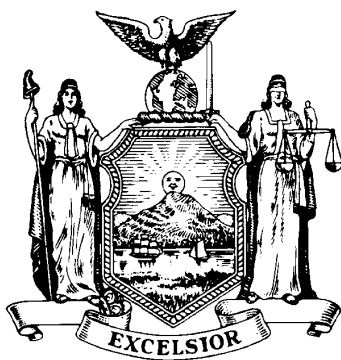


State of New York  
Offices of the Inspector General



Investigation of the New York State Department of  
Financial Services ATM Safety Program and  
Inspector Thomas Connellan

December 2018

Catherine Leahy Scott  
Inspector General

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## EXECUTIVE SUMMARY

In November 2015, the Inspector General received an allegation that now-retired Syracuse Police Department Sergeant Thomas Connellan had falsely claimed for a number of years to work simultaneous shifts as an ATM inspector for the New York State Department of Financial Services (DFS) and as a police officer for the Syracuse Police Department.

The Inspector General's subsequent investigation found that between January 2011 and July 2015, Connellan neglected to conduct hundreds of ATM inspections and submitted fraudulent inspection reports to DFS to conceal his wrongdoing. Additionally, the investigation found that Connellan submitted false time and attendance records to New York State and received at least \$32,561 for work not performed. The Inspector General's comprehensive review of a sample containing 261 of Connellan's ATM inspection reports revealed that Connellan falsified 260 of these reports. Banking institution representatives who Connellan claimed to have met with during his inspections repeatedly told the Inspector General that they had never seen him in their branches.

As a result of the Inspector General's investigation, Connellan was criminally charged by the Onondaga County District Attorney's Office. On May 16, 2016, Connellan pled guilty to Grand Larceny in the Third Degree, a felony, and paid \$32,561 in restitution to New York State. The Inspector General also advised the City of Syracuse Comptroller that nighttime ATM inspections were conducted by Connellan while he was being paid overtime by the Syracuse Police Department. The findings of this investigation were also referred to the New York State Comptroller who informed the Inspector General that Connellan received no pension credits for his DFS position. Connellan is no longer employed by either DFS or the Syracuse Police Department.

The Inspector General's investigation also uncovered a significant lack of oversight of the ATM Safety Program by its administrator, Albert Frey. Despite overseeing the program for 20 years, Frey had not promulgated any policies for the program and had established no meaningful quality control measures to ensure that inspectors conducted their inspections as reported.

Moreover, Frey disregarded numerous indicators of Connellan's wrongdoing. Primarily, Frey failed to consider that Connellan was a full-time employee with the Syracuse Police Department, yet simultaneously claimed to work up to nine full-time dayshifts each month with DFS. Furthermore, given the fact that an ATM inspector's mileage reimbursement was a substantial portion of their total compensation package, Frey failed to recognize as suspicious that only Connellan, among all ATM inspectors in the program, never requested mileage reimbursement for the supposed use of his private vehicle while purportedly conducting ATM inspections. Frey also neglected to note that Connellan sought and received payment for at least 20 full daytime shifts on dates where he listed no activity at all. Frey also never discovered Connellan's lengthy deception, despite his testimony asserting that he conducted annual quality assurance visits to banking institutions in the central New York region during the last two decades and questioned branch managers about Connellan's inspections.

Frey also testified that on two occasions in 2015 he retrieved from Connellan his written ATM inspection reports—critical evidence in this investigation—and placed the reports in boxes beside his office cubicle. According to Frey, the boxes subsequently went “missing.”

In addition, the investigation found that Frey used state funds to attend a party for Connellan to celebrate his 2015 retirement from the Syracuse Police Department, although reporting in a travel voucher that he was attending a bank meeting.

The investigation also found that Ricardo Velez, Frey's immediate supervisor, provided little meaningful oversight of the ATM Safety Program or the actions of Frey. Velez also bears some responsibility for the program's lack of policy. Had Velez properly supervised Frey and ensured Frey's quality assurance inspections were occurring, documented, and more than perfunctory, Connellan's wrongdoing might have been exposed.

The Inspector General referred the findings regarding Frey, Velez and the ATM Safety Program to DFS for appropriate disciplinary action against Frey and Velez, and to make improvements to the ATM Safety Program. Specifically, the Inspector General recommended that DFS review the ATM Safety Program to ensure the inspections meet the requirements of the ATM Safety Act. The Inspector General also recommended that DFS create and maintain an inspection manual, enhance the ATM Safety Program's training for inspectors, and create a well-documented quality assurance program as these inspections continue. The Inspector General

also referred the findings regarding Frey to the New York State Joint Commission on Public Ethics for its review.

In addition, based on the investigation, the Inspector General recommended that DFS consider the dissolution or substantial reduction of the program. The methods of enforcing the mandates of the ATM Safety Act could be streamlined. This could include requiring banking institutions to submit to DFS annual certifications attesting that their cameras are in proper working order, signage and mirrors are properly placed, ATM surveillance records are maintained for at least 45 days, and adequate lighting exists. Additionally, banking institutions could be required to submit to DFS time/date-stamped images from their surveillance cameras as proof that they are in proper working order. Many of these requirements could also be confirmed through written and oral communication with the banking institutions rather than through costly inspections, which under Frey's oversight, were lacking.

