

**EXAMINING THE GM RECALL AND NHTSA'S  
DEFECT INVESTIGATION PROCESS**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON CONSUMER PROTECTION,  
PRODUCT SAFETY, AND INSURANCE

OF THE

COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

APRIL 2, 2014

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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## **EXAMINING THE GM RECALL AND NHTSA'S DEFECT INVESTIGATION PROCESS**

**WEDNESDAY, APRIL 2, 2014**

U.S. SENATE,  
SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT  
SAFETY, AND INSURANCE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:29 a.m. in room 253, Russell Senate Office Building, Hon. Claire McCaskill, presiding.

### **OPENING STATEMENT OF HON. CLAIRE McCASKILL, U.S. SENATOR FROM MISSOURI**

Senator McCaskill. This subcommittee will come to order.

It was a rainy night on March 10, 2010. Brooke Melton, who was 29 years old and a pediatric nurse, was driving her 2005 Chevy Cobalt to meet her boyfriend for her birthday dinner outside of Atlanta. As she was driving on the highway, her car suddenly lost power. Unable to control the vehicle, it hydroplaned, crossed the center line, and slammed into another vehicle at 58 miles per hour. Her car ended up in a creek. The airbag never deployed.

Ken and Beth Melton, her parents, rushed to the hospital, but she was dead when they arrived. In their nightmare of grief, they hired a lawyer—a trial lawyer. They ask him to help them understand what had happened and, if possible, hold whoever was responsible accountable. And he went to work, spending his own resources, to get to the bottom of what happened to Brooke on that rainy night in Georgia when she was on her way to celebrate her birthday.

He hired an engineer to help him. Together, Mr. Cooper, the lawyer, and Mr. Hood, an engineer, began to identify a defect that someone at General Motors had discovered years before. There was a problem with the ignition switch in Chevy Cobalts. It could easily be bumped or brushed or pulled from “on” to “accessory” or “off,” powering down the car, disabling the power steering, disabling the power brakes, and preventing the airbags from deploying.

After 2 years of fighting General Motors for documents and a timeline of events at a deposition in April of last year, Mr. Cooper finally confronted General Motors with the facts. Someone at General Motors had switched out the unsafe ignition switches in several car models and covered it up by using the same part number for the same switch—for the new switch—had covered it up by using the same part number for the new switch.

The simple work of the engineer hired by the trial lawyer representing the Meltons had discovered the defective part and its replacement with the same number. And when Mr. Cooper confronted General Motors' Mr. Ray DiGeorgio, their lead switch engineer, with the evidence of the part switch, he lied. He said he didn't know anything about it.

Documents—"General Motors Commodity Validation Sign-Off"—signed on April 2006, bear the signature of, in fact, Ray DiGeorgio, spelling out in the document also, "New detent plunger was implemented to increase torque force in the switch," with the box checked, "Resubmission, doing engineering changes."

[The information referred to follows:]

DELPHI CONFIDENTIAL

04/25/2006 14:51 5864924548 PAGE 01/02  
 FAX: [REDACTED]  
 EDUARDO RODRIGUEZ  
**GENERAL MOTORS COMMODITY VALIDATION SIGN-OFF**  
 pg. 1 of 2  
 Buyer's concurrence on the Seller's completion of validation shall not limit, impair, or otherwise modify Buyer's right to assert any legal or equitable remedy, or relieve Seller of its responsibility to provide conforming goods.

Part Name\* GMX 357 Delta Ignition Switch Part Number\* 10392423 Suffix/ Release Level\* 001  
 Shown on Drawing No.\* 10392423 / 22873957 Engineering Design Record Change Level\* N/A Dated\* 27AP04  
 Procuring Division\* NAO Application/Program\* GMX 357 Purchase Order No.\*  
 GM Lead Engineer\* Ray DiGeorgio GM Validation Engineer\*

**SUPPLIER MANUFACTURING INFORMATION**  
 Supplier Name\* Delphi Mechatronic DUNS Number\* 812502961  
 Street Address\* [REDACTED]

**REASON FOR SUBMISSION\***  
 Initial Submission  Resubmission due to Engineering Change(s)  Resubmission to correct problems in Initial submission

**COMMODITY VALIDATION SIGN-OFF REQUIREMENTS\***  
 Specified by Procuring Division (in SOR or in separate written request). Page 2 lists more information about the required documentation.

|   |     |   |    |   |
|---|-----|---|----|---|
| 1. The Supplier has submitted the required proof of validation completion as specified in SOR Appendix G, Section 4 (i.e., GP-11 ADV or executive letter certifying that commodity is validated).   | Yes | X | No |   |
| 2. All issues that are the responsibility of the Supplier have been classified as "closed" and the resolution of each issue has been confirmed by successful validation. This includes those issues that were identified during development, design validation, or product validation, whether those issues are tracked by GM or by the Supplier. | Yes | X | No |   |
| 3. All Corrective Action Plans (CAP) that are the responsibility of the Supplier have been classified as "closed."  | Yes | X | No |   |
| 4. The information in the Supplier's issue tracking system has been updated and is consistent with the final resolution of all supplier issues and CAPs.  | Yes | X | No |   |
| 5. The Supplier has completed its final ADV FAR (GM 1829-2) summarizing ADV execution status.   | Yes | X | No |   |
| 6. Supplier's ADV Plan(s) and all specified ADV activities have been completed, including activities required to resolve issues identified during development and validation.   | Yes | X | No |   |
| 7. Supplier has obtained GM approval of the detailed validation results for those requirements for which GM approval was specified in the "Other Validation Requirements" column of the Final VCR.  | Yes |   | No | Not required by SOR <input checked="" type="checkbox"/> |
| 8. Supplier evaluation reports have been completed for all regulatory requirements for which the Supplier conducted ADV activities to confirm compliance of the commodity.  | Yes |   | No | Not required by SOR <input checked="" type="checkbox"/> |
| 9. Supplier evaluation reports have been completed for those non-regulatory requirements or procedures that were identified in SOR Appendix G, in the Final VCR, or in writing by the program.  | Yes |   | No | Not required by SOR <input checked="" type="checkbox"/> |
| 10. The Supplier has submitted the commodity models, etc. required for the Virtual Archive.   | Yes |   | No | Not required by SOR <input checked="" type="checkbox"/> |
| 11. Other:  | Yes |   | No |   |
| 12. Other:  | Yes |   | No |   |

Explanation of "NO" answer or comment here: \_\_\_\_\_

Note that the during cycling, 1 amp was applied on the Delta Ignition Sw. This validation was submitted with New PCB correct timings adjusts as Customer required, also New detent plunger (Catera spring/Plunger) was implemented to increase torque force in the switch.

Supplier Name (please print)\* Eduardo Rodriguez Title\* Present Product Eng. Phone No.\* [REDACTED]  
 Supplier Authorized Signature\* [REDACTED] Dated\* 4/24/06

**GM DECISION:** Rejected (see comments below)  Re-submit (see comments below)  Sign-Off Complete   
 GM Name (please print) Ray DiGeorgio Phone No. [REDACTED]  
 GM Authorized Signature [REDACTED] Code: C234 Dated: APRIL 21, 2006  
 Comment: \_\_\_\_\_

SC-000165

Senator McCASKILL. Further, it is now clear that GM knew of the faulty switch in 2004, knew the airbags were not deploying in 2005, and in late 2005 knew someone had died. We don't know how many people crashed because of this cover-up. We do know that many died, including Ms. Melton and at least one of my constituents, a Missouri woman who died in a crash in 2009 in the suburbs surrounding Saint Louis.

So there is great work done by a trial lawyer and an engineer he hired in exposing a serious safety issue with a product—work that should have first been done by GM and secondly by Federal regulators. And then there is the Federal regulators' failure to spot a trend, even though the TREAD Act was passed specifically to give this regulatory agency the information it needed to catch exactly this type of problem.

And a culture of cover-up that allowed an engineer at General Motors to lie under oath, repeatedly lie under oath. It might have been the old GM that started sweeping this defect under the rug 10 years ago, but even under the new GM banner, the company waiting 9 months to take action after being confronted with specific evidence of this egregious violation of public trust.

Thousands of my constituents in Saint Louis and Kansas City areas go to work for General Motors every day, building some of the finest cars on the road. I am proud of them, and I am proud of their work. This is not their failure. They and the American public were failed by a corporate culture that chose to conceal rather than disclose and by a safety regulator that failed to act.

With this hearing, I intend to identify potential problems in our auto safety system and work with Chairman Rockefeller, Ranking Members Thune and Heller, and the other members of this committee to rectify these problems so that this tragedy hopefully is never repeated again. It is time that we finally get this right so that it doesn't take an enterprising trial lawyer and an engineer that he hired to bring to light what NHTSA should have known long ago and what General Motors should have fixed long before Ken and Beth Melton lost their daughter Brooke.

Our job today is to learn as much as possible about the failures of General Motors and the regulators to keep unsuspecting daughters, fathers, wives, and sons safe.

Senator Heller?

**STATEMENT OF HON. DEAN HELLER,  
U.S. SENATOR FROM NEVADA**

Senator HELLER. Thank you, Chairman McCaskill. And thanks for holding this hearing.

And thank you, Ms. Barra, for appearing in front of us today.

I want to begin by offering my deepest sympathies to the families and friends of those who have been affected by these tragedies. I also want you to know that we will get to the bottom of why it took so long to get these vehicles off the road.

As many of you know, General Motors has issued a recall of over 2.2 million vehicles due to problems with the ignition switch that GM has admitted to knowing about in some form as early as 2001. These faulty ignition switches have linked to 13 deaths. GM has

now recalled certain years of Chevy Cobalts, Pontiac G5s, Saturn Ions, the Chevrolet HHR, the Pontiac Solstice, and the Saturn Sky.

Last Friday, it was reported that sometime in 2006 or as late as 2007, General Motors changed the ignition switch part. A whole new part was manufactured and sold, but GM kept the same part number for that new part.

Now, in my hometown of Carson City, we have an engineering company that builds pistons and rods for NASCAR teams. I have talked with them, talked with owners, talked with other builders in Nevada, and I can tell you this: If a company sold a part that was changed in any way and did not change the model number or the serial number on that part, it would cause significant problems for these businesses, these individuals, and, of course, the racing teams themselves.

Ms. Barra, you know that I have raced cars for years. I have used GM testing facilities on some of the cars that I have raced. I have blown engines, broke transmissions, broke rear ends, lost my brakes, throttle stuck, and my ignition quit on me. And I tell you this because we break those engines down, those transmissions, those rear ends to find out exactly what the integrity of those parts are and how they broke, why they broke, and the difference, of course, being winning or losing.

And I can tell you, based on my experience, that it is incredibly unusual for a car company to change a car part and not change the part number. Government investigators have now requested that GM provide any documents chronicling the switch change and who within the company provided it. I am also requesting today that GM provide this committee with that same information.

But that is only part of this issue. We also need to recognize that when GM emerged from bankruptcy in 2009 the Federal Government owned 60 percent of the company because taxpayers bailed the company out. So GM knew of this issue in some capacity over 10 years ago. They changed the part but didn't tell anyone. They asked for a taxpayer bailout, and the current administration had to step in and restructure the company.

Through all of this, GM was unable to determine that they should pull 2.2 million vehicles off the road. This is why, from where I am sitting, GM has a lot of explaining to do, both to this committee and to the taxpayers.

Here is the issue for GM. It looks like there are multiple moments when the company faced conflicts of interest. And you said it yourself yesterday, Ms. Barra. GM has a culture based on cost, not safety. So many people are wondering if GM did not initiate a recall because GM could not survive one in 2006 or they did not initiate a recall because the Government owned 60 percent of the company.

It is possible that GM has an explanation for why it took so long to pull these cars off the road. However, after yesterday's hearing, I am afraid we are not going to get too many answers today. I hope GM is in a position to speak to what happened more specifically. That is why we called you here. And I think GM should take the opportunity today to explain their actions and help this committee get to the bottom of what happened.



There is also another side of this story. This is whether the National Highway Traffic Safety Administration received all the information from early warning reports that it needed to determine if further investigations were warranted. NHTSA received 260 complaints over 11 years that these vehicles were turning off while being driven, yet NHTSA did not move forward with a recall investigation in 2007 or 2010.

I wrote to NHTSA asking very simple questions regarding their process in recalling vehicles and what they saw in 2007 or 2010 that compelled them to pass on any investigation. I am very disappointed in NHTSA's ability to respond to my letter in time for this hearing. When we are looking at incidents in which individuals died, I expect more from NHTSA than what they showed today. And I think NHTSA knows that they can do better. And they need to do better.

That being said, it is my understanding that the secretary of transportation has requested an internal investigation to conduct an audit of NHTSA's handling of the GM recall. Secretary Foxx also stated that he has directed NHTSA and the department's general counsel to jointly conduct a due-diligence review. And I am pleased by both of these developments and look forward to the reports.

We need to ensure that consumers are safe on the road. We need to understand the facts of this recall. There are many questions that need answering, and I hope that today's hearing begins to provide some answers to the U.S. taxpayers and to what they deserve.

So thank you, Chairman McCaskill.

Senator McCASKILL. Thank you, Senator Heller.

Ms. Barra, welcome. We respect and appreciate your presence here today. And we welcome your testimony.

**STATEMENT OF MARY T. BARRA, CHIEF EXECUTIVE OFFICER,  
GENERAL MOTORS**

Ms. BARRA. Thank you very much. My name is Mary Barra, and I am the Chief Executive Officer of General Motors. I appreciate the opportunity to be here today.

More than a decade ago, GM embarked on a small-car program, and, sitting here today, I cannot tell you why it took years for a safety defect to be announced in that program. But I can tell you we will find out.

This is an extraordinary situation. It involves vehicles we no longer make. But it came to light on my watch, so it is my responsibility to resolve it. When we have answers, we will be fully transparent with you, with our regulators, and with our customers.

While I can't turn back the clock, as soon as I learned about the problem, we acted without hesitation. We told the world we had a problem that needed to be fixed. We did so because, whatever mistakes were made in the past, we will not shirk from our responsibilities now and in the future. Today's GM will do the right thing.

This begins with my sincere apologies to everyone who has been affected by this recall, especially to the families and friends of those who lost lives or were injured. I am deeply sorry, and the men and women of General Motors are deeply sorry.

I have asked former U.S. Attorney Anton Valukas to conduct a thorough and unimpeded investigation of the actions of General Motors. And I have received updates from him, and he tells me his work is well along. He has the free rein to go where the facts take him, regardless of outcome. The facts will be the facts. Once they are in, my leadership team and I will do what is necessary to assure this doesn't happen again. We will hold ourselves accountable.

However, I want to stress, we are not waiting for his results to make changes. I have named a new Vice President of Global Vehicle Safety, which is a first for General Motors. Jeff Boyer's top priority is to quickly identify and resolve any and all product safety issues. He is not taking on this task alone. I stand with him, my senior management team stands with him, and we welcome input from outside GM—from you, from NHTSA, from our customers, our dealers, and our current and former employees.

I have asked everyone on our team to keep stressing the system at GM and work with one thing in mind: Our customers and their safety are at the center of everything we do.

Our customers who have been affected by this recall are getting our full and undivided attention. We have empowered our dealers to take extraordinary measures to treat each case specifically. If people do not want to drive a recalled vehicle before it is repaired, dealers can provide a loaner or a rental free of charge. To date, we have provided nearly 13,000 loaner vehicles.

Our supplier is manufacturing new replacement parts for the vehicles that are no longer in production. We have commissioned two lines and asked for a third, and those parts will start being delivered to dealers next week.

These measures are only the first in making things right and rebuilding the trust with our customers. I would like this committee to know that all of our GM employees and I are determined to set a new standard. I am encouraged to say that everyone at GM, up to and including our Board of Directors, supports this.

As a second-generation General Motors employee, I am here as the CEO, but I am also here representing the men and women who are part of today's GM. And I can tell you that they are dedicated to putting the highest-quality and safest vehicles on the road.

In addition, I announced yesterday that we have retained Kenneth Feinberg as a consultant to help us evaluate the situation and recommend the best path forward. I am sure this committee knows Mr. Feinberg is highly qualified and is very experienced in the handling of matters such as this. Having led the compensation efforts involved in 9/11, the BP oil spill, and the Boston Marathon bombing, Mr. Feinberg brings expertise and objectivity to this effort.

As I have said, I consider this to be an extraordinary event, and we are responding to it in an extraordinary way. As I see it, GM has both civic responsibilities and legal responsibilities, and we are thinking through exactly what those responsibilities are and how to balance them appropriately. Bringing Mr. Feinberg on is the first step.

I would now be happy to answer your questions. Thank you.  
[The prepared statement of Ms. Barra follows:]

PREPARED STATEMENT OF MARY T. BARRA, CHIEF EXECUTIVE OFFICER,  
GENERAL MOTORS

**Introduction**

Chairman McCaskill, Ranking Member Heller, members of the Committee . . .

My name is Mary Barra, and I am the Chief Executive Officer of General Motors. I appreciate the opportunity to be here today.

More than a decade ago, GM embarked on a small car program. Sitting here today, I cannot tell you why it took years for a safety defect to be announced in that program, but I can tell you that we will find out.

When we have answers, we will be fully transparent with you, with our regulators, and with our customers.

As soon as I learned about the problem, we acted without hesitation. We told the world we had a problem that needed to be fixed. We did so because whatever mistakes were made in the past, we will not shirk from our responsibilities now and in the future. Today's GM will do the right thing.

That begins with my sincere apologies to everyone who has been affected by this recall. . . especially to the families and friends of those who lost their lives or were injured. I am deeply sorry.

I've asked former U.S. Attorney Anton Valukas to conduct a thorough and unimpeded investigation of the actions of General Motors. He has free rein to go where the facts take him, regardless of the outcome. The facts will be the facts. Once they are in, my management team and I will use his findings to help assure this does not happen again. We will hold ourselves fully accountable.

However, I want to stress that I'm not waiting for his results to make changes.

I've named a new Vice President for Global Vehicle Safety, Jeff Boyer (announcement is included below). This is a first for GM. Jeff's first priority is to quickly identify and resolve any and all product safety issues. He is not taking on this task alone. I stand with him. My senior management team stands with him. And we will welcome input from outside GM—from you, from NHTSA, from Mr. Valukas' findings, from our customers, from our dealers, and from our current and former employees.

This latest round of recalls demonstrates just how serious we are about the way we will do things at the new GM. We identified these issues. We brought them forward and we are fixing them. I have asked our team to keep stressing the system at GM and work with one thing in mind—our customers and their safety are at the center of *everything* we do.

**Customers**

Our customers who have been affected by this recall are getting our full and undivided attention. We're talking directly to them through a dedicated website, with constantly updated information, and through social media platforms. We've trained and assigned more people to our customer call centers, and wait times are down to seconds. And, of course, we're sending customers written information through the mail.

We've empowered our dealers to take extraordinary measures and to treat each case specifically—and they are doing a great job taking care of our customers. Here's what we are doing with our dealers: if people do not want to drive a recalled vehicle before it is repaired, dealers can provide them a loaner or rental car—free of charge. If a customer is already looking for another car, dealers can provide an additional cash allowance for the purchase or lease of a new vehicle.

Our supplier is manufacturing new replacement parts for the vehicles that are no longer in production. We have commissioned two and asked for a third production line, and those parts will start to be delivered to dealers as soon as possible.

These measures are only the first in making things right and rebuilding trust with our customers. As I've reminded our employees, getting the cars repaired is only the first step. Giving customers the best support possible throughout this process is how we will be judged.

I would like this committee to know that all of our GM employees and I are determined to set a new standard. And I am encouraged to say that everyone at GM—up to and including our Board of Directors—supports this.

I'm a second-generation GM employee and I'm here as the CEO, but I'm also here representing the men and women who are part of today's GM and are dedicated to putting the highest-quality and safest vehicles on the road.

I recently held a town hall meeting to formally introduce our new VP of global vehicle safety to the company. We met at our Technical Center, one of the places where the men and women who engineer our vehicles work. They are the brains behind our cars, but they are also the heart of GM.

It was a tough meeting. Like me, they are disappointed and upset. I could see it in their faces, and could hear it in their voices. They had many of the same questions that I suspect are on your minds. They want to make things better for our customers, and in the process, make GM better.

That's what I'm committed to doing.

I would now be happy to answer your questions.

Thank you.

---

ATTACHMENT

2014-03-18

**GM Announces New Vehicle Safety Chief**  
*Jeff Boyer named Vice President, Global Vehicle Safety*

**DETROIT**—General Motors CEO Mary Barra today named a new vehicle safety leader whose first priority will be to quickly identify and resolve product safety issues.

Jeff Boyer, has been named to the newly created position of Vice President, Global Vehicle Safety, effective immediately. Boyer, who has spent nearly 40 years in a wide range of engineering and safety positions at GM, will have global responsibility for the safety development of GM vehicle systems, confirmation and validation of safety performance, as well as post-sale safety activities, including recalls.

Boyer will provide regular and frequent updates on vehicle safety to Barra, senior management and the GM Board of Directors.

“Jeff’s appointment provides direct and ongoing access to GM leadership and the Board of Directors on critical customer safety issues,” said Barra. “This new role elevates and integrates our safety process under a single leader so we can set a new standard for customer safety with more rigorous accountability. If there are any obstacles in his way, Jeff has the authority to clear them. If he needs any additional resources, he will get them.”

“Nothing is more important than the safety of our customers in the vehicles they drive,” said Boyer. “Today’s GM is committed to this, and I’m ready to take on this assignment.”

Boyer, 58, will report to John Calabrese, Vice President of Global Vehicle Engineering and become a member of Global Product Development staff, led by Mark Reuss, Executive Vice President, Global Product Development, Purchasing and Supply Chain.

Boyer began his GM career in 1974, as a co-op student and has held several senior engineering, safety and process leadership positions, including the role of a total vehicle integration engineer. His most recent position since 2011 was Executive Director of Engineering Operations and Systems Development. Before that, Boyer served as Executive Director of Global Interior Engineering and Safety Performance where he was responsible for the performance and certification of GM vehicle safety and crashworthiness. He holds a Bachelor of Science in Electrical Engineering from Kettering University and a Masters of Business Administration from Michigan State University.

Senator McCASKILL. Thank you, Ms. Barra.

I want to briefly go through your resumé. Beginning in 2004, when this defect was discovered by someone at GM, you were Executive Director of Manufacturing Engineering, from 2004 to 2005. In 2005 to 2008, you were Executive Director of Vehicle Manufacturing Engineering. From February 1, 2008, to July 2009, you were Vice President of Global Manufacturing and Engineering. From July 30, 2009 to February 1, 2011, you were Vice President of Global Human Resources. From February 1, 2011 to August 2013, you were Senior Vice President of Global Product Development. And from August 2013 to January 15, 2014, you were Executive Vice President of Global Product Development.

Is that a correct—

Ms. BARRA. Yes.

Senator MCCASKILL.—rendition of your resume over the last decade?

Ms. BARRA. Yes.

Senator MCCASKILL. In April and May of last year, GM's employees were deposed in the lawsuit, trying to get some kind of justice for Brooke Melton. They were confronted in the deposition with the fact that there were two different parts with the same part number and the different torque on both of those parts, leading to the malfunction of the ignition switch.

At that deposition, General Motors had a lawyer. And it was very clear at that deposition that there were two parts with the same number and that they had been switched out and that one of them was defective.

When that lawyer for General Motors left that hearing, who did he report to?

Ms. BARRA. I don't know which lawyer was at that trial, so I can't answer that question.

Senator MCCASKILL. Well, hold on, and I will get it for you.

You have some lawyers here with you today, don't you? Don't you have your general counsel with you?

Ms. BARRA. Yes, I do.

Senator MCCASKILL. You are free to confer with him if he would like to tell you who that lawyer would report to after that deposition.

Ms. BARRA. Again, we are doing a full investigation with Mr. Valukas, and all of the individuals that are associated with this incident will be a part of that, and the findings will be conclusive—

Senator MCCASKILL. It was Mr. Philip Holladay, appearing on behalf of General Motors, from the King & Spalding law firm in Atlanta, Georgia.

Ms. BARRA. OK. So he didn't report to General Motors then. He was part of King & Spalding.

Senator MCCASKILL. Well, but he would have reported to his client. He was there representing you. He was your agent—

Ms. BARRA. Yes, ma'am.

Senator MCCASKILL.—at that deposition.

Ms. BARRA. Yes.

Senator MCCASKILL. So he would have—I guarantee you, if I am a lawyer and I am at a deposition where this bombshell has been dropped on my client, that there are two different parts with the same number, one of which is defective, I guarantee you I don't go back and tell the folks at the law firm. I am on my cell phone in the lobby saying to General Motors, "We have a problem."

Ms. BARRA. I agree.

Senator MCCASKILL. I need to know who would typically be—would it be the general counsel's office that the lawyers that you hire would report to you on litigation?

Ms. BARRA. It would have been part of the senior legal team.

Senator MCCASKILL. OK. It would be very important for us to identify who that lawyer reported to after that deposition.

Ms. BARRA. OK. I will—that will be part of Mr. Valukas's investigation.

Senator MCCASKILL. Now, I am assuming that when that happens there is an investigation internally.

Ms. BARRA. When—one of the findings that we have had from Mr. Valukas already as he has done his study is that, within General Motors, there were silos, and as information was known in one part of the business, for instance the legal team, it didn't necessarily get communicated as effectively as it should have been to other parts, for instance the engineering team. That is something that I have already corrected today.

Senator MCCASKILL. Ms. Barra, I am not asking whether or not the lawyers called the engineers. I am asking whether or not lawyers in a multimillion-dollar lawsuit, where there has been evidence of a defective switch and a replacement that had never been identified to the public being presented to the lawyers for your company, not reporting that up to the executive level of your company.

Those lawyers work for the executive level; they don't work for the engineers. They are hired by your senior counsel. That is who hires those lawyers, his office, correct?

Ms. BARRA. Yes.

Senator MCCASKILL. OK. So what I want to know is, what investigation began after that deposition?

Ms. BARRA. That is part of the investigation that we are doing.

Senator MCCASKILL. So you don't know whether or not anything happened after that investigation.

Ms. BARRA. I don't have the complete facts to share with you today.

Senator MCCASKILL. OK. Well, that is incredibly frustrating to me, that you wouldn't have a simple timeline of what happened once you got that knowledge.

So it went on for 9 months. You have no idea, even though you were in the executive level of leadership at the company at the time. It was never discussed anywhere in your presence—

Ms. BARRA. Correct.

Senator MCCASKILL.—for 9 months, even though this had occurred.

Ms. BARRA. I became aware of the defect and the recall on January 31.

Senator MCCASKILL. OK. So let me do quickly that.

On February 7, you issued the first recall. Twelve days later, Mr. Cooper, the trial lawyer, wrote to NHTSA, pointing out that, in addition to the recall you had done, it was not complete. He pointed out there were four other models that had the defective ignition. Six days later, you, in fact, recalled those vehicles.

On Monday of last week, Mr. Cooper filed a court pleading in California alleging there were additional cars that should have been recalled, and not been recalled, because they had defective switches placed in them during repairs. Last Friday, 4 days later after that pleading, GM finally issued the third round of recalls.

