



THE COMMITTEE ON ENERGY AND COMMERCE

MEMORANDUM

June 16, 2014

TO: Members, Subcommittee on Oversight and Investigations

FROM: Committee Majority Staff

RE: Hearing on “The GM Ignition Switch Recall: Investigation Update”

On Wednesday June 18, 2014, at 10:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled “The GM Ignition Switch Recall: Investigation Update.” The hearing will focus on the facts and circumstances that contributed to General Motors’ failure to identify a safety defect in certain ignition switches and initiate a recall in a timely manner. In particular, the hearing will examine the findings of GM’s internal investigation report regarding the ignition switch recall conducted by Anton R. Valukas.

I. WITNESSES

Ms. Mary T. Barra
Chief Executive Officer
The General Motors Company

Mr. Anton R. Valukas
Jenner & Block

II. BACKGROUND: THE GM RECALL AND INTERNAL INVESTIGATION

A. The GM Recall

On February 7, 2014, GM informed the National Highway Traffic Safety Administration (NHTSA) that it had determined a defect existed in the 2005-2007 model year (MY) Chevrolet Cobalt and the 2007 Pontiac G5 vehicles.¹ GM stated that the “ignition switch torque performance” may not meet GM’s specifications. If the torque performance is not to specification, and the key ring is carrying added weight or the vehicle goes off road or experiences some other jarring event, the ignition switch may inadvertently be moved out of the run position.² GM explained that, depending on the time the ignition moved out of the “Run” position, the airbags of the affected vehicles would

¹ Letter from M. Carmen Benavides, Director, Product Investigations and Safety Regulations, General Motors LLC, to Nancy Lewis, Associate Administrator for Enforcement, NHTSA (Feb. 7, 2014) available at <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM450012/RCDNN-14V047-1347P.pdf> (hereinafter “GM February 7, 2014, Letter to NHTSA”).

² *Id.*

not deploy. The recall was announced on February 10, 2014, and applied to 619,122 vehicles. Two weeks later, on February 25, 2014, GM expanded the recall to include an additional 748,024 vehicles: the 2006-2007 MY Chevrolet HHR, the 2006-2007 MY Pontiac Solstice, the 2003-2007 MY Saturn Ion, and the 2007 MY Saturn Sky Vehicles.³ In its recall notices, GM stated that it is “very important that customers remove all items from their key rings, leaving only the vehicle key. The key fob . . . should also be removed from the key ring.”⁴ In a March 17, 2014, notice to GM dealers, GM stated that they expected the initial supply of new ignition switch parts would be available on April 7, 2014.⁵

On March 28, 2014, GM again expanded the ignition switch recall to cover all model years of the Chevrolet Cobalt and HHR, the Pontiac G5 and Solstice, and the Saturn Ion and Sky in the United States. GM states that its reason for expanding the recall was that faulty switches may have been used as service parts in these later models. GM stated that it is “unaware of any reports of fatalities with this group of vehicles where a frontal impact occurred, the front air bags did not deploy and the ignition is in the ‘accessory’ or ‘off’ position.”⁶ This second expansion of the ignition switch recall covers an additional 823,788 vehicles in the U.S., bringing the number of recalled vehicles to 2,191,934.

In addition, with regard to questions about whether removing the key fob and other items from the key ring would prevent the key from moving out of the “Run” position until the recall could be performed, Secretary of Transportation Anthony R. Foxx declined to advise owners of the recalled GM vehicles to cease driving their cars until the ignition switch was replaced, stating that such a warning was “not necessary.”⁷ In reaching this conclusion, Secretary Foxx stated that NHTSA had “thoroughly evaluated” GM’s interim guidance and testing and NHTSA’s own engineers had examined the “geometry and physics” of the ignition key, switch, and steering column in the recalled vehicles.⁸

NHTSA opened a “Timeliness Query” on March 4, 2014, “to evaluate the timing of GM’s defect decision-making and reporting of the safety defect to NHTSA.” On May 16, 2014, NHTSA announced a settlement of the Timeliness Query, stating that GM had “agreed to pay a record \$35 million civil penalty and to take part in unprecedented oversight requirements as a result of findings

³ Letter from M. Carmen Benavides, Director, Product Investigations and Safety Regulations, General Motors LLC, to Nancy Lewis, Associate Administrator for Enforcement, NHTSA (Feb. 25, 2014) available at <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM450732/RCDNN-14V047-7510.pdf> (hereinafter “GM February 24, 2014, Letter to NHTSA”).

