

U.S. details \$900M GM ignition settlement

David Shepardson and Melissa Burden 8:45 p.m. EDT September 17, 2015 [Detroit News](#)



(Photo: Spencer Platt / Getty Images)

New York — General Motors Co. overcame two major hurdles Thursday as it works to leave behind a crisis over deadly ignition switches that became the worst safety scandal in the company's history.

The automaker agreed to pay a \$900 million fine with the Justice Department, and to three years of oversight by a federal monitor. On the same day, GM agreed to settle more than 1,000 civil claims and a class-action lawsuit.

But even though the settlements took place just 18 months after the scandal exploded, fully regaining the public's trust won't come cheaply or easily: The company potentially faces billions of dollars in possible lawsuit awards and fines from agencies that continue to investigate the automaker for its delayed recall of 2.6 million GM cars for defective ignition switches that are linked to 124 deaths.

U.S. Attorney Preet Bharara defended his decision to settle an investigation into GM's delayed recall without charging anyone within the company, saying he hasn't ruled out criminal charges against individuals.

"They let the public down. ... They didn't tell the truth," Bharara said Thursday, in announcing the \$900 million fine that's part of a three-year deferred prosecution agreement against the automaker. Under terms of the agreement, GM didn't plead guilty but essentially will be on probation over the next three years; an independent monitor will be named to oversee GM's safety efforts.

Late Thursday, U.S. District Judge Alison J. Nathan allowed the agreement to take effect immediately after she granted the government's request to officially put the case on hold for three years. That will allow prosecutors to pursue the case if GM doesn't abide by the agreement. She called the accounts of the deaths in the agreement "heartbreaking" and said it "put to rest any question" that GM was criminally liable.

GM's general counsel, Craig Glidden, represented the company at the 20-minute hearing in which GM was formally arraigned on two felony charges — for wire fraud and misleading regulators. He waived the company's right to demand an indictment.

GM CEO Mary Barra, in a town hall meeting with employees at the Warren Tech Center, described the agreement as "tough," and said GM accepts the penalties "because they are part of being held accountable."

"We didn't do our job, and as part of our apology to the victims we promise to take responsibility for our actions," she said.

She and Mark Reuss, GM's head of global product development, stressed to employees not to forget what happened and to continue improving on the company's safety record and actions. Barra told reporters she was proud of employees for their response over the months.

"When you make mistakes, you accept them," Reuss said. "You take necessary steps to make sure you never make the same mistakes ever again."

Bharara and other government officials said the penalty will serve as a deterrent for other companies with unsafe products. And he cited GM's compensation efforts and overall cooperation in explaining why GM was not required to plead guilty.

The settlement will end the criminal investigation into the automaker's delayed recall for defective ignition switches. The switches in Chevrolet Cobalts, Saturn Ions and some

other older GM cars can allow the key to inadvertently turn off the engine, disabling power steering and air bags. Some within the company knew of the problem for as long as 10 years before the cars finally were called back.

Bharara, who met with families of those killed in the since-recalled cars, said there is no specific law that makes it a crime for automakers to withhold disclosure of deadly safety issues. "We can only do what the law permits and allows. ... It's not as easy as it looks sometimes."

He said he understood that some were disappointed that no individuals have been charged. Bharara said his office has ruled out criminal charges against some people involved in the problem at GM, but not all. "If there is a criminal case to bring, we will bring it," he said. "We're not done."

Bharara defended the amount of the fine — \$900 million in a case involving 124 deaths. In contrast, Toyota Motor Corp. was fined \$1.2 billion in 2014 in a case that involved only about a half-dozen deaths.

Bharara justified the difference by saying that GM had shown extraordinary cooperation with the Department of Justice. But he also said "good behavior after the fact does not absolve GM" of responsibility.

'Entirely avoidable'

Christy Romero, the special inspector general overseeing the \$700 billion Troubled Asset Relief Program, blasted GM. She said the automaker's criminal conduct "defies comprehension. ... The worst part of this tragedy is that it was entirely avoidable. GM could have significantly reduced the risk of this deadly defect by improving the key design for less than \$1 per vehicle, but GM chose not to because of the cost."

Authorities said GM failed to disclose to regulators and the public about a "potentially lethal safety defect" and misled consumers on the safety of its cars. Documents say GM officials held "offline" meetings and repeatedly delayed the recalls. The documents include two previously undisclosed deaths linked to the problem that occurred before GM's recall announcement in early 2014. The automaker initially said just 13 deaths were linked to the defect.

\$2.35B cost so far

GM's total cost to date for its delayed recall is about \$2.35 billion when including the expected payout of a compensation program for those hurt or killed in defective cars. Barra said there was no way to estimate GM's exposure to fines and settlements in

ongoing litigation, and with investigations by the Securities and Exchange Commission, Federal Trade Commission, state attorneys general and Canadian authorities.

Prosecutors and GM's lawyers held talks for months on resolving the case, but the final settlement came together quickly. GM's board of directors unanimously approved the settlement on Wednesday in a telephone call, two people briefed on the matter said Thursday.

The settlement announced Thursday is less than many Wall Street analysts had forecast. Some, including Fitch Ratings, see it as a positive because it removes some uncertainty. GM stock closed up 11 cents to \$31.31 a share Thursday.

Earlier Thursday, the Detroit automaker agreed to a \$575 million settlement of a shareholder class-action suit filed in Detroit and 1,380 outstanding death and injury claims, about 60 percent of claims it was facing. GM will disclose a claims process later.

Texas attorney Bob Hilliard is representing many of the families of victims in civil cases against GM. "It is clear from today's news regarding the \$900 million agreement between GM and the Department of Justice, and the deal we have negotiated for my clients, that GM is determined to resolve parts of the ignition switch litigation where it feels it is most exposed," he said.

Most of the claims are related to the ignition switch defects — but not all, GM spokesman Jim Cain said.

There are still more suits to address: 370 injury cases and 84 death cases remain in a group of consolidated lawsuits. Six cases remain on the trial docket. The first trial is slated for January.

In May 2014, Barra quickly settled an investigation by the National Highway Traffic Safety Administration. GM paid a then-record-setting \$35 million fine and agreed to three years of intensive monitoring.

GM's independent fund approved compensation for 124 deaths and more than 270 injury claims tied to the ignition switch defect. GM expects to pay \$625 million in compensation.

GM earlier this year won a major victory, when a federal bankruptcy judge ruled the automaker couldn't be held liable for conduct by "old GM" — the predecessor firm that was left behind as part of its bankruptcy reorganization in July.

Settlement criticized

Many families of victims are upset no one was criminally charged.

Laura Christian of Maryland, the birth mother of Amber Marie Rose, a 16-year-old who was killed in a 2005 crash tied to the ignition switch defect, said while there is “no fine high enough truly to account for what we’ve lost, to hear that their lives are so devalued, that’s hard to hear.”

Georgia attorney Lance Cooper, who represented the parents of Brooke Melton, 29, who was killed as a result of a 2010 crash in a Cobalt, said the fine is too small for the harm caused to families.

“When individuals, through their reckless conduct, cause someone to die, they go to jail,” Cooper said. “When large corporations, such as GM, through their reckless conduct cause hundreds of people to die, they simply pay a fine, write it off as a tax loss, and move on.”