Is this the new GM, Ms. Barra? Is this the new GM that takes a lawyer having to write to NHTSA and a court pleading in court for you to finally recall all the cars that had been impacted by this defective switch?

Ms. BARRA. As we looked at the first population of vehicles, we immediately go and then read across to the other vehicles that may have the same part. Often, when you have the same part in an-

other vehicle, it can be a different configuration, a different geometry. As we looked into that population, we then recalled that population.

And then we immediately started to look at where were the spare parts. From a General Motors perspective, for GM dealers, we could go to dealer records and understand where, if a dealer put a spare part into a vehicle, we knew the VIN, but then as we worked with our supplier, we learned that they had sold these parts to other third-party repairers where there were no records kept.

When we learned that, we immediately went out and recalled the entire population of all of these vehicles because we couldn't be certain if there was a vehicle that had a part put in that we couldn't track.

Senator MCCASKILL. And I think it is great you have done all that. It just is worrisome to me that it took three shots after 9 months.

Senator Heller?

Senator HELLER. Thank you.

Ms. Barra, the public is very skeptical of General Motors, and let me explain to you what they are seeing.

At some point in the last decade, GM knew that there was a problem with a faulty ignition switch, which led to the death of 13 people. In late 2006 or early 2007, GM replaced the ignition part but kept the same part number and did not tell anyone.

Shortly thereafter, GM needed the U.S. taxpayers' loan to bail them out. The company was provided so much assistance that when they emerged from bankruptcy the Federal Government in 2009 owned 60 percent of the company.

So from where I sit, it looks like GM was not forthcoming with the American people who bailed them out. It looks like there were multiple moments where the company had conflicts of interest, either with initiating a recall at a time when GM was not financially sound or when the Government owned 60 percent of the company.

So what I am going to do is allow you to explain yourself to the American people. And I think we need to know whether you believe the company acted in the best interest of the consumers who bought your car and the U.S. taxpayers who bailed you out.

Ms. BARRA. Well, first of all, I agree, it took way too long for this to come to our attention and to do the recall. And we have admitted that. We have also apologized; it is tragic that there have been lives lost and lives impacted with this event.

From the part-number perspective, I find it completely unacceptable that a part would be changed without a part number, the actual identifier, being changed. That is not a process of good engineering; that is not an acceptable process. It wasn't then, and it clearly isn't now. And as we do our investigation, we will deal with that situation, because that is not acceptable for good engineering principles.

But as I look at the culture of the company during the timeframe—this part was designed in the late 1990s, it went into vehicles that went into production in 2003, the latest of which went out of production in the 2011 timeframe—the culture of the company at that time had more of a cost culture focus.

And I can tell you, we have done several things since the bankruptcy to create a new culture at General Motors, to be focused on the customer, starting with rewriting our values. The first value is the customer is our company; the second is relationships matter; and individual excellence.

We have also taken quite a bit of bureaucracy out of the vehicle development process and the structure itself. We have dramatically improved our quality organization and our customer experience organization.

So there have been dramatic improvements made in General Motors since that time.

Senator HELLER. Ms. Barra, I read the transcripts from yesterday's hearing, and you have said most of this when you were on the other side of the Capitol. And you said that safety comes first at GM, that you don't look at cost, GM looks at the speed in which it can fix it, and you said that there was a change, that GM has gone from a cost culture to a safety culture.

I want you to explain that. And in explaining that, does that mean that in 2006 General Motors was more concerned with the bottom line as opposed to recalling their vehicles?

Ms. BARRA. When we look at—when the complete investigation is done—there were documents that were produced yesterday, that, if those are in complete context, that they valued cost over quality once we knew there was a safety defect, that is unacceptable.

In today's culture, we don't condone that. And it starts with leadership, myself, our leadership and product development across the company. If there is a safety defect, there is not a calculation done on business case or cost of whether to do the recall. It is how quickly can we get the repair and put the right part or fix or inspection, whatever needs to be done, to make sure the vehicles are safe that our customers are driving.

Senator HELLER. So let me ask you again. If safety was not the highest priority in the past, is it fair to assume that GM only acts in the best interest of GM at all times? Was that true in 2006?

Ms. BARRA. Again, that is a very broad statement. I would say that there have been times in the past where there has been a safety focus. General Motors is a 100-year-old company. I can tell you now, from post-bankruptcy, there is a focus on the customer and on safety and on quality.

Senator HELLER. I have more questions, but I will wait.

Senator McCASKILL. OK. We will have another round of questions for Ms. Barra.

Senator Boxer?

**STATEMENT OF HON. BARBARA BOXER,  
U.S. SENATOR FROM CALIFORNIA**

Senator BOXER. Thank you, Ms. Barra.

I have here a timeline of when the company knew there were problems. It starts in 2001. In 2003, a service technician of GM noted that there was a stall while driving. And it goes on, and there is a constant theme here of the thing is getting worse and worse through the years.

Now, you are new at your job, but you have been at GM for how many years?



Ms. BARRA. Thirty-three.

Senator BOXER. Thirty-three years.

So when this was first discovered, you were Executive Director of Competitive Operations Engineering, where you developed and executed strategies to improve the effectiveness of vehicle manufacturing and engineering.

But you didn't know of this?

Ms. BARRA. Correct.

Senator BOXER. Nobody told you about this.

Ms. BARRA. Correct.

Senator BOXER. OK.

And then you were plant manager of Detroit-Hamtramck Assembly in 2003 to 2004, where you were responsible for day-to-day plant activities related to safety, people, and quality.

And, still, you knew nothing about this?

Ms. BARRA. We didn't build any of these models at the Detroit-Hamtramck—

Senator BOXER. In that position, you knew nothing about this, correct?

Ms. BARRA. Correct.

Senator BOXER. OK.

And then in 2004 to 2005, you were Executive Director, Manufacturing Engineering, responsible for developing and implementing global bills of process and equipment to optimize capital deployment and manufacturing operating costs. And you developed and continuously improved lean cost initiatives.

You knew nothing about this when you were executive director of manufacturing and engineering?

Ms. BARRA. Correct.

Senator BOXER. You knew nothing.

How about when you were Vice President of Global Manufacturing Engineering, 2008 to 2009? You knew nothing?

Ms. BARRA. Correct.

Senator BOXER. And you still knew nothing when you were Vice President of Global Human Resources.

Ms. BARRA. Correct.

Senator BOXER. You are a really important person to this company. Something is very strange, that such a top employee would know nothing.

Now, have you seen photos of your cars that have had that ignition problem and that the problem led to deaths? Have you seen photos of those cars, what they look like?

Ms. BARRA. Yes.

Senator BOXER. I have another one for you to look at. The people are here. Mary Theresa Ruddy of Scranton, Pennsylvania, died at the age of 21. She was a senior at Marywood University. Her parents are here, her family.

And I guess it is somewhat shocking after the Pinto—and that goes back to when I was first an elected official. I was shocked that there was such a cold and calculating way that Ford decided not to fix a fatal flaw in their fuel tank. And we learned through lawyers, as our Chairman has pointed out, they made a very—through discovery—they found out there was a very careful cost-benefit analysis, and Ford decided it was cheaper for them to pay off the

families of the dead than to fix the problem that would have cost them \$11 a car.

Did you make that kind of calculation over at GM in this situation?

Ms. BARRA. I did not.

Senator BOXER. Do you know of anybody who did make it?

Ms. BARRA. That is the purpose of the investigation that we—

Senator BOXER. But you don't know now.

Ms. BARRA. Correct.

Senator BOXER. You haven't asked, and you don't know.

Ms. BARRA. I have asked for an investigation—

Senator BOXER. Do you know if GM ever used this kind of cost-benefit analysis in its history?

Ms. BARRA. There were documents shared with me yesterday that, if they are true as we go through the complete timeline, will demonstrate that it is completely unacceptable—

Senator BOXER. Well, I didn't ask you that. I said, do you know if GM ever used this kind of cost-benefit analysis in its history? Do you know?

Ms. BARRA. If it was used for a safety item, it would be unacceptable.

Senator BOXER. It is okay to do for a safety item; is that what you are saying?

Ms. BARRA. I said the opposite of that.

Senator BOXER. Well, you didn't.

Ms. BARRA. Well—

Senator BOXER. So what about in 1973, when GM engineer Edward Ivey concluded it was not cost-effective for GM to spend more than \$2.20 per vehicle to prevent a fire death? Do you know about that?

Ms. BARRA. I have heard of that.

Senator BOXER. You have heard of it? You haven't looked at it, looked into it?

Ms. BARRA. General Motors today finds any time there is an incident—

Senator BOXER. Well, you know, today and today—yesterday I did something that I am accountable for. It is not about—you have been involved in this since you became CEO. Have you not looked into this?

Look, Mr. Ivey's study placed the value of a human life lost at \$200,000 and estimated the company could cost-effectively spend only \$2 for rear-impact protection to prevent to fuel-fed fires and that a burn death would cost the company \$2.40 a vehicle. Through this analysis, GM determined it would not be cost-effective to pay more than \$2.20 per car for each burned death.

So you talk about today's GM, but evidence shows that as recently as 2005 GM used a cost-benefit analysis to determine that fixing the problem was, quote, "not an acceptable business case."

Are you aware of the situation in 2005? Has that been called to your attention?

Ms. BARRA. I was aware in general of the Ivey letter. I have never seen it.

Senator BOXER. What about 2005? Is that the new GM or the old GM, 2005?

Ms. BARRA. General Motors Company was formed in 2009.

Senator BOXER. OK. So the old GM in 2005, you are not aware that they used a cost-benefit analysis to determine that fixing the problem was not, quote, “an acceptable business case.”

Ms. BARRA. Again, if it is a safety issue, there should not be a business case calculated.

Senator BOXER. But you don’t know anything about this?

Ms. BARRA. That is why we have hired an investigator. We are going back over a period of a decade to understand exactly what happened.

Senator BOXER. OK. I will hold for the second round. Thank you.

Senator MCCASKILL. As people know, the Commerce Committee does order of arrival, just to remind everyone. Every committee does it different, but Senator Rockefeller does order of arrival, and I will respect him in that regard. I respect him anyway.

[Laughter.]

Senator MCCASKILL. I respect him in all regards.

[Laughter.]

Senator MCCASKILL. But I also will respect him in that record. So next would be Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,  
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Senator McCaskill. Thank you for holding this hearing.

Ms. Barra, one of the families involved in this is a young woman who was killed named Natasha Weigel from Albert Lea, Minnesota. I met with her dad, Doug, yesterday. I talked to her mom, or to her mom’s husband yesterday.

And this young girl was in Wisconsin. She was in a Cobalt with some friends, and suddenly the ignition went off, and the car barreled 71 miles per hour into trees, and two of the girls were killed, including Natasha.

And she was a hockey player, young girl. And one of the letters that her dad gave me that she wrote to him just a few months before she died, she talks about—this is her words: “I wouldn’t be the good goalie I am now if it wasn’t for you, Dad, standing behind the net, behind the glass. Just knowing you were there made me trust myself better, and I definitely felt secure to know you had my back.”

And I think you understand that these families need someone to have their back. They want to have the backs of their kids, at least the memories of their kids.

And I think this is—a lot about what this is about, including a major change in process that we clearly need in GM and probably in the transportation field in terms of how we look at these things.

And as you look at this internal evidence, I think the things that we need to know include: Why did GM open numerous internal reviews but not elevate the issue to a formal investigation until 2011? Why was GM’s management not aware of critical decisions being made related to the defect? Did GM disclose the issue during the company’s bankruptcy proceedings? These are the things that are on the minds of the American people.

And then on the Government side, with NHTSA, did NHTSA have sufficient resources to do a prompt, thorough investigation? Did NHTSA have the technical expertise and technology to evaluate this growing evidence? I know in our case, in the Weigel family, a complaint was made with NHTSA way back when Natasha was killed. What could NHTSA have done differently as it was receiving complaints over this very long period of time?

So my first question of you is really about this internal process. And I would like to know what factors, as we have just seen these recalls, with more and more of them rolling out over the last few weeks, what factors does GM consider when it is examining whether or not to elevate a potential safety defect to a higher level of review?

Ms. BARRA. In today's General Motors, we look at—I mean, as an incident is learned about—and it can come from any source, it can come from our dealers, it can come from testing, it can come from outside, it can come from a claim being made. And it gets assigned to a team of knowledgeable engineers. They investigate, try to understand what is happening, try to understand, you know, if there is an incident, what it could cause. That then gets reviewed by a team, a cross-functional team, and then goes to a final group to make a decision. That is the process that is used.

Senator KLOBUCHAR. And what is the single most important factor the company considers when looking at whether to do a recall?

Ms. BARRA. The most important thing is if there is a safety issue. And we have actually, over the last 2 years, made great strides to quickly get information, look, and get into the field as quickly as possible.

If you look at the data right now of General Motors, we actually do more recalls than anyone involving smaller populations. Because we are trying to get—if we find something, we are trying to get in and fix it as quick as we can.

Senator KLOBUCHAR. And do you think there will be further recalls to come here with different models?

Ms. BARRA. I believe, as we find problems, large or small, we will do the right thing. And if it requires a recall, we will do a recall.

Senator KLOBUCHAR. OK.

Now, we have the issue of claims with many of these families that have been involved. Do you think that families have equal opportunity to compensation, regardless of whether and when GM went through bankruptcy?

And if you could also describe—you just announced this appointment, Mr. Feinberg—

Ms. BARRA. Right.

Senator KLOBUCHAR.—how this would work, so that these families would get their compensation.

Ms. BARRA. And we hired Mr. Feinberg late last week. We have our first meeting with Mr. Feinberg on Friday. And it is open right now. He has guided us on the different things that we need to consider. Again, as I have said, we have civic and we have legal responsibilities. We are going to work through those.

I anticipate, based on the timeline he has given us, it will take about 60 days. That is the timeline he has told us to plan for as we explore and look at all the different options. We have not made

any decisions. All options are still open. But I don't have a decision today.

Senator KLOBUCHAR. So do you think that these families should be able to be compensated regardless of the bankruptcy issue?

Ms. BARRA. That is why we hired Mr. Feinberg, to work through this issue.

Senator KLOBUCHAR. OK.

Last question, as my time is running out. What does GM have to do to regain the American public's trust?

Ms. BARRA. We have to work every day, and I am 150 percent committed to it, as is my team, to make sure we are putting the safest and the highest-quality vehicles on the road across the globe. And that is what we will work tirelessly to do. That is what the men and women of General Motors want to do.

Senator KLOBUCHAR. Thank you.

Senator MCCASKILL. Senator Coats?

**STATEMENT OF HON. DAN COATS,  
U.S. SENATOR FROM INDIANA**

Senator COATS. Madam Chair, thank you very much.

Ms. Barra, yesterday, correct me if I am wrong here, but I believe you said that GM—you did say that you had hired Mr. Feinberg to investigate the matter, but you also did not commit to sharing the results of that investigation with the public and with Congress, instead saying—and I think I am quoting you correctly—you will share what is appropriate.

After a night's sleep on that question, is that still your position, or do you think it would be appropriate to share everything Mr. Feinberg discovered with us and with the public?

Ms. BARRA. Well, first of all, I would like to add to that.

The specific question I was asked was about the findings from Mr. Valukas's study. Mr. Valukas is doing the complete investigation, the external investigation of what happened over this more-than-a-decade period. And when I said we would share what is appropriate, we will share everything and anything that is related to safety of our vehicles, that is related to safety regarding this incident. We will share that with the customers, we will share that with you, and with our regulators. If we learn things that are broader from a safety perspective, we will share that.

The only thing, and the reason why I used "what is appropriate," is if there is an issue of competitiveness, because we have opened up everything to Mr. Valukas, that would be something that we would—again, if there was a safety issue, we would override on the safety side, but other competitive issues—and then, also, as an employer, we have responsibilities on privacy to some of our employees as part of the employment agreement. I have to respect that, as well.

But, clearly—and I appreciate the opportunity to clarify this—anything remotely related to safety of vehicles or anything that could improve the process, if, for example, we could have done better with NHTSA, will readily be shared in a very transparent process.

Senator COATS. Well, I am glad you clarified that, because I think your comments raised concerns for all of us.

So just to make the record clear, anything related to a safety issue will be shared with the public and with Congress?

Ms. BARRA. Absolutely.

Senator COATS. Were you aware of this problem when you were offered the CEO position at GM?

Ms. BARRA. I became aware of the recall on January 31. I was aware in late December that there was analysis going on on a Cobalt, but I didn't even know what the part was.

Senator COATS. Well, whether you like it or not, you have become the face of the problem—

Ms. BARRA. Absolutely.

Senator COATS.—but, hopefully, also, the face of the solution.

But it is important that, I think, we understand what your role was during your 33 years and, more important than that, that this investigation point out just who knew what and when did they know it.

I would suggest to the Chair that perhaps a follow-up subcommittee hearing potentially involve those who held the leadership in the key positions at GM during the timeframe that we are looking at here. And that would include some government officials, also, since it owned the company, 60 percent of the company, for a considerable period of time.

And so I say that because I think we need to hear from people who had held key positions in GM that perhaps had knowledge of this situation and made a decision, either on a cost basis or for whatever reason, to come before the Committee and explain their role, rather than dumping the whole issue on GM's new CEO.

But, again, as I said, you have taken on this duty. And like many before you, including presidents of the United States, what was anticipated for your role turns out to be something very, very different. But we are going to need your complete cooperation as we work through this difficult issue.

But I think also I would suggest to the Chair and the Vice Chair that we seriously consider bringing before us those who were in positions of responsibility when these decisions were made.

Senator MCCASKILL. Thank you, Senator Coats. We will, in all likelihood, do some kind of follow-up hearing on this, and I think it would be helpful to hear from some of the people in key places. I would certainly love to talk to, under oath, the—I should say “under oath.” In a committee setting, I would like to talk to the legal team about how they handled the lawsuits around this defect. Senator Nelson?

**STATEMENT OF HON. BILL NELSON,  
U.S. SENATOR FROM FLORIDA**

Senator NELSON. Thank you, Madam Chairman.

Ms. Barra, I have been a General Motors customer virtually all my life and have been very satisfied. I am concerned by virtue of what we have learned, is there a corporate culture. And since you are the new sheriff in town, you are going to have to get into that culture.

As Senator Boxer had mentioned, back in 1973, that accident of the fuel fires, and so an engineer for GM wrote the value analysis

of auto-fuel-fed-fire-related fatalities. And Senator Boxer had already talked about that.

Madam Chairman, I would ask that that be entered into the record, that engineer's report.

Senator McCASKILL. Without objection.

[The information referred to follows:]

VALUE ANALYSIS OF AUTO FUEL FED  
FIRE RELATED FATALITIES

Accident statistical studies indicate a range of 650-1,000 fatalities per year in accidents with fuel fed fires where the bodies were burnt. There has been no real determination of the percent of these people which were killed by the violence of the accidents rather than by fire. The condition of the bodies almost precludes making this determination.

Based on this statistic and making several assumptions, it is possible to do a value analysis of automobile fire related fatalities as they relate to General Motors.

The following assumptions can be made:

1. In G.M. automobiles there are a maximum of 500 fatalities per year in accidents with fuel fed fires where the bodies were burnt.
2. Each fatality has a value of \$200,000.
3. There are approximately 41,000,000 G.M. automobiles currently operating on U.S. highways.

Analyzing these figures indicates that fatalities related to accidents with fuel fed fires are costing General Motors \$2.40 per automobile in current operation.

$$\frac{500 \text{ fatalities} \times \$200,000 \text{ fatality}}{41,000,000 \text{ automobiles}} = \$2.40/\text{automobile}$$

This cost will be with us until a way of preventing all crash related fuel fed fires is developed.

If we assume that all crash related fuel fed fires can be prevented commencing with a specific model year another type analysis can be made.

Along with the assumptions numbered above the following assumptions are necessary:

1. G.M. builds approximately 5,000,000 automobiles per year.
2. Approximately 11% of the automobiles on the road are of the current model year at the end of that model year.

PRODUCED  
GENERAL MOTORS COMPANY

PURSUANT TO PROTECTIVE ORDER

Valve Analysis of Auto Fuel  
Fed Fire Related Fatalities  
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PRODUCT LIABILITY  
GENERAL MOTORS CORPORATION

This analysis indicates that for G.M. it would be worth approximately \$20 per new model auto to prevent a fuel fed fire in all accidents.

500 fatalities x 11% model autos = 55 fatalities in new model autos

55 fatalities x \$200,000/fatality = \$2.20/new model auto  
5,000,000 new model autos

This analysis must be tempered with due thoughts. First, it is really impossible to put a value on human life. This analysis tried to do so in an objective manner but a human fatality is really beyond value, subjectively. Secondly, it is impossible to design an automobile where fuel fed fires can be prevented in all accidents unless the automobile has a non-flammable fuel.

*E. J. Ivey*  
E. J. Ivey  
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Senator NELSON. Now, given this potential culture problem in GM, since I am a GM customer, if I were to have a recalled Chevrolet Cobalt, would you recommend that I drive home in it tonight?

Ms. BARRA. If you take all the keys off the ring except the ignition key or just use the ignition key, our engineering team has done extensive analysis to say that is safe to drive. If—

Senator NELSON. What if I were going on a long trip?

Ms. BARRA. Again, if you don't have anything else on your key ring, and I recommend just the ignition key, you are safe to drive the vehicle. The analysis has been done over weeks.

Senator NELSON. I suspect that Cobalt drivers would not take comfort in that advice, knowing what has come up. And you all may want to revise that advice.

You mentioned here that GM has hired Ken Feinberg. You know, he is accustomed to large claims. He handled the BP oil spill in the Gulf. You all have confirmed 13 deaths. Does this suggest, with Feinberg coming on board, that the number of deaths and injuries is going to be potentially much higher?

Ms. BARRA. We are starting our work with Mr. Feinberg on Friday. We think he is an expert in this area. And we want to do what is right, so we thought he was the person with the most expertise to go forward.

And I would also, to the previous question, if a person is not comfortable driving their Cobalt or one of these models, we are providing loaners free of charge.

Senator NELSON. With Feinberg on board, does that suggest that GM is going to compensate owners who feel the need that they have to park their car, other than the loaner that you are speaking about?

Ms. BARRA. Again, working with Mr. Feinberg, there are many aspects that we need to work through with him, and so that is why he, on his timeline, is saying it will be about 60 days.

Senator NELSON. The Center for Auto Safety has suggested that they think this defect may have caused over 300 deaths. That is a big difference from the 13 that you have acknowledged. Why do you think those numbers are so far apart?

Ms. BARRA. My understanding is there are data sources from the FARS database where it captures a proportion of incidents that occurred in those vehicles using broader criteria. In some cases, the way airbags are designed, they are not intended to go off, depending on the crash.

And if you would like me to have—we have a team that is very knowledgeable. They have spent virtually their entire career working on airbags and understanding that. We could share that.

Senator NELSON. Tomorrow, you are going to have to formally respond to NHTSA about what the company did and did not know. Companies are legally required to report safety defects within 5 business days of discovering them, and so this information is going to be critical to determine whether GM broke the law.

While we are waiting on this determination, can you tell us whether you think that GM informed the Government and the consumers pursuant to the law in order to prevent those accidents?

Ms. BARRA. I want to know that answer just as much as you do, and that is why I have got Mr. Valukas, who is doing this report,

and we are working on all the information that NHTSA has requested, to provide that in a timely fashion.

Senator NELSON. Thank you.

Senator MCCASKILL. Let me see who is next. Senator Booker is not here. It will be Senator Blumenthal.

**STATEMENT OF HON. RICHARD BLUMENTHAL,  
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thank you, Madam Chairman, and thank you, Senator McCaskill, for holding this hearing.

Thank you, Ms. Barra, for being here today. You and I have met before, haven't we?

Ms. BARRA. Yes, we have.

Senator BLUMENTHAL. And I am going to tell you now what I said then, which is that I have enormous admiration and respect for your career, what you have accomplished, and the leadership that you have provided to GM. And I also have enormous respect for your company. It is an iconic, enormously important manufacturing company, and it produces terrific products, generally.

And I know that you are accompanied here by a regiment of lawyers and a battalion of public relations consultants and that your breaking with the culture is a very difficult step. But let me, with all due respect, suggest three steps, at least three steps, that you can take if you really want to break with the culture and show the leadership that I think is worthy of GM and worthy of your leadership.

Number one, commit to a compensation fund that will do justice for the victims of the defects that killed people in your cars.

Number two, warn drivers who are currently behind the wheel of those cars that they should not drive them until they are repaired because they are unsafe.

And, number three, support the measure that Senator Markey and I have proposed that would improve the system of safety accountability going forward, require more disclosure to the public and better transparency and reporting by the car manufacturers in case of defects to the Federal agencies.

And the Federal agencies have a substantial share of the blame in this instance.

I think it is pretty much incontrovertible that GM knew about this lethal safety defect, failed to correct it, and failed to tell its customers about it, and then concealed it from the courts and the United States. So I think these steps are appropriate, and I hope that you will adopt them, despite whatever the complexities that you see and whatever the advice is that you are getting.

And I want to know, first of all, what is it that Ken Feinberg has to work through to convince you that there should be compensation to these victims?

Ms. BARRA. Ken Feinberg has just indicated to us that, as he goes in, he interviews a lot of people, tries to get a complete understanding of the process—

Senator BLUMENTHAL. But he is not—and excuse me for interrupting you, but we all have 5 minutes here, so I am trying to make the best use of it as possible. He is not a bankruptcy expert.

And right now GM is still in courts across the country invoking a blanket shield from liability that is the result of its deception and concealment to the Federal Government. I opposed it at the time, as Attorney General for the state of Connecticut, not for seeing that the material adverse fact being concealed was as gigantic as this one.

But why not just come clean and say, we are going to do justice here, we are going to do the right thing, we are going to compensate the victims, knowing that money can't erase the pain or maybe even ease it, but it is the right thing to do?

Ms. BARRA. Our first step in evaluating this is to hire Mr. Feinberg, and we plan to work through this with him and understand his expertise. As I have said, there are civic as well as legal responsibilities, and we want to be balanced and make sure we are thoughtful in what we do.

Senator BLUMENTHAL. Let me go on to the next step. Let me show you the recall notice. And I am sure you have seen it. It says, "The risk increases if your key ring is carrying added weight, such as more keys or the key fob, or"—and I stress "or"—"your vehicle experiences rough road conditions or other jarring or impact-related events."

Even with all the weight off the key chain, doesn't that recall notice tell you that cars should not be driven where there are rough road conditions or other kinds of potential jarring events?

Ms. BARRA. The testing that has been done has been on our proving ground that has extensive capability where the vehicle would be jarred. And with just the key or the key and the ring, it has performed.

Senator BLUMENTHAL. Is it your testimony here today that those cars are as safe as any other car on the road today?

Ms. BARRA. Again, as you look across all the safety technology that is on vehicles from the past to present, there is variation on safety based on the technology that is on cars today. So there is variation across the whole population.

Senator BLUMENTHAL. Is that Cobalt car, as driven now, safe for your daughters to drive? Would you allow them behind the wheel?