⁴ *See, e.g.*, GM February 7, 2014, Letter to NHTSA; GM February 24, 2014, Letter to NHTSA; and Letter from M. Carmen Benavides, Director, Product Investigations and Safety Regulations, General Motors LLC, to Nancy Lewis, Associate Administrator for Enforcement, NHTSA (Mar. 11, 2014) available at <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM451430/RCDNN-14V047-9346P.pdf> (hereinafter “GM March 11, 2014, Letter to NHTSA”).

⁵ Memorandum from GM Customer Care and Aftersales to All General Motors Dealers (Mar. 17, 2014) available at <http://www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM452894/RCMN-14V047-3409.pdf>.

⁶ Press Release, General Motors, GM Moves to Secure Recalled Ignition Switches (Mar. 28, 2014) available at <http://media.gm.com/media/us/en/gm/news.detail.html/content/Pages/news/us/en/2014/mar/0328-ignition-service.html>.

⁷ *See* Letter from Anthony R. Foxx, Secretary, Department of Transportation, to Senator Edward J. Markey (May 6, 2014) available at <http://www.autonews.com/assets/PDF/CA9453057.PDF>.

⁸ *Id.*

from NHTSA's timeliness investigation regarding the Chevrolet Cobalt and the automaker's failure to report a safety defect in the vehicle to the federal government in a timely manner.”⁹ GM admitted in the Consent Order that it had failed to notify NHTSA of a safety-related defect within five working days as required by the Safety Act.¹⁰ Pursuant to the Consent Order, GM agreed to have monthly meetings with NHTSA for one year following the date of the Consent Order to discuss its implementation of recommendations resulting from the GM internal investigation conducted by Mr. Valukas.¹¹ GM also agreed to establish improved internal reporting procedures for safety-related defects; improve employee training; and strengthen processes for identifying safety defects.¹²

B. The GM Internal Investigation and Valukas Report

In mid-March 2014, GM announced that it had retained Anton R. Valukas of the firm Jenner & Block to conduct an internal investigation of the facts and circumstances related to the the ignition switch recall. Mr. Valukas completed his report, entitled “Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls,” hereinafter, “Valukas Report,” on May 29, 2014.¹³ GM announced the results of the Valukas investigation and the report was posted by NHTSA on its website on June 5, 2014.

During an April 29, 2014 briefing with Committee staff, and in the report, Mr. Valukas stated he was asked to determine “how and why” it took so long for GM to issue the ignition switch recall for the Chevrolet Cobalt.¹⁴ Mr. Valukas informed Committee staff that GM placed “no limits” on his investigation; the report states that Mr. Valukas’ firm, Jenner & Block, was given “unfettered access to witnesses and documents, and Jenner was asked for an unvarnished account.”¹⁵ With regard to his investigation, Mr. Valukas reported to the GM Board of Directors, although he informed Committee staff that he briefed Ms. Barra during the course of his investigation.

The Valukas Report addresses a number of critical errors that contributed to GM’s failure to identify the cause of airbag non-deployments in the recalled vehicles and conduct a timely recall. For example, Mr. Valukas found that a GM engineer approved an ignition switch for the Cobalt in 2002 that did not meet GM’s specifications. When GM engineers received reports, including customer complaints, in 2004 and 2005 that the ignition switch could inadvertently be turned off, those engineers misdiagnosed the problem as a fluke or isolated incident “with no safety implications.”¹⁶ Further, Mr. Valukas concluded that, with the exception of one engineer, the GM

⁹ Press Release, NHTSA, General Motors agrees to pay maximum \$35 million penalty for violating federal safety laws in Chevrolet Cobalt investigation (May 16, 2014) available at <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2014/DOT-Announces-Record-Fines,-Unprecedented-Oversight-Requirements-in-GM-Investigation>.