In response to the Inspector General's report and findings, DFS advised it reviewed the ATM Safety Program and made changes to modernize and streamline its operations. According to DFS, the program is now under new management and closely supervised. In addition, DFS advised that it now requires banks to report on ATM operations through the use of an online portal. Inspectors are assigned tablet computers to assist with their duties, photograph properties and log dates and times of inspections. DFS now requires that inspectors obtain the signature of a banking institution representative during daytime ATM inspections and the logs of inspection dates and times are now reviewed by supervisory staff before time and attendance filings are approved. DFS also reported that it provided enhanced ethics training to all inspectors. Additionally, DFS reported that on June 10, 2017, Frey retired from State service, and on January 11, 2018, Velez retired from State service.

## BACKGROUND

### **The New York State Department of Financial Services ATM Safety Program**

On February 6, 1996, Governor George Pataki signed into law New York State Banking Law Article II-AA, commonly referred to as the ATM Safety Act, "to ensure the convenience and safety of automated teller machine [ATM] use by establishing security measures for [ATM] facilities." This act, which became effective on January 1, 1997, requires banking institutions

and credit unions to maintain certain security measures at their ATMs. Specifically, the act requires banking institutions to maintain: surveillance cameras which view and record all persons entering indoor ATM facilities or all activity that occurs near outdoor ATMs; surveillance camera recordings for at least 45 days; adequate lighting, which includes nighttime illumination, around ATMs; secure locks at indoor ATMs that limit access only to individuals with bank cards; an unobstructed view of indoor ATM facilities; mirrors to allow a person entering the ATM facility to see areas not in plain view; and signage informing patrons of recorded surveillance, and advising that doors should be completely closed upon entering and exiting the area, unknown persons should not be permitted to enter after regular banking hours, and customers should secure their cash before exiting. Banking institutions found to be in violation of the ATM Safety Act are provided an opportunity to correct the violation. If remedial action is not taken, DFS has the authority to require banking institutions to pay a civil penalty.

The New York State Department of Financial Services<sup>1</sup> (DFS) is responsible for enforcing the ATM Safety Act. During the course of this investigation, DFS operated an ATM Safety Act Program that mandated ATM inspections by regional inspectors. All ATM inspectors were employed part-time by New York State, with the exception of the inspectors assigned to New York City, who were employed on a full-time basis. Almost all of the inspectors retired from careers in law enforcement, the military and banking. During the period relevant to this investigation, Connellan was the only inspector who maintained other outside full-time employment.

For purposes of enforcement, the State was divided into 10 regions: Albany, Broome, Buffalo, Nassau, New York City, North Country, Rochester, Suffolk, Syracuse, and Westchester. At least one ATM Safety Inspector was assigned to each region. Pursuant to DFS's ATM Safety Program, every banking institution-operated ATM was required to be inspected twice per year; once during the day and once during the night. The ATM inspection program, which was created at the inception of the law in 1996, had been supervised since that time by ATM Safety Program Administrator Albert Frey. He was directly supervised by Ricardo Velez, the Chief of the Criminal Investigations Bureau.

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<sup>1</sup> In 2011, the former New York State Department of Banking merged with the New York State Insurance Department to create the New York State Department of Financial Services.

Although, disturbingly, the program lacked policy or written procedures regarding ATM inspections, it had been long-standing practice, according to Frey, to conduct ATM safety inspections in the following manner. At an annual meeting, Frey distributed to each inspector a binder containing blank inspection reports and a listing of the banking institutions assigned for review. During daytime hours, inspectors were required to enter a banking institution and coordinate with a representative to review their ATM surveillance video and confirm the video properly captured the area around an ATM. During the review, many banking institutions required inspectors to sign in for security purposes and also captured the inspector's visit on surveillance video in a normal course of business.

According to Frey, each ATM was required to again be inspected at night to confirm door locks were operational and video surveillance cameras were working properly and capturing clear images. At this time, inspectors were required to use a light meter to measure the illumination in areas located at three specific distances from an ATM, and display a sign that contained the name of a New York sports team in front of the ATM camera. At a later date, usually within a week or two, DFS requested by letter that the banking institution review its video surveillance for the date and time of the inspection, and report the name of the sports team that the inspector displayed. This method allowed DFS to confirm if the ATM cameras were in working order and—although not the stated intent of this process—if an inspection had actually taken place.

During their reviews, inspectors documented their findings in a hard copy inspection report. These hard copy reports were maintained by the inspector for a period of years. Upon the retirement of an inspector, Frey retrieved and archived the last several years of written inspection reports. Following the inspection, an inspector was required to complete and submit to DFS an electronic inspection form listing the information written on the hard copy report. These electronic reports were maintained by DFS for every inspection completed.

