

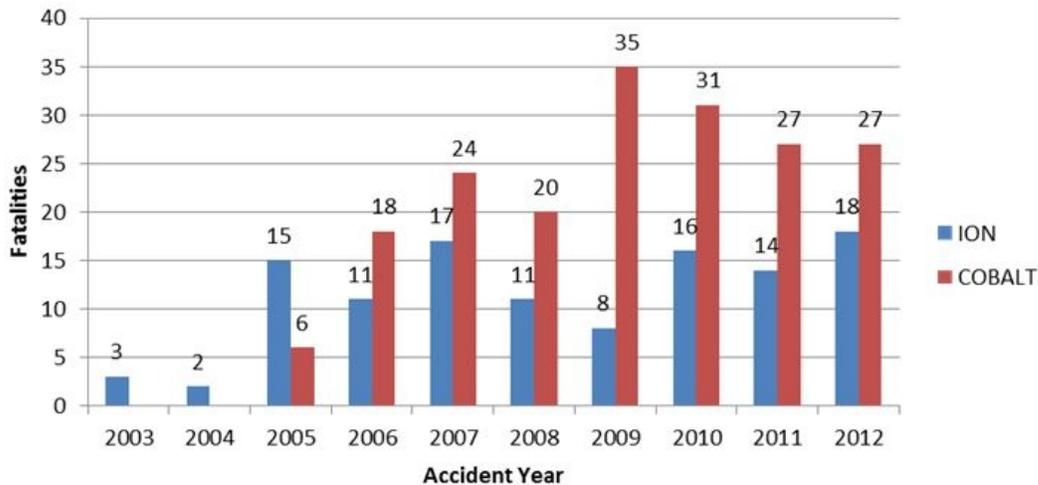
March 13, 2014

The Honorable David J. Friedman
 Acting Administrator
 National Highway Traffic Safety Administration (NHTSA)
 1200 New Jersey Avenue SE, West Building
 Washington, D.C. 20590

Dear Administrator Friedman:

On March 7, the Center for Auto Safety (CAS) wrote you about NHTSA’s failure to utilize its Special Crash Investigations (SCI) of 2005 Cobalts and 2004 Ions and Early Warning Reports (EWR) of death claims filed by GM to open a defect investigation and order a recall. (Attachment A.) Examination of NHTSA’s Fatal Analysis Reporting System (FARS) reveals 303 deaths of front seat occupants in the recalled 2005-07 Cobalts and 2003-07 Ions where the airbag failed to deploy in non-rear impact crashes. (See figure below.) The search did not include the other five models recalled or the number of deaths without airbag deployment would have been higher.

**DEATHS IN 2003-2007 SATURN IONS AND
 2005-2007 CHEVROLET COBALTS
 WITH AIRBAG NON-DEPLOYMENT
 BY CALENDAR YEAR**



2002-2012 Fatal Accident Reporting System for front seat occupants;
 Excludes: cases coded with rear damage area and cases with unknown or not-reported airbag deployment
 Total=303, 115 Ion and 188 Cobalt.

The FARS data clearly show front seat occupants were being killed in crashes where the airbags did not deploy as soon as the recalled vehicles hit the road, with three deaths in Saturn Ions during 2003 and 6 deaths in Chevrolet Cobalts in 2005. The number of front seat occupant deaths steadily climbed as more Cobalts and Ions were sold with 43 in 2009 and 47 in 2010 where the airbags did not deploy.

NHTSA could and should have initiated a defect investigation to determine why airbags were not deploying in Cobalts and Ions in increasing numbers. As the agency has done in past investigations, special investigation teams should have been sent out to acquire more information on the crashes found in FARS and determine in which ones the airbag did not deploy due to the ignition key defect.

CAS cross-referenced the FARS cases with the EWR death claims reported by GM to see which EWR case had a airbag non-deployment. (See following figure) CAS looked at the crucial time period of 2004 up to 2007 when NHTSA conducted three SCIs into two 2005 Cobalts and a 2004 Saturn Ion, and met with GM staff to discuss the Maryland SCI. In that time frame, CAS found 4 Ion EWR death claim reports from GM and 5 Cobalt reports where the airbag did not deploy. In addition, there were 2 Cobalt cases where airbag deployment was unknown.

