

GM officials unlikely to face criminal charges for coverup of deadly defects

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21 July 2015

Despite overwhelming evidence of a cover-up, General Motors officials are unlikely to face criminal charges in relation to an ignition defect tied to more than 100 deaths.

A piece in the July 19 edition of the *New York Times* quotes unnamed government sources who report that due to “legal loopholes,” federal prosecutors are not likely to issue criminal indictments against GM officials in relation to problems with the ignition switch on several models linked to airbag non-deployment.

To date, the GM Ignition Compensation Claims Facility has approved 124 death claims related to the defect. Another 18 claims for severe injuries, such as permanent brain damage or paraplegia, have also been approved. In addition it has authorized payouts to 251 accident victims who suffered less severe injuries.

These deaths and injuries only represent those officially acknowledged by GM. In fact there are some 4,343 total claims against the automaker, including 474 death claims.

The article in the *New York Times* was something of a trial balloon, designed to test public reaction to the government letting yet another gang of corporate criminals off the hook. It follows the refusal of the Obama administration to prosecute any bank official involved in the 2008 financial crash or BP officials responsible for the Gulf oil spill in 2010, despite evidence of massive criminal conspiracies.

The *Times* claims weak federal rules relating to auto safety make a criminal prosecution of GM difficult. It quotes a federal prosecutor who explained that, “Unlike other regulated industries where health or human safety is involved, there is no criminal statute aimed at the carmakers that does not require specific criminal intent.”

The *Times* continues, “Against that backdrop, federal

prosecutors have struggled to prove outright fraud by any one at G.M., according to the people briefed on the inquiry, who requested anonymity to discuss a private investigation.”

While federal laws relating to auto safety are no doubt weak and inadequate, the case for criminal negligence on the part of GM is overwhelming. If the US Justice Department finds it hard to make a criminal case, it is primarily because it does not want to prosecute.

Evidence points to a calculated decision by GM officials to keep millions of cars on the road with a potentially deadly defect in order to avoid the cost of a safety recall. Even as their cover-up unraveled, GM officials delayed as long as possible alerting the public or correcting the problem.

Internal company documents show that in 2001 GM first became aware of problems with the ignition in the Saturn Ion. However, the company authorized production even though the part did not meet its own specifications.

By 2005 GM engineers were aware of numerous customer complaints about the ignition, which was now installed in the Chevrolet Cobalt and several other low-end models in addition to the Ion. Because of poor lock cylinder torque, the switch could easily be jarred out of the run position, killing power to the engine and disabling equipment such as power steering and airbags. Sudden engine cut-off could easily lead to loss of control of the vehicle, making a crash more likely under conditions where occupants would not be protected by airbags.

However, GM refused to fix the problem, citing cost concerns. This, despite the fact that the part in question only cost 57 cents. Instead it issued a technical service bulletin advising customers to remove heavy items

from their key rings.

Then, in 2006, GM quietly ordered that the part be upgraded starting with the 2007 model year. However, GM covered up the change by not assigning a new part number, a violation of basic engineering principles. The refusal to change the part number pointed to a deliberate cover-up, and indeed, it had the effect of hindering subsequent attempts to tie the ignition defect to fatal crashes.

By at least 2007 GM was aware of several fatal crashes involving the now recalled vehicles where airbags failed to deploy and where the ignition switch was in the “accessory” or “off” position. In fact, a Wisconsin state trooper investigating one of the fatal accidents, citing the GM technical service bulletin, came to the correct conclusion on his own that the slippage of the ignition switch likely caused airbag non-deployment.

However, GM still refused to issue a recall and instead launched a series of desultory “internal investigations” that dragged on for years to no result.

By 2011 the GM legal department was warning management that failure to address the ignition switch issue left the company open to legal sanctions. However, GM did not hold a meeting on the issue for six months and then decided not to pursue it. On the contrary, the company stepped up legal threats against family members pursuing lawsuits against the wrongful deaths of their loved ones.

Meanwhile, wrongful death lawsuits piled up. Finally, in April 2013, a plaintiff’s attorney exposed the cover-up by proving that the ignition switch had been redesigned in 2006 without assigning a new part number. However, GM delayed almost another full year before finally ordering a recall.

Another important aspect in the apparent refusal of federal prosecutors to prosecute GM officials for the ignition cover-up is the complicity of the Obama administration in the affair. For a period of time while the cover-up was taking place, the US government was a majority shareholder in GM. As part of the 2009 bankruptcy and restructuring of GM, the Obama administration inserted a shield clause, holding the reorganized company harmless from product liability lawsuits stemming from before July 2009.

By 2009 not only GM, but federal regulators were aware of fatal accidents involving cars with the

defective ignition switches. As early as 2007 the National Highway Traffic Safety Administration (NHTSA) brought to GM’s attention a crash involving Chevy Cobalt tied to sudden engine shutoff where the airbags did not deploy.

However, the NHTSA did not order a recall, nor did it pursue the matter further. The product liability shield had the practical and likely intended effect of protecting the assets of the corporation and its Wall Street investors against death claims arising from the faulty ignition.

The failure to prosecute GM will further encourage automakers to disregard safety standards. The ease with which automakers already flout federal safety oversight is again on display in the case of Fiat Chrysler. The company is charged with not complying with federal laws in the case of 23 recalls involving some 11 million vehicles. According to NHTSA, the company delayed notifying owners of defects, stalled on repairs and failed to notify regulators of changes to recall schedules.

In one case involving a rear mounted gas tank prone to explosion on Jeep sports utility vehicles, Fiat Chrysler stalled a recall for three years, saying the tanks were safe, even though NHTSA tied the defect to at least 50 deaths. Fiat Chrysler finally agreed to a makeshift fix involving installing a rear tow hitch on the vehicles that would supposedly provide additional cushioning to the fuel tank in the event of a rear impact.

There are reports that the company is renegeing even on this agreement, with dealers telling some customers that their vehicles are safe to drive without the repairs.



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