Bi-weekly, inspectors entered their working hours on New York State's Leave and Accrual Tracking System and, prior to submitting their time, electronically attested that the attendance they reported was an accurate reflection of hours worked. Their time and attendance was then reviewed by ATM Safety Program Administrator Frey, who also attested, to the best of his knowledge, to the accuracy of the hours reported before submitting it to the Office of General

Services' Business Services Center (BSC) and the New York State Comptroller for payment. Inspectors also submitted to DFS for reimbursement for the use of their privately-owned vehicles while conducting ATM inspections. This also was reviewed by Frey and forwarded for payment to the BSC and State Comptroller.

### **Thomas Connellan**

Thomas Connellan, a full-time police officer with the Syracuse Police Department from September 1996 until his retirement in January 2015, was also employed as a part-time ATM inspector with DFS from October 1997 until August 2015.<sup>2</sup> Upon his retirement from the Syracuse Police Department, Connellan worked for a legislator until December 2015. During his employment with DFS, Connellan was responsible for ATM inspections in Central New York, a 6,700 square mile region spanning Cayuga, Lewis, Jefferson, Madison, Oneida, Onondaga, and Oswego Counties. Connellan and Frey had worked together at DFS since 1997.

**THE INSPECTOR GENERAL'S INVESTIGATION FOUND THAT CONNELLAN FILED FALSE ATM INSPECTION REPORTS FOR INSPECTIONS THAT DID NOT OCCUR, AND SUBMITTED FALSE TIME AND ATTENDANCE RECORDS TO, AND RECEIVED PAYMENT FROM, NEW YORK STATE FOR WORK NOT PERFORMED**

### **Connellan Stole \$32,561 from New York State by Neglecting to Conduct Hundreds of ATM Inspections and Falsifying Records to Conceal his Wrongdoing**

Following a preliminary review of Connellan's time and attendance records that revealed he purported to have worked on 90 dates between January 2011 and December 2014 during the same shift for both DFS and the Syracuse Police Department, the Inspector General undertook a comprehensive examination of all available relevant records and obtained testimony from Syracuse Police Department employees, DFS employees and banking institution representatives. Included in this examination was a review of ATM inspection reports, banking institution security logs and videos, and Syracuse Police Department vehicle logs and facilities employee access ("swipe card") records.

The Inspector General's examination revealed that between January 2011 and July 2015, Connellan electronically submitted 1,250 daytime ATM inspection reports to DFS, which purportedly occurred on 176 different days. In each report, Connellan provided the date and

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<sup>2</sup> Connellan never sought written approval for outside employment from either DFS or the Syracuse Police Department, despite policy requiring the same. Connellan's DFS supervisors also never enforced this requirement.



time he claimed he was present at the banking institution as well as the name and title of the representative with whom he purportedly met. The Inspector General conducted a review of 261—approximately twenty percent—of the 1,250 daytime ATM inspections Connellan purported to have completed during January 2011 through July 2015. In statements to the Inspector General, all but one of the listed banking institution representatives stated they had never met Connellan.

Based on this examination, the Inspector General found that Connellan failed to conduct hundreds of daytime ATM inspections. In order to conceal his wrongdoing, Connellan submitted fraudulent ATM inspection reports and false time and attendance records to DFS. Based on this fraudulent scheme, Connellan was paid \$32,561 by New York State for work not performed. Notably, although the Inspector General's examination included the review of relevant records spanning 2011 through 2015, substantial evidence exists that Connellan's malfeasance began much earlier in his almost 18-year career with DFS, and possibly upon his hire.

In fact, several career banking institution managers assigned to branches in the central New York region stated to the Inspector General that they had neither met Connellan nor any other daytime DFS inspector during their tenure at the banking institution. As an example, between 2011 and 2015, Connellan submitted numerous ATM inspection reports to DFS in which he reported conducting daytime inspections at a Cayuga County banking institution and two branches of a Jefferson County banking institution. In each report, Connellan claimed to have met with a particular banking institution representative. However, in testimony to the Inspector General, the named representatives denied these claims. Notably, the representatives, each with careers spanning two to three-and-a-half decades with their corresponding banking institution, stated they had met neither Connellan nor Frey but recognized Connellan from his appearances on local television news channels reporting for the Syracuse Police Department or from video surveillance of nighttime ATM inspections. Moreover, Connellan reported to both his employers—the Syracuse Police Department and DFS—that he had simultaneously worked the 8 a.m. to 4 p.m. shift on the dates of most of these purported daytime ATM inspections.

Other evidence obtained by the Inspector General also disproved Connellan's claims. Syracuse Police Department building swipe card records revealed that Connellan, while working

a full daytime shift, utilized his building swipe card to gain entry and travel throughout the police department's headquarters during times that would have made it physically impossible for him to be elsewhere in the State conducting purported ATM inspections for DFS. Also, visitor logs maintained by two banking institutions with branches in Onondaga and Oneida counties supported the recollections of their respective branch managers that Connellan had not conducted daytime ATM inspections, despite Connellan's claims to have inspected ATMs at six branches. On at least one occasion, Connellan claimed to conduct a daytime inspection at a date and time when the branch was not even open. On another occasion, Connellan claimed to simultaneously conduct inspections in Watertown, New York, while also attending a three-day police training in the state of Delaware.

