report. We also thank Division of Criminal Justice Services, Division of State Police, and Insurance Department management and staff for the courtesies and cooperation extended to our staff during this review.

Very truly yours,

Frank J. Houston  
Audit Director

cc: Charles Conaway