¹⁰ United States Department of Transportation National Highway Traffic Safety Administration Consent Order In re: TQ14-001, NHTSA Recall No. 14V-047, May 16, 2014, at 4.

¹¹ *Id.* at 6.

¹² *Id.* at 7-8.

¹³ See Report by Anton R. Valukas, Jenner & Block, Report to Board of Directors of General Motors Company Regarding Ignition Switch Recalls (May 29, 2014) (hereinafter, “Valukas Report”) available at <http://www.nhtsa.gov/>.

¹⁴ Valukas Report at 5; Anton Valukas, Briefing to Committee Staff (Apr. 29, 2014) (hereinafter “Valukas Briefing”).

¹⁵ Valukas Report at 5.

¹⁶ Valukas Report at 60.

personnel who reviewed the Cobalt ignition switch complaints did not understand that the resulting loss of power would prevent the deployment of the airbags.¹⁷ GM's failure to appreciate the safety implications of the ignition switch, and its connection to other vehicle systems, resulted in GM not pursuing investigations, issuing timely recalls, and declining to implement other fixes, such as a key change or changing the location of the ignition cylinder.¹⁸

Mr. Valukas' report also references problems with accountability. For example, when the ignition switch design change was made in 2006, the Design Release Engineer, Raymond DeGiorgio, did not change the part number and Mr. DeGiorgio did not seek authorization for this decision.¹⁹ The investigations into airbag non-deployments in Cobalts, which were hampered by the failure to change the ignition switch part number following its 2006 design change, were also hindered by this lack of accountability and by "silos" of information within GM. Members of the legal staff and engineers from the Field Performance Assessment (FPA) division—a group responsible for providing technical advice and support for individual claims or lawsuits—had reviewed allegations of non-deployments in Cobalts and Ions through 2006. There was not, however, a coordinated effort to track similarities in these claims until NHTSA staff raised questions about non-deployments in Cobalts and Ions during a meeting in late March 2007. After a brief engagement by Product Investigations, the responsibility of tracking non-deployment events in Cobalts—but not Ions—was assigned to FPA. This was an unusual arrangement because these engineers typically worked on individual claims or lawsuits and did not conduct analyses of problems to identify a root cause or track complaints across vehicle models. Mr. Valukas concluded that the FPA process proceeded slowly and did not "search for or find relevant information to the problem of airbag non-deployment that was either public or actually in GM's own files."²⁰ In addition, Mr. Valukas identified similar failures in the Product Investigations examination of the Cobalt non-deployments from 2011 to 2013, noting that it "moved forward without any sense of urgency, ultimately taking two-and-a-half-years."²¹ These problems extended to the GM legal department, where lawyers failed to share information with the GM counsel about the non-deployment cases and settlements.

Mr. Valukas concluded that there was no cover-up of the ignition switch problems. Mr. Valukas also found that GM CEO Barra did not learn of "some aspect" of the Cobalt ignition issues until December 2013.²² Finally, the report offered 90 recommendations for the problems and failures that led to the ignition switch recall.

C. GM Actions Taken Related to Ignition Switch Recall and Valukas Report

Since GM notified NHTSA of the ignition switch recall in February, GM has announced a number of measures to improve safety at the company and to address the factors identified in the Valukas report as contributing to the delayed recall.

¹⁷ *Id.* at 64.

¹⁸ *Id.* at 67-71.

¹⁹ *Id.* at 101.

²⁰ *Id.* at 103.

²¹ *Id.* at 212.

²² *Id.* at 228.

For the recall campaign, GM states that it is working “around the clock,” seven days a week, to manufacture the ignition switch replacement parts, including adding additional shifts and production lines at its company and at its supplier.²³ According to GM’s recall website, www.gmignitionupdate.com, the manufacture of replacement parts began on April 6 and will conclude on October 4, 2014.²⁴ As of June 11, 2014, 396,253 ignition switch repair kits have been shipped globally and 154,731 vehicles repaired. In the United States, 339,672 kits have been shipped and 129,583 vehicles repaired.