When available, video surveillance corroborated other evidence that Connellan failed to perform ATM inspections.<sup>3</sup> This was the case at a multi-state banking institution which operates a number of branches in central New York and where Connellan falsely claimed to have conducted 32 daytime ATM inspections at twenty branches on various dates between June 2011 and June 2015. For Connellan's purported ATM inspections at this banking institution in 2015, video surveillance records that were maintained by the bank confirmed Connellan was not present at the bank on any of the seven different occasions he claimed to have conducted inspections.

In a number of instances, Connellan's fictional meetings with banking institution representatives could not have occurred simply because the employees were not present at the branches on the dates Connellan claimed. At a banking institution branch in Onondaga County, where Connellan supposedly met with the branch manager, the branch manager reported that she was away on vacation on the day Connellan claimed to have met with her, and he had never been to the branch to conduct an ATM inspection. At a branch of a different banking institution in Onondaga County, the branch manager reported that she was celebrating her first day of retirement on the day Connellan claimed to have met with her at two different branches 45 minutes apart from one another. Yet another branch manager stated he had previously transferred to another branch and therefore was not present at the location on the date Connellan

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<sup>3</sup> The ATM Safety Act requires that banking institutions preserve ATM surveillance video for a minimum of 45 days. As the Inspector General's investigation commenced several months after Connellan resigned from DFS, few surveillance videos were preserved for review.

claimed. Lastly, another former branch manager stated she was not present at a particular branch on the date specified by Connellan because she had left employment more than a year prior. Additionally, each of the above branch managers confirmed they did not recall any daytime ATM inspections or visits from DFS employees.

Indeed, banking institution representatives in the central New York region advised the Inspector General that because they had never encountered daytime ATM inspectors at their branches, they were under the misbelief that DFS did not conduct daytime ATM inspections. Many banking institution representatives reported they were familiar with nighttime ATM inspections because they recalled being contacted by DFS to review their surveillance video and seeing video of Connellan holding a sign bearing the name of a New York sports team.



**Connellan displaying “RANGERS” and “N.Y. JETS” signs during nighttime ATM safety inspections.**

Some banking institution representatives even stated they were familiar with Connellan in his capacity as the public information officer for the Syracuse Police Department as they had frequently seen him on televised police press conferences. However, none reported ever meeting with Connellan for a daytime ATM inspection—but for a single banking institution representative assigned to a branch just a few blocks from Connellan’s Syracuse Police Department office.

While the Inspector General canvassed central New York banking institutions and received sworn statements from branch representatives who consistently reported they had never met Connellan or Frey, a single banking institution employee reported he had, in fact, met Connellan in 2014 during a daytime ATM inspection. The then-manager of a branch of a banking institution located in downtown Syracuse recalled meeting once with Connellan in

December 2014, while Connellan conducted a daytime ATM inspection. An inspection report filed by Connellan reflects a December 3, 2014 ATM inspection at 11:20 a.m. at this branch and meeting with the branch manager. Notably, this branch is located a mere  $\frac{2}{3}$  of a mile from the Syracuse Police Department headquarters where Connellan was employed and the inspection occurred five days prior to Frey visiting Syracuse for a quality assurance inspection. A review of Connellan's time and attendance filed with the Syracuse Police Department confirmed he claimed to have worked at the police department that day from 8 a.m. until 4 p.m. Conversely, Connellan also claimed to DFS that he had worked 8 a.m. to 4 p.m. on that very same day.

In total, 260 of the 261 inspections the Inspector General attempted to verify were found to have not occurred. For each of these 260 fictitious inspections, which ostensibly occurred over a period of 109 days, Connellan submitted false time and attendance records to DFS, which upon review and approval by Frey, were submitted to the BSC and New York State Comptroller for payment to Connellan. Additionally, Connellan claimed to have worked 20 daytime shifts for DFS during which he conducted no inspections and filed no inspection reports. Despite having done no work for DFS during this 160-hour period, Frey approved these time sheets as well, and Connellan received payment from New York State. In total, Connellan was paid approximately \$32,561 for work he did not perform between January 2011 and July 2015.

It is important to note that while the Inspector General's comprehensive review of Connellan's work for DFS during January 2011 through July 2015 found that he failed to perform daytime ATM inspections during that entire time period, the evidence and testimony obtained coupled with Frey's gross oversight failures suggests a likelihood that he had been falsifying daytime inspection reports for a significantly longer period of time.

Apart from his false filings with and theft from New York State, the evidence also indicates Connellan defrauded the City of Syracuse by electronically submitting at least 456 ATM inspection reports to DFS while working his assigned shift for the Syracuse Police Department. The Inspector General's investigation also uncovered numerous occasions when Connellan indeed conducted nighttime ATM inspections for which he was paid by DFS, while simultaneously being paid overtime by the Syracuse Police Department.