Ms. BARRA. I would allow my son and daughter to drive—well, my son, because he is the only one eligible to drive—if he only had the ignition key.

Senator BLUMENTHAL. So the added risk, if you have only the ignition key, of driving that car on the road is zero? There is no additional risk of driving the unrecalled Cobalt on the road?

Ms. BARRA. The testing that we have done as it relates to this indicates that the weight would not cause that issue.

Senator BLUMENTHAL. My time—

Ms. BARRA. And if someone—

Senator BLUMENTHAL.—has expired—

Ms. BARRA. Can I just say, if someone is uncomfortable, though, we are providing loaners. If someone asks for a loaner, a loaner is provided.

Senator BLUMENTHAL. Well, again, I would respectfully suggest that you advise your customers to get loaners rather than driving these cars.

Thank you, Madam Chairman.

Senator McCASKILL. Senator Ayotte?

**STATEMENT OF HON. KELLY AYOTTE,  
U.S. SENATOR FROM NEW HAMPSHIRE**

Senator AYOTTE. Thank you, Madam Chairman.

Ms. Barra, you described the situation with the duplicate parts, the duplicate ignition switches. One had the defect, one didn't; however, the same part number was kept. And as I understand that, that happened—the part was actually approved by the chief engineer in 2006. And then the redesigned ignition switch was put at some point into the model during the 2007 year. And you have described that as an unacceptable practice.

You know, I have to say, when I look at this situation, particularly the fact that there are indication that GM may have known as soon as 2001 about the problems with the ignition switch, the fact that there would be two identical parts—in other words, one is defective and one isn't—and that you didn't change the part number strikes me as deception. And I think it goes beyond unacceptable; I believe this is criminal.

And I guess my question to you is, have there been any other instances where GM actually is changing a part and fixing a defect and keeps the part number the same? Because this, to me, is not a matter of acceptability; this is criminal deception.

Ms. BARRA. I am not aware of any. And it is not an appropriate practice to do. It is not acceptable. It is crucial, it is engineering principle 101 to change the part number when you make a change.

Senator AYOTTE. Yes, I think it is just—obviously, someone made the decision and it was approved by GM to do this. And I would like to know whether it has ever been done in any other instance.

Because I think that we should get to the bottom of that, in terms of deception, in terms of the potential safety issues that can flow from that, of not triggering for people that there is actually a part that is being fixed but not with a different number. So it is really a matter, I think, of being honest and truthful with the public here.

So I would like to get a follow-up answer to that as this investigation goes forward. Because I don't see this as anything but criminal, when I see the change in this part number.

I also wanted to ask about—the Chair asked you about the deposition in April or May of last year, where clearly in the deposition the trial counsel had raised this issue of the two parts with the same number, one defective, one not.

And does the General Counsel report directly to the CEO?

Ms. BARRA. Yes.

Senator AYOTTE. Yes. And I find it shocking that something like that, and I share the Chair's concern, wouldn't have gone directly up through the leadership of GM. And so I think this is a very important issue that we need to understand, even a year ago, what was told and who knew what when.

Because it seems to me—I am a lawyer by background, as well. This would have been shocking for me to hear in a deposition representing a client, and I would have gone to the top if I heard something like that to make sure that my client understood what was happening and the risks that they faced.

I also wanted to ask you about, with regard to the taxpayer bailout of GM in 2009. At that point, had there already been lawsuits filed related to the ignition switch?

Ms. BARRA. I can't answer that question. I don't know.

Senator AYOTTE. I would like to know whether GM actually notified the administration's Auto Industry Task Force, which helped administer the taxpayer bailout, about the ignition switch. But I would assume that if there were any lawsuits that had been filed that were pending with regard to the safety of the products of GM that this would have been something that would have brought to the attention of the Administration.

And I would like to know what information was provided to that task force or to other officials in the Administration as we provided taxpayer dollars to GM to address the bailout and the bankruptcy. So I think this is an important issue, as well, and obviously an important issue, I think, for NHTSA, as well.

So if you could get back to us on that, I would appreciate it.

Thank you.

Senator MCCASKILL. Senator Rubio?

**STATEMENT OF HON. MARCO RUBIO,  
U.S. SENATOR FROM FLORIDA**

Senator RUBIO. Thank you, Madam Chair.

Ms. Barra, you have been at GM for how many years?

Ms. BARRA. Thirty-three.

Senator RUBIO. Thirty-three years. You have discussed a lot today about the culture at General Motors and the change in the culture. Can I ask you about the culture at GM in your years there? Was there a culture at GM at any time that you have worked there of discouraging bad news about the company?

Ms. BARRA. I think the culture wasn't always as welcoming of bad news. You know, again, it was not across the whole company, but in pockets it wasn't always as welcomed as it should have been.

Senator RUBIO. And at senior management positions, in light of, for example, the bankruptcy and the subsequent need for the Federal Government to intervene and bail out the company for it to survive, did you notice that that culture was exacerbated during that time? That at that point in time there was a particular amount of resistance toward any sort of bad news about the company, like, for example, faulty ignition switches?

Ms. BARRA. I wouldn't draw that conclusion.

Senator RUBIO. So you were never involved in and you never saw any conversations with regard to the need to diminish the amount of bad news about the company or anything that would be disruptive, even if it involved safety issues?

Ms. BARRA. No. No.

Senator RUBIO. OK.

So let me ask you this question now, leading to the next point.

Based on what you know over the last few weeks, having dealt with this issue, can you tell us whether General Motors intentionally misled its customers and Federal regulators when someone decided to delay disclosing or fixing the faulty ignition switch?

Ms. BARRA. I don't know. That is why we are doing the investigation.

Senator RUBIO. But you won't rule that out?

Ms. BARRA. Mr. Valukas has the reins to go wherever the facts take him. And the facts are the facts, and we will deal with those.

Senator RUBIO. It seems the purpose of this investigation is to deduce two things: first, the process that led this decision to be made, how was it that this decision was made, so that you never do that again. That is the first part of the investigation.

The second part and the one that I think is important—because this is not just about General Motors. There are other companies out there making all sorts of products. And what we never want to do is live in a country where companies can decide that, as a business model, we will decide not to make fixes to things despite the fact that they are dangerous because it would cost too much money to fix it.

That is a dangerous precedent. You know, if I owned a restaurant and poison was part of my ingredients and I decided not to change the recipe because it cost too much money and someone died, they wouldn't just close down my restaurant, I would go to jail.

So my second question is, is part of this investigation to identify who decided or what group of people decided not to disclose these flaws and to do something about them in a timely manner, is part of the investigation to identify those individuals who made those decisions?

Ms. BARRA. If there were decisions made by individuals that were inappropriate—and some of the things that I have seen I am very troubled by—as Mr. Valukas completes his findings, my team, my leadership team, we will take steps. And if that means that there are disciplinary actions, up to and including termination, we will do that. We demonstrated that already when we dealt with the India Tavera issue last year.

Senator RUBIO. But if someone was negligent, if someone said, “We have this information, we don't think it is a big deal, we shouldn't do anything about it,” that is negligence, and certainly someone like that should not continue to work for the company.

But will you also look for evidence in that investigation that, in fact, people knew that this was a problem but decided that the costs weren't worth it? Are you also in search of that, to see if, in fact, there were individuals or a culture in the company created by a group of individuals that encouraged employees to make these sorts of cost-benefit analyses based on economics and not on customer safety?

Ms. BARRA. As I have said, that type of analysis on a safety issue or a safety defect is not acceptable, it is not the way we are going to do business, and that is not the culture—we will make sure that that is not the culture we have going forward.

Senator RUBIO. But, again, my question is, will you look to see if, in fact, there was a decision made by a group of individuals not to move forward on this because of its cost?

Ms. BARRA. Yes.

Senator RUBIO. You want to know the answer to that question?

Ms. BARRA. I want—

Senator RUBIO. And we will know the names of these people, and we will know the process by which they made that decision, as well?

Ms. BARRA. We will work on the process. In raising the names, I have to make sure that I stay consistent with employer laws that I have. But trust me, we acted swiftly when we had issues with individuals who are no longer with the company in the past.

Senator RUBIO. Yes. And I would follow up by talking to your counsel and ours, as well, but I am not sure there are any laws that allow companies to shield an individual who made, at that point, what appears to be a criminal decision not to move forward on a safety item because of some sort of internal economic consideration.

Ms. BARRA. I guess, we need to complete the investigation and have the facts in front of us. And we will act not only from a company perspective, but if there are issues beyond that that have to be dealt with, we will deal with those.

Senator RUBIO. I have one last question. Will you fully cooperate with the Justice Department if they want to conduct a concurrent investigation alongside the internal one?

Ms. BARRA. We will fully cooperate with the Justice Department.

Senator RUBIO. Thank you.

Senator McCASKILL. Senator Johnson?

**STATEMENT OF HON. RON JOHNSON,  
U.S. SENATOR FROM WISCONSIN**

Senator JOHNSON. Thank you, Madam Chair.

Ms. Barra, like Senator Klobuchar, I met with the stepfather and mother of Natasha Weigel. And that accident occurred in Wisconsin, so this hits pretty close to home.

Your background is electrical engineer, correct?

Ms. BARRA. Correct.

Senator JOHNSON. And so you have been with GM for 33 years. In that capacity, I would imagine General Motors has been a real leader in terms of total quality management in their manufacturing process?

Ms. BARRA. We have improved our quality dramatically over the last several years.

Senator JOHNSON. OK. I have a manufacturing background myself. I ran a plant for 31 years.

In your engineering capacity, I would imagine you dealt with the quality management system in a pretty robust fashion, correct?

Ms. BARRA. Correct. In the manufacturing arena, yes.

Senator JOHNSON. OK.

I want to drill down a little bit in terms of where Chairman McCaskill and Senator Ayotte went, on the change of that part number. I have gone through a lot of quality audits, and of course the reason you have different numbers for different parts is for traceability, correct?

Ms. BARRA. Correct. A number of reasons, but that being the key one.

Senator JOHNSON. A real key one. So if there is a problem, there is a defect in the manufacturing process, you can trace back exactly where that happened.

So you called that a not good engineering principle. That is really just a total violation—

Ms. BARRA. Correct.

Senator JOHNSON.—of a total quality management system, correct?

Ms. BARRA. Correct.

Senator JOHNSON. And, again, total quality management has been part of GM for how many decades?

Ms. BARRA. For, I would say, at least my career, and it has been improving along the way.

Senator JOHNSON. And the engineering departments, in particular, are totally focused on those TQM principles, correct?

Ms. BARRA. Correct.

Senator JOHNSON. Wouldn't there be—when you change a part, OK, there is going to be an awful lot of engineering that goes into changing that part, correct? There are going to be subparts that go within a part—

Ms. BARRA. It depends on the change in the—

Senator JOHNSON. Well, let's say an ignition switch. How many—there are multiple parts to an ignition switch, correct?

Ms. BARRA. Correct.

Senator JOHNSON. So when you redesign that, there are going to be different parts combined with that part.

Ms. BARRA. And then the part number that General Motors uses as the sub-assembly comes to us would have a unique individual part number.

Senator JOHNSON. So it would be very difficult within a total quality management system to have multiple changes in part numbers combined in an assembled part and then not have that part number changed in a completely different part, correct?

Ms. BARRA. I agree.

Senator JOHNSON. Almost impossible.

Ms. BARRA. It is wrong.

Senator JOHNSON. Which means it wasn't just a mistake. Somebody had to proactively make sure that that part number did not change, correct?

Ms. BARRA. That is why we are investigating, to learn exactly why that happened.

Senator JOHNSON. But, again, within a total quality management system, with everything that goes into changing a part, an assembled part, so there are going to be different part numbers combining into that part, there is really no conceivable way, within a total quality management system, with computers as they are today, with the types of controls you put in a total quality management system, that within that system a new assembled part would not have a different part number.

Ms. BARRA. I agree with you, and that is why I find it so disturbing.

Senator JOHNSON. So, basically, what the conclusion would be is that process, that procedure, that computer system was purposefully overridden.

Ms. BARRA. That is why we are doing the investigation.

Senator JOHNSON. OK. Well, again, that is the assumption we have to make, right?



Now, also within that traceability part of a total quality management system, we should be able to quickly identify who or what departments were involved in that, correct?

Ms. BARRA. And we are doing that.

Senator JOHNSON. OK. Now, again, I am no attorney, I can't really speak to criminality. But it is going to be pretty important to find out who was responsible for overriding the quality system to change that part.

Ms. BARRA. I want to understand why those actions were taken.

Senator JOHNSON. And the only reason anybody would make sure in a total quality management system that a part number didn't change would be to hide the fact that that part changed for some reason, correct?

Ms. BARRA. I would like the complete investigation to be completed before I start making assumptions.

Senator JOHNSON. OK.

I have no further questions. Thank you.

Senator MCCASKILL. Senator Markey?

**STATEMENT OF HON. EDWARD MARKEY,  
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Madam Chair.

This is a Chevy Cobalt 2006 ignition switch. This is the same design that failed, shutting off vehicle airbags and killing innocent victims. We now know that the difference between this switch and one that would have worked was the difference between life and death. And do you know the other difference? The other thing that we now know? That it would only cost \$2 to repair—\$2. And that is how little this ignition switch would have cost.

And it was apparently \$2 too much for General Motors to act, despite a decade of warnings, accident reports, and deaths. And while a number of investigations are ongoing to determine exactly how many times this evidence was covered up by GM or ignored by NHTSA, there is one clear conclusion that we can make, and that is: It is much more difficult to cover up evidence that is publicly available.

Ms. Barra, if I have a car accident and decide to report the details to NHTSA, NHTSA puts that information into a public consumer complaint data base. But if I made the very same complaint to General Motors instead of to NHTSA, GM can deem all the details of my complaint to be confidential business information. And it does that every single time.

You told Senator Coats that you would have all of the information, that you would share anything and everything related to GM's Cobalt situation. My question to you is this: Will you commit publicly to disclosing all documents, including accident reports, notices that a fatal accident could have been caused by a safety defect, and all details of consumer complaints GM receives about all of its vehicles going forward, Cobalt or any other vehicle?

Ms. BARRA. I understand there are different things being looked at to see what we should be reporting to NHTSA. And we will actively support looking at what we think would be useful to help, you know, speed the process of understanding a defect or understanding why something happened.

We will work cooperatively. And I understand there is legislation under way, and we would be happy to review and provide input.

Senator MARKEY. All right. So let's reach the legislation, because it is clear that if you are not going to commit to doing it voluntarily, that we need legislation that mandates it.

The families are here. The victims are here. They want to be vindicated, themselves, but they don't want other families to ever suffer what they have suffered.

So Senator Blumenthal and I have introduced legislation, an early warning reporting system. Let me ask you this: Our bill would require automakers to submit the documents that first alerts them to fatal accidents involving their vehicles to the searchable early warning reporting system. Would you support that legislation?

Ms. BARRA. Again, that legislation is being reviewed by our team. We are providing input. We need to review the entire legislation.

Senator MARKEY. Number two, it would require the Transportation Department to publish materials it receives about safety incidents that it currently keeps secret. Could you support that for families across America?

Ms. BARRA. Senator, as this bill is put forward, we would like to review it in its entirety and provide input, and then we will comply with whatever legislation is passed. And we will work proactively with NHTSA to try and make sure the most helpful information is brought forward.

Senator MARKEY. Number three, it would require the Transportation Department to upgrade its data bases to give consumers the tools they need to protect the members of their family. Can you support that?

Ms. BARRA. The answer, again, we will look at—I would like to look at the legislation in its entirety and provide input and work with NHTSA to make sure the appropriate information that will be most helpful is what is made available.

Senator MARKEY. Fourth, it would require the Transportation Department to use the information it has to better identify fatal defects before they claim more innocent lives. Can you support that legislation for every auto company in America?

Ms. BARRA. Again, I would like to look at the legislation in its entirety, look at what makes the most sense, working with NHTSA to make sure the most valuable information is put forward.

Senator MARKEY. I am very troubled that you are not willing to commit to ending this culture of secrecy at General Motors.

Ms. BARRA. I didn't say that.

Senator MARKEY. Yes, you have, OK? And I know this, OK, because I have tried year after year, for more than 10 years, to have legislation passed that would require the disclosure of all of this information, and it was the automobile industry that killed my legislation year after year.

And this is the moment now for you to say more than that you are sorry, but that you are going to commit that families get the information to make sure that it never affects any other family in America again.

And you should be in a position right now, Ms. Barra, I am telling you this, to say, "We will disclose this information. We will

make it available.” You have had more than 2 months now to make this decision. You have had more than 2 months to think about what went wrong. You have had more than 2 months to think about why you worked to kill legislation, as a corporation, for years that provided a consumer database so that individual families knew that their families could be harmed.

And yet you still do not have an answer. You still do not understand what the American public wants. They need the information to protect their families. And it is important for everyone to know that General Motors is still not giving us the “yes” the American people want to that question.

Senator MCCASKILL. Ms. Barra, how many lawsuits relating to the defect, both pending and closed, as well as settlements, has GM been a defendant or a co-defendant?

Ms. BARRA. I don’t have that information. I can provide it to the Committee—

Senator MCCASKILL. I am assuming you have had some briefing from your counsel about your exposure on this defect?

Ms. BARRA. We have not talked about exposure. It is very important, once we realized the situation, we immediately hired Anton Valukas. We don’t want to have multiple investigations. We thought it was most important to have—

Senator MCCASKILL. I am not asking about investigations. I am saying, as the CEO of General Motors, you have not had a briefing by your general counsel about the litigation that is ongoing against your company concerning this defect? You have not had that conversation?

Ms. BARRA. I have been focused on getting the parts for customers.

Senator MCCASKILL. We would like to know how many cases have been filed. We would like to know how many cases have been completed. We would like to know how many are settled and, most importantly, how many of those required confidentiality. How much Whac-A-Mole has been going on, in terms of trying to deal with these lawsuits on a one-off basis and leveraging what a lawyer wants to do for their client with the requirement of secrecy.

Has Mr. DiGeorgio been fired?

Ms. BARRA. As the investigation has only been going on for a couple weeks, we have already made process steps. As I return to the office, we will start to look at the people implications.

Senator MCCASKILL. So he has not been fired.

Ms. BARRA. No, he has not.

Senator MCCASKILL. OK. Is he still working there every day?

Ms. BARRA. Yes.

Senator MCCASKILL. OK. And you know that he lied under oath.

Ms. BARRA. The data that has been put in front of me indicates that, but I am waiting for the full investigation. I want to be fair—

Senator MCCASKILL. OK. Well, let me help you here. He said several times he had no idea these changes had been made. Here is a document that he signed under his name, Mr. Ray DiGeorgio. He signed it on April 26, 2006, approving of the change.

Now, it is hard for me to imagine you would want him anywhere near engineering anything at General Motors under these cir-

cumstances, and I, for the life of me, can't understand why he still has his job.

And I think it is—I know you want to be methodical, I know you want to be thorough, I know you want to get this right. But I think it sends exactly the wrong message, that somebody who perjures repeatedly under oath—he wasn't just asked the question once. He was asked the question over and over again.

Now, here is the really important question. This document, which is completely relevant to any lawsuit that is filed against GM around these crashes, would have been included in any document request from any lawyer representing a family. This document was not given to Mr. Cooper. This document was withheld from the lawyer representing the family of Brooke Melton. He didn't even find out about this document until after his case had been settled.

How do you justify withholding a key piece of documentary evidence in a litigation concerning a part that was changed without a part number change that is spelled out in this document for anyone to read? How does that happen?

Ms. BARRA. I cannot—I don't condone not providing information when requested, you know, in a legal proceeding. And if that was done, we will deal with the individuals accountable for that.

Senator McCASKILL. Well, I think it is very important that we find out how many cases this document was provided to counsel and when it was requested. It is clearly within the scope. I guarantee you, there was not a request for documents being made of GM around these cases that the scope of the request did not include this document.

And I want to know in how many cases they buried this document. Because this is what happens in America. Corporations think they can get away with hiding documents from litigants and that there will be no consequences. And I want to make sure there are consequences for hiding documents. Because this is hiding the truth from families that need to know. And it is outrageous, and it needs to stop.

Last month, the Department of Justice announced a \$1.2 billion settlement in a criminal case against Toyota. It resulted in a massive recall, unintended acceleration; we have talked about it in these hearings.

What is particularly relevant to you—and I want to put this on the record—is the facts around the redesign of a part in that criminal case. And I am going to quote from the facts of that settlement.

Toyota redesigned a part using, “a designation that entailed no part number change.” Department of Justice said that Toyota engineers did this explicitly to, quote, “prevent their detection from NHTSA.”

And I know this has gone over with you time and time again, but I wanted to make sure we got that in the record, that we have had it occur with another car manufacturer.

Finally, I want to talk just for a minute about the nature of the defect. I am confused about this. When I was going through all the documents preparing for this hearing, in his testimony, Acting Administrator Friedman says that GM's own technical specifications for the Cobalt call for the airbag system to contain an independent

power source that is armed and ready to fire for up to 60 seconds after the vehicle's power is cutoff. That is in GM's specifications to NHTSA.

Is that an accurate description of the technical specifications?

Ms. BARRA. I don't know. I would have to go back and review that. And I can provide that information.

Senator McCASKILL. Because there seems to be a problem here. Because if the specifications say that airbag deploys when power is off and we know these airbags are not deploying when power is off, then we have a much bigger problem. That means we could have airbags across the entire automobile industry that do not have the appropriate sensors in there that allow for the deployment even when the power has gone off during some kind of collision or, in this case, because of a defective part.

That would be information we would also like you to follow up on.

Ms. BARRA. OK.

Senator McCASKILL. Finally, two things for the record.

Will you commit to coming back in front of this committee when you can answer the questions?

Ms. BARRA. Yes.

Senator McCASKILL. And, second, all the information you are providing to NHTSA on Friday, would you be so kind as to provide a copy of all of that information to this committee?

Ms. BARRA. Yes.

Senator McCASKILL. Thank you.

Senator Heller?

Senator HELLER. Thank you, Chairman.

You have answered most of the questions with the response that there is an ongoing investigation, you want to see the results of that. Do you have a target date for when that review will be complete?

Ms. BARRA. I hope to have that done within 45 to 60 days.

Senator HELLER. Forty-five to 60 days. I think that is important for us to know.

Ms. BARRA. And I have asked Mr. Valukas to go as quickly as he possibly can but not sacrifice accuracy for speed.

Senator HELLER. What opportunities will we have to review that?

Ms. BARRA. As I said before, any information related to safety, anything related to this incident, anything we think would help, you know, from a NHTSA broader—we will provide it. The only thing we won't is issues of competitiveness, or if there are privacy issues, we have to comply.

Senator HELLER. How broad will this review be?

Ms. BARRA. I have asked Mr. Valukas to—there are no boundaries and there are no sacred cows. I want to make sure we have a complete understanding, because only with a complete understanding can we make all the changes we need to make from both a people and a process perspective.

Senator HELLER. Is Delphi a vendor or a subsidiary?

Ms. BARRA. Delphi is a supplier, not a subsidiary.

Senator HELLER. OK. OK. Will this overview include looking at Delphi and their participation in this?

Ms. BARRA. To the extent that Mr. Valukas goes in that direction and we get information from them, yes.

Senator HELLER. I think it would make some sense to talk to people at Delphi and find out, in their words, and perhaps bring them to this committee to find out what their understanding is and make sure—to determine, you know, their involvement in this particular case.

Can you tell us whether or not this is a one-time occurrence?

Ms. BARRA. As I look at it, I see it as a very extraordinary situation. There have been many, many cases where we have been quick to act from a safety recall process. And, as I mentioned before, often we are known to do more recalls of smaller population because we want to get to issues as quickly as we can.

Senator HELLER. So you have no recall of whether or not a similar situation has occurred in the past, where two different parts had the same part number?

Ms. BARRA. I am not aware of that. That is bad engineering.

Senator HELLER. Do you think it was an oversight on Delphi?

Ms. BARRA. I don't know. And that is what I hope to learn with the investigation. I want to understand all the parties involved and what they did, what was wrong, what was not following process, et cetera.

Senator HELLER. What would you consider the financial stability of GM in 2005, 2006, and 2007, just before the taxpayers bailed them out?

Ms. BARRA. Poor.

Senator HELLER. What do you think would have been the damage done to the public image if the company had initiated a recall of these cars in 2005?

Ms. BARRA. I can't—I can't, you know, guess what that would have been. Obviously, it would have been less than it is now. And it would have been much better to have this issue resolved, because it clearly took too long.

Senator HELLER. Do you think GM would have survived if they had recalled cars in 2005?

Ms. BARRA. I can't guess.

Senator HELLER. Do you think the company took that into consideration?

Ms. BARRA. I did not take that into consideration and know of no one who did.

Senator HELLER. That perhaps GM would have gone under had they initiated a recall in 2005?

Ms. BARRA. I don't know.

Senator HELLER. All right. Thank you, Ms. Chairman.

Senator MCCASKILL. Senator Boxer?

Senator BOXER. Ms. Barra, I really hate to say this, but if this is the new GM leadership, it is pretty lacking. And maybe this round, you can change my mind. I will give you another chance to. But leadership means stepping out with a fresh start, and I don't see it.

For example, you had Mr. Blumenthal, Senator Blumenthal, show you the recall notice, and you still won't say that everybody who has these cars should get rid of it, even though the recall notice says, if your keychain is heavy or you go over rough roads—

have you seen this winter? In Vermont, they had 94 occasions of snow. Do you know what that does to the infrastructure? Look, you should have said, "You are right."

Then Mr. Markey, Senator Markey, who is a great leader on this, says, will you support just making transparent the reports to the company that there is a problem with a car, put it out there? Oh, no, you can't—you can't answer that either.

So then my question, in March 2005, your GM people said it cost too much to fix these cars. The code words, "None of the solutions represents an acceptable business case." Now, that was a public document. GM gave that document over. Oh, you can't even talk to that. You don't know anything about anything.

And, Madam Chairman, who is not here, I am going to ask unanimous consent to place in the record more pictures of Mary Theresa Ruddy's car. And what kind of a death follows that kind of a crash, you can see from there.

So, without objection, I will put that in.

[The information referred to follows:]





Senator BOXER. Now, it is my understanding you are recalling many of your cars now. Not all of them, but if people want to, they can say, please pay for a loaner. Is that correct?



Ms. BARRA. That is correct.

Senator BOXER. Well, that is the right thing to do. But do you support a law that would say recalled cars like yours can no longer be rented or loaned? Do you support a law like that?

Ms. BARRA. If there is a safety issue on the vehicle—and we made sure on these vehicles that they are grounded, all of these—

Senator BOXER. No, no. Do you support a proposed law by Senator McCaskill and myself that would say recalled cars like yours can no longer be rented or loaned? We have a law. Do you support that law—that proposal, that bill?

Ms. BARRA. I would like to read the whole bill before I say if I support it or not.

Senator BOXER. You would like to read it? You haven't read it?

Ms. BARRA. No, I have not.

Senator BOXER. Well, it is been out a long time.

Are you aware that recalled cars can be rented or loaned? Are you aware of that?