GM also has announced changes to its corporate structure and policies. On March 18, 2014, GM created a new position —Vice President, Global Vehicle Safety — and named Jeff Boyer, a longtime GM employee, to the position.²⁵ During a briefing with Committee staff on May 1, 2014, Mr. Boyer explained that he provides updates on safety both to the GM Board of Directors and to CEO Barra directly. Mr. Boyer indicated that GM has added product investigations staff, whom he described as “highly experienced engineers,” and is working to restructure the recall process to bring matters under investigation “promptly” through the process.²⁶ In addition to adding staff, GM plans to bring in new capabilities, including data analytics, to spot emerging safety trends. Finally, GM has instituted an internal safety campaign, “Speak Up For Safety,” to encourage employees to “report potential safety issues quickly and forcefully.”²⁷

When the Valukas report was issued last week, GM announced that 15 employees “who were determined to have acted inappropriately” are no longer with GM and another five employees have been disciplined. GM has not identified these individuals or whether specific individuals were terminated or permitted to retire.

GM announced on June 5, 2014, that it would create a compensation fund and that this fund would be administered by Kenneth Feinberg. Mr. Feinberg is currently developing the criteria for the fund and GM CEO Barra indicated that the fund will begin accepting claims on August 1.²⁸ It is not clear whether GM has provided any parameters to Mr. Feinberg or whether it has set a cap on the fund.

The Cobalt ignition switch recall has prompted GM to initiate a wave of other recalls. Since January, the company has announced 38 separate recalls, totaling more than 14.4 million cars in the

²³ See <http://www.gmignitionupdate.com/faq.html#R1>; see also http://media.gm.com/product/public/us/en/gmignitionupdate/News.detail.html/content/Pages/news/us/en/2014/May/0516_ignition-parts.html

²⁴ See http://www.gmignitionupdate.com/doc/infographic_ignition_recall_final.pdf.

²⁵ Press Release, General Motors, GM Announces New Vehicle Safety Chief, Jeff Boyer named Vice President, Global Vehicle Safety (March 18, 2014) available at <http://media.gm.com/media/us/en/gm/news.detail.html/content/Pages/news/us/en/2014/mar/0318-boyer.html>.

²⁶ Jeff Boyer, Briefing to Committee Staff (May 1, 2014).

²⁷ See Press Release, General Motors, GM Receives Extremely ‘Thorough,’ ‘Brutally Tough’ and ‘Deeply Troubling’ Valukas Report (June 5, 2014) available at <http://media.gm.com/product/public/us/en/gmignitionupdate/News.detail.html/content/Pages/news/us/en/2014/Jun/060514-ignition-report.html>.

²⁸ Press Release, General Motors, GM to Implement Compensation Program for Ignition Switch Recall (June 5, 2014) available at <http://media.gm.com/product/public/us/en/gmignitionupdate/News.detail.html/content/Pages/news/us/en/2014/Jun/060514-ignition-recall.html>.

United States.²⁹ The most recent, announced last Friday, June 13, 2014, applies to all “current generation” Chevrolet Camaros, totaling 464,712 cars in the United States.³⁰ According to GM’s press release, a driver sitting close to the ignition can bump the key with his knee, knocking the key out of the “Run” position and turning off the car — a problem similar to the faulty Cobalt ignition switch. GM claimed in its press release, however, that this recall was “unrelated” to the Cobalt ignition switch recall: the Camaro switch met its specifications and was discovered by GM engineers during internal testing following the Cobalt ignition switch recalls in February.³¹

III. THE COMMITTEE’S INVESTIGATION

A. Summary of the Committee’s Investigation

On March 10, 2014, the Committee announced that it would conduct a bipartisan investigation of the GM ignition switch recall. On March 11, 2014, Committee members sent letters to GM and NHTSA requesting certain documents and information about the GM recall. The Oversight and Investigations Subcommittee held a hearing on April 1, 2014, entitled “The GM Ignition Switch Recall: Why Did It Take So Long?” GM CEO Barra and NHTSA Acting Administrator David Friedman were the only witnesses.