## The Inspector General's Review of ATM Inspectors Across the State

In light of Connellan's malfeasance, the Inspector General reviewed a random sampling of reports written by other ATM inspectors during the period January through June 2015 to determine if, in fact, inspections had been conducted. The findings of this review, in contrast to those of Connellan, indicate that these other inspectors had conducted ATM inspections as reported. Indeed, banking institution representatives confirmed that particular ATM inspections had occurred and, in most cases, specifically recalled their interactions with the regional ATM inspector. Some representatives knew the regional inspector by name, as they had met them during daytime inspections. One branch representative even remarked, "I know exactly what you're talking about. My guy's been coming here for like 15 years!" Moreover, banking institution security logs also confirmed the presence of an inspector on a particular date and time.

### **Frey's Mismanagement of the ATM Safety Program**

The breadth of Connellan's fraud and the extended time period during which it was perpetrated undoubtedly calls into question the effectiveness of Frey's management of the ATM Safety Program during the last two decades. During the course of this investigation, the Inspector General twice obtained sworn testimony from Frey regarding his role as the administrator of the ATM inspection program and found his responses evasive, conflicting, and at times incredible. He also demonstrated a cavalier and lackadaisical approach to his position as administrator of the program and was unable to clearly explain his day-to-day job duties and responsibilities.

#### Frey Failed to Create an ATM Safety Program Manual, Provide Adequate Inspection Guidance and Training, and Ensure Banking Institutions Maintain ATM Video Records

Despite his almost two-decade management of the ATM Safety Program at DFS, Frey had never sought to promulgate program policy, establish a written procedure manual, or institute best practices. Given this lack of guidance, Frey was unable to effectively articulate to the Inspector General the exact duties required of an ATM inspector while conducting a daytime inspection. Frey testified that daytime ATM inspections merely require that an inspector confirm that a banking institution has a surveillance camera that live-monitors the area around its ATM. Frey testified, "You go in and you ask to see the monitor . . . and you want to make sure, outside of New York City, that it's capturing everyone entering the facility. That's the crux of that."

However, the ATM Safety Act also requires the ATM to have appropriate reflective mirror(s) and signage cautioning customers about ATM use in the area. Moreover, the Act requires that “recordings made by such cameras shall be preserved by the banking institution for at least forty-five days.” Frey did not ensure compliance with this provision of the Act.

According to Frey, he did not require inspectors in the program to confirm that banking institutions were complying with this statutory mandate for several reasons. One, according to Frey, was that this requirement has been negated by the use of digital video recorders, which allow banking institutions to maintain ATM surveillance video files for lengthy periods.<sup>4</sup> A second reason, Frey stated, was that inspectors were unable to determine whether a banking institution was retaining 45-days of ATM video surveillance records without causing interruption to or loss of the banking institution’s surveillance and recording systems. Lastly, Frey noted, when a banking institution confirmed via letter that an earlier nighttime inspection had occurred and reported the name of the sports team that the inspector displayed, the act of the banking institution retrieving the video provided some assurance that video was being retained, albeit for an unknown duration.

Frey’s unilateral decision to deviate from the statutory mandates of the Act was based upon faulty reasoning. A number of banking institutions reported to the Inspector General that their video surveillance systems could easily be reviewed without loss or interruption to systems in order to assure compliance. In fact, ATM inspection records revealed that most banking institutions provided proof of nighttime ATM inspections by accessing their systems within two-to-four weeks of an inspection—a period far short of the 45-day mandate.

As for guidance and training provided to inspectors, Frey testified to the Inspector General that inspectors received on-the-job training upon being hired and then attend annual trainings thereafter. However, Frey was unable to provide any detailed explanation of what occurred at the annual training or provide previous training manuals, agendas, etc.

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<sup>4</sup> VHS (Video Home System) tapes were utilized by banks in the recording of ATM surveillance camera footage when the ATM Safety Act was signed into law in 1996. Subsequently, digital video records (DVRs) became available on the commercial market.

### Frey Failed to Conduct Any Meaningful Quality Assurance of the Program

Frey testified to the Inspector General that he performed “quality assurance” checks of the ATM Safety Program to ensure that inspections had been properly completed. According to Frey, his practice had been to annually travel to each of the State’s ten regions during October and November and review a recent set of inspections conducted on a single day by the relevant inspector. Frey testified he visited banking institution branches, met with branch representatives, and verified that inspectors had indeed conducted thorough inspections at each branch.

As discussed below, the veracity of these assertions is highly questionable. Even Frey acknowledged that his scope of review—to the extent it occurred—is limited. According to Frey, he only inspected banking institutions in and around the area near his hotel and did not conduct quality assurance checks at remote branches in each region. In total, Frey’s quality assurance review encompassed approximately 20 work days each year. Frey testified, “I hit certain areas, boom, boom, boom, and I bang it out.” Frey also claimed he did not always meet with the regional inspector while in the area. This was a missed opportunity, as Frey otherwise only had face-to-face interactions with the inspectors at the annual training. Conversely, much of the quality assurance that Frey supposedly conducted could have been performed by contacting banking institutions randomly throughout the state and at different times during the year in order to verify banking institution inspections and request required data.