Ms. BARRA. I know that—

Senator BOXER. So you can send your owner of one of these cars to a rental place or get a loaner and they could lease and they could get a defective car. Are you aware of that, that there is no law that says—

Ms. BARRA. I know, because I have checked for the vehicles here, that they are grounded.

Senator BOXER. Say that again.

Ms. BARRA. For this specific issue, one of the first things we did is made sure that the rental agencies—

Senator BOXER. I am not asking you about that. I am asking you, do you support a law that Senator McCaskill and I and Schumer and others have proposed that would say, if a car is recalled, it cannot be leased or loaned?

Ms. BARRA. My understanding is the rental community is voluntarily complying with that, and—

Senator BOXER. Do you support a law—

Ms. BARRA. Conceptually—

Senator BOXER.—yes or no?

Ms. BARRA. Conceptually, it makes sense. I would like to understand the—

Senator BOXER. Well, “conceptually” is not the question. Do you support the bill?

Ms. BARRA. I haven't read it.

Senator BOXER. Well, you should, since you were the CEO of GM when we got an e-mail from your organization that you are part of, the manufacturers alliance, opposing the bill. So you already were CEO—this is the new GM—and you opposed the law.

Now, you should know that my constituent, Cally Houck, lost her two daughters—Raechel, 24, and Jacquie, 20—in a tragic accident caused by an unrepaired safety defect in a rental car they were driving. So Senators Schumer and McCaskill, we wrote the Raechel and Jacqueline Houck Safe Rental Car Act. And you know what? The rental car people support it, but you don't. The automobile manufacturers don't.

So you are essentially bragging today, if I may use the word, that you are telling your people, oh, go get another car. But at the same time, your lobbying organization is opposing a bill that would make sure that no one—no one—would die the way they died.

So I would say, Madam Chairman, I am so grateful to you and Senator Heller for this hearing. These issues run deep, and we have work to do.

And I am very disappointed. Really, as a woman to woman, I am very disappointed. Because the culture that you are representing here today is a culture of the status quo.

Thank you.

Senator McCASKILL. Senator Klobuchar?

Senator KLOBUCHAR. Thank you, Madam Chairman.

I just have a few specific follow-up questions, Ms. Barra.

In your testimony, you mention the steps GM has taken in terms of this recall. And because the recall focuses on model-year vehicles built way back from 2003 to 2007, I wonder how many of these vehicles are now on their second or third owners and if this is creating challenges to reach these owners and if there is anything more that can be done.

Ms. BARRA. One of the things we would very much support is some type of data base—I don't know the right agency to manage it—where we would have the latest owners attached to the VINs.

What we do when we have this issue, because we want to get second, third, however many owners there are, is we go to Polk, where registration data is kept, and that is how we get the latest information.

But if there was something that allowed—that there was a master database, as such, that you always knew what VIN and who was the registered owner, that would be incredibly helpful.

Senator KLOBUCHAR. OK. And this would be something from the Department of Transportation or—

Ms. BARRA. Transportation or NHTSA. I am not sure which agency would do that. But that would be something I think would be very beneficial.

Senator KLOBUCHAR. OK. Well, we should approach them about that with the next questions.

Ms. Barra, GM received—I think some of my colleagues have gone over this, but—consumer complaints related to the faulty switch for years, evidence back to 2011. Internally, what we have learned is the company conducted reviews, issued service bulletins to dealers on how to advise customers on the problem, and even approved redesign to the ignition switches. But none of this was ever made public, and, as we know, we didn't get this formal investigation by 2011.

Was it that GM management felt that they could handle this internally and make these changes? I am just trying to understand the reasoning. And I know you are doing this investigation, but—

Ms. BARRA. I am trying to understand it, as well, because it took way too long. I understand if it had been handled more quickly, there—once there is a safety issue, it should never have a business case that goes against it in making any part of decisionmaking. And as we go forward now, there isn't any.

So I am as disturbed as you. I want to understand. And I commit to you, I will make change, both people and process.

Senator KLOBUCHAR. OK.

Delphi Automotive, the company that produced the ignition switches that are linked to this defect, has informed congressional investigators that GM approved the original part in 2002, even though it didn't meet GM's specification for torque performance.

Do you think it met those specifications?

Ms. BARRA. I understand there is documentation that exists that says it doesn't, and that is what I have to understand, why that happened.

Senator KLOBUCHAR. OK.

And then last, in your testimony you mentioned you had named a new vice president for global vehicle safety. I think that sounds like a pretty good idea right now, but I was surprised there wasn't already a person high up in the company dedicated solely to safety.

Will the person in the position be involved with key decisions related to safety that are made by upper management?

Ms. BARRA. This person will have free rein and have input, have a team and access to all information across. We are going to be investing in more resources for this individual so they can use the right data analytic tools to sometimes put the pieces together more quickly.

He will sit on the staff of our head of vehicle development for the entire globe. And he will meet with me on a monthly basis and meet with our board on a quarterly basis.

Senator KLOBUCHAR. And how are you going to measure if it is working or not, what, you know, his success is in that position?

Ms. BARRA. Again, I will look to make sure how quickly, when we learn of an issue, how quickly we understand it and implement change and, you know, work with NHTSA and take the necessary steps, all the way up to and including a safety recall.

Senator KLOBUCHAR. And do other automobile companies have a person in place like this, a position like this?

Ms. BARRA. I haven't done a read across of other OEMs to look at that.

Senator KLOBUCHAR. OK.

Well, I am going to put the letter on the record from our constituent who perished in the car crash, named Natasha Weigel.

[The information referred to follows:]

Dad—

Over the past 13 years or so years of playing hockey I have learned so many things about life, about people, and what I've noticed/watched/learned from you is to always keep *your* head in the game no matter how tough it may be. You've watched me go through my up's and downs and now that I'm back home you have helped me become a better person. If you wouldn't have signed me up for hockey my very first year you and I both probably wouldn't be the same people we are today, I believe it's made us closer and better people. It has definitely helped me believe in myself and taught me to trust others. I wouldn't be the good goalie I am now if it wasn't for you standing behind the net behind the glass, just knowing you were there made me trust myself better and I definitely felt secure to know you had my

back. I just want to thank you for everything you have done to help me succeed with my hockey career, thanks for bein the hockey Dad any girl could wish for.

Tasha  
2006

Senator KLOBUCHAR. And I think just as many of these other senators, my thoughts and prayers are with her family as they pursue justice, and all the families behind you.

And obviously there is a lot more work to do, so thank you for appearing today.

Senator McCASKILL. Senator Blumenthal?

Senator BLUMENTHAL. Thank you, Madam Chairman, and thank you for committing to continue these hearings.

Ms. Barra, we were talking about the recall notice, and I was pointing out that you said there is no risk as long as people don't add keys to the ignition key; is that correct?

Ms. BARRA. I said that there has been extensive engineering analysis and testing done that demonstrates that the weight of the key or the key and just the ring—

Senator BLUMENTHAL. Who has done the analysis?

Ms. BARRA. General Motors engineers.

Senator BLUMENTHAL. Would you commit to making them available to us?

Ms. BARRA. Yes.

Senator BLUMENTHAL. And would you commit to providing documents that support that analysis, any documents in connection with that analysis?

Ms. BARRA. Yes.

Senator BLUMENTHAL. Thank you.

Now, are you saying the recall notice is wrong? Because the recall notice says risk increases with rough roads or jarring events.

Ms. BARRA. I think it was trying to capture the elements of when—

Senator BLUMENTHAL. Well, do you agree or disagree? I apologize again for interrupting. Are you saying that the recall notice is wrong?

Ms. BARRA. No.

Senator BLUMENTHAL. So that people should not drive on rough roads or with jarring events using one of the recalled unrepaired automobiles.

Ms. BARRA. I think the notice was trying to be descriptive of the situation where it is most likely to occur. But, again, the testing is related to the key.

Senator BLUMENTHAL. What would it take to change your view, that people should not be driving these unrepaired recalled cars? If I came to you with 100 events of people finding that they lose power and control of their cars, would that persuade you?

Ms. BARRA. It wouldn't take 100 events. I mean—

Senator BLUMENTHAL. It would take 10?

Ms. BARRA. It wouldn't—it would take—I mean, my understanding is, with the key or the key and the ring, this phenomenon that caused these issues will not occur. If it was anything more than that—

Senator BLUMENTHAL. But if I came to you with those events—and there are those events—would that persuade you?

Ms. BARRA. I am not aware of any events where it was just the key or the key ring where that occurred.

Senator BLUMENTHAL. If I came to you—

Ms. BARRA. Yes, it would.

Senator BLUMENTHAL. If I came to you with the death of a young woman, who went to school not far from here, who was driving one of these cars unrepaired and was killed when her airbag was disabled because of this defect, would it change your view?

Ms. BARRA. Senator Blumenthal, my response is to if there is just the key or the key and the ring. That is the analysis we have done to indicate that these vehicles are safe to drive.

Senator BLUMENTHAL. I know you have done that analysis, but would it change your view on whether you would recommend to your customers that this car is fine to drive, no risk, as long as you don't add keys to the ignition?

Ms. BARRA. I guess I am not clear on what you are asking me.

Senator BLUMENTHAL. I am asking whether that additional information—you are an engineer—

Ms. BARRA. But—

Senator BLUMENTHAL.—you make decisions based on—

Ms. BARRA. What additional information are you providing?

Senator BLUMENTHAL. About deaths or loss of power and control over cars, those kinds of events, in cars that have this defect and encounter rough roads or jarring events.

Ms. BARRA. Senator, if I had any data, any incidents where with just the key or the key and the ring there was any risk, I would ground these vehicles across the country.

Senator BLUMENTHAL. Have you ever been in a car that has lost control over power-steering, brakes?

Ms. BARRA. I have been in a vehicle that lost power-steering and power-brakes.

Senator BLUMENTHAL. Driving privately, not in a test vehicle?

Ms. BARRA. I was driving on public roads. So it wasn't a test vehicle; it was a motor—safe vehicle to be on the roads.

Senator BLUMENTHAL. Pretty frightening.

Ms. BARRA. It can be startling.

Senator BLUMENTHAL. And have you spoken to the families?

Ms. BARRA. I did speak to the families on Monday night.

Senator BLUMENTHAL. And you have mentioned GM's civic responsibility. Don't you believe it has a moral responsibility here to advise more strongly its customers about these potential risks?

Ms. BARRA. We are engaging in a multi-dimension communications effort—letters to people, we are monitoring social media, we have a dedicated website. We are working multiple channels to make sure we communicate with the individuals that would own these vehicles or drive these vehicles.

Senator BLUMENTHAL. Well, let me just say, because my time has expired, again, first, my thanks for facing these questions.

This GM is not the old GM; it is not even the pre-2014 GM. What you are doing now is incurring both legal and moral responsibility for the actions that you are taking or failing to take.

And I will tell you that the more I hear and see in these documents, the more I learn about what happened before the reorganization and in connection with the reorganization, the more con-

vinced I am that GM has a real exposure to criminal liability. In fact, I think it is likely and appropriate that GM will face prosecution based on this evidence. And I think the more that you can do as a leader of GM to come forward and do the right thing now, the better it will be for the future of the company.

So I hope to continue to work with you and hope that you will review the legislation that has been offered, because, going forward, it came make a real difference.

Thank you, Madam Chairman.

Senator MCCASKILL. Senator Ayotte?

Senator AYOTTE. Thank you, Madam Chair.

As I understand it, at this point, nobody within GM has been fired as a result of the issue that comes before us today on the ignition switch and obviously this long pattern of having information and not providing disclosure and recall to the public. Is that true? Nobody yet has been fired?

Ms. BARRA. I think it is important to do a complete investigation, but we will take the appropriate action. But, yes, that is true.

Senator AYOTTE. So one thing, you have hired to conduct this internal investigation. And I assume GM is paying Mr. Valukas, correct?

Ms. BARRA. Correct.

Senator AYOTTE. Now, I am aware of his qualifications, and certainly I think that he is a very qualified individual. However, it seems to me—how will you guarantee that—basically, all of the individuals who—or maybe not all of them. Maybe some of them are no longer with the company. But I think we can guess that many of the individuals who were involved in the decisions that led us to where we are today are still at GM or potentially could be at GM.

And we already have the situation that the chair mentioned with regard to the failure to disclose in the litigation documentation that was directly relevant to the litigation that showed the change in terms of the part and the failure to create a new number for the change in the defective ignition switch.

And I guess I am very concerned, how are you, as CEO, going to guarantee that no documents are withheld from not only Mr. Valukas but also investigations that are being conducted by the Government?

And how are you going to ensure that, given that the people that Mr. Valukas is going to be focused on, I think many of them are going to be worried about their own future and liability, whether it is civil or criminal liability, that you actually can get to the bottom of this with this internal investigation?

Ms. BARRA. Again, Mr. Valukas, I think, is very experienced in doing this. He has several decades' worth of experience and has the highest integrity. I certainly know he is not going to compromise his reputation for General Motors. And I have confidence based on the fact he has done investigations in the past.

And we have gotten to the truth by, you know, going to multiple sources to get to the truth. And we will act on it, and we have demonstrated that we would, up to and including discharging people.

Senator AYOTTE. And I have no doubt, as I have said, about Mr. Valukas's qualifications.

Have you already segregated all the documents and put them aside that are related to this issue, and evidence that you are aware of now, so that Mr. Valukas at least has that set aside?

Because, at the moment, you know, given the potential liability that we are facing, it seems to me—and you are potentially facing—that this is a very important issue, to ensure that no one can interfere with that at this point.

Ms. BARRA. I agree with you, it is a very important investigation. And that is one of the reasons we only have one independent person doing that investigation. And there are, I believe, over 200 people who already have, you know, a document litigation hold. So we are doing everything that we can to make sure he has access to everything and anyone he wants.

Senator AYOTTE. So you have actually already set aside to ensure that these documents are preserved and anyone that he needs access to he is able to have access to?

Ms. BARRA. I would say, anyone he wants to have access to he will have access to.

When you use the term “set aside,” again, everybody has been placed, that is remotely in connection, on litigation holds so they cannot—you know, the documents exist, and they are on notice that they cannot do anything with their documents.

Senator AYOTTE. Well, it seems to me that they may not be on notice that they can’t do anything with their documents. But I would hope that you, as CEO, would be making sure that it is not just that you are telling that to people but you actually are ensuring that these documents can’t be interfered with before he undertakes his investigation.

And my question to you would be, when this investigation is conducted, I appreciate that you said you are willing to come back to the Committee, and we thank you for that. Will you make Mr. Valukas available to this committee?

Ms. BARRA. I think that would be Mr. Valukas’s option, not my decision to make for him.

Senator AYOTTE. Well, you have hired him. And as far as I know, when you hire someone to conduct an investigation—because I have done it before, as attorney general of our state. One of the terms that I would want to work out up front is, will you be willing to present the results of your investigation, and to whom would you be willing to present them? So you have not come to that agreement with him?

Ms. BARRA. I would share the results of the investigation, as I have already said. I would share it with this committee, with Congress, with NHTSA, and with our employees and customers.

Senator AYOTTE. Well, I guess I think that if you are going to have confidence—and you have said multiple times in this hearing that you are confident with Mr. Valukas. I don’t question his credentials. He has exemplary credentials. And it seems to me that we would want to hear—obviously appreciate your testimony as the CEO and certainly want to hear what steps you are taking to address this issue. But I would think it would be important for this committee, actually, to hear directly from Mr. Valukas on the investigation itself and what the scope of his investigation was.

So thank you.

Senator MCCASKILL. Thank you, Ms. Barra.

I know, if I go back and review this hearing, I will say to myself, you got too excited and you went too hard. But the passion is real on this side of the table. So to the extent that this has been a rough day for you, it is coming from the right place. It is coming from a deep commitment that many of us have to these families and to automobile safety in this great country of ours. You had a great company. And you have an enormous responsibility to get this right.

We appreciate you being here. And I can't promise that the next time you are here I will not get as aggressive as I have today. But I do think it is important that we point out the many problems that these facts present to you and your company and to the legacy of General Motors going forward.

This is an incredibly important moment in your corporate history. And you are in charge. And you have to make some very tough decisions going forward, and we will be monitoring all those decisions. And we will look forward to having you back here to testify when you can go into the details of the investigation.

And I would ask that you make sure that your investigator look at a pattern of the legal counsel in your corporation—how are they cooperating with litigation, why are they requiring confidential settlements. I think that is something that we need to understand, because it is, in fact, because of those confidential settlements that many of these problems do not get the light of air that they should.

And I am just glad that in this instance Mr. Cooper and his engineer, Mr. Hood, did what they did, because they performed the valuable service to this country that should have been performed by your company and by the Federal regulators.

Thank you very much for being here.

I want to thank you, Mr. Friedman, who is the acting administrator of the National Highway Traffic Safety Administration; and Mr. Calvin Scovel, Inspector General of the U.S. Department of Transportation. Thank you both for being here today. We look forward to your testimony.

And we will begin with you, Mr. Friedman.

**STATEMENT OF HON. DAVID J. FRIEDMAN, ACTING  
ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC  
SAFETY ADMINISTRATION**

Mr. FRIEDMAN. Thank you, Chairman.

Chairman McCaskill, Ranking Member Heller, and members of the Committee, thank you for the opportunity to appear before you today.

To begin, I would like to say that on behalf of everyone at NHTSA, we are deeply saddened by the lives lost in crashes involving the General Motors ignition switch defect. The victims' families and friends, several of whom I know were at the hearing yesterday and some who may be here today, have suffered greatly, and I am deeply sorry for their loss.

Safety is NHTSA's top priority, and our employees go to work every day trying to prevent tragedies like these. Our work reducing dangerous behaviors behind the wheel, improving the safety of ve-



hicles, and addressing safety defects has helped reduce highway fatalities to historic lows not seen since 1950.

In the case of the recently recalled General Motors vehicles, we are first focused on safety and ensuring that General Motors identifies all vehicles with a defective ignition switch, fixes these vehicles quickly, and is doing all it can to inform consumers about how to keep themselves safe.

We are also investigating whether General Motors met its responsibilities to report and address this defect, as required under Federal law. If it failed to do so, we will hold General Motors accountable, as we have in other cases over the last 5 years, which have led to record fines on automakers.

Internally at NHTSA and the department, we have already begun a review of our actions and assumptions in this case to further our ability to address potential defects. Today I will share what I have learned so far.

In this case, NHTSA used consumer complaints and early warning data, three special crash investigations on the Cobalt, industry websites, and agency expertise on airbag technology.

Some of that information did raise concerns about airbag non-deployments in these vehicles, so in 2007 we convened an expert panel to review that information. Our consumer complaint data on injury crashes with airbag nondeployments showed that neither the Cobalt nor the Ion stood out when compared to similar vehicles.

The two SCI crash reports we reviewed at the time were inconclusive on the cause of nondeployment. The reports noted that the airbags did not deploy and the power mode was in accessory mode, but these crashes involved unbelted occupants and off-road conditions that began with relatively small collisions where, by design, airbags are less likely to deploy in order to avoid doing more harm than good.

Further, power loss is not uncommon in crashes where airbags deploy and did not stand out as a reason for nondeployment.

In light of these factors, NHTSA did not open an investigation.

We continued monitoring the data, however, and in 2010 found that the related consumer complaint rate for the Cobalt had decreased by nearly half since the 2007 review. Based on our engineering expertise and our processes, the data available to NHTSA at the time was not sufficient to warrant opening a formal investigation.

So the question we are all asking is, what does this all mean? From my perspective, it means that NHTSA was concerned and engaged on this issue. This was a difficult case, where we used tools and expertise that over the last decade have successfully resulted in 1,299 recalls, including 35 recalls on airbag nondeployments alone.

Those tools and expertise have served us well, and we will continue to rely on them but also to improve them. For example, we have already invested in advanced computer tools to improve our ability to spot defects and trends and are planning to expand that effort.

But what we now know also clearly means that we need to challenge our assumptions and look at how we handle difficult cases like this going forward. So we are looking to better understand how

manufacturers deal with vehicle power loss and airbags, especially when the ignition switch is turned.

We are also considering ways to improve the use of crash investigations in identifying defects. We are reviewing ways to address what appear to be remote defect possibilities and evaluating our approach to engaging manufacturers in all stages of our defects process.

Between these efforts and those of the department's Inspector General, I know that we will continue to improve our ability to identify vehicle defects and ensure they are fixed.

But now I want to close on one important note. Our ability to find defects also requires automakers to act in good faith and provide information on time. General Motors has now provided new information definitively linking airbag nondeployment to faulty ignition switches, identifying a part change, and indicating potentially critical supplier conversations on airbags.

Had this information been available earlier, it would have likely changed NHTSA's approach to this issue. The reality, however, is both NHTSA and the auto industry as a whole must look to improve.

Madam Chairman, Ranking Member, members of the Committee, I greatly appreciate the opportunity to testify before you today. Thank you.

[The prepared statement of Mr. Friedman follows:]

PREPARED STATEMENT OF HON. DAVID J. FRIEDMAN, ACTING ADMINISTRATOR,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Chairman McCaskill, Ranking Member Heller, and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the recall process of the National Highway Traffic Safety Administration (NHTSA) and the General Motors (GM) ignition switch recall.

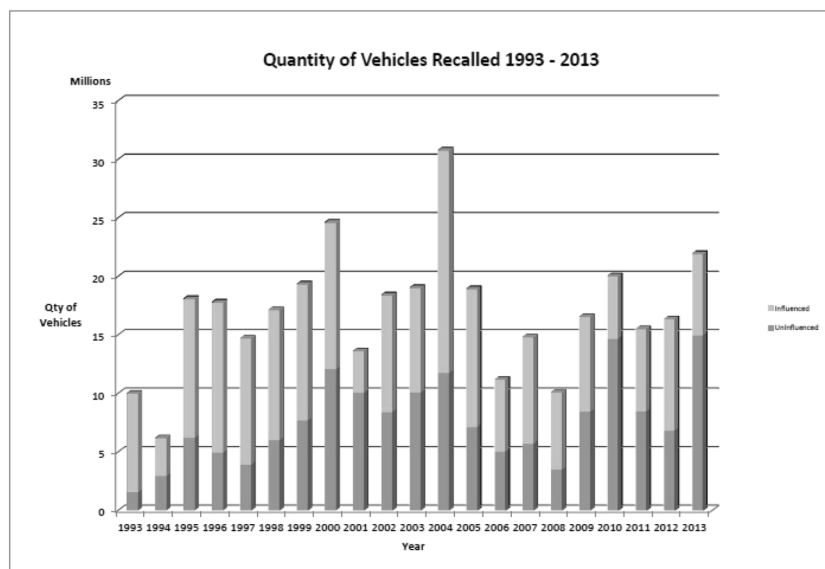
Let me begin my testimony by saying, on behalf of everyone at NHTSA, that we are deeply saddened by the loss of life in vehicle crashes involving the GM ignition switch defect. Our deepest sympathies are with the families and friends.

It is this kind of tragedy that our defects investigation team works long hours trying to prevent. Our core mission to save lives and prevent injuries on America's roadways is something we take very seriously, whether we are trying to curb dangerous driver behavior, improve the safety of vehicles, or find safety defects and ensure that automakers correct them.

In today's testimony, I will give you an overview of NHTSA, who we are and what we do. I will go over the agency's defects investigation and recalls process that have led to thousands of recalls of millions of vehicles. Next, I will discuss where we are on each of three key priorities regarding this case.

Our first priority is the recall; we need to ensure that GM gets the vehicles fixed quickly and that it is doing all it can to keep consumers at risk informed and to identify all vehicles that may have a defective ignition switch. Second, we are pursuing an investigation of whether GM met its timeliness responsibilities to report and address this defect under Federal law—an investigation that will end with holding GM accountable if it failed in those responsibilities. Third, we are examining the new facts and our efforts in this case to understand what took place and to determine how to continue to improve our efforts.

NHTSA has an aggressive and effective defects investigation program with staff who is deeply and personally dedicated to their mission, often working nights and weekends in pursuit of potential defects. That work has resulted in thousands of recalls involving hundreds of millions of vehicles and items of motor vehicle equipment, which have helped to protect millions of consumers from unanticipated safety hazards in their vehicles (*Figure 1*).

**Figure 1. Total Number of Vehicle Recalls, 1993–2013**

Based on our review of NHTSA's actions concerning airbag non-deployment in the recently recalled GM vehicles, we know the agency examined the available information multiple times using consumer complaints, early warning data, special crash investigations, manufacturer information about how airbags function, and other tools, but did not find sufficient evidence of a possible safety defect or defect trend that would warrant opening a formal investigation. This was a difficult case pursued by experts in the field of screening, investigations and technology involving airbags that are designed to deploy in some cases, but not in cases where they are not needed or would cause greater harm than good. GM had critical information that would have helped identify this defect. With that and other information in hand, we can look for lessons learned from this experience that may further improve our process.

#### **An Overview of NHTSA and its Mission**

NHTSA is not a large agency. We currently have 591 employees. The President's budget for Fiscal Year 2015 requests \$5.2 million for additional staff to help strengthen our ability to address the enormous safety mission that this agency faces.

NHTSA is a data-driven organization that approaches highway safety by considering both the behavioral and the vehicle aspects of crashes. Human behavior remains the leading cause of highway crashes and deaths, so NHTSA places an emphasis on reducing impaired driving, encouraging seat belt use at all times, and underscoring the dangers of distracted driving. These programs have shown enormous success over the years in driving down the number of deaths involving alcohol and driving up the percentages of vehicle occupants who wear seat belts. More work, however, is required, as nearly one-third of fatalities involve alcohol and more than half involve an unbelted occupant.

As those efforts seek to change human behavior, NHTSA's vehicle safety program focuses on ways to save lives through safety improvements to vehicles, ensuring that vehicles meet all safety standards, and eliminating vehicle defects that pose an unreasonable risk to safety.

Our research and rulemaking priorities concentrate on finding the areas of highest risk where new or amended vehicle standards can make a significant impact on reducing the death toll on our Nation's highways. In 2012, there were 5.6 million police-reported crashes in America, and tragically, 33,561 Americans died in fatal crashes. Because we know that most fatal crashes are caused by human behavior, and we know that vehicles are driven and controlled by humans who will make errors, we must continue to find more ways to protect drivers and passengers when

crashes happen. NHTSA's regulation of occupant crash protection has resulted in significant improvements in the crashworthiness of today's vehicles. These standards have saved many thousands of lives and prevented countless injuries. Highway fatalities over the past five years are at lows not seen since 1950. NHTSA has also used its vehicle crash ratings to inform consumers and motivate vehicle manufacturers to voluntarily improve the safety of their vehicles above the Federal standards. This New Car Assessment Program (NCAP), known generally as the Government's 5-star safety rating program, has been an overwhelming success in driving improvements in vehicle safety. NHTSA was the first vehicle safety agency in the world to implement such a program. Today, these programs have been implemented around the world.

Fatal crashes where a vehicle problem is a cause or contributing factor are relatively rare in comparison to crashes caused by human factors in properly functioning vehicles. But such cases receive significant scrutiny because NHTSA requires that automakers sell vehicles that meet specific safety standards and that they find and fix defects as soon as they are aware of them. As a result, we invest significant effort to find those problems through NHTSA's vehicle safety enforcement program.