To date, the Committee has received and reviewed over 1 million pages of documents from GM and approximately 15,000 pages from NHTSA. GM and its ignition switch supplier, Delphi, continue to produce documents to the Committee. NHTSA informed the Committee on May 28, 2014, that it had completed its production of documents responsive to the Committee’s requests.

Since the last hearing, Committee staff has conducted numerous interviews, including transcribed interviews, of key GM and NHTSA officials with knowledge of the facts and circumstances relating to the ignition switch recall. The Committee expects to conduct additional interviews before completing its investigation.

B. Answers to Questions Raised at the April 1, 2014, Hearing

A number of questions were raised at last the hearing that Ms. Barra said could not be answered until Mr. Valukas completed his investigation. The Committee expects to pursue answers to these questions, and examine the information set forth in the Valukas report related to these questions, at the June 18 hearing.

- *Why did GM accept an ignition switch that did not meet its specifications for torque?* Mr. Valukas states that he was not able to identify any GM personnel, other than the Design Release Engineer (DRE) for the Cobalt ignition switch, Raymond DeGiorgio,

²⁹ Press Release, General Motors, 2014 Year to Date North American Recalls Including Exports (May 28, 2014) available at <http://media.gm.com/media/us/en/gm/news.detail.print.html/content/Pages/news/us/en/2014/May/0528-ytd-recalls.html>.

³⁰ Press Release, General Motors, GM Proactively Announces Four New Recalls (June 13, 2014) available at http://www.gm.com/article.content_pages_news_us_en_2014_jun_0611-recall.html.

³¹ See *id.*

who knew that the Cobalt ignition switch failed to meet its specification for torque when it was manufactured in 2002.³² Neither GM nor its ignition switch supplier, Delphi, have been able to locate the required documentation from the 2002 Production Part Approval Process, or “PPAP,” through which GM parts are tested, validated, and approved for production. The Valukas Report states that it was Delphi’s responsibility to maintain this document.³³ Mr. Valukas noted that there are “inconsistent accounts” of whether GM policies allowed Mr. DeGiorgio to approve the part on his own and whether the deviation from specifications should have been documented. At the April 1 hearing, Ms. Barra suggested that deviations from individual specifications may be approved depending on the performance of the part as a whole.

- *Why did GM not identify stalling as a result of the ignition switch falling from “Run” to “Accessory” as a safety issue?* The Valukas Report found that the GM engineers generally “did not regard moving stalls as an inherent safety problem . . . because a driver would be able to control the car and steer it to the side of the road.”³⁴ This view was shared by both the GM personnel who received reports about the Cobalt ignition switch inadvertently turning the car off and who reviewed potential solutions to this problem. The interviews conducted by Committee staff to date substantiate this finding. The decision to categorize the Cobalt ignition switch stalls as a “convenience” rather than a “safety” issue had consequences on GM’s analysis of the problem and potential solutions, as cost is a factor when considering whether to adopt a fix for a “convenience” issue; it is not a consideration when a defect is safety-related.³⁵ The Valukas Report also details GM’s discussions with NHTSA during 2004–2005 relating to engine stalls—conversations that occurred at the same time as the complaints about Cobalt stalls but, according to Mr. Valukas, did not address the Cobalt stalls specifically.³⁶ During these discussions, GM presented its criteria for determining when a stall presented a safety problem; Mr. Valukas found it was not clear whether NHTSA agreed with GM’s analysis.
- *Did GM engineers consider how the ignition switch problems would affect other vehicle systems, in particular, the airbags?* Mr. Valukas found that GM engineers did not have a sufficient understanding of how the Cobalt worked and therefore, did not appreciate that inadvertently turning the ignition switch also would result in a loss of power that disabled the airbags.³⁷ Documents produced to the Committee to date substantiate the findings of the Valukas report: GM employees who were notified of problems with the ignition switch and stalling in the early 2000s do not appear to consider or discuss its link to other vehicle systems. This lack of awareness extended to the GM engineers who investigated the cases of airbag non-deployments in Cobalts beginning in 2006. The Field Performance Assessment engineers tracked the non-deployment incidents to identify trends and reviewed data, including the downloads from Sensing Diagnostic Modules (SDMs). For some incidents, but not

³² Valukas Report at 50.