**MY 2005-07 Chevrolet Cobalt Deaths in EWR Without Airbag Deployment
 Coded Airbag, Steering, Electrical or Unknown, Calendar Years 2004-2007**

| QUARTER | SEQ_ID | DI ID # | MODEL | MY | VIN | INCIDENT | DEATHS | INJURIES | STATE | FARS |
|--------------|--------|------------|--------|------|----------------|------------|----------|----------|-------|--|
| 2005 Q3 | 137 | DI05-142 | COBALT | 2005 | 1G1AL12F857... | 7/29/2005 | 1 | 0 | MD | FARS ID 240274 Coded Airbag Deployed* |
| 2006 Q4 | 88 | DI07-044 | COBALT | 2005 | 1G1AK52F657... | 10/24/2006 | 2 | 1 | WI | FARS ID 550534 Coded Airbag Available: NO DEPLOYMENT |
| 2007 Q2 | 87 | DI07-087 | COBALT | 2006 | 1G1AK55F467... | 4/7/2007 | 1 | 1 | MD | FARS ID 240099 Coded Airbag Available: UNKNOWN IF DEPLOYED |
| 2007 Q2 | 80 | DI07-087 | COBALT | 2005 | 1G1AK12F457... | 4/30/2007 | 1 | 1 | PA | FARS ID 420297 Coded Airbag Available: NO DEPLOYMENT |
| 2007 Q2 | 79 | DI07-087 | COBALT | 2005 | 1G1AK52F857... | 1/6/2007 | 1 | 0 | WI | FARS ID 550011 Coded Airbag Available: UNKNOWN IF DEPLOYED |
| 2007 Q4 | 111 | No DI Sent | COBALT | 2005 | 1G1AK52F157... | 10/16/2007 | 1 | 0 | OH | FARS ID 390970 Coded Airbag Available: NO DEPLOYMENT |
| 2009 Q2 | 95 | DI09-096 | COBALT | 2007 | 1G1AK55F577... | 12/4/2007 | 1 | 0 | PA | FARS ID 421320 Coded Airbag Available: NO DEPLOYMENT |
| Total | | | | | | | 8 | 3 | | |

**MY 2003-2007 Saturn Ion Deaths in EWR Without Airbag Deployment,
 Coded Airbag, Steering, Electrical, or Unknown, Calendar Years 2004-07**

| QUARTER | SEQ_ID | DI ID # | MODEL | MY | VIN | INCIDENT | DEATHS | INJURIES | STATE | FARS |
|--------------|--------|----------|-------|------|----------------|------------|----------|----------|-------|---|
| 2004 Q4 | 655 | DI05-063 | ION | 2004 | 1G8AJ52F14Z... | 11/15/2004 | 1 | 1 | TX | FARS ID 482738 Coded Airbag Available:NO DEPLOYMENT |
| 2005 Q2 | 640 | DI05-082 | ION | 2004 | 1G8AG52F24Z... | 3/24/2005 | 2 | 2 | TX | FARS ID 480534 Coded Airbag Available:NO DEPLOYMENT |
| 2006 Q2 | 522 | DI06-038 | ION | 2004 | 1G8AF52F94Z... | 7/4/2004 | 1 | 2 | CA | FARS ID 62306 Coded Airbag Available:NO DEPLOYMENT |
| 2006 Q3 | 518 | DI07-015 | ION | 2007 | 1G8AJ55F07Z... | 9/9/2006 | 1 | 0 | WV | FARS ID 540299 Coded Airbag Available:NO DEPLOYMENT |
| Total | | | | | | | 5 | 5 | | |

* Airbag did not deploy as confirmed by NHTSA SCI Case CA05-049

Combining EWR and FARS data as CAS did above should have raised a red flag to NHTSA. There were 11 deaths in 2004-07 in Cobalts and Ions reported in EWR and in which FARS reported the airbag did not deploy. Three of the Saturn Ion EWR death reports without airbag deployment occurred before the July 29, 2005 crash in Maryland in which Amber Marie Rose was killed, on which NHTSA did an SCI investigation, finding the ignition in accessory mode disabling the airbag.

The Honorable David J. Friedman
March 13, 2014
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NHTSA claims it did not do an investigation because it did not see a defect trend. Based on the FARS, EWR and SCI information, the only way NHTSA could not see a defect trend is if it closed its eyes. In some instances, single complaints can trigger a recall. NHTSA obtained the recall of 250,000 Ford vans for defective dashes that shattered and caused severe facial injuries after receiving a single complaint from a Rockville, Maryland consumer (NHTSA Recall 77V-102). A single complaint from North Carolina consumer that the steering wheel on her VW Fox came off in her hands led to the recall of 104,000 1987-89 Volkswagens. (NHTSA recall 88V-187.)