Given the aforementioned sworn statements of banking institution representatives denying they had ever met Connellan or Frey, the Inspector General asked Frey to provide any evidence of his quality assurance checks. Frey testified that apart from travel records showing he had received reimbursement from New York State for the use of his personal vehicle, lodging and meal expenses, he maintained no other documentation reflecting his purported quality assurance efforts. Frey testified that he did not maintain any log or journal, complete any reports, or document the name of the banking institution branches visited, the representatives met, and inspection deficiencies or violations noted. Seemingly, his quality assurance reviews always resulted in findings of complete compliance and satisfaction with the work done by the ATM inspectors. Frey could not explain how he therefore failed to discover during his quality assurance checks that Connellan was not conducting daytime inspections.

### Frey Failed to Discover Connellan's Wrongdoing Despite Numerous Indicators

Frey, an investigator who supervised Connellan for almost 18 years, also failed to notice or disregarded the many indicators that something was amiss with Connellan's purported inspections. One obvious indicator was that Connellan was the only DFS inspector who also maintained full-time dayshift employment. Not only was Connellan a sergeant in the Syracuse Police Department, he also served for a period as the commanding officer of the Syracuse Gang Violence Task Force and was the department's well-known and long-tenured spokesperson necessitating constant overtime hours. Despite this, Connellan also claimed on occasion to work as many as nine 8-hour dayshifts in a month with DFS, as well as a number of night shifts. Although Frey was aware of this, he stated that he did not recognize it as an issue.

Frey also did not find it unusual when Connellan, upon retiring from the Syracuse Police Department in January 2015, stated to Frey that he needed to reduce his State hours and therefore would discontinue nighttime ATM inspections but continue with daytime ATM inspections. According to Frey, Connellan needed to reduce his hours with DFS as they were "too much" given the demands of his new position with a legislator. This explanation is implausible given Connellan's purported ability over almost two decades to conduct daytime and nighttime ATM inspections for DFS while also accomplishing his police and administrative responsibilities with the Syracuse Police Department.

Furthermore, Frey purportedly conducted annual visits to a number of banking institution branches at which Connellan claimed to have conducted inspections, yet failed to discover that Connellan had not conducted daytime ATM inspections. Frey testified to the Inspector General that no representatives of banking institutions reported to him that Connellan was not doing his job. Frey's approach, shifting his responsibilities to the banking institutions, was misplaced and calls into question the effectiveness of his so-called quality assurance program.

Moreover, in the last four years of Connellan's employment, 19 banking institution branches reported to Frey that Connellan had not been observed on their ATM surveillance camera footage on the dates and times of his purported nighttime inspections. For example, one banking institution reported "Al per our conversation this morning Tom was not viewed at this location at this time or date." Another banking institution reported, "ATM inspector not found. Entire day checked, inspector not found." In other instances the banking institutions reported



reviewing multiple days of footage without any indication of Connellan being present at the bank during his reported nighttime inspections. Despite these assertions, it does not appear that Frey investigated the instances or confronted Connellan.

Further, it was discovered that inspectors, when adhering to the ATM Safety Act mandates of an appropriate inspection, incurred travel expenses for the use of their private vehicles. Periodically, inspectors submitted to Frey an “Employee Report of Travel Expenses and Claim for Payment” form seeking reimbursement for these expenses, which Frey would review and forward to the BSC and OSC for payment. The Inspector General reviewed records reflecting ATM inspectors’ travel expenses during the period 2012 through 2016 and found that an ATM inspector’s reimbursement for use of their personal vehicle while conducting inspections is a substantial portion of their total compensation package. Indeed, the records revealed that all regional inspectors, but Connellan, sought and received reimbursement of their travel expenses.

However, Frey failed to recognize as suspicious that only Connellan, among all ATM inspectors in the program, never requested reimbursement. Frey stated, “I told him that. And you know what, that’s his loss. I mean, that’s the way I look at it.” By not submitting for travel reimbursement, Connellan neglected to recoup thousands of dollars per year. The travel reimbursement forms would also have required Connellan to account for his mileage traveled and locations visited. Since Connellan did not always make these trips, this would necessitate filing fraudulent travel expenses forms as well as submitting false inspection reports.

Frey also neglected to note that Connellan sought and received payment for at least 20 full daytime shifts on dates where he conducted no DFS activity. Connellan reported his ATM inspection activities to Frey by entering in a database the date and time of an inspection and the name of the bank representative with whom he had met. The Inspector General compared Connellan’s reported inspections and report filing times during the period January 2011 through Connellan’s retirement from DFS in August 2015 and found 20 days during which Connellan reported no inspection activity but nonetheless reported in his time and attendance that he was present for a full day of work. Had Frey merely compared Connellan’s time and attendance submittals to his inspection records, Connellan’s abuse would have been evident.

Another indicator that was undetected or ignored by Frey was that Connellan rarely found that the banking institution branches he purportedly inspected had any violations. Such violations could include findings that ATM stations lacked mirrors or signage or had inadequate lighting, broken door locks, or inadequate camera coverage, among others. Indeed, the other regional inspectors reported a total of approximately 1,700 violations between January 2012 and August 2015, the date of Connellan's retirement from DFS. Connellan reported only 11 violations at six branches during this three-and-a-half-year period. Of note, although DFS has the authority to issue fines for violations of the ATM Safety Act, it has not done so in the last five years.