For vehicles and vehicle equipment in the U.S., manufacturers must certify that their products meet applicable Federal Motor Vehicle Safety Standards (FMVSS). The Office of Vehicle Safety Compliance (OVSC) tests a sample of new vehicles and equipment each year to determine whether they meet those standards. If the vehicles or equipment do not comply, manufacturers must recall them and provide a remedy to the consumer.

The Office of Defects Investigation (ODI) has a different mission. ODI searches through consumer complaints, manufacturer data, data from NHTSA's National Center for Statistics and Analysis (NCSA), special crash investigations, and other sources for information that might indicate the presence of a defect or defect trend. Where it can find a possible defect or defect trend posing an unreasonable risk to safety, it investigates. If NHTSA can demonstrate that a defect exists and that it poses an unreasonable safety risk, the agency can order a recall.

NHTSA's ability to influence or order recalls is its greatest strength in safeguarding against problems in the vehicles traveling our roads today. Since 2000, NHTSA has influenced, on average, the recall of nearly 9 million vehicles every year, as well as millions of items of equipment, for safety related defects.

## **An Overview of the Defects Investigation and Recall Process**

### *Defects Investigations*

Each potential defect investigation is unique and dependent on the data gathered in each case. NHTSA uses a number of tools and techniques to gather and analyze data and look for trends that warrant a vehicle safety investigation, and possibly a recall. These tools include customer complaints to NHTSA, early warning data, as well as other sources that might provide related information, such as crash investigations and industry-related websites. Additionally, the law requires manufacturers to inform NHTSA within five business days of any noncompliance or defects that create an unreasonable risk to safety. They are then required to initiate a recall to remedy the defect and notify affected consumers.

NHTSA's defects investigation office, ODI, has a staff of 51 people. Their goal is to find possible defects or defect trends that may indicate significant safety risks in particular makes, models, and model years; determine whether there is an unreasonable safety risk apparently being caused by a defect; and, if so, persuade—or require—the manufacturer to conduct a recall. The staff also performs other important functions, such as responding to inquiries and tracking the hundreds of recalls that occur each year. That entails monitoring quarterly reports on completion rates, ensuring the scope of the recalls is correct, and compiling information on recalls for the public.

The defects investigation process begins with the screening of incoming information for evidence of a potential safety defect. Complaints from consumers are the primary source of information. NHTSA receives over 45,000 complaints a year through *SaferCar.gov* and the Vehicle Safety Hotline, and reviews each one promptly. Human eyes review every single complaint. Follow-up is sometimes required to get additional information, and in cases of interest, NHTSA staff will contact the complainants directly to obtain clarifying information. Screeners also look at technical service bulletins issued by manufacturers, reports of foreign recalls, crash investigations done by NHTSA's Special Crash Investigations office, and supplemental information such as occasional reports from insurance companies and information available on the Internet. When appropriate, the screeners consult NHTSA's crash databases, including the Fatality Analysis Reporting System (FARS) and National

Automotive Sampling System (NASS). Also, members of the public may file petitions asking NHTSA to investigate and order a recall on a particular matter. The agency carefully reviews each petition before making a decision on whether to grant or deny it. If granted, a formal investigation is opened. Since 2004, the agency has opened 980 investigations. These safety defect investigations have resulted in 1,299 recalls involving more than 95 million vehicles, equipment, tires, and child restraints, which have helped reduce vehicle fatalities to historic lows. For example, a NHTSA investigation recently led to the recall of over 4 million child safety seats and is still underway regarding the possible recall of infant seats.

Another important source of information is Early Warning Reporting (EWR) data submitted quarterly by manufacturers of vehicles, tires, and child seats. For light vehicle manufacturers, the data include counts of property damage claims, warranty reports, consumer complaints, and field reports, which are efforts by the automaker to look into specific incidents. These aggregate data are broken down by make, model, and model year and by component category (e.g., steering, braking, engine, speed control). Manufacturers must also submit brief reports on each claim against the company for death or injury allegedly related to a possible vehicle defect. The volume of the data received is enormous. NHTSA uses sophisticated data mining techniques to identify trends in the data that may be evidence of a safety defect. When potential trends are found, the EWR division can make a referral to the team involved in the screening process.

Those who screen NHTSA's various sources of information are in constant communication and support each other in their efforts to identify potential defect issues. When patterns emerge from any source, the screeners look very carefully at what may be behind the patterns. Where there is possible evidence of a defect trend, the screening staff recommends that the appropriate investigating division consider opening an investigation. ODI staff meets regularly to determine which recommendations warrant opening an investigation and which may warrant continued monitoring. With preliminary evidence and 16 investigators, ODI must analyze all of the fact patterns and discern whether potential defects likely involve more serious risks or are likely to reveal a defect trend.

If it is determined that an investigation is warranted, a preliminary evaluation begins. This often entails detailed interviews with complainants, requesting relevant information from the manufacturer, and analysis to determine whether there is sufficient evidence either to seek a recall or continue to a more in-depth investigation. If it is determined that sufficient evidence exists, the next stage is the engineering analysis, which involves gathering additional information from consumers and the manufacturer, perhaps testing of vehicles or equipment by NHTSA's Ohio based test facility, surveys of peer vehicle experience, and further in-depth analysis of the underlying problem.

If, at any stage, ODI staff believes there is enough information to determine that a specific defect exists and that it creates an unreasonable risk to safety, they urge the manufacturer to conduct a recall. Where the manufacturer is not persuaded by NHTSA to undertake a recall, NHTSA's Associate Administrator for Enforcement may issue an initial decision requiring that the manufacturer conduct the recall. Following the initial decision, NHTSA convenes a public meeting in which interested parties—including the manufacturer, consumers, suppliers, public interest groups—may provide testimony. The manufacturer is given another opportunity to submit comments on the testimony heard at the public meeting. If, after review of all the information generated by the administrative process, the Administrator concludes that a recall should occur, the Administrator issues a recall order. A recall order is not self-enforcing. If the manufacturer does not follow the order, NHTSA would seek enforcement. To prevail in court, NHTSA must be able to prove that a defect exists and that the defect creates an unreasonable safety risk.

Manufacturers generally adhere to their legal duty to identify non-compliance or safety defects and initiate recalls, but the NHTSA investigation process helps to ensure that these steps are occurring and to recognize when they are not. Over the last 10 years, manufacturers have recalled more than 83 million vehicles for safety defects where NHTSA has not investigated, and have recalled over 86 million additional vehicles based on NHTSA's defect investigations. No other country has a defects investigation program of this scope.

#### *Recalls*

When a manufacturer recalls a vehicle at NHTSA's urging during or after an investigation, we call it an "influenced recall." Whether a recall is influenced or not, the recall process is the same. When a manufacturer recalls a vehicle model or vehicle equipment, the manufacturer files a defect information report with NHTSA under 49 CFR Part 573, known in the industry as a "573 Report." Certain informa-

tion is required in the report under 49 CFR 573.6(c), including, for example, identification of the line of vehicles or vehicle equipment under recall, the number of affected vehicles or pieces of vehicle equipment, a description of the defect, and a description of the remedy.

The regulations require manufacturers to submit the 573 report within five business days of their determination that a defect is safety related. For this reason, the 573 report must also include a chronology of events that led to the recall decision. NHTSA reviews every recall to ensure that the manufacturer has met its obligation to inform the agency of safety-related defects or to make a timely decision that its products contain a safety defect. If indications show that it has not, NHTSA may open another investigation called a Timeliness Query (TQ) to collect additional relevant information. This Administration has placed an emphasis on timeliness in order to safeguard the integrity of the process and encourage automakers to aggressively pursue potential safety defects. Since 2009, automakers have paid record fines totaling more than \$85 million for lack of timeliness in reporting vehicle safety defect issues to NHTSA. Because of this emphasis, we believe that all manufacturers in the automobile industry are now paying much closer attention to their responsibility to protect their customers and the driving public.

Upon receipt of a 573 report, NHTSA enters it to NHTSA's Artemis database as ODI investigators screen it for completeness, proper scope, timeliness, and effectiveness of the proposed remedy. NHTSA sends an acknowledgement letter and recall summary to the manufacturer, requesting the manufacturer to supply any missing information. NHTSA posts each new recall on its website at *SaferCar.gov*.

Under 49 CFR Part 577, manufacturers are required to notify owners of vehicles and vehicle equipment under recall. The "577 letter" must state that the manufacturer has determined that there is a safety defect in a vehicle or piece of vehicle equipment that the consumer owns. It must provide information about where and when a remedy to the defect can be acquired, and it must inform the consumer that the remedy will be provided by the manufacturer free of charge.

The manufacturer must then track how many of the items under recall receive the remedy ("recall completion") and report the numbers to NHTSA for six quarters. NHTSA uses these numbers to later calculate a completion rate analysis and work with manufacturers where the completion rate is below average.

We believe our defects investigation program and recalls process has functioned extremely well over the years in identifying defects that create unreasonable risks and ensuring that recalls occur whenever appropriate. Even so, we continually seek ways to improve. In 2011, the Department of Transportation's IG reviewed the ODI investigation process and issued 10 recommendations for improvement. In response to actions taken and/or information provided by the agency, the IG has closed nine of the 10 recommendations and we are in the process of finalizing our report to the IG addressing the remaining recommendation which concerns developing a staffing model. A list of the recommendations is attached (*Attachment 1*).

In addition to implementing the IG recommendations, ODI has taken steps to further improve its ability to find defects. One recent improvement is the deployment of a new Business Intelligence and Natural Language Processing suite focused on our consumer complaints, which helps supplement the human review process and has expanded our ability to harvest data and identify defect trends. Even after implementing this software and all of the IG's recommendations, we will continue to look for ways to make our processes more effective.

### **An Overview of NHTSA's Special Crash Investigation (SCI) Program**

NHTSA's Special Crash Investigations (SCI) Program provides in-depth crash data ranging from basic information obtained from routine police and insurance crash reports to comprehensive data from reports by professional crash investigators. Hundreds of data elements relevant to the vehicle, occupants, injury mechanisms, roadway, and safety systems involved are collected for each of more than 130 crashes studied annually.

SCI investigations are quite different from ODI defects investigations. While defects investigations look for defect trends in a line of vehicles or vehicle equipment, SCI investigations provide data and observations associated with a specific incident that are useful for examining new, emerging, and rapidly changing technology, including the safety performance of alternative fueled vehicles, child safety restraints, adapted vehicles, safety belts, airbags, vehicle-pedestrian interactions, and potential safety defects. SCI investigators locate and analyze unique real-world crashes to generate data that can be used to improve the performance of automotive safety systems. This information may be helpful to NHTSA's research and rulemaking offices in considering possible new or amended standards, to ODI in considering whether to investigate an issue or in support of an ongoing investigation, or to industry and

other interested observers. Cases of interest are selected from a diverse network of sources, including NHTSA's Auto Safety Hotline, the Department of Transportation's National Response Center, NHTSA's regional offices, NASS FIELD Offices, automotive manufacturers, other government agencies, law enforcement agencies, engineers, and medical personnel.

Professional crash investigators obtain data and take photographs of the crash sites. They locate the vehicles involved, photograph them, measure the crash damage, and identify interior locations that were contacted by the occupants, and if equipped, obtain the Event Data Recorder (EDR) data for evaluating safety system performance. The investigators follow up their on-site investigations by interviewing crash victims and other involved parties, and by reviewing medical records to determine the nature and severity of injuries. Each investigation provides extensive information about pertinent pre-crash, crash, and post-crash events involving the occupants, vehicles, rescue, and environmental factors, which may have contributed to the event's occurrence or severity. Included in each report is an analysis and determination of the occupant kinematics and vehicle dynamics as they occurred throughout the crash. The reports provide detailed performance evaluations of the airbag, the use of seat belts, and any other safety features.

#### **NHTSA and DOT's Current Efforts on GM's Recall**

##### *GM's Recall*

GM reported this defect and initiated its recall on February 7, 2014. As of March 28, 2014, the GM recall currently covers approximately 2.1 million vehicles, including the 2005–2007 Chevrolet Cobalt, 2007 Pontiac G5, 2003–2007 Saturn Ion, 2006–2007 Chevrolet HHR, 2006–2007 Pontiac Solstice and 2007 Saturn Sky vehicles. NHTSA is working to ensure that GM has accounted for the full scope of vehicles that may be covered by the recall, is ensuring that consumers receive the needed remedy as soon as possible, and is providing consumers information and resources essential to keep them safe until the vehicles can be fixed. GM has indicated to dealers that it expects to have parts on or about April 7 and will notify consumers that it can begin scheduling repairs soon after that date. Given the number of vehicles, the repairs may take several months to be completed.

At this time, NHTSA urges owners and drivers to follow GM's recommendation to "use only the ignition key with nothing else on the key ring" when operating the vehicle, contact GM about added resources available to keep themselves safe, and seek the permanent repair remedy from GM as soon as replacement parts become available.

##### *NHTSA's Timeliness Investigation*

GM first provided NHTSA a chronology of events on February 24, 2014. The information in GM's chronology raises serious questions as to the timeliness of GM's recall. As a result, on February 26, NHTSA opened its present investigation, a timeliness query. On March 4, to obtain more detailed information than GM provided in its recall notification letter, NHTSA issued a special order seeking answers and documents, submitted under oath, to questions relevant to how quickly GM acted on information about the defect. GM's response is due to NHTSA on April 3.

NHTSA is a data driven organization and we will take whatever action is appropriate based on our findings, including issuing civil penalties of up to the statutory limit of \$35 million.

##### *NHTSA and DOT's Processes*

NHTSA and DOT's Office of General Counsel (OGC) are currently engaged in a continuous improvement and due diligence process regarding past efforts on airbag non-deployments in GM vehicles under its ignition switch defect recall. Secretary Foxx recently requested the Department of Transportation Inspector General to initiate an agency audit in connection with the GM recall. These efforts will ensure that DOT and NHTSA have a full understanding of the facts regarding the GM recall and can take corrective actions to enhance NHTSA's safety function to the extent necessary and appropriate. These processes will also benefit from any findings from NHTSA's timeliness investigation, which may shed light on what additional information NHTSA could have had in evaluating airbag non-deployments in this case.

#### **NHTSA's Past Efforts on Airbag Non-Deployments in the GM Vehicles**

NHTSA's timeliness investigation and joint due diligence review with OGC are ongoing, and the DOT OIG audit is pending, so any understanding of NHTSA's past efforts is preliminary at this time. We are not aware of any information to suggest that NHTSA failed to properly carry out its safety mission based on the data avail-

able to it and the process it followed. NHTSA examined the available information multiple times using consumer complaints, early warning data, special crash investigations, manufacturer information about how airbags function, and other tools, but did not find sufficient evidence of a possible safety defect trend that would warrant opening a formal investigation. This was a difficult case pursued by experts in the field of screening, investigations and technology involving airbags that are designed to deploy in some cases but not others. GM had critical information that would have helped identify this defect.

What follows is an outline of our current understanding of NHTSA's past efforts and related background information.

#### *Background on Advanced Airbags*

Airbags are a vitally important, supplemental restraint system used to mitigate injuries and death in the event of a crash. The term "supplemental" is used with regard to airbags because it enhances the protection of the seat belts, which are the primary occupant restraint system in a vehicle. NCSA estimates that in 2012, 2,213 lives were saved by frontal airbags, adding to the estimated 12,174 lives saved by seat belts. Between 1986 and 2012, frontal airbags are estimated to have saved almost 37,000 lives.

Advanced airbags are not intended to deploy in all crashes, even frontal crashes. Advanced airbag systems are designed not to deploy when doing so will cause more harm than good. Smaller occupants who sit closer to the airbag are at risk as are unrestrained occupants, because those occupants will move closer to the airbags during the course of a crash, putting them at risk of being hit with the force of a rapidly expanding bag. Airbags also may not deploy during crashes that occur off-road with multiple minor impacts because such minor impacts involve much slower changes in speed than on-road vehicle-to-vehicle crashes. Even on-road, airbags may not deploy if the crash was not severe enough to warrant the supplemental protection.

Advanced airbags began to be introduced in the 2004 model year in response to a May 2000 NHTSA rule intended to reduce injuries and deaths resulting from previous airbag designs. These prior designs presented risks to smaller occupants and infants in rear-facing car seats placed on the front passenger seat. Advanced airbags factor in additional data to determine when to deploy, such as the size of the individual, the change in velocity, location of the individual within the vehicle, and whether the occupants are belted.

#### *Special Crash Investigations Regarding Vehicle Subject to the GM Recall*

The Model Year (MY) 2005 Chevrolet Cobalt was among the first vehicles equipped with advanced airbag features, although the Cobalt's advanced airbag system was not certified as such by GM until 2006.

In 2005, a fatal crash in Maryland came to the attention of our SCI team. SCI investigated the Maryland accident as well as two others involving MY2005 Cobalts, one in Wisconsin in 2006 and one in Pennsylvania in 2009. All three crashes, tragically, resulted in the deaths of unrestrained occupants. All three also involved airbags that did not deploy and event data recorder (EDR) information indicating the vehicle power was in an accessory position. (When a vehicle is in an accessory position, certain features, or accessories, such as the radio are powered, but others remain off to prevent the vehicle's battery from being drained.) The 2005 and 2006 crashes involved vehicles exiting the roadway and striking trees. The 2009 crash involved being struck by an oncoming vehicle in the wrong lane.

#### *Office of Defects Investigation Activities Regarding the Subject Vehicles*

As the SCI team examined these individual crashes, NHTSA reviewed other sources of available data to determine whether a problem existed related to airbag non-deployment in certain GM vehicles. In particular, NHTSA's early warning division (EWD) collected and reviewed available data on airbag non-deployment in Cobalts. After receiving early warning data from GM, and searching through available information sources, EWD identified 43 incidents where airbags may not have deployed in a crash. As a result, in 2007, EWD referred the case to NHTSA's data analysis division (DAD) for further screening.

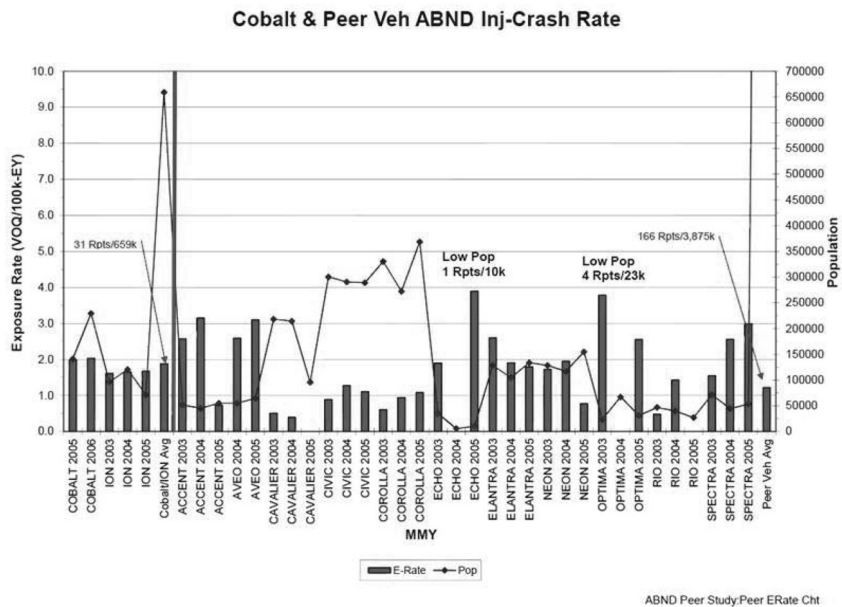
Following this referral, DAD reviewed data on non-deployment of airbags in the Cobalt and Ion. In connection with this evaluation, DAD considered a variety of sources of data, including complaints concerning alleged non-deployments and available information concerning the relevant special crash investigations described above. During the course of this evaluation, NHTSA brought the airbag non-deployment issue to the attention of GM on at least one occasion.

A defects assessment panel convened in 2007 to review the available information on non-deployment of airbags in the Cobalt and Ion, considering vehicle owner ques-



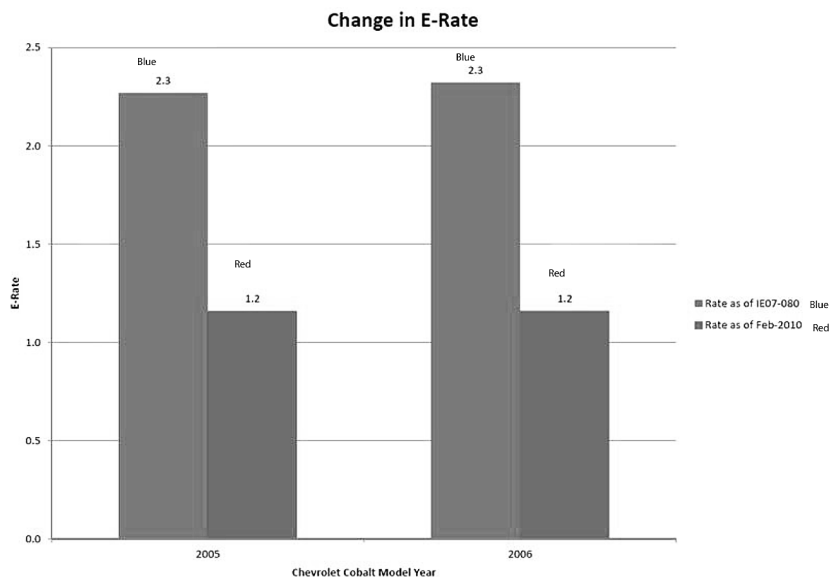
tionnaire (VOQ) complaints reporting non-deployments, early warning data, SCI investigations, and the circumstances of the crashes. The data available at the time of this evaluation did not indicate a safety defect or defect trend that would warrant the agency opening a formal investigation. In particular, the available data did not indicate that the Cobalt or Ion were overrepresented compared to other peer vehicles with respect to injury-crash incident rates (*Figure 2*). Moreover, the crash data available to NHTSA included incidents involving unbelted occupants and off-road, long-duration events, where it could not be determined that the airbag should have deployed.

**Figure 2. 2007 NHTSA Chart of Airbag Non-Deployment Injury-Crash Incident Rates**



Against this backdrop, NHTSA continued to monitor the performance of the Cobalt in frontal crashes, including EWR information, consumer complaints, and one additional SCI report. Again in 2010, NHTSA reviewed cumulative data on consumer complaints for data the airbag non-deployment rate of Cobalts (*Figure 3*). The data showed that the injury-crash incident rate for Model Year 2005 and 2006 Cobalts had decreased by nearly half since the 2007 review and did not provide a basis for a formal investigation.

At the time of these reviews, NHTSA did not have the information that GM has since provided—for instance, new evidence linking airbag non-deployment to faulty ignition switches—which is why we have launched an aggressive investigation into the timing of their recall.

**Figure 3. 2010 NHTSA Chart of Airbag Non-Deployment Injury-Crash Rates**

#### *Critical Issues Regarding ODI Work and the Subject Vehicles*

In evaluating the potential for a defect or defect trend, ODI relies on expertise regarding the technology and the dynamics of the incidents involved. In this case, ODI was looking for a defect or defect trend regarding airbag non-deployment in circumstances where it appeared a deployment should have occurred. At the time, ODI did not have clear evidence of a connection between the ignition switch being in the accessory mode and the airbag non-deployment.

Our understanding at the time was that airbag systems were designed to continue to function in the event of power loss during a crash, which is not uncommon. ODI's understanding of airbag systems, which was verified by available GM service literature reviewed during our due diligence effort, was that an airbag system would be armed and ready to fire for up to 60 seconds after all power to the system was cut off. At the time ODI was evaluating whether to open an investigation, the two SCI reports showed indications of power loss and identified the vehicle power mode as accessory. The preliminary SCI report on the 2006 Wisconsin crash did identify the issue of the ignition switch being in the accessory position, raising the possibility of an issue, but concluded that, "At this point, it appears the yielding of the tree may have been the likely cause of the non-deployment." The final report produced in 2008 identified both the yielding nature of the impact and power loss due to movement of the ignition switch prior to impact as potential causes of non-deployment, but removed any conclusion as to which was the likely cause. However, due to the timing of the report and investigation, the final version of the report was not complete prior to the determination of whether or not to open an investigation.

As noted previously, advanced airbags are designed to deploy in some cases, but not in others. The two SCI cases used in making the 2007 determination of whether or not to open an investigation included unrestrained occupants in vehicles that exited the roadway and struck yielding objects before rapidly decelerating and coming to rest. These situations, where unrestrained occupants may be out of position, are instances where airbags are less likely to deploy because doing so may harm the occupants.

When data available to NHTSA reveals a basis to investigate a potential risk to motor vehicle safety, the agency takes decisive action. Over the last 10 years, NHTSA investigations have influenced 35 recalls related to airbags involving 6.5 million vehicles, including 18 recalls of 3.5 million vehicles specifically involving non-deployment. In those cases, information available to NHTSA demonstrated the need to investigate.

In February 2014, GM submitted information to NHTSA that, for the first time, acknowledged a link between the ignition switch to the airbag non-deployment, as well as key information regarding parts changes, discussions with suppliers, and other efforts currently under consideration in our Timeliness Query. Had the information newly provided to NHTSA by GM been available before now, it would have better informed the agency's prior reviews of airbag non-deployment in GM vehicles and likely would have changed NHTSA's approach to this issue.

### **Conclusion**

NHTSA's dedicated and professional staff works to monitor and secure the safety of the U.S. automotive fleet. The work that they do saves lives on a daily basis, and the importance of that work cannot be overstated. NHTSA continually seeks new ways to improve our processes. We are reviewing the events leading up to this recall to see if there areas that can be improved. We are looking to improve our understanding of the way that various manufacturers design airbags to function when the vehicle loses power, considering whether we need to improve the use of Special Crash Investigation (SCI) in our defects screening process, reviewing ways to better incorporate information about remote defect possibilities into the investigative process, and evaluating our process for engaging manufacturers around issue evaluations.

I greatly appreciate the opportunity to testify before you today. I believe it is important that the Members, and the American public, have a better understanding of the vitally important safety work that we do at NHTSA. I look forward to your questions.

#### ATTACHMENT #1

Office of Inspector General Audit Report:

### **PROCESS IMPROVEMENTS ARE NEEDED FOR IDENTIFYING AND ADDRESSING VEHICLE SAFETY DEFECTS**

National Highway Traffic Safety Administration

Report Number: MH-2012-001

Date Issued: October 6, 2011

### **Recommendations**

We recommend that the National Highway Traffic Safety Administrator:

1. Revise the pre-investigation processes to ensure that the review of each complaint is recorded and that complaints are tracked to associated investigations in Artemis.
2. Establish pre-investigation processes for retaining and storing pre-investigation records, such as investigation proposals and insurance company data.
3. Require that decisions made and actions taken by ODI Defect Assessment Panels are recorded, including justifications for not proceeding to investigations.
4. Establish systematic processes for determining when a third-party or the Vehicle Research Test Center should be used to verify manufacturer information or assist in identifying a potential defect.
5. Revise the ODI investigation process to require justifications for continuing or closing investigations that exceed timeliness goals for PEs and EAs.
6. Revise the ODI investigation process to establish criteria for documenting evidence, such as associated complaints, meetings with manufacturers and other stakeholders, and third-party analysis or testing conducted.
7. Strengthen ODI's redaction policy and process to better protect consumers' personal information from public availability, such as by using automated redaction software.
8. Conduct a workforce assessment to determine the number of staff required to ensure that ODI meets its objectives and determines the most effective mix of staff.
9. Develop a formal training program to assist ODI staff in acquiring the knowledge and staying abreast of ODI processes and current and new automobile technologies.
10. Develop and implement a strategy for increasing coordination with foreign countries to enhance ODI's ability to identify safety defects and to exchange information on foreign recalls.