The question today for NHTSA is how so many EWR death reports without an airbag deployment and so many FARS deaths without an airbag deployment failed to trigger an investigation when NHTSA's Special Crash Investigation team had pinpointed the defect for which the vehicles were recalled? For the people who died or were seriously injured in crashes, the answer comes too late.

Sincerely,

A handwritten signature in black ink that reads "Clarence Ditlow". The signature is written in a cursive, flowing style.

Clarence Ditlow
Executive Director

March 7, 2014

The Honorable David J. Friedman
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE, West Building
Washington, D.C. 20590

Dear Administrator Friedman:

General Motors' 9 year delayed recall of 2005-07 Chevrolet Cobalts, 2003-07 Saturn Ions and 5 other models [hereinafter the Cobalt recall] reveals a complete failure of the recall system that cost at least 13 people their lives. While GM bears complete responsibility for failing to recall these vehicles by 2005, when it knew what the defect was and how to fix it, NHTSA has responsibility for failing to order a recall by early 2007, when it knew what the defect was and how to fix it.

NHTSA learned about the ignition key defect turning off the airbag [hereinafter ignition airbag defect] through its Special Crash Investigation (SCI) program looking into performance of advanced airbags in the Cobalt vehicles in 2007. NHTSA also learned about the defect through its secret Death Inquiries (DI) into Early Warning Reports (EWR) of death claims filed by GM. Although NHTSA knew of and had documents on lawsuits filed against GM on the ignition airbag defect, NHTSA kept them secret and effectively helped GM cover up this defect.

NHTSA Special Crash Investigations:

On August 15, 2005, NHTSA began its first SCI investigation into airbag non-deployment in a July 29, 2005 crash of a 2005 Chevrolet Cobalt that killed 16-year-old Amber Marie Rose in Maryland. On February 7, 2006, NHTSA issued its [SCI report](#) on the July 2005 Maryland Crash, finding that the airbags did not deploy and vehicle was in "Accessory" power mode at the time of the crash. On March 29, 2007, NHTSA representatives met with GM employees and discussed the Maryland crash. NHTSA told GM but not the public that the car's sensing and diagnostic module (SDM) reported the ignition was in "Accessory" mode and the airbag did not deploy.

On November 26, 2006, NHTSA began its second Cobalt SCI investigation into the October 2006 crash of a 2005 Chevrolet Cobalt that killed 15-year-old Amy Beskau of Wisconsin. On April 25, 2007, NHTSA issued its [second Cobalt SCI](#) report on airbag non-deployment in the October 2006 Wisconsin crash. The report finds that the vehicle was in "Accessory" power mode at the time of the crash. The report notes that General Motors had issued a service bulletin in October of 2006 indicating the potential for drivers to inadvertently turn off the ignition during operation. A copy of the service bulletin is attached to the investigation report. SCI investigators located six complaints in the NHTSA complaint database matching the described defect. The report also notes that an analysis of airbag non-deployment as related to the key position in "On" or "Accessory" is beyond the scope of the SCI investigation.

On March 15, 2004, NHTSA began an SCI investigation of a 2004 Saturn Ion crash that occurred in Pennsylvania in January of 2004. While no significant injuries or death occurred in the crash, neither the driver nor passenger airbags deployed. [The SCI Report](#) said: "Given the severity of the impact damage, the computer WINSMASH delta V [21.7 mph] and the non-belted status of the occupants, the frontal air bag system probably should have deployed in this crash." The SCI Report noted the EDR readings were unreliable because most of the readings were zero. However, the SCI Report pointed out "the Saturn may have experienced an intermittent power failure resulting in a write failure." This is fully consistent with the ignition airbag defect.

NHTSA Early Warning Reporting & Death Inquiries:

From 2004 through 2012, NHTSA received from GM [at least 51 EWR reports](#) of death claims in the US involving an airbag, steering, electrical or unknown component in the 2005-07 Chevrolet Cobalt or 2003-07 Saturn Ion, that could indicate the ignition airbag defect. See [Attachment A](#). NHTSA sent DI request letters to GM for 29 of these 51 EWR reports. For the crucial period of 2004-07 when GM was investigating the ignition airbag defect, NHTSA sent GM 17 Death Inquiries on 19 EWR death claims that could have been due to the ignition airbag defect. None of the underlying documents received by NHTSA on these 17 death claims in Cobalts and Saturns have been made public by the agency.