Frey also failed to find suspicious that Connellan, on several dates, claimed to have conducted an unusually large number of nighttime ATM inspections. Given that an inspector must travel between banking institution branches, and once there, take illumination readings with a light meter at three measured distances from the ATM; check the ATM door locks, mirrors and signage; and stand before the ATM with a sign bearing the name of a sports team; the interval between inspections must be of a duration sufficient to provide reasonable belief that the inspector completed all the necessary tasks at each branch. Yet on one occasion, Connellan purported to have conducted 26 inspections between 6:30 p.m. and midnight; 12 of which occurred at intervals of 10 minutes or less from the next inspection.<sup>5</sup> This included four banking institutions that were purportedly inspected within six minutes of another inspection. That a complete inspection in fact occurred is highly improbable. Although not direct evidence of wrongdoing, the unusual number of inspections coupled with the brief period between inspections should have caused Frey to question Connellan if he was conducting adequate inspections or merely briefly stopping at each branch and displaying a sign before the ATM camera.

Additionally, Frey's supervisor, Ricardo Velez, provided little meaningful oversight of the ATM Safety Program and Frey. According to Velez, his oversight of the program consisted of a quarterly meeting with Frey to review statistics on the number of ATM inspections and quality assurance visits conducted in the previous quarter and to determine what steps could be

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<sup>5</sup> The Inspector General reviewed all nighttime inspection results for a full year and found that the frequency of nighttime inspections ranged from a low of one per night to as many as 18 per night, with an average rate of 8.5 inspections each night.

taken to improve the performance of inspectors and to manage the expectations of the inspection program. Velez advised that he did not require Frey to seek approval for travel associated with quality assurance inspections and he was unaware that Frey had obtained but later lost Connellan's written inspection reports.

#### Frey's Attendance at Connellan's Syracuse Police Department Retirement Party

In 1997, soon after Frey commenced employment with DFS, Connellan was hired as the first and, to date, only ATM inspector in the central New York region. When Connellan retired from the Syracuse Police Department in January 2015, Frey traveled from his home in Westchester County to Syracuse to attend Connellan's retirement party. Frey testified he did not inform his supervisor that he attended this party. Although Connellan's retirement from the Syracuse Police Department was not a State function, Frey submitted a New York State travel voucher for his trip, seeking a \$294.40 reimbursement for his mileage, \$7.13 in tolls, \$96 for his hotel room, \$56 for dinner and \$10 for valet parking; expenses totaling \$463.53. On the travel voucher, Frey wrote that the purpose of his trip was to attend a "BOA [Bank of America] meeting."

However, the Inspector General contacted BOA'S Corporate Security Office, which advised it had no record of any meeting with Frey in or around January 2015. Moreover, when testifying to the Inspector General just 14 months after the party and purported meeting, Frey stated he could not recall any specifics about the meeting and had no documentation reflecting what had transpired. Instead, Frey initially stated he had traveled to Syracuse to retrieve a binder or binders of hard copy nighttime inspection reports from Connellan and had attended the party while there. As explained below, these nighttime inspection reports are currently unaccounted for, according to Frey.

#### Frey Purportedly Retrieved but then Lost Connellan's Inspection Records

Frey testified to the Inspector General that he retrieved Connellan's nighttime inspection reports in January 2015, while attending a party to celebrate Connellan's retirement from the Syracuse Police Department, and Connellan's daytime inspection reports and other equipment, including a laptop, in August 2015, when Connellan resigned from DFS. Frey stated he retrieved "two, or three, or four" binders of Connellan's written nighttime inspection reports in January

2015, after Connellan's Syracuse PD retirement party, and "two, could have been more" binders in August 2015, when Connellan left state service. The first set of binders was contained within a box, which was placed in Frey's car and brought to his office the next business day. There, according to Frey, they were secured "outside my cube" while awaiting filing. In August 2015, after he retrieved a box containing Connellan's second set of binders and other equipment, he placed that box next to the other near his cubicle. According to Frey, this was his practice – "Whenever anyone leaves, I take all their stuff back. Just standard procedure." Frey, however, was unable to provide any evidence corroborating his claim that he routinely retrieves hard copy inspection reports from ATM inspectors upon their retirement.

Further, when the Inspector General requested these records, critical documents in this investigation, Frey could not produce them, stating "[t]hey're both missing. They were outside my cube, they were supposed to be put into storage, and we have no idea." Of note, despite prior requests by the Inspector General for all of Connellan's inspection reports and earlier testimony by Frey to the Inspector General, it was not until Frey's second interview with the Inspector General that he even represented that he had retrieved Connellan's written inspection reports. Connellan's equipment, which included a laptop and light meter, among other things, was not missing, and was returned to DFS inventory.