Senator McCASKILL. Thank you, Mr. Friedman.  
Mr. Scovel?

**STATEMENT OF HON. CALVIN L. SCOVEL III, INSPECTOR  
GENERAL, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. SCOVEL. Chairman McCaskill, Ranking Member Heller, members of the Subcommittee, thank you for inviting me to testify at this important hearing on vehicle safety.

Since 2002, our office has identified opportunities for NHTSA to improve its efforts to address safety defects. Today, I will focus on NHTSA's actions to address major weaknesses we reported in 2011. I will also discuss how our work can help lead to strong actions against automakers that choose to withhold critical safety data from NHTSA.

In 2011, we reported that NHTSA's Office of Defects Investigation needed improvement in four key areas.

The first area concerns one of ODI's most critical functions: to determine when to investigate allegations of safety defects. ODI did not adequately track its disposition of consumer complaints or document decisions about whether to investigate, leaving its decisions open to interpretation and subject to questions after the fact.

NHTSA completed actions to address the three recommendations we made to improve ODI's process for recommending investigations, including modifying its central data base for safety defect information to track its reviews of consumer complaints.

We identified similar process weaknesses in ODI's documentation of open investigations. Some investigation files did not include sufficient information on meetings with manufacturers, consumer complaint identification numbers, or a determination of testing needs. In one investigation, ODI did not sufficiently document the basis for its decision to close the case.

Consistent with our recommendation to strengthen controls, NHTSA developed a standard checklist for documenting the evidence investigators collect.

ODI also lacked a systematic process for determining when to use third-party assistance to test for potential mechanical or electronic defects and to validate information manufacturers provide. In response to our recommendation, NHTSA established a framework for determining when third-party assistance should be used.

Finally, NHTSA lacked processes for ensuring an adequate and well-trained investigative work force. In response to our recommendations, NHTSA developed a formal training program to help ensure its investigators stayed current on technology advancements in the automotive industry and plans to complete by the end of May a work force assessment to determine the number and most effective mix of staff needed to achieve ODI's objectives.

We believe NHTSA's enhanced processes will put the agency in a better position to identify and investigate vehicle safety defects. However, the success of these process improvements will depend on how effectively ODI uses and applies them when conducting its analyses and investigations. At the secretary's request, we will initiate an audit, building on our previous reviews of NHTSA's efforts, to identify and investigate vehicle safety defects.

Despite the department's best efforts to improve its safety defect analyses and investigations, vehicle safety will remain a concern if automakers conceal vital information. The Toyota case perfectly demonstrates the risk involved when automakers withhold critical safety data and fail to report defects to NHTSA.

Our investigators participated in the multi-agency criminal probe of Toyota, reviewing approximately 400,000 documents and interviewing more than 100 individuals. Last month, Toyota forfeited \$1.2 billion for intentionally concealing information on vehicle defects from NHTSA. This penalty, the largest of its kind, sends a clear message to auto manufacturers: Safety is and will remain DOT's and OIG's highest priority.

To this end, we expect the industry to be vigilant and forthcoming to keep the public safe. We will continue to assess NHTSA's efforts to identify and investigate vehicle safety defects and stand ready to investigate allegations of wrongdoing by auto manufacturers.

Finally, Chairman McCaskill, with your permission, I would like to offer these words to the families and friends of those who have been lost in crashes involving GM's defective ignition switches.

I offer you my deepest sympathy. My staff in the Office of Inspector General and I are resolved to determine what NHTSA knew of this safety defect, when it knew it, and what actions NHTSA took to address it. We will also examine NHTSA's current safety defect investigation processes and make recommendations for improvement. The secretary has asked us for this, the Congress expects this of us, and you, the family and friends and victims, deserve this of us. I give you my word, we will do our duty.

This concludes my prepared statement. I will be happy to answer any questions you or other members of the Subcommittee may have.

[The prepared statement of Mr. Scovel:]

PREPARED STATEMENT OF HON. CALVIN L. SCOVEL III, INSPECTOR GENERAL,  
U.S. DEPARTMENT OF TRANSPORTATION

Chairman McCaskill and Members of the Subcommittee:

Thank you for the opportunity to testify on the National Highway Traffic Safety Administration's (NHTSA) efforts to identify and investigate vehicle safety defects. As you know, several high-profile cases of safety defects—notably at Toyota Motor Company and General Motors—have prompted the public, Congress, and the media to question whether the automotive industry and NHTSA's Office of Defects Investigation (ODI) have acted in a timely manner to address safety defects. Since 2002, our office has issued three audit reports with recommendations to enhance ODI's vehicle defect identification processes.<sup>1</sup> Most recently, we reported major weaknesses in these processes—including a lack of systematic procedures for tracking consumer complaints and for documenting significant investigative decisions. At the Secretary's request, we plan to initiate an audit building on our previous reviews of NHTSA's efforts to identify and investigate vehicle safety defects.

Today, I will focus on the status of NHTSA's actions to address major weaknesses that we reported in 2011. In addition, I will discuss our efforts to support strong action against companies that elect to withhold critical safety data from NHTSA.

<sup>1</sup> *Review of the Office of Defects Investigation* (OIG Report Number MH-2002-071), Jan. 3, 2002; *Follow-Up Audit of the Office of Defects Investigation* (OIG Report Number MH-2004-088), Sept. 23, 2004; *Process Improvements Are Needed for Identifying and Addressing Vehicle Safety Defects* (OIG Report Number MH-2012-001), Oct. 6, 2011. OIG reports are available on our website at: [www.oig.dot.gov](http://www.oig.dot.gov).

### **In Summary**

In 2011, we reported that ODI needed to improve its processes for identifying vehicle safety defects. Notably, NHTSA's central database for safety defect information did not track the disposition of consumer complaints—ODI's primary means for determining whether an investigation is warranted. We identified similar weakness in processes for determining when to use third-party assistance, documenting investigation information, and assessing workforce needs. NHTSA has taken actions to address our recommendations for enhancing these processes (see attachment 1). However, one recommendation remains outstanding—conducting a workforce assessment for determining the number and most effective mix of staff needed to achieve ODI's objectives. In addition, our investigative efforts can help lead to strong sanctions against companies that withhold critical safety data from NHTSA. Investigators from the Office of Inspector General (OIG) participated in the criminal probe of Toyota, which recently forfeited \$1.2 billion for intentionally concealing information on vehicle defects from NHTSA. We will continue to assess NHTSA's efforts to identify and investigate vehicle safety defects and stand ready to investigate allegations of wrongdoing by auto manufacturers.

### **Background**

NHTSA administers highway safety and consumer programs intended to save lives, prevent injuries, and reduce economic costs resulting from motor vehicle crashes. The National Traffic and Motor Vehicle Safety Act authorizes NHTSA to issue vehicle safety standards and to require manufacturers to recall vehicles and equipment that have safety-related defects or that do not meet Federal safety standards.

ODI conducts tests, inspections, and investigations to identify safety defects in motor vehicles and equipment. Based on its findings, NHTSA can require manufacturer recalls notifying the public and correcting the defects. When conducting investigations, ODI can request that manufacturers provide data on complaints, injuries, warranty claims, modifications, parts sales, and other items. Attachment 2 describes ODI's investigative processes.

To conduct its work, ODI uses NHTSA's Advanced Retrieval of Tire, Equipment, and Motor Vehicle Information System, or Artemis, which provides a central repository of data on motor vehicle and motor vehicle equipment defects. Artemis captures consumer complaints, manufacturer recalls and early warning reporting, documentation related to safety defect investigations, and information from other Government agencies. Some Artemis data is made available to the public through a Website.<sup>2</sup>

### **NHTSA Has Taken Actions to Strengthen Its Processes for Vehicle Defect Investigations**

In 2011, we reported major weaknesses in NHTSA's vehicle defect identification processes. Specifically, ODI needed to improve its processes for (1) recommending investigations of potential defects, (2) determining when to use third-party assistance, (3) documenting investigation information, and (4) ensuring an adequate and well-trained workforce. In response to our recommendations, NHTSA has implemented more robust defect investigation processes. However, the effects of these process enhancements are unknown and depend on whether ODI systematically uses and applies the new processes when conducting its analyses and investigations. Additionally, NHTSA has yet to complete a workforce assessment for determining the number and most effective mix of ODI staff. We will continue to assess NHTSA's processes for identifying and investigating vehicle safety defects and will follow up on our past work as needed.

#### *NHTSA Lacked Adequate Processes for Recommending Investigations of Potential Safety Defects*

Consumer complaints are ODI's primary means for determining whether an investigation is warranted. However, Artemis did not track whether complaints were reviewed within established timelines or used to support investigations. As a result, ODI could not demonstrate the extent to which consumer complaints prompted recommendations for investigations. Further, ODI did not use Artemis to track evidence supporting potential defects, and its Defect Assessment Panel<sup>3</sup> did not thoroughly document its decisions on which risks to investigate. For example, ODI did

<sup>2</sup> [www.safercar.gov](http://www.safercar.gov)

<sup>3</sup> NHTSA's Defect Assessment Panel reviews proposals for investigation and decides whether to open an investigation.

not upload prepared investigation proposals<sup>4</sup> into Artemis or track their disposition using a central database. As a result, the factors and analyses ODI considered when determining whether to open investigations were not delineated, leaving ODI's decisions open to interpretation and subject to questions after the fact.

We made three recommendations to address weaknesses in ODI's processes for recommending investigations, and NHTSA took sufficient action to address these recommendations (see table 1). For example, NHTSA modified Artemis to track complaint reviews and established a case management system to maintain pre-investigation data.

Table 1. Status of OIG Recommendations Related to NHTSA's Processes for Recommending Investigations of Potential Safety Defects

| Recommendation  | Status                         | Actions Taken  |
|---|--------------------------------|--|
| Revise the pre-investigation processes to ensure that the review of each complaint is recorded and that complaints are tracked to associated investigations in Artemis. | <i>Closed</i><br>June 19, 2012 | ODI provided documentation demonstrating that: <ul style="list-style-type: none"> <li>• Artemis tracks complaint reviews (who and when),</li> <li>• all relevant complaint numbers are included in the resume for each phase of an investigation, and</li> <li>• investigation process documents have been updated to reflect these policy changes.</li> </ul>   |
| Establish pre-investigation processes for retaining and storing pre-investigation records, such as investigation proposals and insurance company data.                  | <i>Closed</i><br>Dec. 5, 2012  | ODI provided documentation demonstrating that a process for using a case management system had been established to maintain pre-investigation data.  |
| Require that decisions made and actions taken by ODI Defect Assessment Panels are recorded, including justifications for not proceeding to investigations.              | <i>Closed</i><br>Dec. 5, 2012  | ODI provided documentation demonstrating that: <ul style="list-style-type: none"> <li>• Defects Assessment Panel minutes are added to a standardized form and uploaded to the repository for the relevant issue evaluation (IE),</li> <li>• IEs that do not proceed to investigation are marked with one of two codes: "minimal hazard indicated" or "no actionable trend indicated," and</li> <li>• specifics concerning panel dates and IE dispositions are recorded in Artemis annotations for the appropriate IEs. These data can be analyzed and presented in report form.</li> </ul> |

Source: OIG analysis of NHTSA documentation

#### *NHTSA Lacked a Systematic Process for Determining When To Involve Third-Party Assistance*

ODI investigators did not have direct access to test facilities and relied on third parties to test for potential mechanical or electronic defects and validate information provided by a vehicle manufacturer. However, not all investigators requested third-party assistance during investigations, and NHTSA lacked a process for identifying the need for third-party assistance.

We recommended that NHTSA establish a systematic process for determining when to use third parties to verify manufacturer information or assist in identifying a potential defect (see table 2). NHTSA has taken action to satisfy our recommendation.

Table 2. Status of OIG Recommendations Related to Third-Party Assistance

| Recommendation   | Status                         | Actions Taken  |
|--|--------------------------------|--|
| Establish systematic processes for determining when a third party or the Vehicle Research Test Center should be used to verify manufacturer information or assist in identifying a potential defect. | <i>Closed</i><br>Mar. 27, 2012 | ODI provided revised office procedures, including a framework for obtaining third-party resources. |

Source: OIG analysis of NHTSA documentation

<sup>4</sup>An investigation proposal is a report that summarizes the available information on a potential safety defect. The proposal includes but is not limited to early warning data, manufacturer service bulletins, and complaints.

### *ODI Did Not Properly Document Investigations*

ODI did not have criteria to ensure proper documentation for investigations. Specifically, some investigation files did not include documentation of meetings with manufacturers and third parties, consumer complaints, testing needs, and justifications for closing investigations. For example:

- Eleven of the 42 NHTSA investigation cases we sampled involved meetings with manufacturers; however, ODI did not always document the information exchanged during the meetings or the decisions ODI made based on the meetings. In addition, 21 cases included some type of vehicle testing, but ODI did not document its determinations of testing needs.
- ODI recorded only the number of complaints, not the complaint identification numbers, which did not allow ODI to identify the specific complaints.
- For one investigation we sampled, ODI did not provide sufficient documentation to justify closing the investigation. In our interviews with ODI officials, we learned that the investigation was closed based on factors such as trending, frequency and severity rates, forecast analysis, and a review of crashes, injuries, and deaths. While the justification provided supported closing the case, ODI agreed that such evidence needs to be documented in the case file.

NHTSA has revised its investigative process to establish criteria for documenting evidence, as we recommended. Specifically, NHTSA established an “Investigation Documentation Checklist” (see table 3).

Table 3. Status of OIG Recommendations Related to Fully Documenting Investigation Decisions

| Recommendation   | Status                        | Actions Taken   |
|--|-------------------------------|---|
| Revise the ODI investigation process to establish criteria for documenting evidence, such as associated complaints, meetings with manufacturers and other stakeholders, and third-party analysis or testing conducted. | <i>Closed</i><br>Mar. 1, 2013 | ODI provided documentation that it developed an “Investigation Documentation Checklist.” This checklist is a process for documenting evidence collected by the ODI investigators—including consumer complaints, meetings with manufacturers and third parties, and testing. |

Source: OIG analysis of NHTSA documentation

### *NHTSA Lacked Processes for Ensuring an Adequate and Well-Trained Investigative Workforce*

To ensure NHTSA has an adequate workforce to investigate vehicle defects, we recommended that the agency conduct a workforce assessment to determine the number of ODI staff and the specialized skills needed to conduct these investigations. NHTSA plans to complete its assessment by May 30, 2014 (see table 4).

We also recommended that NHTSA develop a formal training program to ensure its investigators stay current on technology advancements in the automotive industry. NHTSA developed a program that satisfies our recommendation.

Table 4. Status of OIG Recommendations Related to Workforce Assessments and Training

| Recommendation   | Status                        | Actions Taken  |
|--|-------------------------------|--|
| Conduct a workforce assessment to determine the number of staff required to ensure that ODI meets its objectives and determines the most effective mix of staff. | <i>Open</i>                   | ODI estimates that it will complete its workforce assessment by May 30, 2014.  |
| Develop a formal training program to assist ODI staff in acquiring knowledge and staying abreast of ODI processes and current and new automobile technologies.   | <i>Closed</i><br>May 29, 2013 | ODI provided a copy of its new training plan. According to NHTSA officials, this plan will assist ODI in the development of its current and future workforce; ensure the continuity of institutional knowledge; and ensure that investigators and other ODI staff become proficient in new automotive, investigative, and vehicle safety technologies. |

Source: OIG analysis of NHTSA documentation

We believe the enhanced processes NHTSA put in place to address our 2011 recommendations will put the Agency in a better position to identify and investigate vehicle safety defects—to the extent that ODI uses and applies these process enhancements when conducting its analyses and investigations. In response to the Secretary’s request, we will assess whether NHTSA has further opportunities to improve its oversight and performance.



### Investigative Efforts Have Resulted in Strong Sanctions for Withholding Critical Safety Data from NHTSA

While continued focus on NHTSA's processes will help ensure the Agency identifies and addresses vehicle safety defects, NHTSA cannot do its job effectively if auto manufacturers withhold critical safety information. Working with our law enforcement and prosecutorial partners, our work can help lead to strong action against companies that elect to withhold information from NHTSA. Most recently, our investigators participated in the multi-agency criminal probe of Toyota, subpoenaing and reviewing approximately 400,000 documents and interviewing more than 100 individuals.

The Toyota case perfectly demonstrates the risk involved when automakers fail to timely report safety defects to NHTSA. The Toyota case involved two unintentional acceleration issues. The first related to floor mats trapping gas pedals and causing unintended acceleration—sometimes to high speeds. In fall 2009, Toyota reported that it had addressed the root cause of the unintended acceleration by issuing a safety recall of eight Toyota and Lexus models for improperly secured or incompatible floor mats. However, our joint investigation with the Federal Bureau of Investigation and the Manhattan, NY, U.S. Attorney's Office revealed that, at the time the statements were made, Toyota did not recall some cars with design features that made them equally susceptible to floor-mat entrapment as some of the recalled cars. We also determined that, only weeks before these statements were made, Toyota had also taken steps to hide from NHTSA a second problem involving accelerators getting stuck at partially depressed levels, known as sticky pedal.

Ultimately, Toyota admitted that it concealed and made deceptive statements about safety issues affecting its vehicles, misleading U.S. consumers and NHTSA. Toyota was charged with wire fraud for providing the misleading information, and on March 19, 2014, the Department of Justice announced a criminal charge against Toyota and a deferred prosecution agreement that requires Toyota to forfeit \$1.2 billion—the largest penalty of its kind ever imposed on an automotive company. The deferred prosecution also imposes an independent monitor to review and assess policies, practices, and procedures relating to Toyota's safety-related public statements and reporting obligations.

This case sends a clear message to auto manufacturers: Safety is and will remain DOT's and OIG's highest priority. To this end, we expect the industry to be vigilant and forthcoming to keep the public safe.

This concludes my prepared statement. I will be happy to answer any questions you or other Members of the Subcommittee may have.

### Attachment 1. Status of 2011 OIG Recommendations for NHTSA's Vehicle Defect Investigation Processes

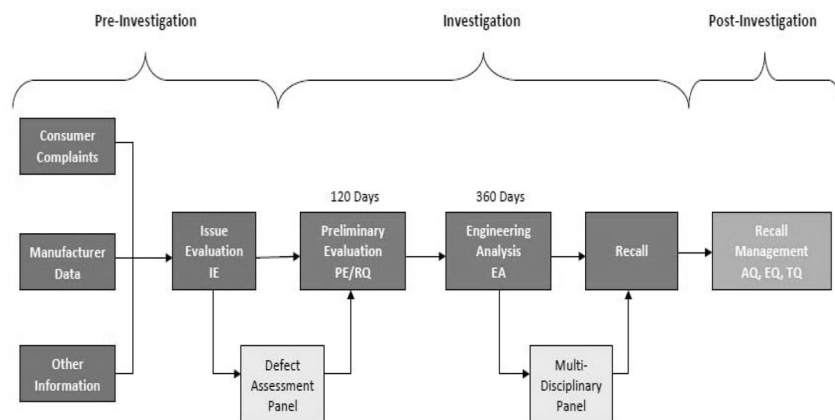
| Recommendation  | Status                         | Actions Taken  |
|---|--------------------------------|--|
| <i>Processes for Recommending Investigations</i>  |                                |  |
| Revise the pre-investigation processes to ensure that the review of each complaint is recorded and that complaints are tracked to associated investigations in Artemis. | <i>Closed</i><br>June 19, 2012 | ODI provided documentation demonstrating that: <ul style="list-style-type: none"> <li>• Artemis tracks complaint reviews (who and when),</li> <li>• all relevant complaint numbers are included in the resume for each phase of an investigation, and</li> <li>• investigation process documents have been updated to reflect these policy changes.</li> </ul> |
| Establish pre-investigation processes for retaining and storing pre-investigation records, such as investigation proposals and insurance company data.                  | <i>Closed</i><br>Dec. 5, 2012  | ODI provided documentation demonstrating that a process for using a case management system had been established to maintain pre-investigation data.  |

| Recommendation   | Status                         | Actions Taken  |
|--|--------------------------------|--|
| Require that decisions made and actions taken by ODI Defect Assessment Panels are recorded, including justifications for not proceeding to investigations.   | <i>Closed</i><br>Dec. 5, 2012  | ODI provided documentation demonstrating that: <ul style="list-style-type: none"> <li>• Defects Assessment Panel minutes are added to a standardized form and uploaded to the repository for the relevant issue evaluation (IE),</li> <li>• IEs that do not proceed to investigation are marked with one of two codes: “minimal hazard indicated” or “no actionable trend indicated,” and</li> <li>• specifics concerning panel dates and IE dispositions are recorded in Artemis annotations for the appropriate IEs. These data can be analyzed and presented in report form.</li> </ul> |
| <i>Third-Party Assistance</i>  |                                |  |
| Establish systematic processes for determining when a third party or the Vehicle Research Test Center should be used to verify manufacturer information or assist in identifying a potential defect.                   | <i>Closed</i><br>Mar. 27, 2012 | ODI provided revised office procedures, including a framework for obtaining third-party resources.   |
| <i>Documentation of Investigation Decisions</i>  |                                |  |
| Revise the ODI investigation process to establish criteria for documenting evidence, such as associated complaints, meetings with manufacturers and other stakeholders, and third-party analysis or testing conducted. | <i>Closed</i><br>Mar. 1, 2013  | ODI provided documentation that it developed an “Investigation Documentation Checklist.” This checklist is a process for documenting evidence collected by the ODI investigators—including consumer complaints, meetings with manufacturers and third parties, and testing.  |
| <i>Workforce Assessments and Training</i>  |                                |  |
| Conduct a workforce assessment to determine the number of staff required to ensure that ODI meets its objectives and determines the most effective mix of staff.   | <i>Open</i>                    | ODI estimates that it will complete its workforce assessment by May 30, 2014.  |
| Develop a formal training program to assist ODI staff in acquiring knowledge and staying abreast of ODI processes and current and new automobile technologies.   | <i>Closed</i><br>May 29, 2013  | ODI provided a copy of its new training plan. According to NHTSA officials, this plan will assist ODI in the development of its current and future workforce; ensure the continuity of institutional knowledge; and ensure that investigators and other ODI staff become proficient in new automotive, investigative, and vehicle safety technologies.   |
| <i>Other<sup>5</sup></i>   |                                |  |
| Revise the ODI investigation process to require justifications for continuing or closing investigations that exceed timeliness goals for preliminary evaluations and engineering analyses.                             | <i>Closed</i><br>Mar. 27, 2012 | ODI established processes for justifying and documenting investigations that exceed timeliness goals.  |
| Strengthen ODI’s redaction policy and process to better protect consumers’ personal information from public availability, such as by using automated redaction software.   | <i>Closed</i><br>Oct. 13, 2011 | ODI issued a revised redaction policy in August 2011.  |
| Develop and implement a strategy for increasing coordination with foreign countries to enhance ODI’s ability to identify safety defects and to exchange information on foreign recalls.                                | <i>Closed</i><br>Oct. 13, 2011 | ODI stated that it planned to form an informal working group to discuss issues of mutual interest to the international enforcement community. NHTSA would chair the group, and the group would meet once or twice a year—with the first meeting taking place on November 17, 2011.   |

Source: OIG analysis of NHTSA documentation

## Attachment 2. Overview of ODI's Investigative Processes

NHTSA's ODI conducts defect investigations and administers safety recalls. The following illustration breaks down the processes by which ODI conducts defect investigations and administers safety recalls.



Source: OIG analysis of ODI processes

The first phase, *pre-investigation*, involves the Defect Assessment Division, which screens consumer complaints, external manufacturer communications, and other information related to alleged safety defects. The screenings provide ODI the basis for determining whether to open an investigation, grant a petition for a defect investigation, determine the adequacy of safety recalls, and grant a petition for a public hearing on the adequacy of a safety recall. The pre-investigation phase also involves the Early Warning Division, which conducts preliminary reviews and analyses of early warning reporting information manufacturers submit to identify potential risks within these documents and alerts the Defect Assessment Division. When the Defect Assessment Division identifies a potential risk, it prepares an issue evaluation package. Ultimately, each IE is proposed for investigation, resolved with an action by the manufacturer, or reverted to a less active status for monitoring for future action. If the Defect Assessment Division determines that it needs to conduct additional discussion to determine the status of an IE proposed for investigation, the Defect Assessment Division can present the IE before the Defect Assessment Panel.<sup>5</sup>

The Defect Assessment Panel reviews IEs to decide collectively whether to open an investigation. The panel draws on the institutional knowledge and experience of ODI to identify high-priority cases. Although complaints and some early warning data are available to the public, ODI does not publically release pre-investigation analyses and decisions.

Defect petitions prompt some investigations. For example, any interested person may file a petition requesting that ODI conduct an investigation into an alleged safety-related defect in a motor vehicle or motor vehicle equipment. ODI can deny or grant a defect petition, or investigate it based on office workload and the nature of the petition. If ODI denies a defect petition, it sends a denial letter to the petitioner and publishes the action in the Federal Register. If ODI grants a defect petition, it sends a grant letter to the petitioner and opens an investigation.

The second phase, *investigation*, involves the formal investigation of alleged safety defects and recall adequacy. One of three ODI divisions—the Vehicle Control Division, Vehicle Integrity Division, and the Medium and Heavy Duty Vehicle Division—conducts investigations. The Vehicle Integrity Division investigates light vehicles, passenger cars, door integrity, airbags, seat belts, and child restraints. The Vehicle Control Division investigates engines, throttle, steering, brakes, suspension, wheels and tires, and control vehicle dynamics. The Medium and Heavy Duty Vehicle Division investigates all vehicles over 10,000 pounds, school buses, emergency

<sup>5</sup> These 2011 recommendations are related to NHTSA's processes for identifying and addressing vehicle safety defects but were not discussed in the body of the statement.

<sup>6</sup> The Defect Assessment Panel includes the Associate Administrator for Enforcement, ODI management and staff, a representative from the NHTSA Chief Counsel Office, and other individuals that may have related knowledge or experience of the issue under review.

vehicles, and motorcycles. The results of ODI investigations are available to the public.