³³ *Id.* at 51.

³⁴ Valukas Report at 64.

³⁵ *Id.* at 63-71.

³⁶ *See id.* at 72-75.

³⁷ *See, e.g.,* Valukas Report at 72, 83-84, 87-88.

all, the SDM data showed that the ignition was in the “Accessory” position at the time of the crash, but the FPA engineers did not realize that the power mode of the car was a potential cause of the non-deployment until a 2009 review of SDM data from Continental, an SDM supplier. Even so, the FPA engineers did not contact the ignition switch engineer or uncover information from 2004-2005, when the Cobalt engineers were addressing concerns about the ignition switch torque.³⁸

- *Why did GM not change the part number of the ignition switch in 2006?* In April 2006, the Cobalt Design Release Engineer for the ignition switch, Raymond DeGiorgio, signed a Form 3660, which authorized Delphi, the supplier, to begin manufacturing a redesigned switch for the Cobalt. That form listed three changes: two electrical changes and one for a new detent plunger to increase torque. According to the Valukas Report, each Form 3660 must link back to a work order; in the case of the 2006 ignition switch redesign, the work order only listed the electrical changes.³⁹ Further, GM policy required that the part number be changed if the design change affects “fit, form, or function.”⁴⁰ The 2006 change to the Cobalt ignition switch met this requirement, as the increased torque changed its function. Mr. Valukas states that Mr. DeGiorgio does not remember anything related to why a new part number was not assigned.⁴¹ It is unclear whether or how the fact that the internal components of the Cobalt ignition switch were considered a “black box design,” meaning that the supplier could design the components so long as it met GM’s specifications and requirements, contributed to the decision not to change the part number or document the change on the work order.⁴²
- *Did the GM culture contribute to the failure to issue an ignition switch recall sooner?* Mr. Valukas discussed a number of issues relating to the GM culture in the report, including describing such GM terms as the “GM nod” and “GM salute,” both expressions referring to a “proliferation of committees and a lack of accountability.”⁴³ Mr. Valukas stated that “[w]hether general ‘cultural’ issues are to blame is difficult to ascertain, but the story of the Cobalt is one in which GM personnel failed to raise significant issues to key decision-makers.”⁴⁴
- *Why did GM’s first recall announcement not include all the models and model years that received the defective ignition switch?* Mr. Valukas found that “incomplete information” was presented to the Executive Field Action Decision Committee (EFADC), the GM committee that determines when to initiate a recall. In particular, the Product Investigations engineer who examined the Cobalt airbag non-deployment cases failed to collect information on the Saturn Ion and Chevrolet HHR when he opened the investigation in 2011. Therefore, the information presented to the EFADC was inaccurate, as it did not include the Ion fatalities and other incidents of non-deployments in these cars.⁴⁵

³⁸ See *id.* at 134-135.

³⁹ See *id.* at 98.

⁴⁰ See *id.* at 100.

⁴¹ *Id.* at 101.

⁴² See *id.* at 40 and 102, n. 417 (discussing the black box changes to the ignition switch).

⁴³ *Id.* at 252-256.

⁴⁴ *Id.* at 253.

⁴⁵ *Id.* at 215-226.

IV. ISSUES

The following issues may be examined at the hearing:

- Is the Valukas Report the end of GM's internal investigation of the facts related to the ignition switch recall?
- Does GM believe that the kinds of systemic failures and mistakes that contributed to the failure to issue a timely recall of the Cobalt and Ion ignition switches may have affected other investigations and recalls?
- How did the culture and systemic problems that are identified in the Valukas report develop at GM? What must be done to address these problems and when will GM know if they have been successfully fixed?

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact John Ohly or Karen Christian of the Committee staff at (202) 225-2927.