

- In late April 2013, after the DeGiorgio deposition, engineers and GM Legal Staff knew: (1) that the Cobalt had a history of the Ignition Switch being turned accidentally to Accessory because of low torque (they had the TSB, the Indiana University study, and two reports from plaintiffs' experts); (2) that airbags do not deploy when the Ignition Switch is in Accessory; and (3) that the Ignition Switch had changed for MY 2008 Cobalts (they had seen photographs during DeGiorgio's deposition). In other words, even the difference between early Cobalts and MY 2008 Cobalts was now explained. The recall did not occur until February 2014, approximately nine months later. In the interim, GM employees confirmed what plaintiff's expert had told them, researched additional issues, and worked on a field solution.

At both of the times described above, there was a view that no action should be taken until the "root cause" of the problem was fully understood and a solution developed. To be sure, GM needed to investigate to understand the problem in the Cobalt. But the search for root cause became a basis for doing nothing to resolve the problem for years. The lengthy search for root cause thus diverted GM from its obligations and failed to produce the required urgency to bring the matter to fast closure. Indeed, it still took nine months after DeGiorgio's deposition for GM to order a recall and, even then, not all affected model years were included.

VIII. RECOMMENDATIONS

As described throughout this report, there were multiple, interrelated factors that led to GM's decade-long failure to recognize the safety defect in the Cobalt and initiate a recall. It is critical that GM minimize the risk of this happening again. Because of the multiplicity of causal factors, there is no simple solution, but the lessons learned from this failure can lead to a reexamination of the Company's policies, procedures, and culture, and provide the Company with an opportunity not only to improve but to innovate and become an industry leader in the processes used to ensure consumer safety.

We made preliminary recommendations to GM as the investigation was proceeding. With the benefit of further investigation and analysis, this section elaborates on and revises those

recommendations. It describes a variety of measures that, working together, can improve the speed and manner in which GM addresses safety issues and help bring GM to the forefront of the industry in its approach to safety.

A. Organizational Structure

A successful overhaul of processes begins with examination of the organizational structure, which influences the degree of coordination between groups with interrelated responsibilities and the extent of emphasis the Company places on key priorities, including safety. Recommendations as to organizational structure include:

1. Ensure that the responsibilities of the Vice President of Global Vehicle Safety¹¹⁶² are appropriately defined to comprehensively cover safety and compliance issues, and ensure that sufficient resources are made available to allow this executive to comprehensively address safety and compliance issues. Ensure that this executive has direct access to the CEO and the Board and is required to make reports to the Board at least quarterly.
2. Ensure that all departments, divisions, or groups that have substantial responsibilities concerning the identification, investigation, or remediation of safety issues have a direct or indirect reporting line that leads up to the Vice President of Global Vehicle Safety. These groups include, for example, FPA, Quality, the CPITs and the VAPIRs. Ensure that Global Vehicle Safety also coordinates with the Legal Staff and is aware of safety issues arising through matters handled by the Legal Staff.
3. Review the activities of all organizational departments, divisions or groups that have safety-related responsibilities (such as FPA, PI, and Quality) for the purpose of identifying any areas where multiple groups have similar or overlapping functions such as investigating or resolving safety issues. Where overlap is identified, consolidate or coordinate those functions to ensure, for example, that Quality and PI do not have independent and parallel responsibility for identifying and resolving a safety defect but rather that each group is aware of, and not duplicating, the other's activities. To the extent that areas of overlap remain, ensure that a clear owner is identified.

¹¹⁶² The Vice President of Global Vehicle Safety is a new position created in the wake of the Ignition Switch recall. Jeff Boyer has been appointed to this position.

B. Cultural Emphasis on Safety

An organizational emphasis on, and commitment to, safety is a critical component to mitigating the risk of a situation like this recurring. To ensure that a commitment to consumer safety is a prominent part of the Company's culture and is embedded in the fabric of the organization, we recommend the following:

1. Implement regular communications with employees about safety to raise awareness and reinforce the tone at the top, for example by issuing periodic bulletins from the Vice President of Global Vehicle Safety and/or the CEO that include updates or reminders on safety issues, or including a column on safety in an employee newsletter. Ensure that employees understand that they have an obligation to raise any concerns they have about safety or compliance, and to continue to raise those concerns if they do not believe those concerns have been resolved.
2. We understand that GM has created a new "Speak Up For Safety" program to encourage employees to raise safety issues, and we recommend that GM promote that program through visible communications, such as posters on employee bulletin boards. Bulletins or newsletters could include features recognizing employees who have raised safety issues and highlight the significance of the potential safety problem averted by the escalation of the issue.¹¹⁶³
3. Consistent with ¶ 19 of the May 16, 2014 NHTSA Consent Order, visibly promote and rigorously enforce the non-retaliation policy, including for employees who report concerns regarding actual or potential safety-related defects or potential non-compliance with the Federal Motor Vehicle Safety Standards.
4. Regularly communicate to suppliers the importance of safety and GM's expectation that suppliers will promptly and accurately identify any potential safety issues. Provide suppliers with access to the Speak Up for Safety hotline or a similar mechanism for raising such safety issues.
5. Consistent with ¶ 20 of the May 16, 2014 NHTSA Consent Order, explicitly communicate to employees that they should not be reluctant to classify issues as safety issues or potential safety issues, including in written work, and eliminate any language in any guidelines, training decks, or policies that suggest otherwise or that caution against using specific words or phrases that might be deemed too