Generally, investigations are conducted in two phases—a preliminary evaluation (PE) and engineering analysis (EA). A PE is the first phase of an investigation. During the PE, ODI sends an information request letter to the manufacturer, reviews applicable information, and conducts tests as needed. A recall query (RQ) is an investigation opened on a recall because the recall remedy appears inadequate or the scope of the recall appears to be insufficient. ODI conducts the RQ in a manner very similar to the PE, and attempts to complete the PE or RQ within 4 months. ODI may close a PE or RQ if it determines that further investigation is not warranted, or because the manufacturer has decided to conduct or expand a recall. If ODI determines that further analysis is warranted, the PE or RQ is upgraded to an EA. An EA is the second phase of an investigation. During the EA, ODI conducts a more detailed and complete analysis of the character and scope of the alleged defect. ODI attempts to complete the EA within 1 year or 360 days. If the results of the EA lead ODI to believe that there is a safety-related defect and the manufacturer has not conducted a recall, a Multi-Disciplinary Review Panel will be convened to consider what further action would be appropriate.

The Multi-Disciplinary Review Panel consists of senior NHTSA officials and representatives from ODI. If the panel agrees with ODI's assessment that a recall is warranted, it issues a Recall Request Letter to the manufacturer calling for a mandatory recall.

The third phase, *post-investigation*, involves the Recall Management Division, which monitors safety defect and noncompliance recalls assessing manufacturers' compliance with statutory and regulatory requirements. A manufacturer initiates a safety-related recall when it determines that any of its products contain a safety-related defect or fails to comply with a Federal Motor Vehicle Safety Standard. A safety-related recall involves notifying NHTSA, owners, purchasers, and dealers of a safety defect, and providing a free remedy. Once the manufacturer notifies NHTSA that it is conducting a recall, the manufacturer must submit six quarterly reports to the Recall Management Division on the progress of the recall. If any of those quarterly reports identify issues with a recall, the Recall Management Division can conduct an audit query, equipment query, or timeliness query. These queries assess the adequacy of the recall. If the recall has a relatively low completion rate, the Recall Management Division may initiate an audit query (AQ). The intent of an AQ is to ensure that all safety recall campaigns comply with all statutory requirements by examining the procedures and processes used by a manufacturer to conduct a safety recall. If the AQ questions the installation of a defective component in vehicles not subject to a recall, an equipment query (EQ) may be initiated. The intent of an EQ is to ensure the identity and recall of all the affected vehicles or motor vehicle equipment. If the Recall Management Division questions the timeliness of the recall, it may initiate a timeliness query (TQ).

Senator McCASKILL. Thank you very much, Mr. Scovel.

I know that there was a \$1.2 billion settlement in conjunction with a criminal investigation. Actually, technically, it was a wire fraud charge that the forfeiture occurred around. But the failure to give information to NHTSA or lying to NHTSA, that is capped at \$35 million.

So if you don't have a situation that the facts lend themselves to a criminal prosecution but, rather, it is a withholding of information—which, by the way, could be a negligent withholding of information. It wouldn't have to be an intentional withholding of information.

Is \$35 million enough? I mean, is that really a deterrent to companies like General Motors or Toyota or Chrysler or any of the companies that are supposed to be giving this data?

Mr. FRIEDMAN. Senator, when we find evidence that automakers have not acted in a timely manner, we will fine them to the maximum extent allowed by law. In the last Congress, we did support increasing that fine to \$300 million.

Senator McCASKILL. And do you believe that is necessary too, Mr. Scovel?

Mr. SCOVEL. Senator McCaskill, I believe that is a policy consideration for the administration and for the Congress.

In considering the purposes behind such penalties, whether it can be those that can be similarly related the basis for sentencing in criminal proceedings—retribution, prevention, deterrence, rehabilitation—certainly, deterrence is one factor that the Congress and the department ought to consider in deciding whether to raise the penalty from \$35 million to any figure above that.

Whether it is a question of is \$35 million regarded by some auto-makers as simply a cost of doing of business, that can certainly be a conclusion that some may draw from it. There may well be information that an Inspector General or the Government Accountability Office may be able to derive through an audit process to help the Congress and the department make that determination.

Senator MCCASKILL. I know you mentioned the work force assessment that is ongoing. I think I was struck when I was going through the materials for this hearing, because I asked the question about your budget, Mr. Friedman, especially for defect investigations. Your budget has been at \$10 million for defect investigations for a decade.

Now, this is a decade that has seen major changes in automobile manufacturing. It has seen a much more complicated engineering scenario, where we have interdependence of computers. You know, the complexity has gone up exponentially over the last decade.

Do you believe that \$10 million is adequate to spend in this country for defects investigation for the entire automobile industry?

Mr. FRIEDMAN. Senator, the president has requested an increase in our budget across NHTSA in order to better increase our abilities to address the wide variety of challenges we face.

In 2012 alone, 33,561 lives were lost on our highways due to a variety of factors, whether it was impaired driving, not wearing seatbelts, safety technology that hadn't yet been brought into the fleet, as well as a smaller portion of that associated with defects. We have been asking to increase our budget because each one of those lives lost is a tragedy. And we have—

Senator MCCASKILL. But within your budget, Mr. Friedman, you are not asking for an increase in the defects investigation. I mean, the budget that has been submitted doesn't show an increase.

Mr. FRIEDMAN. I believe we—

Senator MCCASKILL. The money is going other places in your agency.

Mr. FRIEDMAN. I believe we have asked for some increases in resources, certainly some increases in staff. And part of what we have been doing is using our resources to invest in technology to make our efforts significantly more efficient.

One of the things that we have done is invest in a new computer tool that is derived from IBM's Watson technology in order to enhance our ability to find patterns, to quickly get to those patterns, to connect information. And we do have plans to continue expanding that effort. We need to put more tools in place to be able to sift through the data that we have so that we can find these patterns or examples of defects and get them fixed.

Senator MCCASKILL. In 2007, you considered opening an investigation into airbag nondeployment, as you mentioned in your testi-

mony. You chose not to. Was the basis of that decision recorded anywhere?

Mr. FRIEDMAN. I don't believe we have complete records of that. This goes back to one of the findings in the——

Senator McCASKILL. Right.

Mr. FRIEDMAN.—Inspector General's report. Frankly, it is something that is currently hamstringing our ability to fully pull together all of what happened. However, I do have staff actively working on making sure we understand what happened.

But that is something that has changed, and it is something that we will have going forward—already have and will continue to have going forward, that hopefully a case like this will not happen again, but if it does, we will have better resources to be able to understand exactly what happened.

Senator McCASKILL. Well, I think we need to have the resources and the expertise at NHTSA to find these defects.

And then, obviously, we have to have the transparency of the process that is available to the public and available to anyone who wants to see it. And part of the complaints I hear about NHTSA is that it is very difficult sometimes to get information out of NHTSA by safety advocates that are trying to do their work in the public arena in terms of safety. And I think we will continue to follow up on that.

Senator Heller?

Senator HELLER. Thank you, Madam Chairwoman. Yes, thanks for this hearing. And thanks, for those who are testifying, for being here today.

Mr. Friedman, I have to admit that I am little frustrated with your administration. I had sent a letter in anticipation of getting the results to questions prior to this hearing, and I think I was assured that it would come before today, last night in particular, and of course that didn't happen.

So with the Chairman's permission, I will submit the questions in the letter to the record, if there are no objections.

And I believe I have no other alternative but to ask you the questions here and now if I can't get it in writing.

So the first question I have: Did GM report all consumer complaints related to the stalling incidents and airbag failures that it considered in the recall to NHTSA?

Mr. FRIEDMAN. Senator, first, if I may apologize, I am sorry we were not able to get you the answers to your questions. I know the same is the case with several other members. Our focus on making sure that we are addressing the safety issues and responding to the Committee has taken up a significant amount of our time, but I will get you a response to your letter this week.

Senator HELLER. OK.

Mr. FRIEDMAN. But in terms of your question, General Motors reports to us the counts of complaints, but they do not provide to us the detailed complaints themselves.

Senator HELLER. So what actions do you take based on that information?

Mr. FRIEDMAN. Well, we use that information, the number of their complaints, along with a wide variety of other pieces of information, both that they provide and that we gather ourselves

through our complaint data base, through our special crash investigations, through industry websites and other resources. We look at that data.

We have an early warning division that is focused exclusively on looking at the early warning data, which would include complaint numbers and other data. And we have a defects assessment division that is focused on consumer complaints and compiling the information.

We gather that data, and, in this case, there were clear warning signs and concerns. And, therefore, an expert panel was convened based on those concerns to determine, after looking more deeply into the issue, whether or not there was sufficient information to open up an investigation.

Senator HELLER. Any conclusions from that expert panel?

Mr. FRIEDMAN. In that expert panel, the decision was made not to open the investigation, based on a couple of key factors.

The first is that the Cobalt and Ion did not stand out when it came to airbag nondeployment complaints compared to their peers. They were a little bit above average, but they did not stand out.

Second, in looking at the detailed crash investigations, the two that were available at the time, they were inconclusive as to the cause of airbag nondeployment. Understandably, many people expect airbags to deploy in any frontal crash, for example, but they are actually designed to only deploy when they will help the occupant and not cause more harm than good.

Senator HELLER. When were those conclusions made?

Mr. FRIEDMAN. In 2007. That was the first time we looked at it.

Senator HELLER. OK. So share with me, what threshold does NHTSA use to determine whether a complaint like this warrants further investigation?

Mr. FRIEDMAN. Senator, we don't have a specific threshold. Each case is different. In cases where a defect is clear, all it takes is one, and we will act on that one case if there is clear evidence of a defect. If there is not, we look for further evidence, we look for trends.

But we consciously do not have a specific threshold, because each case is different. If there is a vehicle where only 5,000 are sold per year and we see 1 incident, that may be sufficient to open an investigation. If there is a vehicle where there are 500,000 sold in a year, if there is 1 incident that is a clear defect, we will open. But if there is a larger number and it is not a clear defect trend, we may not open. It does depend on the facts of the case.

Senator HELLER. So you are saying, in this particular case, that you couldn't tell me how many additional incidents or reports would be necessary in order for NHTSA to take further action?

Mr. FRIEDMAN. We rely on a combination of our engineering expertise, data indicating whether or not there is a significant trend. So if the number of complaints had gone up significantly, that would have caused us to act. In fact, what happened when we looked at this again in 2010, the complaint rate overall went down.

Senator HELLER. OK.

I will hold off for additional questions.

Senator Blumenthal?

Senator McCASKILL. Go ahead, Senator Blumenthal.

Senator BLUMENTHAL. Thank you.

Thank you both for being here, Mr. Friedman and General Scovel. I, first of all, want to thank you for your service to our Nation and now for your service at NHTSA as Inspector General. And thank you, Mr. Friedman, for your service at NHTSA.

Let me ask you, Mr. Friedman, I take it from what you said yesterday and what you have said here today that GM concealed material significant information from NHTSA. Is that correct?

Mr. FRIEDMAN. We are very concerned that they didn't provide us with sufficient information. The—

Senator BLUMENTHAL. Well, I know you are concerned. We are all concerned. Did they conceal information, so far as you know?

Mr. FRIEDMAN. That is exactly the subject of an open investigation that we have into General Motors. And if we find that they did violate their responsibilities to report information and to act quickly, we will hold them accountable. But because that is an open investigation, I don't want to prejudge that.

But I am very concerned that they did not provide us with part number changes, I am concerned that they had conversations with suppliers about the algorithms, and that we weren't aware of it.

Senator BLUMENTHAL. In your view, was the faulty ignition switch a defect?

Mr. FRIEDMAN. With what we know now, very clearly it was a defect.

Senator BLUMENTHAL. Was it a design defect?

Mr. FRIEDMAN. I am not sure—it was clearly a defect. It was a defect that represents an unreasonable risk to safety. And from my understanding of the situation, it is a combination of factors. The key itself, with low torque, could turn, and there is clearly something about their algorithm that appears to disable the airbags in that case. That, to be honest, doesn't make sense to me, because if the vehicle is moving—

Senator BLUMENTHAL. Well, it cuts off the car, which in turn disabled the airbag; is that correct?

Mr. FRIEDMAN. I don't know if that is—we are actually asking them very specific questions to understand that. Power loss in a vehicle in a crash is not uncommon. There are capacitors built in to these airbag systems to ensure that they have power in the case of losing—

Senator BLUMENTHAL. Well, I have limited time, so let me just ask you very directly. It is your testimony today that it was a defect?

Mr. FRIEDMAN. Based on what we know now, absolutely.

Senator BLUMENTHAL. And defects are supposed to be reported, correct?

Mr. FRIEDMAN. Absolutely.

Senator BLUMENTHAL. Let me ask you, General. I know that you have made various recommendations about changes and reforms at NHTSA. And looking at your testimony, I understand that many of those recommendations have been made, correct?

Mr. SCOVEL. Yes, Senator, the recommendations have been made. NHTSA has taken steps to address nearly all of those. The most significant one still outstanding has to do with a workforce assessment.

Senator BLUMENTHAL. Right.



But I noted that in one of the paragraphs of your testimony, page 6, you say, “We believe the enhanced processes NHTSA put in place to address our 2011 recommendations will put the agency in a better position to identify and investigate vehicle safety defects to the extent that ODI uses and applies these process enhancements when conducting its analysis and investigation.”

The way I interpret that sentence is, you know they have said they adopted the recommendation, but you don’t know, in fact, whether they are doing them.

Mr. SCOVEL. Precisely. We don’t know how effective these new process enhancements will be. We believe, based on our assessment of NHTSA’s processes as of the 2012–2011 timeframe, using the Toyota case as a case study, if you will, assessing NHTSA’s processes and what we recommended to improve those, that the steps that NHTSA step should help.

Now, are they the silver bullet, would they have avoided or prevented any of the problems that we might see with GM? That we don’t know.

But what we do want to answer now is the mail from the secretary, where he asks us specifically whether NHTSA acted in an expeditious and timely manner to identify and pursue safety defects covered by the GM recalls and whether NHTSA had and currently has sufficient resources, processes, and data available to it to fulfill its safety function with respect to the recall. So we want to see how it is being applied.

Senator BLUMENTHAL. Are you involved, as you were in Toyota, in a criminal investigation of GM?

Mr. SCOVEL. Senator, I can’t confirm or deny that a criminal investigation is under way. Based on our Toyota experience—

Senator BLUMENTHAL. You were involved in the Toyota criminal investigation?

Mr. SCOVEL. Absolutely. We were critical to the criminal investigation of Toyota. Our agents were identified by name a couple of weeks ago by the attorney general at his press conference where he announced the forfeiture. And we have gained a tremendous amount of expertise in this area.

Senator BLUMENTHAL. And let me ask you, finally—I would ask both of you to support the legislation that Senator Markey and I have introduced. Are you willing to do so?

Mr. FRIEDMAN. Senator, I am very open to working with yourself and Senator Markey on how to make sure that we can best move forward and how we can improve and very open to further discussions on your legislation.

Mr. SCOVEL. Sir, if I may—and my response is also more complicated, and I will apologize in advance.

I am sure you appreciate that, as an Inspector General, my presumption is that more transparency is almost always better than less. By virtue of the fact that I serve as DOT Inspector General, by statute and by executive order I serve on the Recovery Accountability and Transparency Board, the Government Accountability and Transparency Board, so transparency is literally our middle name.

However, I am fully cognizant of the policy factors, the considerations on the other side regarding confidential business information and so forth.

Senator BLUMENTHAL. Thank you.

Thank you very much.

Senator McCASKILL. Senator Klobuchar?

Senator KLOBUCHAR. Thank you very much, Madam Chair.

Mr. Friedman, maybe you heard earlier about the case of the three young women in the car in Wisconsin. Two were killed; one of them was one of my constituents, Natasha Weigel.

And following the crash, NHTSA opened up an investigation and found incidences of similar ignition switch problems but was unable to determine what was causing the problem. The report found that—this is a quote—“such a determination would most likely require an analysis of the airbag system to determine if, in fact, the airbag is capable of deploying when the ignition is switched from the on position to the accessory position. Such an undertaking is beyond the scope of this investigation.”

Mr. Friedman, do you think that this report should have raised enough red flags to trigger further investigations into this question?

Mr. FRIEDMAN. This report was one of the pieces of information that did raise concerns and that the panel did consider. At that time, our understanding of airbags indicated that, first of all, power loss in a crash was not uncommon and that airbag systems were designed to be able to function in those circumstances.

Based on that expertise and based on the information we had available, it was determined that it wasn't sufficient information to open up at the time.

This is, frankly, one of the clear lessons that we are learning from this, a lesson that clearly comes too late, that we needed to question that assumption. And going forward, one of the things that I have talked to my staff about and that we are looking at is, how can we better consider remote defect possibilities? How can we better integrate these special crash investigations even further? They are already part of the process, but how do we better integrate them into this process?

This was a tragedy. The——

Senator KLOBUCHAR. And this report, I think, the crash was one of the first, where they barreled 71 miles per hour into a grove of trees, it was one of the first to be linked to the faulty ignition switch. So do you think if you had something better in place, there was potential for trying to prevent these tragedies in the future?

Mr. FRIEDMAN. Well, that is, without a doubt, my goal.

One of the challenges in this specific instance was that, as you noted, the vehicle hit trees. The first set of trees that they hit was kind of a softer strike with an unbelted occupant, which is the exact kind of condition where airbags are designed to often not deploy, because if the driver or passenger is moving forward as the airbag is expanding, sadly it could do more harm than good. More than 200 lives had been lost previously because of that challenge.

And so our understanding of the system indicated that, under those conditions, the conditions of the crash were the more likely reason for nondeployment. But, clearly, as I said, we need to relook

at our assumptions and relook at our understanding of these systems. And we are actively doing that. We are talking to automakers to better understand their algorithms and if there is a problem out there.

Senator KLOBUCHAR. Investigators, as you know, are still gathering the recall data and records to understand what actually happened here with GM. But based on the records we have so far, one thing we know is that NHTSA is very dependent on the automobile companies for the data and the context that is needed to tell whether something is, in fact, an isolated event or a dangerous trend or a defect.

Is it your view that NHTSA has to rely too heavily on auto manufacturers to get this information?

Mr. FRIEDMAN. Senator, we rely on auto manufacturers for some information, but we also have significant resources with information that have nothing to do with the automakers.

One of the most important pieces of our database are consumer complaints. Right now we get about 45,000 of those a year, which we look through each and every one. I would like to see that number grow. We have plans and efforts under way to try to get more and more consumers, when they see problems, to report them to us.

There is added data that we get from automakers, and we do use that as part of the process. I don't think we are too dependent on them, because we try to make sure, and in this case we did, rely on our expertise and our data as part of the process.

Senator KLOBUCHAR. So what was it, you got about 260 complaints about the faulty ignition? Is that about right?

Mr. FRIEDMAN. I believe that is one of the numbers that was reported on the ignition switch. At the time, what we were trying to understand and what we were looking at was airbag nondeployments. At the time, we did not have the information directly linking them.

Senator KLOBUCHAR. So you didn't know it was linked. But—well, I know we are going to find all this out, I hope very soon. But you didn't know that it was about ignition switches? You just thought it was some—you were looking at the airbags instead of the—

Mr. FRIEDMAN. At the time, our focus was trying to understand why airbags may not have been deployed. There were these added complaints about ignition switches or stalling. I believe the 260 number may have been all stalling complaints; I would have to check on that to be sure. It is not clear that all of those were related to the ignition switch. There are many causes of stalling.

Senator KLOBUCHAR. Did the airbags not deploy because it wasn't a traditional crash right away, it just shut down, so then the airbags don't deploy?

Mr. FRIEDMAN. The dynamics of these crashes, to the investigators, to our crash investigators, indicated that that was the more likely reason. But it is very possible, now that we know what we know, that the ignition switch being in the accessory position was the problem. We now have that definitive link from General Motors, a link that if we had had earlier we would have been able to act.

Senator KLOBUCHAR. Mr. Scovel, you look like you wanted to respond.

Mr. SCOVEL. Yes. Thank you, Senator. I have something that may help the Committee understand this point too. And I have in front of me a copy of the special crash investigation report that I know you were referring to, Senator, because you read from the last sentence here, too, of the main paragraph on page 7.

It is encouraging to hear the Administrator talk about reexamining processes, and specifically he used the term “integrating” special crash investigation reports, because we clearly need to—we, my office—need to understand how the agency intends to do that. Because we have identified that on the basis of, certainly, this one piece of evidence that you have cited as a key concern.

The Administrator has spoken to at least the preliminary finding or assessment that the airbags didn’t deploy because of the nature of the impact against softly yielding trees. In fact, the expert engineers conducting the special crash investigation about a year later submitted an amendment to the report that removed that as their initial assessment and said that they couldn’t tell whether it might be that or it might be the loss of power through the ignition system, but that such an undertaking was beyond the scope of the investigation, and they pointed out that it would require further analysis.

Senator KLOBUCHAR. So they actually looked at maybe they were wrong and it may have been the ignition switch.

Mr. SCOVEL. Right. Right.

Senator KLOBUCHAR. But that is not what they were asked to investigate; is that what is?

Mr. SCOVEL. It is—

Senator KLOBUCHAR. It seems so strange. Wouldn’t you want to—

Mr. SCOVEL. It does. But it is properly beyond the scope of how NHTSA has laid out what it wants to get from a special crash investigation.

Senator KLOBUCHAR. OK. Is there a way you could change that, where you say, we don’t know what happened here, this is very odd that these girls were just driving down the road and suddenly they, 71 miles per hour, surge into some trees? I mean—

Mr. FRIEDMAN. Well, part of—so the purpose of special crash investigations is to better understand the circumstances of crashes of interest. We were very concerned about airbag nondeployments, which is exactly why we were having special crash investigators go out and gather data and information on these crashes. I do believe that that is a good process, that is the right process.

We also make sure that the special crash investigators and ODI talk to each other. It is the job of the investigators to try to understand whether or not there is a defect.

So SCI is a great tool for gathering the data, but we then also need our experts engaged in the process to translate and understand that data.

Senator KLOBUCHAR. OK.

I have one last question on the recall process, if that is all right. Manufacturers can voluntarily initiate recalls without waiting for NHTSA to order it, or NHTSA can order manufacturers, right—

Mr. FRIEDMAN. That is correct.

Senator KLOBUCHAR.—to initiate a recall. However, if they are going to do that, if they are actually going to order one, they need this lengthy process that includes holding a public hearing, completing the investigation, and giving the manufacturer time to file a detailed response, and perhaps even defending a recall in Federal court.

Mr. Friedman, by taking so long to order a recall here, the recall of these cars, which seem to be rolling out a different one every day, are we shortchanging Americans and jeopardizing safety? And, in other words, when lives are at stake and when manufacturers may be reluctant, as appears to be in this case, to initiate a recall, if you go back through time, on their own, is the length of time it takes for NHTSA to order a recall a problem?

Mr. FRIEDMAN. Senator, the good news here is that we very, very rarely ever have to go to that length. We are actually potentially involved in such a situation with a car seat manufacturer who has resisted moving forward with some infant seats, but the vast majority of the time, almost every single time, the industry does act. But sometimes it does take extra pressure.

What I would like to see, frankly, is, when we provide evidence to an automaker that there is a defect, that they act right away. I would like to see quicker action from automakers.

But, to be clear, the vast majority of the times, we do not have to go through that full process. We can get the recalls much earlier in the process, and we very often do.

Senator KLOBUCHAR. Thank you.

Senator MCCASKILL. Mr. Friedman, first, do you monitor the legal claims against manufacturers?

Mr. FRIEDMAN. The legal claims are one of the pieces of information that does come in to NHTSA through the early warning system, through our early warning data system. However, depending on where those claims are in the process, in terms of litigation, whether or not that litigation or the findings are sealed, we may not have all the access to that information.

Senator MCCASKILL. But you are monitoring, because it is very easy to find—I mean, I could go on my iPad right now and Google “lawsuits against General Motors” and pull up hundreds of them, I am sure, in fairly quick order. Do you all do that so you know if a complaint has been filed on a defect on the automobile?

Because what I am trying to do is harness the great work that clearly is going on, since it was a lawyer who figured this out, harness that work for your agency. And I don’t get the sense that you all are paying that close of attention to these cases.

Mr. FRIEDMAN. We are paying very close attention to these cases. We get death and injury reports, which include claims, unsubstantiated claims in some cases, associated with these vehicles. So we get those reports. And when we see some that raise concern, we do reach out and ask for additional details.

In this case with the Cobalts and other vehicles, if my numbers are correct, I believe we reached out 98 times to follow up on various claims, death and injury claims, associated with these vehicles. We looked at that data and that information as part of that process.

Senator MCCASKILL. So I would be interested to know the specifics of that. How many of those 98 claims, when you looked at them, how many of them had been settled, how many of them were tried, how many went to a jury verdict, what were the verdicts. If you actually did that, I would like to see that documentation.

My next question is, if you look and you find one of those cases, it has been settled and it is confidential, do you have the legal authority to ask that manufacturer to give you the details of that lawsuit?

Mr. FRIEDMAN. I don't know of the exact details of our legal authority. I do know that, for example, if it hasn't been sealed, depending on the case, we can ask for additional information.

Senator MCCASKILL. Well, let's assume it has been sealed. Let's assume that General Motors or Toyota or Chrysler or any of them insist that they will not settle with the client, with the victim, unless there is an agreement of confidentiality. Do you have the ability, independent of the confidentiality between the victim and the defendant, do you have the ability to go directly to the defendant and get that information?

Mr. FRIEDMAN. I will have to verify with my team, but I do not believe we have the ability to request sealed documents. I also—

Senator MCCASKILL. What about subpoenas? You can subpoena, right?

Mr. FRIEDMAN. Thank you.

Yes.

Senator MCCASKILL. OK. That worries me you didn't know.

Mr. FRIEDMAN. It worries me, as well.

Senator MCCASKILL. So how often have you utilized the subpoena power of NHTSA to get more information from automobile manufacturers?

Mr. FRIEDMAN. That is something I will definitely get back to you on the record.

Senator MCCASKILL. OK. I would be very interested in that.

And then, finally, I am a little worried about this whole deployment of airbags, power on, power off. As you have said and your testimony said, you believe the specifications were that if the power was off the airbag would still deploy. We are now learning that the reason the airbag didn't deploy is because the power was off. This is a problem.

Mr. FRIEDMAN. Well, and it may even be more complicated than that, actually. And that is one of the questions that we actually have in our timeliness query to General Motors. It is possible that it is not simply that the power was off but a much more complicated situation where the very specific action of moving from on to the accessory mode is what, didn't turn off the power, but may have disabled the algorithm.

That, to me, frankly, doesn't make sense. From my perspective, if a vehicle—certainly if a vehicle is moving, the airbag algorithm should require those airbags to deploy. Even if the vehicle is stopped and you turn from on to accessory, I believe that the airbags should be able to deploy.

So this is exactly why we are asking General Motors this question, to understand is it truly a power issue or is there something

embedded in their algorithm that is causing this, something that should not have been there in their algorithm.

Senator MCCASKILL. Yes. Well, it is pretty important we figure that out. And then what you need to do is you need to look across the entire manufacturing spectrum—

Mr. FRIEDMAN. We have already begun.

Senator MCCASKILL.—on this issue. Because either an airbag is dependent on power or it isn't. And if it is dependent on power, we have an issue.