By comparing information on crashes in Special Crash Investigations to the information on death claim crashes in Early Warning Reporting, at least 2 of the 9 2005-07 Cobalt death claims for which NHTSA sent GM Death Inquiries were on the ignition airbag defect:

- On March 1, 2006, NHTSA's Early Warning Division sent a request to GM for the underlying information on the Maryland crash from July 2005, [DI04-142](#). No record of when or if a response was made is available.
- On May 4, 2007, NHTSA's Early Warning Division sent a request to GM for the underlying information on the Wisconsin crash from October 2006, [DI07-044](#). GM responded on June 11, 2007.

After the crucial period of 2004-07 when both GM and NHTSA identified the ignition airbag defect, NHTSA Death Inquiries into EWR death claim reports on the Cobalt and Saturn dropped sharply. From 2008 thru 2012, GM submitted 32 reports of death claims on defects that could be linked to the ignition airbag defect, but NHTSA sent GM only 12 Death Inquiries, a rate of 37.5%. By comparison, NHTSA sent out Death Inquiries on 89.5% of the EWR death claims reports submitted from 2004-07.

The intense interest by NHTSA from 2004-07 in obtaining the underlying records on Cobalt and Ion death claims that could be linked to the ignition airbag defect is sharply contrasted by NHTSA's failure to send out Death Inquiries for EWR death claims on other well known defects. For example, out of 301 EWR summary reports that could be linked to Toyota SUA through 2009, NHTSA sent out inquiries for underlying records on only 16 of the 301 EWR reports. In 1993-04 Jeep Grand Cherokee fuel tank fires, NHTSA did not send out inquiries for any of the 30 EWR death and injury claims reported by Chrysler, as of the first quarter of 2010 when CAS filed its defect petition to investigate Grand Cherokee crash fires.

Conclusion:

NHTSA has rightly asked GM probing questions about why it did not do the Cobalt recall at least as early as 2004-05 when the company identified the ignition airbag defect and a remedy therefore. The Center for Auto Safety has probing questions for NHTSA about why it failed to order a recall.

- 1) Why did NHTSA fail to order the Cobalt recall, or even open an investigation into the ignition airbag defect, when the agency identified the defect in 2006-07 through its Special Crash Investigations and obtained information on the two fatal SCI crashes through its secret Death Inquiries to GM on EWR death claim reports?
- 2) Why did NHTSA send Death Inquiries on 90% (17 of 19) of the Saturn and Ion death claims reported by GM on defects linked to the ignition airbag defect in 2004-07 and what did it do with the death claim information provided by GM?
- 3) Were the MD and WI SCI investigators ever provided the underlying Death Inquiry information obtained by the agency for these crashes from GM?
- 4) Did any of the SCI investigators for the two Cobalt and one Saturn SCI investigations meet with or provide their information to the Office of Defects Investigation?
- 5) What NHTSA officials met with GM representatives on the MD SCI crash on March 29, 2007 and where are the records from that meeting?
- 6) Why did NHTSA sharply cut its Death Inquiries to GM on Saturn and Ion death claims on defects linked to the ignition airbag defect from 90% in 2004-07 to 38% (after 2007)?
- 7) Why did NHTSA not open an investigation and obtain a recall for the ignition airbag defect at least 7 years ago? People died and the agency shares responsibility for their deaths with GM.
- 8) As a beginning, we request you to order the release of all the EWR records obtained through Death Inquiries for vehicles involved in the Cobalt recall. Will you do that?
- 9) Will NHTSA ask the Inspector General do an independent investigation of the agency failure to investigate and obtain a recall in 2006-07 when the agency had sufficient information to do so? Just as GM President Mary Barra has commissioned an independent investigation to explore why GM did not do the recall and remedy the ignition airbag defect at least 9 years earlier, there should be a similar independent investigation of NHTSA's failure to act. People died and the agency shares responsibility for their deaths with GM.

While CAS has already filed FOIA requests for these records, it is a monumental waste of the Agency's resources to force the public to file FOIA request for what are admittedly documents releasable under FOIA. (See [Attachment B](#), correspondence with Attorney General William Holder on EWR records.)

To prevent another defect from being covered up by the agency's secrecy on EWR records, we request that NHTSA publish a list of all Death Inquiries on the agency website as is done for defect investigations. We also ask that NHTSA publish the records obtained through Death Inquiries just as it does for records obtained through Defect Investigations. Will you do that?

Your response to each of the above questions is requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Clarence Ditlow". The signature is written in a cursive, flowing style.

Clarence Ditlow
Executive Director

Enclosures: 2

cc: Senator Edward Markey
Senator Jay Rockefeller
Senator John Thune
Rep. Darrell Issa
Rep. Elijah Cummings
Rep. Fred Upton
Rep. Henry Waxman