¹¹⁶³ We understand that this is in progress with feature stories on GM's internal website.

sensitive or inflammatory. Communications to employees on safety policy issues like this should come from the level of the Vice President of Global Vehicle Safety or higher.

6. Develop protocols for escalating potential safety issues to appropriate levels of management. Such protocols should include identification of the types of issues to be escalated (based for example on their severity, frequency, or the amount of time they have been open) and the level to which they should be escalated. The protocols should make clear that employees who are aware of unresolved safety issues should escalate them, and should define circumstances in which the concerns should be raised to the level of the Vice President of Global Vehicle Safety and, ultimately, the CEO. The protocols should also define other circumstances in which the CEO should be made aware of safety issues, including instances in which safety issues rise to a certain level of severity or in which an investigation has not been resolved within a defined period of time.
7. As agreed to in ¶ 19 of the May 16, 2014 NHTSA Consent Order, continue to review and strengthen the process for expeditious reporting by employees of potential or actual safety issues and non-compliance. This includes the development and roll-out of training programs instructing employees on how to identify safety issues and how to raise them with supervisors and executives (see more discussion on training below).
8. Ensure that supplier quality issues that may raise safety concerns for vehicles in production are reported as safety issues and are not addressed solely as supplier quality issues. Implement specific procedures for personnel dealing with quality issues to track and report to the safety organization those quality issues that raise safety concerns, and train quality personnel on those procedures.

C. Individual Accountability

All employees have responsibility for raising safety issues, and many employees have responsibility for addressing safety issues once they have been identified. The Company should take steps to ensure that employees are aware of their safety-related responsibilities and that individuals are accountable for addressing the safety issues for which they are given responsibility. Specific recommendations are as follows:

1. Identify clear owners of safety and compliance issues to increase accountability. Clarify internal roles by defining responsibilities and accountability for those involved in processes relating to the evaluation and resolution of safety issues,

including responsibilities for feeding items into the FPE process, such as from VAPIR and CPIT meetings. Clarify the role of committees such as CPITs and VAPIRs in identifying safety issues and referring them to the FPE process. Designate one person on each such committee as a safety liaison with specific responsibility for elevating safety issues.

2. Include appropriate identification, elevation, and resolution of safety and compliance issues as a factor in employee performance evaluations.
3. Require employees to certify annually that they have reported any safety issues of which they are aware and to identify, as part of that certification, any safety issues they are aware of that have not been resolved.

D. Communications Between and Within Groups

Breakdowns in communication between and within groups were a critical part of the failures described in this report. Consistent with GM's commitment in ¶ 21 of the May 16, 2014 NHTSA Consent Order to improve processes for the purpose of encouraging and improving information-sharing across functional areas and disciplines, many of the recommendations throughout this section are intended to address inadequate communication. Specific additional recommendations are:

1. Provide regular written or oral updates by the Legal Staff for relevant engineering groups on alleged or potential defects.
2. Formalize coordination between and among PI, Legal Staff, FPA, FPE, the new "emerging issues" group, and relevant engineering teams with accountability for safety and compliance issues, for example by implementing a cross-functional committee to track and review potential safety issues and set clear action items. This coordination should include the sharing across groups of information concerning significant FPA matters, FPE investigations, serious or high-volume warranty claims, trends or patterns identified, and NHTSA interactions.
3. Conduct an assessment of the adequacy of mechanisms for ensuring coordination between groups handling different subsystems of the same vehicle regarding safety-related information and items that may affect safety performance, and implement improvements as necessary. For example, ensure those working on the ignition switch understand how it interacts with airbag deployment. Similarly, ensure that committees such as the VAPIR and CPIT are structured with sufficient

cross-functional expertise to ensure that safety issues are properly identified and addressed.

4. Assign the Global Ethics and Compliance Center (“GECC”) to oversee the review of issues raised through the new Speak Up For Safety program. This will have the benefit of ensuring that review of issues raised through the Speak Up For Safety program is coordinated with review of issues raised to the compliance organization, and to ensure that internal inquiries and investigations prompted by the Speak Up For Safety program are appropriately tracked and handled consistent with GECC procedures.