Mr. FRIEDMAN. Yes, Senator. In fact, I have already directly my staff, several days—well, it is at least days, if not more than a week ago, as we were digging in to this, to reach out to automakers and to suppliers.

Because I have the same concern you have, and I want to make sure that we fully understand this issue so that Americans driving on our roads are safe. Safety must always be our top priority.

Senator MCCASKILL. OK.

Senator HELLER?

Senator HELLER. Thank you.

Mr. Friedman, how long have you been the Acting Director?

Mr. FRIEDMAN. I have been the Acting Administrator just over 2 months.

Senator HELLER. What was your prior experience with NHTSA?

Mr. FRIEDMAN. Prior to that, I was the Deputy Administrator for about 8 months.

Senator HELLER. OK. Anything prior to that with NHTSA?

Mr. FRIEDMAN. Prior to that, I worked for a nonprofit organization, and we engaged on fuel economy and fuel-economy-and safety-related issues, where they overlapped. I worked there for about 12 years.

Senator HELLER. I am just trying to get your history with NHTSA.

All right, probably one of the biggest complaints I get when I go home, talking to businesses and companies, is, you know, government interference and the strong hand of government themselves and some of the regulations.

Could you describe to me what the relationship between NHTSA and GM has been in the past?

Mr. FRIEDMAN. Our relationship has been a relationship you would expect between a regulator and a regulated entity. Our goal, as part of that relationship, is to ensure that we are catching any defects involved, that we are discussing with them possible safety technologies, and that we are ensuring that they are providing information to us and we are raising concerns to them when appropriate.

Senator HELLER. Are you comfortable with the relationship?

Mr. FRIEDMAN. I would like to see, from all automakers, increased efforts to be responsive when NHTSA reaches out on defects issues. I would like to have the confidence that they are all sharing all the information that they have.

Senator HELLER. Do you have that confidence today?

Mr. FRIEDMAN. I think, clearly, the Toyota case indicates that, no, I should not fully have that confidence, because that is a clear case where, in fact, there was a part number change, a part

change, that was not revealed. It is also one of the reasons why I am concerned in this case and one of the reasons why we have opened an investigation into the automakers.

In fact, over the last 5 years, we have issued record fines against automakers, not just Toyota but Ford, as well, and at least one other manufacturer, because we were concerned that they did not act properly under the law and we found that they did not act properly under the law.

Senator HELLER. Is the Secretary of Transportation consulted with decisions regarding NHTSA investigations?

Mr. FRIEDMAN. That is a very broad question. There are some investigations that the Secretary of Transportation is made aware of. But, certainly, in the defects assessment panels, or the defects panels, the Secretary of Transportation is not involved in that decision-making process, no.

Senator HELLER. Was he involved in this one?

Mr. FRIEDMAN. No.

Senator HELLER. He was not.

Mr. FRIEDMAN. No. And just to be clear, there was a panel that happened in 2007. That is the panel that we are discussing. And absolutely not.

Senator HELLER. Was anyone in the Secretary's office consulted?

Mr. FRIEDMAN. No.

Senator HELLER. OK.

Let me ask you another question. Did any government official outside of the Department of Transportation consult or provide input on the decision not to move forward in 2007 or 2010?

Mr. FRIEDMAN. Not that I am aware of, no. That would not be our standard process.

Senator HELLER. Mr. Scovel, let me ask you the same question. In your investigation, did you check to see, or was that part of your broad scope of things to find out, what influence may or may not have occurred in 2007 and 2010?

Mr. SCOVEL. Senator, it was not part of the audit that we conducted in the 2010–2011 timeframe, which was prompted most immediately by the Toyota problems.

Going forward, I can tell you that in the current audit, which the secretary has requested us to do, we will be looking at everything that NHTSA knew, what it didn't know, when it knew it, and what actions it took in response to that. Should we come across any documentation—and our auditors are trained and will be instructed to be on the lookout for such matters—we will take them cognizance and refer them to the proper authorities.

Senator HELLER. Including other government influence on the decisionmaking process?

Mr. SCOVEL. Yes, sir.

Senator HELLER. Very good.

Thank you, Ms. Chairman.

Senator MCCASKILL. I want to thank both of you for being here today. I think we have had a productive day and have learned a lot.

And there will be follow-up hearings, and we will be calling on you, particularly, Mr. Friedman, to give us more information as your investigation continues.



Mr. FRIEDMAN. Absolutely.

Senator McCASKILL. Thank you both.

Mr. FRIEDMAN. Thank you.

[Whereupon, at 1:13 p.m., the hearing was adjourned.]



## A P P E N D I X

### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO MARY T. BARRA

*Question 1.* You made distinctions in your testimony between the “old” GM and the “new” GM. In particular, you said that the new GM has a “customer culture,” whereas the old GM had more of a “cost culture.” You have been with GM for your entire career. While I am pleased that a customer culture has taken hold, I have serious concerns about your characterization of the so-called “old GM.” Many of our constituents drive “old GM” cars that were built before 2009, when GM emerged from bankruptcy.

*Question 1a.* What was the practical impact of this “cost culture” on the safety of cars built by the old GM?

*Question 1b.* Should people driving any vehicles built by GM during the time when the company had a “cost culture” be concerned about the safety of their vehicle?

Answer. GM stands behind the safety of its vehicles. As stated in GM’s 10-Q filing on April 24, 2014, in the three months ended March 31, 2014 we experienced a significant increase in the number of vehicles subject to recall in North America, and we have announced further recalls since that time. These recalls include vehicles manufactured before and after 2009. These recalls reflect the results of our comprehensive safety review, additional engineering analysis, and our overall commitment to customer satisfaction. Where GM has identified safety issues as part of its review, cost has not been a factor in determining whether to conduct a recall.

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### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. EDWARD MARKEY TO MARY T. BARRA

*Question 1.* Please provide me with copies of all documents (including but not limited to memos, powerpoints, letters, agendas, e-mails, meeting notes, white papers, and telephone logs) in any way related to (i) the March 29, 2007 meeting between GM and NHTSA that included a discussion of a 2005 accident involving a Chevrolet Cobalt whose airbags did not deploy and (ii) any subsequent meetings or correspondence between GM and NHTSA that were in any way related to potential defects associated with any of the models recently recalled due to the ignition switch defect.

Answer. GM has conducted a search of locations where documents related to the March 29, 2007 meeting between GM and NHTSA would ordinarily be expected to be found, identifying documents through specified custodians and search terms, and has produced those documents identified as responsive to date. With respect to the second part of the question, excluding correspondence and meetings in 2014, GM has not identified responsive documents involving meetings or correspondence between GM and NHTSA regarding the ignition switch defect. GM notes that it has produced certain Early Warning Report (“EWR”) data to the Committee for the vehicles within the scope of the February 7, 2014 and February 25, 2014 recalls and certain documents relating to power steering defects in the Cobalt, G5 and Ion vehicles. GM has also produced documents covering other issues, such as fuel tanks and tires, involving some of the models within the scope of the February 7 and February 25 recalls.

*Question 2.* Please provide me with a list of GM vehicle models manufactured in any model year since model year 2000 that utilized Delphi ignition switches. For each of these models (and for each model year in which the vehicle was sold), please list the model number for the ignition switch and GM’s torque specification for the ignition switch.

Answer. Based on our investigation to date and review of available information, please see the information in Table 1:

**Table 1: Vehicle models with Delphi Ignition switches**

| Division     | Name           | Vehicle First MY | Ignition Switch Part Number | GM Torque Target to Move Switch from Run to ACC | Torque Tolerance | Supplier |
|--------------|----------------|------------------|-----------------------------|---|------------------|----------|
| Saturn       | Ion            | 2003             | 12450250,<br>10392423       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Chevrolet    | Cobalt/Pursuit | 2005             | 10392423,<br>15886190       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Chevrolet    | HHR            | 2006             | 10392423,<br>15886190       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Pontiac      | G5             | 2007             | 10392423,<br>15886190       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Chevrolet    | Malibu Maxx    | 2004             | 15823541                    | 20 Ncm  | None             | Delphi   |
| Pontiac      | G6             | 2005             | 15823541                    | 20 Ncm  | None             | Delphi   |
| Saturn       | Aura           | 2007             | 15823541                    | 20 Ncm  | None             | Delphi   |
| Chevrolet    | Malibu         | 2008             | 15823541                    | 20 Ncm  | None             | Delphi   |
| Chevrolet    | Colorado       | 2005             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| GMC          | Canyon         | 2005             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| HUMMER       | H3             | 2006             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| HUMMER       | H3G            | 2007             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| HUMMER       | H3T            | 2009             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| NonGM_HUMMER | H3             | 2010             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| NonGM_HUMMER | H3G            | 2010             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| NonGM_HUMMER | H3T            | 2010             | 15795324                    | 20 Ncm  | TBD              | Delphi   |
| Pontiac      | Solstice       | 2006             | 10392423,<br>15886190       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Opel         | GT             | 2007             | 10392423,<br>15886190       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Saturn       | SKY            | 2007             | 10392423,<br>15886190       | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Saab         | 9-7x           | 2005             | 15250556                    | 20 Ncm  | None             | Delphi   |
| Cadillac     | CTS            | 2003             | 12450257                    | 20 Ncm  | +/- 5 Ncm        | Delphi   |
| Cadillac     | SRX            | 2004             | 12450257,<br>15261531       | 20 Ncm  | +/- 5 Ncm        | Delphi   |

\* TBD indicates that GM has not at this time been able to confirm the tolerance of the torque for that part number and application combinations.

*Question 3.* Please provide me with an un-redacted copy of the November 14 2008 actuarial report entitled "Loss Reserve Analysis and Forecast" that was prepared by AON Global Risk Consulting, as part of the GM bankruptcy proceeding. Please additionally provide me with any data, documents (including but not limited to memos, powerpoints, letters, agendas, e-mails, meeting notes, white papers, and telephone logs) GM provided to AON that were in any way related to the potential for current or future liabilities associated with any of the vehicles GM recalled due to the flawed ignition switch, and any documents (including but not limited to memos, powerpoints, letters, agendas, e-mails, meeting notes, white papers, and telephone logs) received by GM from AON during the preparation of this report.

*Answer.* An unredacted copy of the November 2008 actuarial report is enclosed. GM is in the process of searching for documents GM may have provided to AON relating to the November 2008 report that were related to the potential for current or future liabilities associated with the recalled Cobalt, G5 Ion, HHR, Solstice and Sky vehicles, and documents received by GM from AON during the preparation of this report. To the best of our knowledge based on our inquiries to date, data for the report except for Insured Workers Compensation was provided by ESIS (GM's third party claims administrator), including direct access by AON to certain ESIS data. Further, to the best of our knowledge based on our inquiries to date, the information that AON reviewed did not specify the allegations involved in a particular claim. AON would have more direct knowledge of the information it obtained from ESIS in that time period.

[NOTE: The copy of the November 2008 actuarial report has been submitted to and is retained by the Committee.]

*Question 4.* A GM document indicated that changes to address the ignition switch defect were rejected in 2005 because "none of the solutions represents an acceptable business case." Has GM attempted to determine whether a similar "business case" metric has ever been applied to any other potential safety defects for any of GM's models? If so, please provide me with all documents related to any such case. If no

attempt has been made to learn whether other instances of such a “business case” analysis for a potential safety defect have occurred, why not?

Answer. In redoubling its efforts regarding customer safety over the last several months, GM has engaged in a comprehensive safety review, including additional engineering analyses. Where GM has identified safety issues as part of its review, cost has not been a factor in determining whether to conduct a recall. In the three months ended March 31, 2014 GM experienced a significant increase in the number of vehicles subject to recall in North America, and has announced further recalls since that time. These recalls include vehicles manufactured before and after 2009.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO  
HON. DAVID J. FRIEDMAN

*Question 1.* A person who fails to report auto safety defects to the National Highway Traffic Safety Administration (NHTSA) is subject to criminal penalties under 49 U.S.C. 30170. However, it is not clear the provision has ever been used to pursue criminal prosecutions. The provision further stipulates that the Attorney General may only seek such criminal penalties at the request of the Secretary of Transportation.

In the largest settlement ever with an automaker, the Department of Justice on March 19, 2014, announced a \$1.2 billion criminal settlement with Toyota over safety issues related to Toyota and Lexus vehicles in 2009 and 2010. However, the Department of Justice pursued a wire fraud charge against Toyota rather than criminal penalties for violation of the Motor Vehicle Safety Act.

*Question 1a.* Please list all cases brought by the Department of Justice using the criminal penalties in 49 U.S.C. 30170.

Answer. I am not aware of any such cases.

*Question 1b.* Please list all instances in which the Secretary of Transportation has ever asked the Department of Justice to pursue charges using the criminal penalties in 49 U.S.C. 30170.

Answer. I am not aware of any formal requests. I cannot comment with regard to informal, privileged conversations.

*Question 1c.* What, if any, obstacles does 49 U.S.C. 30170 present in being an adequate deterrent and proper enforcement mechanism for those who fail to comply with statutory vehicle safety reporting requirements?

Answer. I am not aware of any obstacles to 49 U.S.C. 30170 being a deterrent and enforcement mechanism.

*Question 2.* At the hearing, we discussed NHTSA’s existing subpoena authority to compel information from companies, including automobile manufacturers.

*Question 2a.* How frequently is this subpoena authority utilized? Are there any obstacles for NHTSA in using its subpoena power?

Answer. NHTSA has broad compulsory information gathering authority that the agency exercises frequently, including through the issuance of information requests, general and special orders that are, in fact, administrative subpoenas on manufacturers, as well as officially denominated “subpoenas.” See 49 U.S.C. 30166(g) and 49 C.F.R. §§ 510.4—510.12. NHTSA has no obstacles in exercising this authority.

*Question 2b.* Please list all instances over the past decade in which NHTSA has issued a subpoena.

Answer. As noted above, NHTSA has information-gathering authorities beyond issuing subpoenas. See 49 U.S.C. 30166(g) and 49 C.F.R. §§ 510.4—510.12. For example, NHTSA’s Office of Defects Investigation (ODI) regularly issues information requests. As noted above, responses to such information requests are compulsory. Over the past decade, NHTSA has issued more than 1,000 such information requests. See searchable public database of NHTSA investigations at [www.safercar.gov](http://www.safercar.gov). NHTSA also regularly issues special orders that are administrative subpoenas.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. EDWARD MARKEY TO  
HON. DAVID J. FRIEDMAN

*Question 1.* Please provide me with copies of all documents (including but not limited to memos, powerpoints, letters, agendas, e-mails, meeting notes, white papers, and telephone logs) in any way related to (i) the March 29, 2007 meeting between GM and NHTSA that included a discussion of a 2005 accident involving a Chevrolet Cobalt whose airbags did not deploy and (ii) any subsequent meetings or cor-

respondence between GM and NHTSA that were in any way related to potential defects associated with any of the models recently recalled due to the ignition switch defect.

Answer. Information responsive to this request was previously provided to the Committee on March 28, 2014.

*Question 2.* Please provide me with a full copy of NHTSA's investigation files on PE03-002 and IE02-102.

Answer. NHTSA makes all consumer complaints, investigations, recalls, and summaries of associated technical service bulletins available to the public on its website at <http://www-odi.nhtsa.dot.gov/owners/SearchSafetyIssues>. To conduct a search for the investigation files related to PE03-002 on the website, select "ID Number" and check "Investigations." Enter PE03002 in the box and press "Go."

Initial Evaluations (IEs) such as IE02-102 are preliminary, pre-decisional analyses of potential safety defect issues conducted by ODI staff. As such, IEs are a direct part of the agency's deliberative process pertaining to the making of recommendations or expressing opinions on legal or policy matters having to do with issues that may or may not become the subject of a defect investigation. While we do not publicly release information related to IEs, we have attached a copy of IE02-102 for committee use only. *[NOTE: The copy of IE02-102 has been received and is retained by the Committee.]*

*Question 3.* MAP-21 required NHTSA to publish Technical Service Bulletins, such as the ones it received about the GM Chevrolet Cobalt ignition switch defect, on its website. Why hasn't NHTSA implemented this statutory requirement and when does it plan to do so?

Answer. MAP-21 requires the agency to post dealer communications about defects and noncompliance, which includes technical service bulletins (TSBs). NHTSA currently posts TSBs that the agency relies upon as part of an ongoing investigation, as well as those that come in after a safety defect or non-compliance recall. NHTSA also plans to develop a standard format and content criteria that all automakers would be required to follow so that we can create a searchable index of such communications about defects and noncompliance. With respect to the recent GM recall relating to defective ignition switches, the associated TSBs are posted online at [www.safercar.gov](http://www.safercar.gov).

Safety, including vehicle safety, is our top priority, and, over the past year, NHTSA has demonstrated its commitment to implementing the multiple provisions under MAP-21. For example, NHTSA now requires automakers to implement a VIN look-up feature that allows consumers to search for any recalls affecting their specific vehicle, and we are also implementing such a feature on the NHTSA website. To further help consumers, NHTSA mandated a new label to allow consumers to differentiate between recall letters and junk mail, and the agency also launched the Safercar app for consumers to receive notification of new recalls on mobile devices.

*Question 4.* In your testimony, you stated that NHTSA's "safety defect investigations have resulted in 1,299 recalls involving more than 95 million vehicles, equipment, tires, and child restraints, which have helped reduce vehicle fatalities to historic lows." For each of these recalls, please provide me with:

*Question 4a.* A description of the recall, identifying the manufacturer, nature of the defect, number of vehicles or parts the recall applied to, and the date on which the recall occurred.

*Question 4b.* A copy of NHTSA's investigation file related to the recall.

Answer. NHTSA makes all consumer complaints, investigations, recalls, and summaries of technical service bulletins related to a defect or noncompliance available to the public on its website. You may download the consumer complaint, defects investigations, recalls, or summaries of associated technical service bulletins by going to <http://www.safercar.gov/Vehicle+Manufacturers/>. Once at the website, select "Flat file copies of NHTSA/ODI Database" and then select the Defect Investigations file to download and extract the data. The CAMPNO field (NHTSA Recall Campaign Number), if present, identifies the recall campaign initiated as a result of the investigation. The CAMPNO can be used to link to the Recalls file, also available on the website, for additional information.

To conduct a search for the investigation files related to the recall, go to NHTSA's website at: <http://www-odi.nhtsa.dot.gov/owners/SearchSafetyIssues>. Select "ID Number" and check "Investigations." Enter associated investigation number in the box and press "Go."

Additionally, attached is list of NHTSA influenced recalls from January 2004 through April 2014. *[NOTE: The list has been received and is retained by the Committee.]*

*Question 5.* In your testimony, you stated that “had the information newly provided to NHTSA by GM been available before now, it would have better informed the agency’s prior reviews of airbag non-deployment in GM vehicles and likely would have changed NHTSA’s approach to this issue.” For each of the following, please indicate when (i) NHTSA received the information, (ii) whether the information would have been available to NHTSA’s Data Analysis Division at the time of the March 29, 2007 meeting with GM and (iii) whether the NHTSA employees who participated in the March 29, 2007 meeting with GM had obtained and reviewed the information at the time of the March 29, 2007 meeting with GM and (iv) if the response to iii) is no, whether NHTSA employees attempted to obtain and review this information following the March 29, 2007 meeting.

*Question 5a.* GM’s December 2005 Technical Service Bulletin that described the “potential for the driver to inadvertently turn off the ignition due to low ignition key cylinder torque/effort.”

*Question 5b.* GM’s October 2006 Technical Service Bulletin that was updated to include additional models.

*Question 5c.* GM’s public and non-public submittals to the Early Warning Reporting System that described instances of airbag non-deployment and/or ignition switch issues associated with the recalled vehicles.

*Question 5d.* Reports in the FARS database and the Early Warning Reporting system showing higher instances of deaths of front seat occupants following accidents involving airbag non-deployment in the recalled vehicles than for other similar vehicles.

*Question 5e.* Reports in NHTSA’s consumer complaint database showing high numbers of reports of ignition switches turning off by themselves in the recalled vehicles.

Answer. My testimony related to information that NHTSA received from GM this year that likely would have caused NHTSA to open an investigation had GM disclosed it earlier. Your questions, though, relate to information that NHTSA received prior to this year. As explained in my testimony, the agency determined that the information provided to NHTSA prior to this year did not indicate that there may have been a defect trend and the information was insufficient to open an investigation.

As you know, NHTSA is currently conducting an internal due diligence review with the Office of the Secretary of Transportation of NHTSA’s response to the information available to the agency prior to GM’s recalls. Additionally, we are working closely with the Department’s Office of the Inspector General audit assessing issues pertaining to NHTSA’s actions prior to the recent GM recalls.

*Question 6.* During the hearing, you stated that the reason why NHTSA employees may not have connected the airbag non-deployment events with the ignition switch issues is because there may have been some expectation that airbags should deploy even when the engine stops. Please provide me with a copy of all documents (including but not limited to memos, powerpoints, letters, agendas, e-mails, meeting notes, white papers, and telephone logs) in which this matter was considered by NHTSA employees who were evaluating reports of airbag non-deployment in any of the recalled GM vehicles.

Answer. The expectation that airbags should deploy even when the engine stops was based upon the understanding by NHTSA staff that airbag control modules were equipped with reserve power systems storing a certain amount of electrical power after the engine stops. A subsequent review of contemporaneous technical literature confirms NHTSA’s understanding. See attached excerpt from ALLDATA, which we are providing for committee use only because ALLDATA’s licensing agreement limits distribution rights. *[NOTE: The excerpt has been received and is retained by the Committee.]*

Since GM provided new information directly connecting airbag non-deployments with the ignition switch defect, NHTSA has been in contact with other automotive manufacturers and suppliers regarding airbag design and performance related to the position of the vehicle ignition switch, and the agency will take appropriate action based on our findings during this outreach.

NHTSA continually seeks new ways to improve our processes. As noted above, we are reviewing the events leading up to this recall to see if there areas that can be improved. We are looking to improve our understanding of the way that various manufacturers design airbags to function when the vehicle loses power, reviewing ways to better incorporate information about remote defect possibilities into the investigative process, and evaluating our process for engaging manufacturers around issue evaluations.

*Question 7.* NHTSA's former counsel Frank Berndt wrote a memo<sup>1</sup> describing NHTSA's enforcement policy. This policy was subsequently upheld by the U.S. Court of Appeals D.C. Circuit Court in 1988, in a case that ironically involved General Motors, which had apparently asserted that exploding wheels in some of its vehicles created an unreasonable risk to safety but would not acknowledge that the wheels were defective. This memo characterizes the industry's posture on when a safety defect enforcement effort could be started as when "some threshold number of accidents, injuries or deaths have occurred" or will occur in the future. But Mr. Berndt went on to state that the per se theory of defect law was that "the demonstrated failure of a critical safety component (wheels, brakes, steering, lights, etc.) would establish the existence of the safety defect whether supporting accident data exists or not." In other words, NHTSA does not have to wait until some threshold number of incidents occur, or until it knows the cause of a demonstrated failure of a critical safety component, before it can open up a defect investigation. Yet, during your testimony, that is effectively what you said NHTSA did when it decided not to open up a defect investigation into the airbag non-deployments of which it was aware because NHTSA "did not find sufficient evidence of a possible safety defect or defect trend that would warrant opening a formal investigation". This stands in stark contrast to the manner in which NHTSA began a defect investigation into a case of airbag non-deployment of Ford Taurus vehicles following a single instance of a fatality involving an airbag non-deployment in 2003.

*Question 7a.* Why was a single instance of airbag non-deployment in the recently recalled GM vehicles not in and of itself sufficient cause to open up a defect investigation?

Answer. Advanced airbags are not intended to deploy in all crashes, even frontal crashes. Advanced airbag systems are designed not to deploy when doing so will cause more harm than good. Airbags do not deploy in frontal impacts at low speeds. In higher speed crashes, smaller occupants who sit close to the airbag are at risk as are unrestrained occupants, because those occupants will move closer to the airbags during the course of a crash, putting them at risk of being hit with the force of a rapidly expanding bag. Airbags also may not deploy during crashes that occur off-road with multiple impacts because relatively minor impacts involve much slower changes in speed than on-road vehicle-to-vehicle crashes.

When NHTSA convened a panel in November 2007 to review concerns about airbag nondeployments in the Chevrolet Cobalt and Saturn Ion, the incidents being examined, including those in two Special Crash Investigations (SCI) crash reports, involved crashes where airbags might not deploy because of the risk of airbag related injury. The crashes involved unbelted occupants in off-road excursions ending in encounters with multiple objects. These final encounters began with impacts against trees or other objects that were moved by the impacting vehicles and ended with impacts against objects that did not move. In such events the system may decide not to deploy the airbag because an unbelted occupant will have moved into an area where deployment will cause harm. Also, impacts with yielding objects may not cause a vehicle to decelerate rapidly enough for the airbag system to predict that a severe crash has begun. In contrast, the Ford Taurus incident that precipitated an investigation involved a relatively rapid and violent impact where belted occupants were killed or injured when the vehicle struck an unyielding concrete bridge railing.

*Question 7b.* Has NHTSA altered its enforcement policy from the one described in the Berndt memo to the one you described in your testimony? If so, please provide me with a copy of NHTSA's new policy. If not, then why did your testimony state that NHTSA would have required evidence of a defect or defect trend in order to have started a defect investigation into the airbag non-deployment incidents of which it was aware?

Answer. The agency has not altered its approach to safety-related defects. NHTSA can open a defect investigation based upon a single incident, when warranted. It has done so in the past. Defect investigations, by definition, investigate alleged safety defects. In the absence of evidence of a possible defect or defect trend, it would be inappropriate for NHTSA to open a defect investigation.

*Question 8.* A constituent of mine has provided me with the following information, which she has submitted to NHTSA, but she has yet to receive a response. Please provide a response to me. "My story, briefly, is that I own a 2008 Trailblazer. In the fall of 2012, a new ignition switch was put in. Then, last summer, July 2013, my husband and I were driving back to Cape Cod from Connecticut on Interstate 95. Very heavy traffic, 65 mph. All of a sudden, my car just stopped, turned off,

<sup>1</sup><http://www.autosafety.org/sites/default/files/enforcement2.pdf>



died. I drifted over into the breakdown lane and a trooper sat behind us for over an hour while we waited to be towed to a Chevy dealer in Old Saybrook. The next day, Monday, they put in a second ignition switch. Needless to say, the incident was pretty scary. As my situation seems to be identical to what others have experienced with other models, I am anxious to know if this is a Trailblazer issue, too, and why are GM and the NHTSA not looking at this model, as well?"

Answer. Consumer complaints received through Vehicle Owner Questionnaires (VOQs) are important for helping the agency determine whether a safety issue exists. We get more than 45,000 VOQs a year. We read every one of them and track the information they contain. However, because of the volume of VOQs, we contact the submitter only when we need to obtain additional information.

We received your constituent's complaint (VOQ #10568626) on March 11, 2014, and it has been reviewed by NHTSA staff. We are monitoring all available data concerning ignition switch problems that may cause the engine to stall in 2008 Chevrolet Trailblazer vehicles, and NHTSA will take appropriate action as warranted.