### **Findings and Recommendations**

The Inspector General's investigation found that between January 2011 and July 2015, Connellan neglected to conduct hundreds of ATM inspections and submitted fraudulent inspection reports to DFS to conceal his wrongdoing. Additionally, the investigation found that Connellan submitted false time and attendance records to New York State and received \$32,561 for work not performed. As a result of the Inspector General's investigation, Connellan was criminally charged, and on May 16, 2016, pled guilty to Grand Larceny in the Third Degree, a felony, and paid \$32,561 in restitution to New York State. The Inspector General also advised the City of Syracuse Comptroller that nighttime ATM inspections were conducted by Connellan while he was being paid overtime by the Syracuse Police Department. The findings were also referred to the Office of the State Comptroller who informed the Inspector General that Connellan received no pension credits for his DFS position. Connellan is no longer employed by either DFS or the Syracuse Police Department.

The Inspector General’s investigation also uncovered a significant lack of oversight of the ATM Safety Program by its administrator, Albert Frey. Despite overseeing the program for 20 years, Frey had not undertaken the promulgation of any policies for the program or consulted with department counsel or others about the same, and established no meaningful quality control measures to ensure that inspectors conducted their investigations as reported. Moreover, Frey failed to consider that Connellan was a full-time dayshift employee with the Syracuse Police Department, yet simultaneously claimed to work up to nine full-time dayshifts each month with DFS. Furthermore, given the fact that an ATM inspector’s mileage reimbursement is a substantial portion of their total compensation package, Frey failed to recognize as suspicious that only Connellan, among all ATM inspectors in the program, never requested mileage reimbursement for the supposed use of his private vehicle while purportedly conducting ATM inspections.

Additionally, Frey failed to notice that Connellan rarely found program violations at banking institutions—just 11 times in 43 months in his assigned region—while his fellow inspectors found approximately 1,700 violations in the same period, in the nine other regions. Frey also neglected to note that Connellan sought and received payment for at least 20 full daytime shifts on dates where he listed no activity at all. Frey also never discovered Connellan’s lengthy deception, despite testifying that he conducted annual quality assurance visits to central New York banking institutions during the last two decades and supposedly questioned branch managers about Connellan’s inspections. Moreover, the Inspector General found that Frey’s quality assurance inspections of central New York banking institutions, which were conducted on a fixed schedule in the months of October and November, were ineffective.

Additionally, the investigation found that Frey used state funds to attend a party for Connellan to celebrate his 2015 retirement from the Syracuse Police Department, although reporting in a travel voucher that he was attending a bank meeting. Lacking any documentation to reflect this meeting, his assertion is questionable. Furthermore, Frey testified that on two occasions in 2015, he retrieved from Connellan his written ATM inspection reports—critical evidence in this investigation— and placed the reports in boxes beside his office cubicle. The boxes subsequently went “missing.”

The investigation also found that Ricardo Velez, Frey's immediate supervisor, provided little meaningful oversight of the ATM Safety Program or the actions of Frey. Velez also bears some responsibility for the program's lack of policy. Had Velez properly supervised Frey and ensured Frey's quality assurance inspections were occurring, documented, and more than perfunctory, Connellan's wrongdoing might have been exposed.

The Inspector General referred the findings regarding Frey, Velez and the ATM Safety Program to DFS for appropriate disciplinary actions against Frey and Velez, and to make improvements to the ATM Safety Program. Specifically, the Inspector General recommended that DFS review the ATM Safety Program to ensure the inspections meet the requirements of the ATM Safety Act. The Inspector General also recommended that DFS create and maintain an inspection manual, enhance the ATM Safety Act Program's training program for inspectors, create a well-documented quality assurance program, and review DFS's ATM inspector hiring practices. A meaningful quality assurance program should include random visits to banking institutions at different times during the year in various locations within each region, without prior notification to either the regional inspector or the banking institution. The Inspector General also referred the findings regarding Frey to the New York State Joint Commission on Public Ethics for its review.

In addition, based on the investigation, the Inspector General recommended that DFS consider the dissolution or substantial reduction of the program. The methods of enforcing the mandates of the ATM Safety Program Act could be streamlined. This could include requiring banking institutions to submit to DFS annual certifications attesting that their cameras are in proper working order, signage and mirrors are properly placed, surveillance records are maintained for at least 45 days, and adequate lighting exists. Additionally, banking institutions could be required to submit to DFS time/date-stamped images from their surveillance cameras as proof that they are in proper working order. Many of these requirements could also be confirmed through written and oral communication with the banking institutions rather than through costly inspections, which under Frey's oversight, were lacking.

In light of the findings of this investigation, DFS advised it reviewed the ATM Safety Program and made changes to modernize and streamline its operations. The program is now under new management and closely supervised. In addition, DFS advised that it now requires

banks to report on ATM operations through the use of an online portal. Inspectors are assigned tablet computers to assist with their duties, photograph properties and log dates and times of inspections. DFS also now requires that inspectors obtain the signature of a banking institution representative during daytime ATM inspections and the logs of inspection dates and times are now reviewed by supervisory staff before time and attendance filings are approved. DFS also reported that it provided enhanced ethics training to all inspectors. Additionally, DFS reported that on June 10, 2017, Frey retired from State service, and on January 11, 2018, Velez retired from State service.