E. Communications with NHTSA

NHTSA should be viewed not only as a regulator but also an ally in the effort to ensure that the Company’s vehicles are as safe as they can be. Interactions with NHTSA should be consistent with that type of relationship. Specific recommendations for maintaining an appropriate relationship are:

1. As required by ¶ 21 of the May 16, 2014 NHTSA Consent Order, improve communication with NHTSA regarding safety-related defects. Consent Order ¶¶ 25-28 require the Company to have monthly and quarterly meetings with NHTSA and to be prepared to address various issues at those meetings. As part of this effort, the Company should ensure that both the quality and the frequency of NHTSA communications are sufficient to keep NHTSA fully informed of safety-related issues. The individual responsible for implementing this item should report directly or indirectly to the Vice President of Global Vehicle Safety.
2. Create a centralized database for all communications with NHTSA and train individuals who communicate with NHTSA to file their communications in this database.
3. Ensure timely notification to NHTSA of safety-related defects. Evaluate and clearly define, consistent with federal law, the trigger for the NHTSA five-day reporting requirement.

F. Role of Lawyers

The Legal Staff can and should play a critical and unique role in assisting with the identification, analysis, and resolution of safety issues that have given rise to customer claims.

To ensure that Legal Staff play this critical role effectively, we recommend the following steps:

1. Hold regular discussions between each product litigation attorney and the Practice Area Manager and Global Process Leader for Litigation regarding whether the attorney has observed trends or potential safety issues in lawsuits or not-in-suit matters (“NISMs”).
2. Designate a member of the Legal Staff as a liaison to provide regular reports (and real-time reports where matters are particularly significant or urgent) to the Global Vehicle Safety organization on safety-related issues identified in matters handled by Legal Staff. Hold regular meetings between the Global Vehicle Safety group and the Legal Staff liaison. During these meetings, the Global Vehicle Safety organization will present to the Legal Staff significant or unresolved safety issues, and the Legal Staff liaison will report on any issues identified in matters handled by Legal Staff that the liaison has not already communicated.
3. Hold monthly meetings between the GM Legal Staff and FPA engineers responsible for each specialty (*e.g.*, non-deployment litigation, rollover/roof crush, power steering, etc.) to discuss observed trends and potential safety issues in that specialty area. Include in these meetings the ESIS claim administrator with the most experience in that specialty area. If any trends or safety issues are identified, ensure that the Global Process Leader for Litigation is informed, and that the trends or safety issues are discussed at the next scheduled Roundtable meeting and elevated as appropriate.
4. Ensure that at the onset of litigation, the Legal Staff and FPA generate a list of all PRTSs, FPRs, TSBs, recalls, product investigations, and issues in the FPE process for the subject vehicle make and model. Include this information in the new suit package provided to outside counsel at the onset of litigation. Ensure that the early technical assessment (“ETA”) reflects consideration of whether there are relevant PRTSs, FPRs, TSBs, recalls, product investigations, and issues in the FPE process that affect the integrity of the make and model involved.
5. Include in the Roundtable case summary form a category for any safety issues, trends, lawsuits and NISMs similar to the case discussed at the Roundtable.

6. Institute a process to elevate unresolved technical issues expeditiously. If an FPA engineer is unable to determine any reason for a component failure following a vehicle inspection and technical analysis, require the FPA engineer to initiate a conference call with in-house and outside counsel within a defined period to discuss the issue and appropriate follow-up. Depending on the circumstances, appropriate follow-up might include referring the issue to the PI or FPE processes.
7. Provide specific guidance concerning the types of issues that should be elevated to the General Counsel. Those issues should include serious safety issues and safety issues that are not being resolved expeditiously, and more broadly, any concerns that could have a significant impact on the Company, its customers, or its shareholders. Explain in this guidance that lawyers should request the General Counsel's assistance when important processes are not progressing with appropriate speed. Include such guidance in the orientation program for all new hires to the Legal Staff.
8. Consistent with "Winning with Integrity" and other prior internal guidance, ensure that in-house counsel are aware of the expectation that they will respond appropriately if they become aware of any threatened, on-going, or past violation of a federal, state or local law or regulation, a breach of fiduciary duty, or violation of GM policy, including the expectation that if they raise such an issue and believe it has not been addressed appropriately, they will bring the situation to the attention of their supervisors, and if they believe their supervisors have not addressed it appropriately, to higher levels including the General Counsel if necessary. Ensure that this expectation extends to issues of safety. Communicate similar expectations to outside counsel in written guidelines.
9. Consistent with the "Winning with Integrity" guidelines for employee conduct, specifically memorialize in writing for in-house and outside counsel the expectation that they will report to appropriate Legal Staff any observed violation of law or GM policy, including possible violations of policies pertaining to the recall decision-making process. Circulate this policy to Legal Staff on a regular basis, and circulate the policy to any outside attorneys to whom the policy applies. Include this policy in orientation programs provided to in-house lawyers when they join the Company.
9. Provide guidance for product liability attorneys on how to recognize and communicate safety issues to ensure that they are properly addressed notwithstanding ongoing litigation or claims activity, while fulfilling their obligations to defend the Company in litigation and appropriately protect attorney-client privilege.